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Price: EUR 7

(Continued overleaf)

⁽¹⁾ Text with EEA relevance

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II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) No 654/2013

of 10 July 2013

amending Regulation (EU) No 185/2010 in respect of EU aviation security validation checklists for third country entities**(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 300/2008 of the European Parliament and the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002 ⁽¹⁾ and in particular Article 4(3) thereof,

Whereas:

- (1) Commission Regulation (EU) No 185/2010 of 4 March 2010 laying down detailed measures for the implementation of the common basic standards on aviation security ⁽²⁾ contains detailed rules for EU aviation security validation.
- (2) Checklists are the instrument to be used by the EU aviation security validator for assessing the level of security applied to EU/EEA bound air cargo or air mail.

It is necessary to add two further checklists to the existing ones in order to establish full implementation of the EU aviation security validation regime.

- (3) Regulation (EU) No 185/2010 should therefore be amended accordingly.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Civil Aviation Security set up by Article 19(1) of Regulation (EC) No 300/2008.

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EU) No 185/2010 is amended in accordance with the Annex to this Regulation.

*Article 2*This Regulation shall enter into force on the date of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 10 July 2013.

*For the Commission**The President*

José Manuel BARROSO

⁽¹⁾ OJ L 97, 9.4.2008, p. 72.⁽²⁾ OJ L 55, 5.3.2010, p. 1.

ANNEX

The Annex to Regulation (EU) No 185/2010 is amended as follows:

- 1) The following Attachment is inserted after Attachment 6-C:

'ATTACHMENT 6-C2**VALIDATION CHECKLIST FOR THIRD COUNTRY EU AVIATION SECURITY VALIDATED REGULATED AGENTS**

Third country entities have the option to become part of an ACC3's (*Air cargo or mail carrier operating into the Union from a third country airport*) secure supply chain by seeking designation as a third country EU aviation security validated Regulated Agent (RA3). An RA3 is a cargo handling entity located in a third country that is validated and approved as such on the basis of an EU aviation security validation.

An RA3 shall ensure that security controls including screening where applicable have been applied to consignments bound for the European Union and the consignments have been protected from unauthorised interference from the time that those security controls were applied and until the consignments are loaded onto an aircraft or are otherwise handed over to an ACC3 or other RA3.

The prerequisites for carrying air cargo or air mail into the Union (*) or Iceland, Norway and Switzerland are required by Regulation (EU) No 185/2010.

The checklist is the instrument to be used by the EU aviation security validator for assessing the level of security applied to EU/EEA bound air cargo or air mail (**) by or under the responsibility of the entity seeking designation as an RA3. The checklist is to be used only in the cases specified in point 6.8.4.1(b) of the Annex to Regulation (EU) No 185/2010. In the cases specified in point 6.8.4.1(a) of that Annex, the EU aviation security validator shall use the ACC3 checklist.

If the EU aviation security validator concludes that the entity has succeeded in complying with the objectives referred to in this checklist, a validation report shall be given to the validated entity. The validation report shall state that the entity is designated Third Country EU aviation security validated Regulated Agent (RA3). The RA3 shall be able to use the report in its business relations with any ACC3. Integral parts of the validation report shall include at least all of the following:

- (a) the completed checklist (attachment 6-C2 set out in the Annex to Regulation (EU) No 185/2010) signed by the EU aviation security validator and where applicable commented by the validated entity;
- (b) the declaration of commitments (Attachment 6-H2 set out in the Annex to Regulation (EU) No 185/2010) signed by the validated entity;
- (c) an independence declaration (Attachment 11-A set out in the Annex to Regulation (EU) No 185/2010) in respect of the entity validated signed by the EU aviation security validator.

Page numbering, the date of the EU aviation security validation and initialling on each page by the validator and the validated entity shall be the proof of the validation report's integrity. By default, the validation report shall be in English.

Part 5 – Screening and Part 6 – High risk cargo or mail (HRCM) shall be assessed against the requirements of Chapters 6.7 and 6.8 of the Annex to Regulation (EU) No 185/2010. For those parts that cannot be assessed against the requirements of Regulation (EU) No 185/2010, baseline standards are the Standards and Recommended Practices (SARPs) of Annex 17 to the Convention on International Civil Aviation and the guidance material contained in the ICAO Aviation Security Manual (Doc 8973-Restricted).

If the EU aviation security validator concludes that the entity has failed to comply with the objectives referred to in this checklist, the entity shall receive a copy of the completed checklist stating the deficiencies.

Completion notes:

- (1) All parts of the checklist must be completed. Where no information is available, this must be explained.
- (2) After each part, the EU aviation security validator shall conclude if and to what extent the objectives of this part are met.

PART 1

Identification of the entity validated and the validator

1.1. Date(s) of validation

Use exact date format, such as 01.10.2012 to 02.10.2012

dd/mm/yyyy	
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1.2. Date of previous validation where applicable

dd/mm/yyyy	
Previous RA3 registration number, where available	
AEO certificate/C-TPAT status/other certifications, where available	

1.3. Aviation security validator information

Name	
Company/Organisation/Authority	
Unique Alphanumeric Identifier (UAI)	
E-mail address	
Telephone number – including international codes	

1.4. Name of entity

Name	
Company number (e.g. commercial register identification number, if applicable)	
Number/Unit/Building	
Street	
Town	
Postcode	
State (where relevant)	
Country	
P.O. Box address, if applicable	

1.5. Main address of organisation (if different from site to be validated)

Number/Unit/Building	
Street	
Town	
Postcode	

State (where relevant)	
Country	
P.O. Box address, if applicable	

1.6. Nature of business – More than one business type may be applicable

a) air cargo only b) air and other modes of transport c) freight forwarder with cargo premises d) freight forwarder without cargo premises e) handling agent f) others	
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1.7. Does the applicant ...?

a) receive cargo from another 3rd country regulated agent	
b) receive cargo from 3rd country known consignors	
c) receive cargo from 3rd country account consignors	
d) receive exempted cargo	
e) screen cargo	
f) store cargo	
g) other, please specify	

1.8. Approximate number of employees on site

Number	
--------	--

1.9. Name and title of person responsible for third country air cargo/air mail security

Name	
Job title	
E-mail address	
Telephone number – including international codes	

PART 2

Organisation and responsibilities of the third country EU aviation security validated regulated agent

Objective: No air cargo or air mail shall be carried to the EU/EEA without being subject to security controls. Cargo and mail delivered by an RA3 to an ACC3 or another RA3 may only be accepted as secure cargo or mail if such security controls are applied by the RA3. Details of such controls are provided in the following Parts of this checklist.

The RA3 shall have procedures in place to ensure that appropriate security controls are applied to all EU/EEA bound air cargo and air mail and that secure cargo or mail is protected until being transferred to an ACC3 or another RA3. Security controls shall consist of one of the following:

- (a) Physical screening which shall be of a standard sufficient to reasonably ensure that no prohibited articles are concealed in the consignment;

- (b) Other security controls, part of a supply chain security process, that reasonably ensure that no prohibited articles are concealed in the consignment and which have been applied by another RA3, KC3 or AC3 designated by the RA3.

Reference: Point 6.8.3.

2.1. Has the entity established a security programme?

YES or NO	
If NO go directly to point 2.5.	

2.2. Entity security programme

Date – use exact format dd/mm/yyyy	
Version	
Is the security programme submitted and/or approved by the appropriate authority of the state of the entity? If YES please describe the process.	

2.3. Does the security programme sufficiently cover the elements mentioned in the checklist (parts 3 to 9)?

YES or NO	
If NO, describe why detailing the reasons	

2.4. Is the security programme conclusive, robust and complete?

YES or NO	
If NO, specify the reasons	

2.5. Has the entity established a process to ensure that air cargo or air mail is submitted to appropriate security controls before being transferred to an ACC3 or another RA3?

YES or NO	
If YES, describe the process	

2.6. Has the entity a management system (e.g. instruments, instructions) in place to ensure that the required security controls are implemented?

YES or NO	
If YES, describe the management system and explain if it is approved, checked or provided by the appropriate authority or another entity.	
If NO, explain how the entity ensures that security controls are applied in the required manner.	

2.7. Conclusions and general comments on the reliance, conclusiveness and robustness of the process.

Comments from the entity	
Comments from the EU aviation security validator	

PART 3

Staff recruitment and training

Objective: To ensure the required security controls are applied, the RA3 shall assign responsible and competent staff to work in the field of securing air cargo or air mail. Staff with access to secured air cargo must possess all the competencies required to perform their duties and shall be appropriately trained.

To fulfil that objective, the RA3 shall have procedures in place to ensure that all staff (permanent, temporary, agency staff, drivers, etc.) with direct and unescorted access to air cargo/air mail to which security controls are being or have been applied:

- (a) have been subject to initial and recurrent pre-employment checks and/or background checks, which are at least in accordance with the requirements of the local authorities of the RA3 premise validated; and
- (b) have completed initial and recurrent security training to be aware of their security responsibilities in accordance with the requirements of the local authorities of the RA3 premise validated.

Note:

- A background check means a check of a person's identity and previous experience, including where legally permissible, any criminal history as part of the assessment of an individual's suitability to implement a security control and/or for unescorted access to a security restricted area (ICAO Annex 17 definition).
- A pre-employment check shall establish the person's identity on the basis of documentary evidence, cover employment, education and any gaps during at least the preceding five years, and require the person to sign a declaration detailing any criminal history in all states of residence during at least the preceding 5 years (Union definition).

Reference: Point 6.8.3.1.

3.1. Is there a procedure ensuring that all staff with direct and unescorted access to secured air cargo/air mail is subject to a pre-employment check that assesses background and competence?

YES or NO	
If YES, indicate the number of preceding years taken into account for the pre-employment check and state which entity carries it out.	

3.2. Does this procedure include?

☐ Background check ☐ Pre-employment check ☐ Check of criminal records ☐ Interviews ☐ Other (provide details) Explain the elements, indicate which entity carries this element out and where applicable, indicate the preceding timeframe that is taken into account.	
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3.3. Is there a procedure ensuring that the person responsible for the application and supervision of the implementation of security controls at the site is subject to a pre-employment check that assesses background and competence?

YES or NO	
If YES, indicate the number of preceding years taken into account for the pre-employment check and state which entity carries it out.	

3.4. Does this procedure include?

☐ Background check ☐ Pre-employment check ☐ Check of criminal records ☐ Interviews ☐ Other (provide details)	
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Explain the elements, indicate which entity carries this element out and where applicable, indicate the preceding timeframe that is taken into account.	
3.5. Do staff with direct and unescorted access to secured air cargo/air mail receive security training before being given access to secured air cargo/air mail?	
YES or NO	
If YES, describe the elements and duration of the training	
3.6. Do staff that accept, screen and/or protect air cargo/air mail receive specific job-related training?	
YES or NO	
If YES, describe the elements and durations of training courses.	
3.7. Do staff referred to in points 3.5 and 3.6 receive recurrent training?	
YES or NO	
If YES, specify the elements and the frequency of the recurrent training	
3.8. Conclusion: do the measures concerning staff recruitment and training ensure that all staff with access to secured air cargo/air mail have been properly recruited and trained to a standard sufficient to be aware of their security responsibilities?	
YES or NO	
If NO, specify reasons	
Comments from the entity	
Comments from the EU aviation security validator	

PART 4

Acceptance procedures

Objective: The RA3 may receive cargo or mail from another RA3, a KC3, an AC3 or from an unknown consignor. The RA3 shall have appropriate acceptance procedures for cargo and mail in place in order to establish whether a consignment comes from a secure supply chain or not and subsequently which security measures need to be applied to it.

An RA3 may maintain a database giving at least the following information for each regulated agent or known consignor that has been subject to EU aviation security validation in accordance with point 6.8.4.1, from which it directly accepts cargo or mail to be delivered to an ACC3 for carriage into the Union:

- (a) the company details, including the bona fide business address,
- (b) the nature of the business, excluding business sensitive information,
- (c) contact details, including those of the person(s) responsible for security,
- (d) the company registration number, if applicable,
- (e) where available, the validation report.

Reference: Points 6.8.3.1 and 6.8.4.3.

Note: An RA3 may only accept cargo from an AC3 as secure cargo, if this RA3 has designated this consignor itself as AC3 and accounts for the cargo delivered by this consignor.

4.1. When accepting a consignment, does the entity establish whether it comes from another RA3, a KC3, an AC3 or an unknown consignor?

YES or NO	
If YES, how?	

4.2. Does the entity establish and maintain a database containing information for each RA3, KC3 and AC3 from which it directly accepts air cargo or air mail to be delivered to an ACC3 for carriage into the Union?

YES or NO	
If YES, specify the information included in the database.	
If NO, how does the entity know that cargo comes from another RA3, KC3 or AC3?	

4.3. Does the entity designate consignors as AC3?

YES or NO	
If YES, describe the procedure and the safeguards required by the entity from the consignor.	

4.4. When accepting a consignment, does the entity establish whether its destination is an EU/EEA airport?

YES or NO – explain	
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4.5. If YES – does the entity submit all air cargo or air mail to the same security controls when the destination is an EU/EEA airport?

YES or NO	
If YES, describe the procedure	

4.6. When accepting a consignment, does the entity establish whether it is to be regarded as high risk cargo and mail (HRCM) (see definition in part 6), including for consignments that are delivered by other modes of transport than by air?

YES or NO	
If YES, how? Describe the procedure	

4.7. When accepting a secured consignment, does the validated entity establish whether it has been protected from unauthorised interference and/or tampering?

YES or NO	
If YES, describe (seals, locks, inspection, etc.)	

4.8. Is the person making the delivery required to present an official identification document containing a photo?

YES or NO	
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4.9. Is there a process in place to identify consignments that require screening?

YES or NO	
If YES, how?	

4.10. Conclusion: Are the acceptance procedures sufficient to establish that air cargo/air mail to an EU/EEA airport destination comes from a secure supply chain or needs to be subject to screening?

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YES or NO	
If NO, specify reasons	
Comments from the entity	
Comments from EU aviation security validator	

PART 5

Screening

Objective: Where the RA3 accepts cargo and mail which does not come from a secure supply chain, the RA3 needs to subject these consignments to appropriate screening before it may be delivered to an ACC3 as secure cargo. The RA3 shall have procedures in place to ensure that EU/EEA bound air cargo and air mail for transfer, transit or unloading at an Union airport is screened by the means or methods referred to in Union legislation to a standard sufficient to reasonably ensure that it contains no prohibited articles.

Where screening of air cargo or air mail is performed by or on behalf of the appropriate authority in the third country, the RA3 shall declare this fact and specify the way adequate screening is ensured.

Note: Although point 6.8.3.2 allows applying ICAO standards as a minimum to implement the provisions of point 6.8.3.1 until 30 June 2014, the EU aviation security validation takes into account the EU screening requirements, even if the validation is performed before 1 July 2014.

Reference: Point 6.8.3.

5.1. Is screening applied on behalf of the entity by another entity?	
YES or NO	
If YES, Specify the nature of these entities and provide details: — Private screening company — Government regulated company — Government screening facility or body — Other Specify the nature of the agreement/contract between the validated entity and the entity that applies the screening on its behalf.	
5.2. What methods of screening are used for air cargo and mail?	
Specify, including details of equipment used for screening air cargo and air mail (e.g. manufacturer, type, software version, standard, serial number etc.) for all the methods deployed.	
5.3. Is the equipment or method (e.g. explosive detection dogs) used included in the most recent EU, ECAC or TSA compliance list?	
YES or NO	
If YES, provide details	
If NO, give details specifying the approval of the equipment and date thereof, as well as any indications that it complies with EU equipment standards.	

5.4. Is the equipment used in accordance with the manufacturers' CONOPS (concept of operations) and is the equipment regularly tested and maintained?

YES or NO	
If YES, describe the process	

5.5. Is the nature of the consignment taken into consideration during screening?

YES or NO	
If YES, describe how it is ensured that the screening method selected is employed to a standard sufficient to reasonably ensure that no prohibited articles are concealed in the consignment.	

5.6. Is there a process for the resolution of the alarm generated by the screening equipment? (For some equipment (e.g. X-ray equipment), the alarm is triggered by the operator himself).

YES or NO	
If YES, describe the process of resolving alarms to reasonably ensure the absence of prohibited articles.	
If NO, describe what happens to the consignment	

5.7. Are any consignments exempt from security screening?

YES or NO	
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5.8. Are there any exemptions that do not comply with the Union list?

YES or NO	
If YES, detail	

5.9. Is access to the screening area controlled to ensure that only authorised and trained staff are granted access?

YES or NO	
If YES, describe	

5.10. Is an established quality control and/or testing regime in place?

YES or NO	
If YES, describe	

5.11. Conclusion: Is air cargo/air mail screened by one of the means or methods listed in point 6.2.1 of Decision 2010/774/EU to a standard sufficient to reasonably ensure that it contains no prohibited articles?

YES or NO	
If NO, specify reason	
Comments from the entity	
Comments from the EU aviation security validator	

PART 6

High Risk Cargo or Mail (HRCM)

Objective: Consignments which originate from or transfer in locations identified as high risk by the Union or which appear to have been significantly tampered with are to be considered as high risk cargo and mail (HRCM). Such

consignments have to be screened in line with specific instructions. The RA3 shall have procedures in place to ensure that EU/EEA bound HRCM is identified and subject to appropriate controls as defined in the Union legislation.

The ACC3 to which the RA3 delivers air cargo or mail for transportation shall be authorised to inform the RA3 about the latest state of relevant information on high risk origins.

The RA3 shall apply the same measures, irrespective of whether it receives high risk cargo and mail from an air carrier or through other modes of transportation.

Reference: Point 6.7.

Note: HRCM cleared for carriage into the EU/EEA shall be issued the security status 'SHR', meaning secure for passenger, all-cargo and all-mail aircraft in accordance with high risk requirements.

6.1. Do staff responsible for performing security controls know which air cargo and mail is to be treated as high risk cargo and mail (HRCM)?	
YES or NO	
If YES, describe	
6.2. Does the entity have procedures in place for the identification of HRCM?	
YES or NO	
If YES, describe	
6.3. Is HRCM subject to HRCM screening procedures according to Union legislation?	
YES or NO	
If NO, indicate procedures applied	
6.4. After screening, does the entity issue a security status declaration for SHR in the documentation accompanying the consignment?	
YES or NO	
If YES, describe how security status is issued and in which document	
6.5. Conclusion: Is the process put in place by the entity relevant and sufficient to ensure that all HRCM has been properly treated before loading?	
YES or NO	
If NO, specify reason	
Comments from the entity	
Comments from EU aviation security validator	

PART 7

Protection of secured air cargo and mail

Objective: The RA3 shall have procedures in place to ensure EU/EEA bound air cargo and/or air mail is protected from unauthorised interference and/or any tampering from the point of security screening or other security controls are applied or from the point of acceptance after screening or security controls have been applied, until loading or transferring to an ACC3 or another RA3. If previously secured air cargo and mail is not protected afterwards, it may not be loaded or transferred to an ACC3 or another RA3 as secure cargo or mail.

Protection can be provided by different means such as physical (barriers, locked rooms, etc.), human (patrols, trained staff, etc.) and technological (CCTV, intrusion alarm, etc.).

EU/EEA bound secured air cargo or mail should be separated from air cargo or mail which is not secured.

Reference: Point 6.8.3.1.

7.1. Is protection of secured air cargo and air mail applied on behalf of the validated entity by another entity?

YES or NO	
If YES, Specify the nature of these entities and provide details: — Private screening company — Government regulated company — Government screening facility or body — Other	

7.2. Are security controls and protection in place to prevent tampering during the screening process?

YES or NO	
If YES, describe Specify what kind(s) of protection(s) are put in place: — Physical (fence, barrier, building of solid construction, etc.) — Human (patrols etc.) — Technological (CCTV, alarm system, etc.) And explain how they are organised.	

7.3. Is the secure air cargo/air mail only accessible to authorised persons?

YES or NO	
If YES, describe Specify how all access points (including doors and windows) to identifiable and secured air cargo/air mail are controlled.	

7.4. Are there procedures in place to ensure EU/EEA bound air cargo/air mail to which security controls have been applied are protected from unauthorised interference from the time it has been secured until its loading or is transferred to an ACC3 or another RA3?

YES or NO	
If YES, describe how it is protected (physical, human, technological, etc.) Specify also if the building is of solid construction and what kinds of materials are used, if available.	
If NO, specify reasons	

7.5. Conclusion: Is the protection of consignments sufficiently robust to prevent unlawful interference?

YES or NO	
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If NO, specify reason	
Comments from the entity	
Comments from EU aviation security validator	

PART 8

Documentation

Objective: The security status of a consignment shall be indicated in the documentation accompanying the consignment, either in the form of an air waybill, equivalent postal documentation or in a separate declaration and either in an electronic format or in writing. The security status shall be issued by the RA3.

Reference: Points 6.3.2.6(d) and 6.8.3.4.

Note: the following security statuses may be indicated:

- ‘SPX’, meaning secure for passenger, all-cargo and all-mail aircraft, or
- ‘SCO’, meaning secure for all-cargo and all-mail aircraft only, or
- ‘SHR’, meaning secure for passenger, all-cargo and all-mail aircraft in accordance with high risk requirements.

8.1. Does the entity specify in the accompanying documentation (e.g. air waybill) the status of the cargo and how this was achieved?

YES or NO	
If NO, explain	

8.2. Conclusion: Is the documentation process sufficient to ensure that cargo or mail is provided with proper accompanying documentation which specifies the correct security status?

YES or NO	
If NO, specify reason	
Comments from the entity	
Comments from EU aviation security validator	

PART 9

Transportation

Objective: Air cargo and air mail must be protected from unauthorised interference or tampering from the time it has been secured until its loading or is transferred to an ACC3 or another RA3. This includes protection during transportation to the aircraft, otherwise to the ACC3 or to another RA3. If previously secured air cargo and mail is not protected during transportation, it may not be loaded or transferred to an ACC3 or another RA3 as secure cargo.

During transportation to an aircraft, an ACC3 or another RA3, the RA3 is responsible for the protection of the secure consignments. This includes cases where the transportation is undertaken by another entity, such as a freight forwarder, on its behalf. This does not include cases whereby the consignments are transported under the responsibility of an ACC3 or another RA3.

Reference: Point 6.8.3.

9.1. How is the air cargo/air mail conveyed to the ACC3/another RA3?

(a) Validated entity's own transport?	
YES or NO	

(b) Other RA3's/ACC3's transport?	
YES or NO	
(c) Contractor used by the validated entity?	
YES or NO	
9.2. Is the air cargo/air mail tamper evidently packed?	
YES or NO	
If YES, how	
9.3. Is the vehicle sealed or locked before transportation?	
YES or NO	
If YES, how	
9.4. Where numbered seals are used, is access to the seals controlled and are the numbers recorded?	
YES or NO	
If YES, specify how	
9.5. If applicable, does the respective haulier sign the haulier declaration?	
YES or NO	
9.6. Has the person transporting the cargo been subject to specific security controls and awareness training before being authorised to transport secured air cargo and/or air mail?	
YES or NO	
If YES, please describe what kind of security controls (pre-employment check, background check, etc.) and what kind of training (security awareness training, etc.).	
9.7. Conclusion: Are the measures sufficient to protect air cargo/air mail from unauthorised interference during transportation?	
YES or NO	
If NO, specify reasons	
Comments from the entity	
Comments from EU aviation security validator	

PART 10

Compliance

Objective: After assessing the nine previous parts of this checklist, the EU aviation security validator has to conclude if its on-site verification confirms the implementation of the security controls in compliance with the objectives listed in this checklist for the EU/EEA bound air cargo/air mail.

Two different scenarios are possible. The EU aviation security validator concludes that the entity:

- (a) has succeeded in complying with the objectives referred to in this checklist. The validator shall provide the validated entity with the original of the validation report and state that the entity is designated EU aviation security validated 3rd country regulated agent;
- (b) has failed in complying with the objectives referred to in this checklist. In that case, the entity is not authorised to deliver secured air cargo or mail for EU/EEA destination to an ACC3 or another RA3. It shall receive a copy of the completed checklist stating the deficiencies.

In general, the EU aviation security validator has to decide if cargo and mail handled by the validated entity is treated in such a way that at the moment it is delivered to an ACC3 or another RA3 it may be deemed to be secure to be flown to the EU/EEA in accordance with the applicable Union regulations.

The EU aviation security validator has to keep in mind that the assessment is based on an overall objective-based compliance methodology.

10.1. General conclusion:

Assessment (and notification) (highlight the one that applies) If it is a 'PASS' the entity will be considered designated as a 3rd country EU aviation security validated regulated agent (RA3).	Pass/Fail
Where the overall assessment is a fail, list below the areas where the entity fails to achieve the required standard of security or has a specific vulnerability. Also, advice on the adjustments needed to achieve the required standard and thus to pass.	
Comments from EU aviation security validator	
Comments from the entity	

Name of the validator:

Date:

Signature:

ANNEX

List of persons and entities visited and interviewed

Providing the name of the entity, the name of the contact person and the date of the visit or interview.

Name of entity	Name of contact person	Date of visit/interview

(*) European Union Member States: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom.

(**) EU/EEA bound air cargo/air mail/aircraft in this validation checklist is equivalent to EU and Iceland, Norway and Switzerland bound air cargo/air mail/aircraft.'

2) The following Attachment is inserted after Attachment 6-C3:

'ATTACHMENT 6-C4

VALIDATION CHECKLIST FOR THIRD COUNTRY EU AVIATION SECURITY VALIDATED KNOWN CONSIGNORS

Third country entities have the option to become part of an ACC3's (*Air cargo or mail carrier operating into the Union from a third country airport*) secure supply chain by seeking designation as a third country EU aviation security validated

Known Consignor (KC3). A KC3 is a cargo handling entity located in a third country that is validated and approved as such on the basis of an EU aviation security validation.

A (KC3) shall ensure that security controls have been applied to consignments bound for the Union and the consignments have been protected from unauthorised interference from the time that those security controls were applied and until transferring to an ACC3 or a third country EU aviation security validated regulated agent (RA3).

The prerequisites for carrying air cargo or air mail into the Union (EU) or Iceland, Norway and Switzerland are required by Regulation (EU) No 185/2010 as amended by Implementing Regulation (EU) No 859/2011 and Commission Implementing Regulation (EU) No 1082/2012 (*).

The checklist is the instrument to be used by the EU aviation security validator for assessing the level of security applied to EU/EEA bound air cargo or air mail by or under the responsibility of the entity seeking designation as a KC3. The checklist is to be used only in the cases specified in point 6.8.4.1(b) of the Annex to Regulation (EU) No 185/2010. In cases specified in point 6.8.4.1(a) of said Annex, the EU aviation security validator shall use the ACC3 checklist.

If the EU aviation security validator concludes that the entity has succeeded in complying with the objectives in this checklist, a validation report shall be given to the validated entity. The validation report shall state that the entity is designated third country EU aviation security validated known consignor (KC3). The KC3 shall be able to use the report in its business relations with any ACC3 and any RA3. Integral parts of the validation report shall include at least all of the following:

- (a) the completed checklist (attachment 6-C4 set out in the Annex to Regulation (EU) No 185/2010) signed by the EU aviation security validator and where applicable commented by the validated entity;
- (b) the declaration of commitments (Attachment 6-H3 set out in the Annex to Regulation (EU) No 185/2010) signed by the validated entity; and
- (c) an independence declaration (Attachment 11-A set out in the Annex to Regulation (EU) No 185/2010) in respect of the entity validated signed by the EU aviation security validator.

Page numbering, the date of the EU aviation security validation and initialling on each page by the validator and the validated entity shall be the proof of the validation report's integrity. By default, the validation report shall be in English.

For those parts that cannot be assessed against the requirements of Regulation (EU) No 185/2010, baseline standards are the Standards and Recommended Practices (SARPs) of Annex 17 to the Convention on International Civil Aviation and the guidance material contained in the ICAO Aviation Security Manual (Doc 8973-Restricted).

If the EU aviation security validation concludes that the entity has failed to comply with the objectives referred to in this checklist, this entity shall receive a copy of the completed checklist stating the deficiencies.

Completion notes:

- (1) All parts of the checklist must be completed. Where no information is available, this must be explained.
- (2) After each part, the EU aviation security validator shall conclude if and to what extent the objectives of this part are met.

PART 1

Organisation and responsibilities

1.1. Date(s) of validation

Use exact date format, such as 01.10.2012 to 02.10.2012

dd/mm/yyyy	
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1.2. Date of previous validation where applicable.

dd/mm/yyyy	
------------	--

Previous KC3 registration number, where available	
---	--

AEO certificate/C-TPAT status/other certifications, where available	
1.3. Aviation security validator information	
Name	
Company/Organisation/Authority	
Unique Alphanumeric Identifier (UAI)	
E-mail address	
Telephone number – including international codes	
1.4. Name of entity	
Name	
Company number (e.g. commercial register identification number, if applicable)	
Number/Unit/Building	
Street	
Town	
Postcode	
State (where relevant)	
Country	
P.O. Box address, if applicable	
1.5. Main address of organisation (if different from site to be validated)	
Number/Unit/Building	
Street	
Town	
Postcode	
State (where relevant)	
Country	
P.O. Box address, is applicable	
1.6. Nature of business – Types of cargo processed	
What is the nature of business(es) – type of cargo processed in the applicant's premises?	
1.7. Is the applicant responsible for...?	
a) Production b) Packing c) Storage d) Despatch e) Other, please specify	
1.8. Approximate number of employees on site	
Number	

1.9. Name and title of person responsible for third country air cargo/air mail security

Name	
Job title	
E-mail address	
Telephone number – including international codes	

PART 2

Organisation and responsibilities of the third country EU aviation security validated known consignor

Objective: No air cargo or air mail shall be carried to the EU/EEA without being subject to security controls. Cargo and mail delivered by a KC3 to an ACC3 or RA3 may only be accepted as secure cargo or mail if such security controls are applied by the KC3. Details of such controls are provided by the following Parts of this checklist.

The KC3 shall have procedures in place to ensure that appropriate security controls are applied to all EU/EEA bound air cargo and air mail and that secure cargo or mail is protected until being transferred to an ACC3 or a RA3. Security controls shall consist of measures that reasonably ensure that no prohibited articles are concealed in the consignment.

Reference: Point 6.8.3.

2.1. Has the entity established a security programme?

YES or NO	
If NO, go directly to point 2.5	

2.2. Entity security programme information

Date – use exact format dd/mm/yyyy	
Version	
Is the security programme submitted to and/or approved by the appropriate authority of the state in which the entity is located? If YES, please describe the process.	

2.3. Does the security programme sufficiently cover the elements mentioned in the checklist (parts 4 to 11)?

YES or NO	
If NO, describe why, detailing the reasons	

2.4. Is the security programme conclusive, robust and complete?

YES or NO	
If NO, specify the reasons	

2.5. Has the entity established a process to ensure that EU/EEA bound air cargo or air mail is submitted to appropriate security controls before being transferred to an ACC3 or an RA3?

YES or NO	
If YES, describe the process	

2.6. Has the entity a management system (e.g. instruments, instructions, etc.) in place to ensure that the required security controls are implemented?

YES or NO	
If YES, describe the management system and explain if it is approved, checked or provided by the appropriate authority or other entity.	
If NO, explain how the entity ensures that security controls are applied in the required manner.	

2.7. Conclusions and general comments on the reliance, conclusiveness and robustness of the process.

Comments from the entity	
Comments from the EU aviation security validator	

PART 3

Identifiable air cargo/air mail ('Targetability')

Objective: To establish the point (or place) where cargo/mail becomes identifiable as air cargo/air mail. Targetability is defined as being able to assess when/where the cargo/mail is identifiable as air cargo/air mail.

3.1. By inspection of the production, packing, storage, selection, despatch and any other relevant areas, ascertain where and how a consignment of EU/EEA bound air cargo/air mail becomes identifiable as such.

Describe	
Comments from the entity	
Comments from the EU aviation security validator	

N.B. Detailed information should be given on the protection of identifiable air cargo/air mail from unauthorised interference or tampering in Parts 6 to 9.

PART 4

Staff recruitment and training

Objective: To ensure that the required security controls are applied, the KC3 shall assign responsible and competent staff to work in the field of securing air cargo or air mail. Staff with access to identifiable air cargo possesses all the competencies required to perform their duties and are appropriately trained.

To fulfil that objective, the KC3 shall have procedures in place to ensure that all staff (permanent, temporary, agency staff, drivers, etc.) with direct and unescorted access to air cargo/air mail to which security controls are being or have been applied:

- (a) have been subject to initial and recurrent pre-employment checks and/or background checks, which are at least in accordance with the requirements of the local authorities of the KC3 premise validated; and
- (b) have completed initial and recurrent security training to be aware of their security responsibilities in accordance with the requirements of the local authorities of the KC3 premise validated.

Note:

— A background check means a check of a person's identity and previous experience, including where legally permissible, any criminal history as part of the assessment of an individual's suitability to implement a security control and/or for unescorted access to a security restricted area (ICAO Annex 17 definition).

- A pre-employment check shall establish the person's identity on the basis of documentary evidence, cover employment, education and any gaps during at least the preceding five years, and require the person to sign a declaration detailing any criminal history in all states of residence during at least the preceding 5 years (Union definition).

Reference: Point 6.8.3.1.

- 4.1. Is there a procedure ensuring that all staff with access to identifiable air cargo/air mail is subject to a pre-employment check that assesses background check and competence?

YES or NO	
If YES, indicate the number of preceding years taken into account for the pre-employment check and state which entity carries it out.	

- 4.2. Does this procedure include?

☐ Background check ☐ Pre-employment check ☐ Check of criminal records ☐ Interviews ☐ Other (provide details) Explain the elements, indicate which entity carries this element out and where applicable, indicate the preceding timeframe that is taken into account.	
--	--

- 4.3. Is there a procedure ensuring that the person responsible for the application and supervision of the implementation of security controls at the site is subject to a pre-employment check that assesses background and competence?

YES or NO	
If YES, indicate the number of preceding years taken into account for the pre-employment check and state which entity carries it out.	

- 4.4. Does this procedure include?

☐ Background check ☐ Pre-employment check ☐ Check of criminal records ☐ Interviews ☐ Other (provide details) Explain the elements, indicate which entity carries this element out and where applicable, indicate the preceding timeframe that is taken into account.	
--	--

- 4.5. Do staff with access to identifiable air cargo/air mail receive training before being given access to identifiable air cargo/air mail?

YES or NO	
If YES, describe the elements and duration of the training	

- 4.6. Do staff referred to in point 4.5 receive recurrent training?

YES or NO	
-----------	--

If YES, specify the elements and the frequency of the recurrent training	
4.7. Conclusion: do measures concerning staff recruitment and training ensure that all staff with access to identifiable EU/EEA bound air cargo/air mail have been properly recruited and trained to a standard sufficient to be aware of their security responsibilities?	
YES or NO	
If NO, specify reasons	
Comments from the entity	
Comments from the EU aviation security validator	

PART 5

Physical security

Objective: The KC3 shall have procedures in place to ensure identifiable air cargo and/or air mail bound for the EU/EEA is protected from unauthorised interference and/or any tampering. If such cargo or mail is not protected, it cannot be forwarded to an ACC3 or RA3 as secure cargo or mail.

The entity has to demonstrate how its site or its premises is protected and that relevant access control procedures are in place. It is essential that access to the area where identifiable air cargo/air mail is processed or stored, is controlled. All doors, windows and other points of access to secure EU/EEA bound air cargo/air mail need to be secured or subject to access control.

Physical security can be, but is not limited to:

- Physical obstacles such as fencing or barriers;
- Technology using alarms and/or CCTV systems;
- Human security such as staff dedicated to carry out surveillance activities.

Reference: Point 6.8.3.1.

5.1. Are all access points to identifiable air cargo/air mail subject to access control and is access limited to authorised persons?

YES or NO	
If YES, how is access controlled? Explain and describe. Multiple answers may be possible. ☐ By security staff ☐ By other staff ☐ Manual checking if persons are allowed to enter the area ☐ Electronic access control systems ☐ Other, specify	
If YES, how is it ensured that a person is authorised to enter the area? Explain and describe. Multiple answers may be possible. — Use of a company identification card — Use of another type of identification card such as passport or driver's licence — List of authorised persons used by (security) staff — Electronic authorisation, e.g. by use of a chip	

— Distribution of keys or access codes only to authorised personnel — Other, specify	
5.2. Are all access points to identifiable air cargo/air mail secured? This includes access points which are not permanent in use and points which are normally not used as access points, such as windows	
YES or NO	
If YES, how are these points secured? Explain and describe. Multiple answers may be possible. — Presence of security staff — Electronic access control systems which allow access to one person at a time — Barriers, e.g. shutters or locks — CCTV system — Intruder detection system	
5.3. Are there additional measures to enhance the security of the premises in general?	
YES or NO	
If YES, explain and describe what they are ☐ Fencing or barriers ☐ CCTV system ☐ Intruder detection system ☐ Surveillance and patrols ☐ Other, specify	
5.4. Is the building of solid construction?	
YES or NO	
5.5. Conclusion: Are the measures taken by the entity sufficient to prevent unauthorised access to those parts of the site and premises where identifiable EU/EEA bound air cargo/air mail is processed or stored?	
YES or NO	
If NO, specify reasons	
Comments from the entity	
Comments from the EU aviation security validator	

PART 6

Production

Objective: The KC3 shall have procedures in place to ensure identifiable air cargo and/or air mail bound for the EU/EEA is protected from unauthorised interference and/or any tampering during the production process. If such cargo or mail is not protected, it cannot be forwarded to an ACC3 or RA3 as secure cargo or mail.

The entity has to demonstrate that access to the production area is controlled and the production process is supervised. If the product becomes identifiable as EU/EEA bound air cargo/air mail in the course of production, the entity has to show that measures are taken to protect air/cargo/air mail from unauthorised interference or tampering from this stage.

Answer these questions where the product can be identified as EU/EEA bound air cargo/air mail in the course of the production process.

6.1. Is access to the production area controlled and limited to authorised persons?	
YES or NO	
If YES, explain how the access is controlled and limited to authorised persons	
6.2. Is the production process supervised?	
YES or NO	
If YES, explain how it is supervised	
6.3. Are controls in place to prevent tampering at the stage of production?	
YES or NO	
If YES, describe	
6.4. Conclusion: Are measures taken by the entity sufficient to protect identifiable EU/EEA bound air cargo/air mail from unauthorised interference or tampering during production?	
YES or NO	
If NO, specify reasons	
Comments from the entity	
Comments from the EU aviation security validator	

PART 7

Packing

Objective: The KC3 shall have procedures in place to ensure identifiable air cargo and/or air mail bound for the EU/EEA is protected from unauthorised interference and/or any tampering during the packing process. If such cargo or mail is not protected, it cannot be forwarded to an ACC3 or RA3 as secure cargo or mail.

The entity has to demonstrate that access to the packing area is controlled and the packing process is supervised. If the product becomes identifiable as EU/EEA bound air cargo/air mail in the course of packing, the entity has to show that measures are taken to protect air cargo/air mail from unauthorised interference or tampering from this stage. All finished goods need to be checked prior to packing.

Answer these questions where the product can be identified as EU/EEA bound air cargo/air mail in the course of the packing process.

7.1. Is access to the packing area controlled and limited to authorised persons?	
YES or NO	
If YES, explain how the access is controlled and limited to authorised persons	
7.2. Is the packing process supervised?	
YES or NO	
If YES, explain how it is supervised	
7.3. Are controls in place to prevent tampering at the stage of packing?	
YES or NO	
If YES, describe	

7.4. Describe the finished outer packaging:

(a) Is the finished outer packing robust?	
YES or NO	
Describe	
(b) Is the finished outer packaging tamper evident?	
YES or NO	
If YES, describe which process is used to make the packaging tamper evident, for example by use of numbered seals, special stamps or security tape, etc.	
If NO, describe what protection measures that ensure the integrity of the consignments are taken.	

7.5. Conclusion: Are measures taken by the entity sufficient to protect identifiable EU/EEA bound air cargo/air mail from unauthorised interference or tampering during packing?

YES or NO	
If NO, specify reasons	
Comments from the entity	
Comments from the EU aviation security validator	

PART 8

Storage

Objective: The KC3 shall have procedures in place to ensure identifiable air cargo and/or air mail bound for the EU/EEA is protected from unauthorised interference and/or any tampering during storage. If such cargo or mail is not protected, it cannot be forwarded to an ACC3 or RA3 as secure cargo or mail.

The entity has to demonstrate that access to the storage area is controlled. If the product becomes identifiable as EU/EEA bound air cargo/air mail while being stored, the entity has to show that measures are taken to protect air cargo/air mail from unauthorised interference or tampering from this stage.

Answer these questions where the product can be identified as EU/EEA bound air cargo/air mail in the course of the storage process.

8.1. Is access to the storage area controlled and limited to authorised persons?

YES or NO	
If YES, explain how the access is controlled and limited to authorised persons	

8.2. Is the finished and packed air cargo/air mail stored securely and checked for tampering?

YES or NO	
If YES, describe	
If NO, explain how the entity ensures that the finished and packed EU/EEA bound air cargo and air mail is protected against unauthorised interference and any tampering.	

8.3. Conclusion: Are measures taken by the entity sufficient to protect identifiable EU/EEA bound air cargo/air mail from unauthorised interference or tampering during storage?

YES or NO	
If NO, specify reasons	
Comments from the entity	
Comments from the EU aviation security validator	

PART 9

Despatch

Objective: The KC3 shall have procedures in place to ensure identifiable air cargo and/or air mail bound for the EU/EEA is protected from unauthorised interference and/or any tampering during the despatch process. If such cargo or mail is not protected, it cannot be forwarded to an ACC3 or RA3 as secure cargo or mail.

The entity has to demonstrate that access to the despatch area is controlled. If the product becomes identifiable as EU/EEA bound air cargo/air mail in the course of despatch, the entity has to show that measures are taken to protect air cargo/air mail from unauthorised interference or tampering from this stage.

Answer these questions where the product can be identified as EU/EEA bound air cargo/air mail in the course of the despatch process.

9.1. Is access to the despatch area controlled and limited to authorised persons?

YES or NO	
If YES, explain how the access is controlled and limited to authorised persons	

9.2. Who has access to the despatch area? Multiple answers may be possible.

☐ Employees of the entity ☐ Drivers ☐ Visitors ☐ Contractors ☐ Others, specify	
---	--

9.3. Is the despatch process supervised?

YES or NO	
If YES, explain how it is supervised	

9.4. Are controls in place to prevent tampering in the despatch area?

YES or NO	
If YES, describe	

9.5. Conclusion: Are measures taken by the entity sufficient to protect identifiable EU/EEA bound air cargo/air mail from unauthorised interference or tampering during the despatch process?

YES or NO	
If NO, specify reasons	
Comments from the entity	
Comments from the EU aviation security validator	

PART 10

Consignments from other sources

Objective: The KC3 shall have procedures in place to ensure that cargo or mail which it has not originated itself, shall not be forwarded to an ACC3 or an RA3 as secure cargo or mail.

A KC3 may pass consignments which it has not itself originated to a RA3 or an ACC3, provided that:

- (a) they are separated from consignments which it has originated; and
- (b) the origin is clearly indicated on the consignment or an accompanying documentation.

All such consignments must be screened by an RA3 or ACC3 before they are loaded onto an aircraft.

10.1. Does the entity accept consignments of cargo or mail intended for carriage by air from any other entity?

YES or NO	
If YES, how are these consignments kept separate from the company's own cargo or mail and how are they identified to the regulated agent/hauler?	
Comments from the entity	
Comments from the EU aviation security validator.	

PART 11

Transportation

Objective: The KC3 shall have procedures in place to ensure identifiable air cargo and/or air mail bound for the EU/EEA is protected from unauthorised interference and/or any tampering during transportation. If such cargo or mail is not protected, it cannot be accepted by an ACC3 or RA3 as secure cargo or mail.

During transportation, the KC3 is responsible for the protection of the secure consignments. This includes cases where the transportation is undertaken by another entity, such as a freight forwarder, on its behalf. This does not include cases whereby the consignments are transported under the responsibility of an ACC3 or RA3.

Answer these questions where the product can be identified as EU/EEA bound air cargo/air mail when transported.

11.1. How is the air cargo/air mail conveyed to the ACC3 or RA3?

(a) Validated entity's own transport?	
YES or NO	
(b) ACC3/RA3's transport?	
YES or NO	
(c) Contractor used by the validated entity?	
YES or NO	

11.2. Is the air cargo/air mail tamper evidently packed?

YES or NO	
If YES, how	

11.3. Is the vehicle sealed or locked before transportation?	
YES or NO	
If YES, how	
11.4. Where numbered seals are used, is access to the seals controlled and are the numbers recorded?	
YES or NO	
If YES, specify how	
11.5. If applicable, does the respective haulier sign the haulier declaration?	
YES or NO	
11.6. Has the person transporting the cargo been subject to specific security controls and awareness training before being authorised to transport secured air cargo and/or air mail?	
YES or NO	
If YES, please describe what kind of security controls (pre-employment check, background check, etc.) and what kind of training (security awareness training, etc.)	
11.7. Conclusion: Are the measures sufficient to protect air cargo/air mail from unauthorised interference during transportation?	
YES or NO	
If NO, specify reasons	
Comments from the entity	
Comments from the EU aviation security validator	

PART 12

Compliance

Objective: After assessing the eleven previous parts of this checklist, the EU aviation security validator has to conclude if its on-site verification confirms the implementation of the security controls in compliance with the objectives listed in this checklist for EU/EEA bound air cargo/air mail.

Two different scenarios are possible. The EU aviation security validator concludes that the entity:

- (a) has succeeded in complying with the objectives referred to in this checklist. The validator shall provide the validated entity with the original of the validation report and state that the entity is designated third country EU aviation security validated known consignor (KC3);
- (b) has failed in complying with the objectives referred to in this checklist. In that case, the entity is not authorised to deliver air cargo or mail for EU/EEA destination to an ACC3 or RA3 without it being screened by an authorised party. It shall receive a copy of the completed checklist stating the deficiencies.

In general, the EU aviation security validator has to decide if cargo and mail handled by the validated entity is treated in such a way that at the moment it is delivered to an ACC3 or an RA3 it may be deemed to be secure to be flown to the EU/EEA in accordance with the applicable Union regulations.

The EU aviation security validator has to keep in mind that the assessment is based on an overall objective-based compliance methodology.

12.1. General conclusion:

Assessment (and notification) (highlight the one that applies) If it is a 'PASS' the entity will be considered designated as a 3rd country EU aviation security validated known consignor (KC3).	Pass/Fail
Where the overall assessment is a fail, list below the areas where the entity fails to achieve the required standard of security or has a specific vulnerability. Also advice on the adjustments needed to achieve the required standard and thus to pass.	
Comments from EU aviation security validator	
Comments from the entity	

Name of the validator:

Date:

Signature:

ANNEX

List of persons and entities visited and interviewed

Providing the name of the entity, the name of the contact person and the date of the visit or interview.

Name of entity	Name of contact person	Date of visit/interview

(*) OJ L 324, 22.11.2012, p. 25.'

3) The following Attachments are inserted after Attachment 6-H1:

'ATTACHMENT 6-H2**DECLARATION OF COMMITMENTS — THIRD COUNTRY EU AVIATION SECURITY VALIDATED REGULATED AGENT (RA3)**

On behalf of [name of RA3] I take note of the following:

This report establishes the level of security applied to EU/EEA bound air cargo operations in respect of the security standards listed in the checklist or referred to therein.

[Name of RA3] can only be designated 'third country EU aviation security validated regulated agent' (RA3) once an EU aviation security validation has been successfully completed with a 'PASS' by an EU aviation security validator listed in the Union database for the regulated agents and known consignors.

If the report establishes a non-compliance in the security measures it refers to, this could lead to the withdrawal of [name of RA3] designation as a RA3 already obtained for this premise which will prevent [name of RA3] from delivering secured air cargo or mail for EU/EEA destination to an ACC3 or another RA3.

The report is valid for five years and shall therefore expire on at the latest.

On behalf of [name of RA3] I declare that:

- (a) [name of RA3] will accept appropriate follow-up action for the purpose of monitoring the standards confirmed by the report.
- (b) Any changes to [name of RA3] operations not requiring full re-validation will be noted on the original report by adding the information while keeping the previous information visible. This may concern the following changes:
 - (1) the overall responsibility for security is assigned to anyone other than the person named in point 1.8 of Attachment 6-C2 to Regulation (EU) No 185/2010;
 - (2) any other changes to premises or procedures likely to significantly impact on security.
- (c) [name of RA3] will inform the ACC3 and RA3's to which it delivers secured air cargo and/or air mail if [name of RA3] ceases trading, no longer deals with air cargo/air mail or can no longer meet the requirements validated in this report.
- (d) [name of RA3] will maintain the security level confirmed in this report as compliant with the objective set out in the checklist and, where appropriate, implement and apply any additional security measures required to be designated RA3 where security standards were identified as insufficient, until the subsequent validation of [name of RA3] activities.

On behalf of [name of RA3] I accept full responsibility for this declaration.

Name:

Position in company:

Date:

Signature:

ATTACHMENT 6-H3

DECLARATION OF COMMITMENTS — THIRD COUNTRY EU AVIATION SECURITY VALIDATED KNOWN CONSIGNOR (KC3)

On behalf of [name of KC3] I take note of the following:

This report establishes the level of security applied to EU/EEA bound (*) air cargo operations in respect of the security standards listed in the checklist or referred to therein (**).

[Name of KC3] can only be designated 'third country EU aviation security validated known consignor' (KC3) once an EU aviation security validation has been successfully completed with a 'PASS' by an EU aviation security validator listed in the Union database for the regulated agents and known consignors.

If the report establishes a non-compliance in the security measures it refers to, this could lead to the withdrawal of [name of KC3] designation as a KC3 already obtained for this premise which will prevent [name of KC3] from delivering secured air cargo or mail for EU/EEA destination to an ACC3 or a third country EU aviation security validated regulated agent (RA3).

The report is valid for five years and shall therefore expire on at the latest.

On behalf of [name of KC3] I declare that:

- (a) [name of KC3] will accept appropriate follow-up action for the purpose of monitoring the standards confirmed by the report.
- (b) Any changes to [name of KC3] operations not requiring full re-validation will be noted on the original report by adding the information while keeping the previous information visible. This may concern the following changes:
 - (1) the overall responsibility for security is assigned to anyone other than the person named in point 1.9 of Attachment 6-C4 to Regulation (EU) No 185/2010;
 - (2) any other changes to premises or procedures likely to significantly impact on security.

- (c) [name of KC3] will inform the ACC3 and the RA3's to which it delivers secured air cargo and/or air mail if [name of KC3] ceases trading, no longer deals with air cargo/air mail or can no longer meet the requirements validated in this report.
- (d) [name of KC3] will maintain the security level confirmed in this report as compliant with the objective set out in the checklist and, where appropriate, implement and apply any additional security measures required to be designated KC3 where security standards were identified as insufficient, until the subsequent validation of [name of KC3] activities.

On behalf of [name of KC3] I accept full responsibility for this declaration.

Name:

Position in company:

Date:

Signature:

(*) Airports situated in Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, the United Kingdom as well as Iceland, Norway and Switzerland.

(**) Regulation (EU) No 185/2010 as amended by Implementing Regulation (EU) No 859/2011 and (EU) No 1082/2012.'

COMMISSION REGULATION (EU) No 655/2013**of 10 July 2013****laying down common criteria for the justification of claims used in relation to cosmetic products****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products⁽¹⁾, and in particular the second subparagraph of Article 20(2) thereof,

Whereas:

- (1) End users as defined in Article 2(1)(f) of Regulation (EC) No 1223/2009 are faced with a wide diversity of claims relating to the function, content and effects of a cosmetic product. As cosmetic products play such a big part in end users' lives, it is important to ensure that the information conveyed to them through such claims is useful, understandable and reliable, and that it enables them to take informed decisions and to choose the products that best suit their needs and expectations.
- (2) Product claims of cosmetic products serve mainly to inform end users about the characteristics and qualities of the products. Those claims are essential ways of differentiating between products. They also contribute to stimulating innovation and fostering competition.
- (3) Common criteria should be laid down at Union level in order to justify the use of a claim made in relation to cosmetic products. The main objective of laying down common criteria is to guarantee a high level of protection for end users, in particular from misleading claims in relation to cosmetic products. A common approach at Union level should also ensure better convergence of actions taken by the Member States' competent authorities, and prevent distortions in the internal market. Such an approach should also enhance cooperation between national authorities responsible for the enforcement of consumer protection as laid down in Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation)⁽²⁾.

- (4) Article 20 of Regulation (EC) No 1223/2009 applies to products that fall under the definition of a cosmetic product in Article 2 of this Regulation. The common criteria only apply when it has been assessed that the product in question is indeed a cosmetic product. It is for the national competent authorities and national courts to decide on a case-by-case basis which regulatory framework applies.
- (5) The common criteria should apply without prejudice to Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive')⁽³⁾, to Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising⁽⁴⁾, and to other applicable Union legislation.
- (6) A flexible approach should be taken towards communicating the messages to end users so as to take into account the social, linguistic and cultural diversity of the Union and to preserve the innovation and the competitiveness of European industry. Such an approach is consistent with the principles enunciated by the Court of Justice, which has pointed out on several occasions that, in order to determine whether a claim is capable of misleading the consumer, it is necessary to consider the latter's expectations, taking account of the specific context and circumstances in which the claim is made, including social, cultural and linguistic factors⁽⁵⁾.
- (7) Whilst ensuring that the same principles are respected throughout the Union, the common criteria should not aim at defining and specifying the wording that can be used for cosmetic product claims.
- (8) In order to ensure that the common criteria for cosmetic claims apply from the same date as Regulation (EC) No 1223/2009, this Regulation should apply from 11 July 2013.

⁽¹⁾ OJ L 342, 22.12.2009, p. 59.

⁽²⁾ OJ L 364, 9.12.2004, p. 1.

⁽³⁾ OJ L 149, 11.6.2005, p. 22.

⁽⁴⁾ OJ L 376, 27.12.2006, p. 21.

⁽⁵⁾ See e.g. Case C-220/98, Estée Lauder Cosmetics vs. Lancaster [2000] ECR I-00117, paragraph 29.

- (9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Cosmetic Products,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation shall apply to claims in the form of texts, names, trademarks, pictures and figurative or other signs that convey explicitly or implicitly product characteristics or functions in the labelling, the making available on the market and advertising of cosmetic products. It shall apply to any claim, irrespective of the medium or type of marketing tool used, the product functions claimed, and the target audience.

Article 2

The responsible person referred to in Article 4 of Regulation (EC) No 1223/2009 shall ensure that the wording of the claim in relation to cosmetic products is in compliance with the common criteria set out in the Annex and is consistent with the documentation proving the effect claimed for the cosmetic product in the product information file referred to in Article 11 of Regulation (EC) No 1223/2009.

Article 3

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

It shall apply from 11 July 2013.

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

Done at Brussels, 10 July 2013.

For the Commission

The President

José Manuel BARROSO

ANNEX

COMMON CRITERIA**1. Legal compliance**

- (1) Claims that indicate that the product has been authorised or approved by a competent authority within the Union shall not be allowed.
- (2) The acceptability of a claim shall be based on the perception of the average end user of a cosmetic product, who is reasonably well-informed and reasonably observant and circumspect, taking into account social, cultural and linguistic factors in the market in question.
- (3) Claims which convey the idea that a product has a specific benefit when this benefit is mere compliance with minimum legal requirements shall not be allowed.

2. Truthfulness

- (1) If it is claimed on the product that it contains a specific ingredient, the ingredient shall be deliberately present.
- (2) Ingredient claims referring to the properties of a specific ingredient shall not imply that the finished product has the same properties when it does not.
- (3) Marketing communications shall not imply that expressions of opinions are verified claims unless the opinion reflects verifiable evidence.

3. Evidential support

- (1) Claims for cosmetic products, whether explicit or implicit, shall be supported by adequate and verifiable evidence regardless of the types of evidential support used to substantiate them, including where appropriate expert assessments.
- (2) Evidence for claim substantiation shall take into account state of the art practices.
- (3) Where studies are being used as evidence, they shall be relevant to the product and to the benefit claimed, shall follow well-designed, well-conducted methodologies (valid, reliable and reproducible) and shall respect ethical considerations.
- (4) The level of evidence or substantiation shall be consistent with the type of claim being made, in particular for claims where lack of efficacy may cause a safety problem.
- (5) Statements of clear exaggeration which are not to be taken literally by the average end user (hyperbole) or statements of an abstract nature shall not require substantiation.
- (6) A claim extrapolating (explicitly or implicitly) ingredient properties to the finished product shall be supported by adequate and verifiable evidence, such as by demonstrating the presence of the ingredient at an effective concentration.
- (7) Assessment of the acceptability of a claim shall be based on the weight of evidence of all studies, data and information available depending on the nature of the claim and the prevailing general knowledge the end users.

4. Honesty

- (1) Presentations of a product's performance shall not go beyond the available supporting evidence.
- (2) Claims shall not attribute to the product concerned specific (i.e. unique) characteristics if similar products possess the same characteristics.
- (3) If the action of a product is linked to specific conditions, such as use in association with other products, this shall be clearly stated.

5. Fairness

- (1) Claims for cosmetic products shall be objective and shall not denigrate the competitors, nor shall they denigrate ingredients legally used.
- (2) Claims for cosmetic products shall not create confusion with the product of a competitor.

6. Informed decision-making

- (1) Claims shall be clear and understandable to the average end user.
 - (2) Claims are an integral part of products and shall contain information allowing the average end user to make an informed choice.
 - (3) Marketing communications shall take into account the capacity of the target audience (population of relevant Member States or segments of the population, e.g. end users of different age and gender) to comprehend the communication. Marketing communications shall be clear, precise, relevant and understandable by the target audience.
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COMMISSION REGULATION (EU) No 656/2013**of 10 July 2013****laying down transitional measures regarding the model passport issued in Croatia for dogs, cats and ferrets****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty of Accession of Croatia, and in particular Article 3(4) thereof,

Having regard to the Act of Accession of Croatia, and in particular Article 42 thereof,

Whereas:

(1) Regulation (EC) No 998/2003 of the European Parliament and of the Council of 26 May 2003 on the animal health requirements applicable to the non-commercial movement of pet animals and amending Council Directive 92/65/EEC⁽¹⁾ applies, *inter alia*, to movements into Member States from third countries of pet animals of the species listed in Annex I thereto. Dogs and cats are listed in Part A and ferrets are listed in Part B of that Annex.

(2) Section 2 of Part B of Annex II to Regulation (EC) No 998/2003 lists countries and territories, including Croatia, which apply to non-commercial movements of those pet animals rules at least equivalent to the rules provided for in that Regulation.

(3) As a result, dogs, cats and ferrets moved from those countries and territories into Member States are allowed to be accompanied by a passport complying with the model set out in Annex I to Commission Decision 2003/803/EC of 26 November 2003 establishing a model passport for the intra-Community movements of dogs, cats and ferrets⁽²⁾ and the additional requirements set out in Annex II to that Decision, with certain necessary adaptations with regard to the cover page of the model passport.

(4) From the date of accession of Croatia, dogs, cats and ferrets are not to be moved from Croatia into another Member State unless they are accompanied by a passport complying with the model set out in Annex I to Decision 2003/803/EC and the additional requirements set out in Annex II to that Decision.

(5) However, blank passports printed by the competent authorities of Croatia as well as those distributed to, but not

yet issued by, authorised veterinarians in Croatia before the date of accession may still be in stock after that date.

(6) At the same time, passports issued prior to the date of accession should, subject to certain conditions, continue to be accepted for a transitional period of three years in order to limit the administrative and financial burden on owners of pet animals.

(7) Therefore, in order to facilitate the transition from the existing regime to that in force from the date of accession of Croatia, it is appropriate to lay down transitional measures for the movement of pet animals from Croatia into other Member States.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health and neither the European Parliament nor the Council have opposed them,

HAS ADOPTED THIS REGULATION:

Article 1

Member States shall authorise the movement from Croatia into their territory of pet animals of the species listed in Parts A and B of Annex I to Regulation (EC) No 998/2003 which are accompanied by a passport issued by an authorised veterinarian in Croatia not later than 30 June 2014 and complying with the following requirements:

(a) it is drawn up in accordance with the model set out in Annex I to Decision 2003/803/EC and the additional requirements set out in points A, B(2)(a), B(2)(c) and C of Annex II to that Decision;

(b) it bears, by way of derogation from points B(1) and B(2)(b) of Annex II to Decision 2003/803/EC, the Croatian emblem printed in the upper quarter of the cover page, above the words 'Republika Hrvatska', on a blue background (PANTONE REFLEX BLUE).

Article 2

This Regulation shall enter into force subject to and on the date of the entry into force of the Treaty of Accession of Croatia.

It shall apply until 30 June 2016.

⁽¹⁾ OJ L 146, 13.6.2003, p. 1.

⁽²⁾ OJ L 312, 27.11.2003, p. 1.

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

Done at Brussels, 10 July 2013.

For the Commission

The President

José Manuel BARROSO

COMMISSION IMPLEMENTING REGULATION (EU) No 657/2013**of 10 July 2013****amending Implementing Regulation (EU) No 1079/2012 laying down requirements for voice channels spacing for the single European sky****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

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

Having regard to Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation) ⁽²⁾, and in particular Article 8(1) thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) No 1079/2012 ⁽³⁾ requires the coordinated introduction of air-ground voice communications based on reduced 8,33 kHz channel spacing, with the aim of increasing the number of available frequencies for air-ground voice communications and allowing for increases in the number of airspace sectors and the related air traffic control capacity.
- (2) Article 6(3) of Implementing Regulation (EU) No 1079/2012 was meant to impose a target on the Member States listed in Annex I, whereby the number of new 8,33 kHz channel spacing conversions are to be equivalent to at least 25 % of the total number of 25 kHz frequency assignments allocated to all area control centres in the Member State. However, the current published text of Article 6(3) could be interpreted as imposing a less ambitious obligation which could in

effect significantly reduce, for the Member States with more than one area control centre, the task of generating additional frequencies.

- (3) The aim of the amendment is to clarify Article 6(3) of Implementing Regulation (EU) No 1079/2012, therefore the original date of application of that act should be maintained.
- (4) Implementing Regulation (EU) No 1079/2012 should therefore be amended accordingly.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Single Sky Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Article 6(3) of Implementing Regulation (EU) No 1079/2012 is replaced by the following:

‘3. Member States listed in Annex I shall implement, by 31 December 2014 at the latest, a number of new 8,33 kHz channel spacing conversions equivalent to at least 25 % of the total number of the 25 kHz frequency assignments in the central register and allocated to area control centres (“ACC”) in the Member State. These conversions shall not be limited to ACC frequency assignments and shall not include operational control communication frequency assignments.’

Article 2

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

It shall apply from 7 December 2012.

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

Done at Brussels, 10 July 2013.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ OJ L 96, 31.3.2004, p. 26.

⁽²⁾ OJ L 96, 31.3.2004, p. 1.

⁽³⁾ OJ L 320, 17.11.2012, p. 14.

COMMISSION REGULATION (EU) No 658/2013**of 10 July 2013****amending Annexes II and III to Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products ⁽¹⁾, and in particular Article 31(1) thereof,

Whereas:

- (1) Regulation (EC) No 1223/2009 replacing Council Directive 76/768/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to cosmetic products ⁽²⁾ will apply from 11 July 2013.
- (2) Annexes II and III to Directive 76/768/EEC were amended by Commission Implementing Directive 2012/21/EU ⁽³⁾ after the adoption of the Regulation, by including one hair dye substance into Annex II, 26 hair dye substances into Part 1 of Annex III and by changing the maximum authorised concentrations in the finished cosmetic product for two hair dye substances in Part 1 of Annex III. Those amendments should now be reflected in Regulation (EC) No 1223/2009.

- (3) In accordance with Implementing Directive 2012/21/EU, Member States are to apply the laws, regulations and administrative provisions adopted in order to comply with that Directive from 1 September 2013. Therefore, this Regulation should apply from that date.

- (4) Regulation (EC) No 1223/2009 should therefore be amended accordingly.

- (5) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Cosmetic Products,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes II and III to Regulation (EC) No 1223/2009 are amended in accordance with the Annex to this Regulation.

*Article 2*This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 September 2013.

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

Done at Brussels, 10 July 2013.

*For the Commission**The President*

José Manuel BARROSO

⁽¹⁾ OJ L 342, 22.12.2009, p. 59.⁽²⁾ OJ L 262, 27.9.1976, p. 169.⁽³⁾ OJ L 208, 3.8.2012, p. 8.

Annexes II and III to Regulation (EC) No 1223/2009 are amended as follows:

(1) In Annex II, the following entry is added:

Reference number	Substance identification		
	Chemical name/INN	CAS number	EC number
'1373	N-(2-Nitro-4-aminophenyl)-allylamine (HC Red No 16) and its salts	160219-76-1'	

(2) Annex III is amended as follows:

(a) The following entries concerning reference numbers 198 to 200 are added:

Reference number	Substance identification				Restrictions			Wording of conditions of use and warnings
	Chemical name/INN	Name of Common Ingredients Glossary	CAS number	EC number	Product type, body parts	Maximum concentration in ready use preparation	Other	
'198	2,2'-[[4-Aminophenyl)imino]bis(ethanol) sulphate	N,N-bis(2-Hydroxyethyl)-p-Phenylene-diamine Sulfate	54381-16-7	259-134-5	Hair dye substance in oxidative hair dye products		After mixing under oxidative conditions the maximum concentration applied to hair must not exceed 2,5 % (calculated as sulphate) — Do not use with nitrosating agents — Maximum nitrosamine content: 50 µg/kg — Keep in nitrite-free containers	To be printed on the label: The mixing ratio.  Hair colorants can cause severe allergic reactions. Read and follow instructions. This product is not intended for use on persons under the age of 16. Temporary 'black henna' tattoos may increase your risk of allergy. Do not colour your hair if: — you have a rash on your face or sensitive, irritated and damaged scalp, — you have ever experienced any reaction after colouring your hair, — you have experienced a reaction to a temporary 'black henna' tattoo in the past.'

Reference number	Substance identification				Restrictions			Wording of conditions of use and warnings
	Chemical name/INN	Name of Common Ingredients Glossary	CAS number	EC number	Product type, body parts	Maximum concentration in ready use preparation	Other	
199	1,3-Benzenediol, 4-chloro-	4-Chlororesorcinol	95-88-5	202-462-0	Hair dye substance in oxidative hair dye products		After mixing under oxidative conditions the maximum concentration applied to hair must not exceed 2,5 %	To be printed on the label: The mixing ratio. ‘ Hair colorants can cause severe allergic reactions. Read and follow instructions. This product is not intended for use on persons under the age of 16. Temporary ‘black henna’ tattoos may increase your risk of allergy. Do not colour your hair if: — you have a rash on your face or sensitive, irritated and damaged scalp, — you have ever experienced any reaction after colouring your hair, — you have experienced a reaction to a temporary ‘black henna’ tattoo in the past.’
200	2,4,5,6-Tetraaminopyrimidine sulphate	Tetraaminopyrimidine Sulfate	5392-28-9	226-393-0	(a) Hair dye substance in oxidative hair dye products (b) Hair dye substance in non-oxidative hair dye products	(b) 3,4 % (calculated as sulphate)	(a) After mixing under oxidative conditions the maximum concentration applied to hair must not exceed 3,4 % (calculated as sulphate)	(a) To be printed on the label: The mixing ratio. ‘ Hair colorants can cause severe allergic reactions. Read and follow instructions. This product is not intended for use on persons under the age of 16. Temporary ‘black henna’ tattoos may increase your risk of allergy. Do not colour your hair if: — you have a rash on your face or sensitive, irritated and damaged scalp,

Reference number	Substance identification				Restrictions			Wording of conditions of use and warnings
	Chemical name/INN	Name of Common Ingredients Glossary	CAS number	EC number	Product type, body parts	Maximum concentration in ready use preparation	Other	
								— you have ever experienced any reaction after colouring your hair, — you have experienced a reaction to a temporary 'black henna' tattoo in the past.'

(b) The following entries concerning reference numbers 206 to 214 are added:

206	3-(2-Hydroxyethyl)-p-phenylenediammonium sulphate	Hydroxyethyl-p-Phenylene-diamine Sulfate	93841-25-9	298-995-1	Hair dye substance in oxidative hair dye products		After mixing under oxidative conditions the maximum concentration applied to hair must not exceed 2,0 % (calculated as sulphate)	To be printed on the label: The mixing ratio.  Hair colorants can cause severe allergic reactions. Read and follow instructions. This product is not intended for use on persons under the age of 16. Temporary 'black henna' tattoos may increase your risk of allergy. Do not colour your hair if: — you have a rash on your face or sensitive, irritated and damaged scalp, — you have ever experienced any reaction after colouring your hair, — you have experienced a reaction to a temporary 'black henna' tattoo in the past.'
207	1H-Indole-5,6-diol	Dihydroxy-indole	3131-52-0	412-130-9	(a) Hair dye substance in oxidative hair dye products		(a) After mixing under oxidative conditions the maximum concentration applied to hair must not exceed 0,5 %	(a) To be printed on the label: The mixing ratio. For (a) and (b):  Hair colorants can cause severe allergic reactions. Read and follow instructions. This product is not intended for use on persons under the age of 16.

					(b) Hair dye substance in non-oxidative hair dye products	(b) 0,5 %		Temporary 'black henna' tattoos may increase your risk of allergy. Do not colour your hair if: — you have a rash on your face or sensitive, irritated and damaged scalp, — you have ever experienced any reaction after colouring your hair, — you have experienced a reaction to a temporary 'black henna' tattoo in the past.'
208	5-Amino-4-chloro-2-methylphenol hydrochloride	5-Amino-4-Chloro-o-Cresol HCl	110102-85-7		Hair dye substance in oxidative hair dye products		After mixing under oxidative conditions the maximum concentration applied to hair must not exceed 1,5 % (calculated as hydrochloride)	To be printed on the label: The mixing ratio.  Hair colorants can cause severe allergic reactions. Read and follow instructions. This product is not intended for use on persons under the age of 16. Temporary 'black henna' tattoos may increase your risk of allergy. Do not colour your hair if: — you have a rash on your face or sensitive, irritated and damaged scalp, — you have ever experienced any reaction after colouring your hair, — you have experienced a reaction to a temporary 'black henna' tattoo in the past.'
209	1H-Indol-6-ol	6-Hydroxy-indole	2380-86-1	417-020-4	Hair dye substance in oxidative hair dye products		After mixing under oxidative conditions the maximum concentration applied to hair must not exceed 0,5 %	To be printed on the label: The mixing ratio.  Hair colorants can cause severe allergic reactions. Read and follow instructions.

								This product is not intended for use on persons under the age of 16. Temporary 'black henna' tattoos may increase your risk of allergy. Do not colour your hair if: — you have a rash on your face or sensitive, irritated and damaged scalp, — you have ever experienced any reaction after colouring your hair, — you have experienced a reaction to a temporary 'black henna' tattoo in the past.'
210	1H-Indole-2,3-Dione	Isatin	91-56-5	202-077-8	Hair dye substance in non-oxidative hair dye products	1,6 %		‘ Hair colorants can cause severe allergic reactions. Read and follow instructions. This product is not intended for use on persons under the age of 16. Temporary 'black henna' tattoos may increase your risk of allergy. Do not colour your hair if: — you have a rash on your face or sensitive, irritated and damaged scalp, — you have ever experienced any reaction after colouring your hair, — you have experienced a reaction to a temporary 'black henna' tattoo in the past.'
211	2-Aminopyridin-3-ol	2-Amino-3-Hydroxypyridine	16867-03-1	240-886-8	Hair dye substance in oxidative hair dye products		After mixing under oxidative conditions the maximum concentration applied to hair must not exceed 1,0 %	To be printed on the label: The mixing ratio. ‘ Hair colorants can cause severe allergic reactions. Read and follow instructions. This product is not intended for use on persons under the age of 16.

							Temporary 'black henna' tattoos may increase your risk of allergy. Do not colour your hair if: — you have a rash on your face or sensitive, irritated and damaged scalp, — you have ever experienced any reaction after colouring your hair, — you have experienced a reaction to a temporary 'black henna' tattoo in the past.'
212	2-Methyl-1-naphthyl acetate	1-Acetoxy-2-Methylnaphthalene	5697-02-9	454-690-7	Hair dye substance in oxidative hair dye products	After mixing under oxidative conditions the maximum concentration applied to hair must not exceed 2,0 % (When both 2-Methyl-1-Naphthol and 1-Acetoxy-2-Methylnaphthalene are present in a hair dye formulation, the maximum concentration on the head of 2-Methyl-1-Naphthol should not exceed 2,0 %).	To be printed on the label: The mixing ratio. ⚠ Hair colorants can cause severe allergic reactions. Read and follow instructions. This product is not intended for use on persons under the age of 16. Temporary 'black henna' tattoos may increase your risk of allergy. Do not colour your hair if: — you have a rash on your face or sensitive, irritated and damaged scalp, — you have ever experienced any reaction after colouring your hair, — you have experienced a reaction to a temporary 'black henna' tattoo in the past.'
213	1-Hydroxy-2-methylnaphthalene	2-Methyl-1-Naphthol	7469-77-4	231-265-2	Hair dye substance in oxidative hair dye products	After mixing under oxidative conditions the maximum concentration applied to hair must not exceed 2,0 % (When both 2-Methyl-1-Naphthol and 1-Acetoxy-2-Methylnaphthalene are present in a hair dye formulation, the maximum concentration on the head of 2-Methyl-1-Naphthol should not exceed 2,0 %).	To be printed on the label: The mixing ratio. ⚠ Hair colorants can cause severe allergic reactions. Read and follow instructions. This product is not intended for use on persons under the age of 16.

							Temporary 'black henna' tattoos may increase your risk of allergy. Do not colour your hair if: — you have a rash on your face or sensitive, irritated and damaged scalp, — you have ever experienced any reaction after colouring your hair, — you have experienced a reaction to a temporary 'black henna' tattoo in the past.'
214	Disodium 5,7-dinitro-8-oxido-2-naphthalenesulfonate CI 10316	Acid Yellow 1	846-70-8	212-690-2	(a) Hair dye substance in oxidative hair dye products (b) Hair dye substance in non-oxidative hair dye products	(a) After mixing under oxidative conditions the maximum concentration applied to hair must not exceed 1,0 % (b) 0,2 %	(a) To be printed on the label: The mixing ratio. For (a) and (b): ⚠ Hair colorants can cause severe allergic reactions. Read and follow instructions. This product is not intended for use on persons under the age of 16. Temporary 'black henna' tattoos may increase your risk of allergy. Do not colour your hair if: — you have a rash on your face or sensitive, irritated and damaged scalp, — you have ever experienced any reaction after colouring your hair, — you have experienced a reaction to a temporary 'black henna' tattoo in the past.'

(c) The entry with reference number 240 is replaced by the following:

'240	4-Nitro-1,2-phenylenediamine	4-Nitro-o-Phenylene-diamine	99-56-9	202-766-3	Hair dye substance in oxidative hair dye products		After mixing under oxidative conditions the maximum concentration applied to hair must not exceed 0,5 %	To be printed on the label: The mixing ratio.  Hair colorants can cause severe allergic reactions. Read and follow instructions. This product is not intended for use on persons under the age of 16. Temporary 'black henna' tattoos may increase your risk of allergy. Do not colour your hair if: — you have a rash on your face or sensitive, irritated and damaged scalp, — you have ever experienced any reaction after colouring your hair, — you have experienced a reaction to a temporary 'black henna' tattoo in the past.'
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(d) The entry with reference number 251 is replaced by the following:

'251	2-(4-Amino-3-nitroanilino)ethanol	HC Red No 7	24905-87-1	246-521-9	Hair dye substance in non-oxidative hair dye products	1,0 %	— Do not use with nitrosating agents — Maximum nitrosamine content: 50 µg/kg — Keep in nitrite-free containers	 Hair colorants can cause severe allergic reactions. Read and follow instructions. This product is not intended for use on persons under the age of 16. Temporary 'black henna' tattoos may increase your risk of allergy. Do not colour your hair if: — you have a rash on your face or sensitive, irritated and damaged scalp, — you have ever experienced any reaction after colouring your hair, — you have experienced a reaction to a temporary 'black henna' tattoo in the past.'
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(e) The entry with reference number 253 is replaced by the following:

'253	2-[bis(2-Hydroxyethyl)amino]-5-nitrophenol	HC Yellow No 4	59820-43-8	428-840-7	Hair dye substance in non-oxidative hair dye products	1,5 %	— Do not use with nitrosating agents — Maximum nitrosamine content: 50 µg/kg — Keep in nitrite-free containers'	
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(f) The entries with reference numbers 255 and 256 are replaced by the following:

'255	2-[(2-Nitrophenyl)amino]ethanol	HC Yellow No 2	4926-55-0	225-555-8	(a) Hair dye substance in oxidative hair dye products (b) Hair dye substance in non-oxidative hair dye products	b) 1,0 %	(a) After mixing under oxidative conditions the maximum concentration applied to hair must not exceed 0,75 % For (a) and (b): — Do not use with nitrosating agents — Maximum nitrosamine content: 50 µg/kg — Keep in nitrite-free containers	(a) To be printed on the label: The mixing ratio.  Hair colorants can cause severe allergic reactions. Read and follow instructions. This product is not intended for use on persons under the age of 16. Temporary 'black henna' tattoos may increase your risk of allergy. Do not colour your hair if: — you have a rash on your face or sensitive, irritated and damaged scalp, — you have ever experienced any reaction after colouring your hair, — you have experienced a reaction to a temporary 'black henna' tattoo in the past.'
256	4-[(2-Nitrophenyl)amino]phenol	HC Orange No 1	54381-08-7	259-132-4	Hair dye substance in non-oxidative hair dye products	1,0 %		

(g) The following entries concerning reference numbers 258 to 264 are added:

258	2-Nitro-N1-phenyl-benzene-1,4-diamine	HC Red No 1	2784-89-6	220-494-3	Hair dye substance in non-oxidative hair dye products	1,0 %		⚠ Hair colorants can cause severe allergic reactions. Read and follow instructions. This product is not intended for use on persons under the age of 16. Temporary 'black henna' tattoos may increase your risk of allergy. Do not colour your hair if: — you have a rash on your face or sensitive, irritated and damaged scalp, — you have ever experienced any reaction after colouring your hair, — you have experienced a reaction to a temporary 'black henna' tattoo in the past.
259	1-Methoxy-3-(β-aminoethyl)amino-4-nitrobenzene, hydrochloride	HC Yellow No 9	86419-69-4	415-480-1	Hair dye substance in non-oxidative hair dye products	0,5 % (calculated as hydrochloride)	— Do not use with nitrosating agents — Maximum nitrosamine content: 50 µg/kg — Keep in nitrite-free containers	
260	1-(4'-Aminophenylazo)-2-methyl-4-(bis-2-hydroxyethyl)aminobenzene	HC Yellow No 7	104226-21-3	146-420-6	Hair dye substance in non-oxidative hair dye products	0,25 %		
261	N-(2-Hydroxyethyl)-2-nitro-4-trifluoromethyl-aniline	HC Yellow No 13	10442-83-8	443-760-2	(a) Hair dye substance in oxidative hair dye products (b) Hair dye substance in non-oxidative hair dye products	(a) 2,5 % (b) 2,5 %	(a) After mixing under oxidative conditions the maximum concentration applied to hair must not exceed 2,5 % For (a) and (b): — Do not use with nitrosating agents — Maximum nitrosamine content: 50 µg/kg — Keep in nitrite-free containers	(a) To be printed on the label: The mixing ratio. ⚠ Hair colorants can cause severe allergic reactions. Read and follow instructions. This product is not intended for use on persons under the age of 16. Temporary 'black henna' tattoos may increase your risk of allergy.

								Do not colour your hair if: — you have a rash on your face or sensitive, irritated and damaged scalp, — you have ever experienced any reaction after colouring your hair, — you have experienced a reaction to a temporary 'black henna' tattoo in the past.'
262	Benzenaminium, 3-[(4,5-dihydro-3-methyl-5-oxo-1-phenyl-1H-pyrazol-4-yl)azo]-N,N,N-trimethyl-, chloride	Basic Yellow 57	68391-31-1	269-943-5	Hair dye substance in non-oxidative hair dye products	2,0 %		
263	Ethanol, 2,2'-[[4-[(4-aminophenyl)azo]phenyl]imino]bis-	Disperse Black 9	20721-50-0	243-987-5	Hair dye substance in non-oxidative hair dye products	0,3 % (of the mixture in the ratio 1:1 of 2,2'-[4-(4-aminophenylazo)phenylimino]diethanol and lignosulfate)		
264	9,10-Anthracenedione, 1,4-bis[(2,3-dihydroxypropyl)amino]-	HC Blue No 14	99788-75-7	421-470-7	Hair dye substance in non-oxidative hair dye products	0,3 %	— Do not use with nitrosating agents — Maximum nitrosamine content: 50 µg/kg — Keep in nitrite-free containers'	

(h) The entries with reference numbers 16, 22, 221, 250 are replaced by the following:

Reference number	Substance identification				Restrictions			Wording of conditions of use and warnings
	Chemical name/INN	Name of Common Ingredients Glossary	CAS number	EC number	Product type, body parts	Maximum concentration in ready use preparation	Other	
'16	1-Naphthalenol	1-Naphthol	90-15-3	201-969-4	Hair dye substance in oxidative hair dye products		After mixing under oxidative conditions the maximum concentration applied to hair must not exceed 2,0 %	To be printed on the label: The mixing ratio.

Reference number	Substance identification				Restrictions			Wording of conditions of use and warnings
	Chemical name/INN	Name of Common Ingredients Glossary	CAS number	EC number	Product type, body parts	Maximum concentration in ready use preparation	Other	
								‘’ Hair colorants can cause severe allergic reactions. Read and follow instructions. This product is not intended for use on persons under the age of 16. Temporary ‘black henna’ tattoos may increase your risk of allergy. Do not colour your hair if: — you have a rash on your face or sensitive, irritated and damaged scalp, — you have ever experienced any reaction after colouring your hair, — you have experienced a reaction to a temporary ‘black henna’ tattoo in the past.’
22	1,3-benzenediol	Resorcinol	108-46-3	203-585-2	(a) Hair dye substance in oxidative hair dye products (b) Hair lotions and shampoos	(b) 0,5 %	(a) 1. general use 2. professional use For 1 and 2: After mixing under oxidative conditions the maximum concentration applied to hair must not exceed 1,25 %	(a) 1. To be printed on the label: The mixing ratio. ‘’ Hair colorants can cause severe allergic reactions. Read and follow instructions. This product is not intended for use on persons under the age of 16. Temporary ‘black henna’ tattoos may increase your risk of allergy. Do not colour your hair if: — you have a rash on your face or sensitive, irritated and damaged scalp,

Reference number	Substance identification				Restrictions			Wording of conditions of use and warnings
	Chemical name/INN	Name of Common Ingredients Glossary	CAS number	EC number	Product type, body parts	Maximum concentration in ready use preparation	Other	
								— you have ever experienced any reaction after colouring your hair, — you have experienced a reaction to a temporary ‘black henna’ tattoo in the past. Contains resorcinol. Rinse hair well after application. Rinse eyes immediately if product comes into contact with them. Do not use to dye eyelashes or eyebrows.’ 2. To be printed on the label: The mixing ratio. ‘For professional use only. Contains resorcinol. Rinse eyes immediately if product comes into contact with them.  Hair colorants can cause severe allergic reactions. Read and follow instructions. This product is not intended for use on persons under the age of 16. Temporary ‘black henna’ tattoos may increase your risk of allergy.

Reference number	Substance identification				Restrictions			Wording of conditions of use and warnings
	Chemical name/INN	Name of Common Ingredients Glossary	CAS number	EC number	Product type, body parts	Maximum concentration in ready use preparation	Other	
								Do not colour your hair if: — you have a rash on your face or sensitive, irritated and damaged scalp, — you have ever experienced any reaction after colouring your hair, — you have experienced a reaction to a temporary 'black henna' tattoo in the past.' (b) Contains resorcinol.
221	2-(4-Methyl-2-nitroanilino)ethanol	Hydroxyethyl-2-Nitro-p-Toluidine	100418-33-5	408-090-7	(a) Hair dye substance in oxidative hair dye products (b) Hair dye substance in non-oxidative hair dye products	(b) 1,0 %	(a) After mixing under oxidative conditions the maximum concentration applied to hair must not exceed 1,0 % For (a) and (b): — Do not use with nitrosating agents — Maximum nitrosamine content: 50 µg/kg — Keep in nitrite-free containers	(a) To be printed on the label: The mixing ratio.  Hair colorants can cause severe allergic reactions. Read and follow instructions. This product is not intended for use on persons under the age of 16. Temporary 'black henna' tattoos may increase your risk of allergy. Do not colour your hair if: — you have a rash on your face or sensitive, irritated and damaged scalp, — you have ever experienced any reaction after colouring your hair, — you have experienced a reaction to a temporary 'black henna' tattoo in the past.'

Reference number	Substance identification				Restrictions			Wording of conditions of use and warnings
	Chemical name/INN	Name of Common Ingredients Glossary	CAS number	EC number	Product type, body parts	Maximum concentration in ready use preparation	Other	
250	1-Amino-2-nitro-4-(2',3'-dihydroxypropyl)amino-5-chlorobenzene + 1,4-bis-(2',3'-dihydroxypropyl)amino-2-nitro-5-chlorobenzene	HC Red No 10 + HC Red No 11	95576-89-9 + 95576-92-4		(a) Hair dye substance in oxidative hair dye products (b) Hair dye substance in non-oxidative hair dye products	(b) 2,0 %	(a) After mixing under oxidative conditions the maximum concentration applied to hair must not exceed 1,0 % For (a) and (b): — Do not use with nitrosating agents — Maximum nitrosamine content: 50 µg/kg — Keep in nitrite-free containers	(a) To be printed on the label: The mixing ratio. '  Hair colorants can cause severe allergic reactions. Read and follow instructions. This product is not intended for use on persons under the age of 16. Temporary 'black henna' tattoos may increase your risk of allergy. Do not colour your hair if: — you have a rash on your face or sensitive, irritated and damaged scalp, — you have ever experienced any reaction after colouring your hair, — you have experienced a reaction to a temporary 'black henna' tattoo in the past.'

**COMMISSION IMPLEMENTING REGULATION (EU) No 659/2013
of 10 July 2013**

**amending Regulation (EC) No 474/2006 establishing the Community list of air carriers which are
subject to an operating ban within the Community**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 2111/2005 of the European Parliament and the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air passengers of the identity of the operating carrier, and repealing Article 9 of Directive 2004/36/CE ⁽¹⁾, and in particular Article 4 thereof ⁽²⁾,

Whereas:

- (1) Commission Regulation (EC) No 474/2006 of 22 March 2006 ⁽³⁾ established the Community list of air carriers which are subject to an operating ban within the Union referred to in Chapter II of Regulation (EC) No 2111/2005.
- (2) In accordance with Article 4(3) of Regulation (EC) No 2111/2005, some Member States and the European Aviation Safety Agency ('EASA') communicated to the Commission information that is relevant in the context of updating the Community list. Relevant information was also communicated by third countries. On the basis of that information, the Community list should be updated.
- (3) The Commission informed all air carriers concerned either directly or through the authorities responsible for their regulatory oversight, about the essential facts and considerations which would form the basis for a decision to impose on them an operating ban within the Union or to modify the conditions of an operating ban imposed on an air carrier which is included in the Community list.
- (4) The Commission gave to the air carriers concerned the opportunity to consult documents provided by Member States, to submit written comments and to make an oral presentation to the Commission and to the Air Safety Committee established by Council Regulation (EEC) No 3922/1991 of 16 December 1991 on the harmonization of the technical requirements and administrative procedures in the field of civil aviation ⁽⁴⁾.
- (5) The Air Safety Committee has received updates from the Commission about the on-going joint consultations, in

the framework of Regulation (EC) No 2111/2005 and its implementing Regulation (EC) No 473/2006, with competent authorities and air carriers of the states of Curaçao & St Maarten, Republic of Guinea, India, Iran, Kazakhstan, Kyrgyzstan, Mozambique and Nepal. The Air Safety Committee also received updates from the Commission about technical consultations with the Russian Federation and concerning monitoring of Bolivia, Tajikistan and Turkmenistan.

- (6) The Air Safety Committee has heard presentations by EASA about the results of the analysis of audit reports carried out by the International Civil Aviation Organisation ('ICAO') in the framework of ICAO's Universal Safety Oversight Audit Programme ('USOAP'). Member States were invited to prioritize ramp inspections on air carriers licensed by states in respect of which Significant Safety Concerns ('SSC') have been identified by ICAO or in respect of which EASA concluded that there are significant deficiencies in the safety oversight system. In addition to consultations undertaken by the Commission under Regulation (EC) No 2111/2005, the prioritization of ramp inspections will allow the acquisition of further information regarding the safety performance on the air carriers licensed in those states.
- (7) The Air Safety Committee has heard presentations by EASA about the results of the analysis of ramp inspections carried out under the Safety Assessment of Foreign Aircraft programme ('SAFA') in accordance with Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down the technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council ⁽⁵⁾.
- (8) The Air Safety Committee has also heard presentations by EASA about the technical assistance projects carried out in states affected by measures or monitoring under Regulation (EC) No 2111/2005. It was informed about the plans and requests for further technical assistance and cooperation to improve the administrative and technical capability of civil aviation authorities with a view to helping resolve non-compliance with applicable international standards. Member States were invited to also respond to those requests on a bilateral basis in coordination with the Commission and EASA. On this occasion the Commission underlined the usefulness of providing information to the international aviation community, notably through ICAO's SCAN database, on technical assistance being provided by the Union and by its Member States to improve aviation safety around the world.

⁽¹⁾ OJ L 344, 27.12.2005, p. 15.

⁽²⁾ OJ L 143, 30.4.2004 p. 76.

⁽³⁾ OJ L 84, 23.3.2006, p. 14.

⁽⁴⁾ OJ L 373, 31.12.1991, p. 4.

⁽⁵⁾ OJ L 296, 25.10.2012, p. 1.

European Union air carriers

- (9) Following the analysis by EASA of information resulting from SAFA ramp checks carried out on aircraft of certain Union air carriers or from standardisation inspections carried out by EASA as well as specific inspections and audits carried out by national aviation authorities, some Member States have taken certain enforcement measures and informed the Commission and the Air Safety Committee about those measures. Greece revoked the Air Operator Certificate ('AOC') of Sky Wings on 1 December 2012 and Spain revoked the AOC of Mint Lineas Aereas on 10 April 2013.
- (10) In addition, Sweden brought to the attention of the Committee their concerns regarding an air carrier, AS Avies certified in Estonia, which had two serious incidents in Sweden in 2013, namely a runway excursion in February and a temporary loss of power on both engines during climb out in May. The Competent Authorities of Estonia informed the committee that they have taken a number of actions including increased surveillance, requiring the air carrier to develop a Corrective Action Plan ('CAP'), and reviewing the acceptance of the Safety Manager and Accountable Manager.

Air carriers from the Democratic Republic of Congo

- (11) Air carriers certified in the Democratic Republic of Congo have been listed in Annex A since March 2006⁽¹⁾. Following a recent initiative by the competent authorities of the Democratic Republic of Congo ('ANAC') to re-establish active consultations with the Commission and EASA, they provided the necessary documentary evidence to allow for a comprehensive update of the air carriers listed in Annex A.
- (12) The competent authorities of the Democratic Republic of Congo have informed the Commission by letter of 12 June 2013 that the air carriers Air Baraka, Air Castilla, Air Malebo, Armi Global Business Airways, Biega Airways, Blue Sky, Ephrata Airlines, Eagles Services, GTRA, Mavivi Air Trade, Okapi Airlines, Patron Airways, Pegasus, Sion Airlines and Waltair Aviation have been granted an operating licence. Since the competent authorities of the Democratic Republic of Congo did not provide evidence that the safety oversight of those air carriers is ensured in compliance with international safety standards, on the basis of the common criteria, it is assessed that all the air carriers of the updated list should be included in Annex A.
- (13) The competent authorities of the Democratic Republic of Congo also informed by letter of 12 June 2013 that the air carriers Bravo Air Congo, Entreprise World Airways (EWA), Hewa Bora Airways (HBA), Mango Aviation, TMK

Air Commuter and Zaabu International, previously listed in Annex A do not hold an operating licence. Consequently, it is assessed that those air carriers should be removed from Annex A.

- (14) The competent authorities of the Democratic Republic of Congo also explained that, in accordance with the country's legal framework, air transport operations require both an operating licence and an AOC to conduct this type of operations, and that so far none of the existing operators complies with both requirements. The five-phase ICAO certification process has meanwhile been started in April 2013 for 5 operators (Korongo, FlyCAA, Air Tropiques, ITAB and Kinavia) and is expected to be completed by the end of September 2013. At the end of this certification process, ANAC will provide a list of all the air operators duly certified and in possession of a valid AOC.
- (15) The Commission noted the commitment of the competent authorities of the Democratic Republic of Congo, in particular of the Minister for Transport, and encourages them to continue their efforts towards the establishment of a civil aviation oversight system in compliance with international safety standards, while remaining committed to develop further the active dialogue re-established recently.

Air carriers from the Republic of Guinea

- (16) Formal consultations were initiated with the competent authorities of the Republic of Guinea in December 2012 following the safety findings raised by ICAO during its audit conducted in April 2012, which raised a SSC regarding the certification of air operators.
- (17) As a result of the submission of a CAP, and its subsequent acceptance and validation by ICAO, ICAO announced on 29 May 2013 that it had removed the SSC.
- (18) A consultation meeting took place in Brussels in January 2013 between the Commission, assisted by EASA, and the competent authorities of the Republic of Guinea. During that meeting, the competent authorities of the Republic of Guinea comprehensively briefed on the latest developments regarding the status of the implementation of the CAP filed with ICAO in December 2012.
- (19) According to the competent authorities of the Republic of Guinea, the air carriers Sahel Aviation Service, Eagle Air, Probiz Guinée and Konair are in the process of recertification. None of them flies into the Union airspace. Those authorities also informed that the AOC of air carriers GR-Avia, Elysian Air, Brise Air, Sky Guinée Airlines and Sky Star Air have been suspended.

⁽¹⁾ Recitals (60) to (64) of Regulation (EC) No 474/2006 of 22 March 2006, OJ L 84, 23.3.2006, p.18.

- (20) The competent authorities of the Republic of Guinea agreed to keep the Commission informed about any significant development concerning progress in the implementation of ICAO standards, allowing for a regular monitoring of the situation.
- (21) Should any relevant safety information indicate that there are imminent safety risks as a consequence of lack of compliance with international safety standards, the Commission will be forced to take action in accordance with Regulation (EC) No 2111/2005.

Air carriers from Indonesia

- (22) Consultations with the competent authorities of Indonesia ('DGCA') continue with the aim of monitoring the progress of the DGCA in ensuring that the safety oversight of all air carriers certified in Indonesia is in compliance with international safety standards.
- (23) Following the videoconference held between the Commission, EASA and the DGCA on 18 October 2012, the DGCA continued to work on improving the Indonesian aviation safety oversight system and on addressing the findings that were raised by the US Federal Aviation Administration ('FAA') during its Technical Assessment visit which took place in September 2012. Following the official publication of the FAA report, the DGCA met with the FAA and agreed on a 'CAP'.
- (24) In April 2013, the DGCA provided the Commission with a detailed copy of the CAP indicating the progress made, and informed that an Inspector Training System had been established, revisions to Aviation Safety Regulations had been made and inspecting staff instructions had been approved for Extended Range Twin Operations ('ETOPS') and Performance Based Navigation/Required Navigation Performance ('PBN/RNP') and drafted for All Weather Operations ('AWOPS').
- (25) The DGCA confirmed that the certification of Citilink Indonesia's aircraft, routes, station facilities, ground handling, maintenance, manuals and crews were administratively still under Garuda Indonesia management.
- (26) The DGCA also provided updated information regarding certain air carriers under their oversight. They informed that two new air carriers had been issued an Air Operator Certificate (AOC), namely Martabuana Abadion on 18 October 2012 and Komala Indonesia on 8 January 2013, and that Intan Angkasa Air Services had been re-certified. However, since DGCA did not provide the evidence that the safety oversight of those air carriers is ensured in compliance with international safety standards, on the basis of the common criteria, it is assessed that those carriers should be included in Annex A.
- (27) In addition, the DGCA informed that the AOC of Sebang Merauke Air Charter had been temporarily suspended on 18 September 2012.
- (28) The DGCA informed, and provided evidence confirming, that the AOC of Metro Batavia had been revoked on 14 February 2013. Consequently, Metro Batavia should be removed from Annex A.
- (29) On 25 June 2013 the DGCA made a presentation to the Air Safety Committee. In addition to briefing the Committee on the information provided to the Commission in April 2013, the DGCA confirmed that any AOC holder wishing to expand its fleet required the approval of the DGCA and that they had, on occasions, refused such permission. However, the DGCA had not intervened with the expansion plans of Lion Air because they considered them to be adequately resourced and controlled. Concerning the accident to a Lion Air Boeing B737-800 on 13 April 2013 the DGCA briefed that the interim accident report had been published. The report made three recommendations concerning descent below minima, procedures regarding handing over control and the associated training. The DGCA detailed the actions they had taken to address the issues surrounding the accident, including conducting a safety audit of Lion Air and ensuring the air carrier had taken corrective actions as a result of the preliminary report.
- (30) Lion Air attended the hearing and answered questions from the Commission and the Air Safety Committee. Lion Air stated that they were able to obtain adequate resources to manage the continuing expansion of their fleet, but accepted the minimum licensing requirements for both captains and first officers in crewing their aircraft and did not demand additional experience. Concerning the accident the company stated that it was implementing the interim accident report recommendations, but was awaiting the final report in order to identify the root causes. Lion Air stated that it carried out safety promotion and used data obtained from their Flight Operations Quality Assurance ('FOQA') programme to identify hazards. The company stated that it had not yet achieved the International Air Transport Association Operational Safety Audit (IOSA) registration.
- (31) The Commission and the Air Safety Committee noted the sound progress made by the DGCA and the plan to invite the FAA to conduct an IASA audit in August 2013. The Commission and the Air Safety Committee continue to encourage the efforts of the DGCA towards reaching their aim of establishing an aviation system fully compliant with ICAO Standards.
- (32) Concerning Lion Air, the Commission and the Air Safety Committee noted with concern the low experience levels of pilots being recruited and used by the air carrier and the responses to questions concerning the safety management of the airline and will therefore continue to closely monitor the safety performance of this air carrier.

Air carriers from Kazakhstan

- (33) Consultations with the competent authorities of Kazakhstan have continued actively with the view to monitoring the progress of these authorities in ensuring that the safety oversight of all air carriers certified in Kazakhstan is in compliance with international safety standards.
- (34) In accordance with Regulation (EU) No 1146/2012, Air Astana has repeatedly informed about its safety performance and changes to the fleet by letters dated 23 November 2012, 30 January 2013, 14 March 2013, 29 March 2013 and 13 May 2013 addressed to the Commission. They also provided a copy of their new air operator certificate and new operations specifications, issued on 22 April 2013. As a result of fleet developments Fokker 50 aircraft no longer appear in their operations specifications. Consequently, Annex B to this Regulation should be amended accordingly.
- (35) On 12 June 2013, the Commission, assisted by EASA, held technical consultations with the competent authorities of Kazakhstan and a representative of Air Astana. During that meeting the competent authorities of Kazakhstan reported that they were progressing in an ambitious reform of the aviation sector, aimed at aligning the Kazakh aviation legislative and regulatory framework with the international safety standards.
- (36) At the meeting, Air Astana provided further information about its fleet developments for 2012 – 2014. In particular, Air Astana informed that several aircraft had been phased out and that new aircraft were being phased in within the existing Boeing B767, B757, and Airbus A320 series, which are already mentioned in Annex B to this Regulation. All newly acquired aircraft shall be registered in Aruba. Both the competent authority of Kazakhstan and Air Astana committed to inform the Commission once a new aircraft had been specified in the air operator certificate of Air Astana.
- (37) In addition, Member States and EASA confirmed that there were no specific concerns related to Air Astana from ramp checks carried out at Union airports in the framework of the SAFA programme.
- (38) Member States will verify the effective compliance with relevant safety standards through the prioritisation of ramp inspections to be carried out on aircraft of Air Astana pursuant to Regulation (EU) No 965/2012. Should the results of such checks, or any other relevant safety information, indicate that international safety standards are not being met, the Commission would be forced to take action in accordance with Regulation (EC) 2111/2005.
- (39) The Commission continues to support the ambitious reform of the civil aviation system undertaken by the authorities of Kazakhstan and invites those authorities to be determined in their efforts towards the establishment of a civil aviation oversight system which complies with international safety standards. To that end, it encourages those authorities to continue the implementation of the CAP agreed with ICAO, focusing their priority on the two outstanding SSCs and the recertification of all operators under their responsibility. Once those SSCs are closed to the satisfaction of ICAO and once actual implementation of ICAO standards is sufficiently documented, the Commission would be ready to organise, with the assistance of the EASA and the support of Member States, an on-site safety assessment visit in order to confirm the progress achieved and prepare a case review by the Air Safety Committee.

Air carriers from Kyrgyzstan

- (40) The Commission continues consultations with the competent authorities of Kyrgyzstan with a view to addressing the safety risks, which have led to operating restrictions on all Kyrgyz air carriers, including the state safety oversight capabilities of Kyrgyzstan in the areas of aircraft operations and maintenance. In particular, the Commission seeks to ensure that progress is being made with respect to some of the findings of the 2009 ICAO USOAP audit which have a potential impact on the safety of international aviation.
- (41) On 23 May 2013, the Commission, assisted by EASA, held technical consultations with the competent authorities of Kyrgyzstan for the purpose of identifying possible air carriers whose certification and oversight would meet the international safety standards, and in respect of which a gradual relaxation of restrictions could be envisaged. In this regard, the Kyrgyz competent authorities agreed to cooperate in providing information that would be useful to achieve some progress. The representatives of Kyrgyzstan also agreed to provide an update on the corrective action taken to resolve the outstanding ICAO findings which would allow a review of the case.
- (42) During the meeting, the Kyrgyz authorities confirmed that on 8 November 2012 an air operator certificate had been granted to Sky Bishkek. Since the competent authorities of Kyrgyzstan did not provide evidence that the safety oversight of that air carrier is ensured in compliance with international safety standards, on the basis of the common criteria, it is assessed that the air carrier Sky Bishkek should be included in Annex A.
- (43) The Air Safety Committee calls on the competent authorities of Kyrgyzstan to accelerate the process of implementation of the CAP agreed with ICAO and to make every effort to ensure that the safety oversight of all air carriers certified in Kyrgyzstan is in compliance with international safety standards.

- (44) Once progress with the implementation of the CAP agreed with ICAO and actual implementation of ICAO standards is sufficiently documented, the Commission would be ready to organise, with the assistance of the EASA and the support of Member States, an on-site safety assessment visit in order to confirm that the competent authorities of Kyrgyzstan are able to exercise their oversight functions in accordance with the international standards and prepare a case review at the Air Safety Committee.

Air carriers from Libya

- (45) Consultations with the competent authorities of Libya ('LYCAA') continue with the aim of confirming that Libya is progressing in its work to reform its civil aviation safety system, and in particular ensuring that the safety oversight of all air carriers certified in Libya is in compliance with international safety standards.
- (46) On 25 April 2013 the LYCAA provided a report of the re-certification activities conducted on the air carrier Libyan Airlines. The report described a five phase process in line with ICAO recommendations but did not provide any detailed evidence of the associated inspection activities. The Commission sought further details and on 29 April 2013 the LYCAA provided a résumé of the findings raised together with the actions taken by Libyan Airlines to close the findings in the sampled areas.
- (47) On 4 June 2013 the LYCAA wrote to the Commission informing them that Libyan Airlines would not now be ready for consideration for a lifting of restrictions citing a change in management of the airline and the consequent need to assess the impact of these changes on the air carrier's operational safety.
- (48) On 26 June 2013 the Air Safety Committee heard presentations from the LYCAA. The LYCAA briefed the committee on the actions taken to date and the progress with the recertification of Libyan air carriers. They explained that they were not in a position to recommend any Libyan air carrier to be released from the current restrictions. They provided timescales concerning when they believed the air carriers would complete the certification process. They said that the accident report concerning the Afqiyah Airways Airbus A330 accident had been published, and that the LYCAA was in discussion with ICAO and a number of National Aviation Authorities to provide additional technical assistance.
- (49) The LYCAA confirmed explicitly to the Commission and the Air Safety Committee that they would retain the current restrictions on all air carriers until such time as a full five stage recertification has been completed and any significant findings closed, only following which, in agreement with the Commission and following a hearing

of the Air Safety Committee, individual air carriers could be permitted to recommence commercial flights to the Union.

- (50) Furthermore, the Commission and the Air Safety Committee reiterated that for each air carrier recertified, the LYCAA must submit to the Commission detailed information on the recertification process and to meet with the Commission and Member States to discuss in detail the relevant audits, findings, remedial actions taken and closure actions, together with details of the plans for continuing oversight before any agreement about the relaxation of restrictions. Should it not be demonstrated to the satisfaction of the Commission and the Member States that the recertification process had been effectively completed and sustainable continued oversight is in place in accordance with ICAO standards, the Commission would be compelled to take immediate measures to prevent air carriers from operating in the Union, Norway, Switzerland and Iceland.

Air Madagascar

- (51) The air carrier Air Madagascar is subject to operational restrictions and is listed in Annex B pursuant to Regulation (EU) No 390/2011. On 24 May 2013, the air carrier Air Madagascar made the request to add the aircraft of type Boeing B737 with registration mark 5R-MFL to the list of aircraft of type Boeing B737 that are already mentioned under Annex B.
- (52) Air Madagascar stated and provided evidence that the safety performance of its fleet has improved. The competent authorities of Madagascar ('ACM') stated that, with regard to the operations conducted with the aircraft of type Boeing B737, they are satisfied with the current level of compliance demonstrated by Air Madagascar with respect to ICAO requirements. Member States and EASA confirmed that no specific concern arose from ramp checks carried out at Union airports in the framework of the SAFA programme.
- (53) Taking into account the safety performance of the operations conducted by Air Madagascar with the aircraft of type Boeing B737 and in accordance with the common criteria, the Commission, following the opinion of the Air Safety Committee, considers that the aircraft of type Boeing B737 with registration mark 5R-MFL should be permitted to fly into the Union. Consequently, Annex B should be amended to allow the operation of the aircraft of type Boeing B737 with registration mark 5R-MFL.
- (54) Member States will continue to verify the effective compliance with relevant safety standards through the prioritisation of ramp inspections to be carried out on aircraft of Air Madagascar pursuant to Regulation (EU) No 965/2012.

Air carriers from the Islamic Republic of Mauritania

- (55) All air carriers certified in Mauritania were removed from Annex A in December 2012 ⁽¹⁾ in the light of a number of factors: the major progress reported by the competent authorities of Mauritania ('ANAC') in the rectification of the deficiencies identified by ICAO concerning compliance with international standards, the rectification of the deficiencies identified in the initial certification of the air carrier Mauritania Airlines International ('MAI'), the confirmation that MAI will resume flights to the Union only to Las Palmas de Gran Canaria, Spain after February 2013, and the Commission's commitment to carry out an on-site safety assessment visit to confirm the satisfactory implementation of the measures reported by ANAC and MAI.
- (56) The Commission conducted the on-site aviation safety assessment visit to Mauritania between 14 and 18 April 2013, with the assistance of EASA and the technical support of the Member States.
- (57) During the visit, ANAC provided the assessment team with evidence of its strong commitment and capacity to comply with ICAO aviation safety standards and to assume its responsibilities concerning the certification and surveillance of air carriers under its responsibility in a sustainable manner. In particular, the assessment team considered that ANAC showed that progress had been made in the implementation of its CAP aimed at complying with ICAO standards, that it has the necessary qualified staff, regulations and procedures, that it handles and implements a comprehensive and appropriate surveillance plan and that it has in place a system aimed at addressing identified safety concerns. Those considerations were drawn taking into consideration the current limited size and level of activity of the airline industry in Mauritania and the recent restructuring of ANAC.
- (58) MAI was also visited by the assessment team, which found evidence of the airline's ability to comply with ICAO aviation safety standards for air operations, especially as regards airworthiness, qualification and training, manuals and safety procedures and identification and resolution of safety issues identified during internal and external control, such as in the monitoring activities performed by ANAC.
- (59) However, the assessment team also found that ANAC and MAI needed to continue the effective implementation of certain international requirements, particularly in the areas of specific and recurrent training of technical personnel, customization and updating of manuals, procedures and check lists, systematic monitoring and documentation of all continuous oversight activities, improved system of incident reporting and analysis. MAI should also further implement its Safety Management System ('SMS') and flight data analysis.
- (60) ANAC and MAI were heard by the Air Safety Committee on 26 June 2013. During the meeting ANAC and MAI provided details about progress made in view of addressing the recommendations identified during the on-site visit. ANAC reported of updates to their procedures, check list, training and oversight plan and training programme. It also provided evidence of the performance of targeted inspections on MAI, of a wide awareness campaign concerning incident reporting and informed of increased access to technical information from engine manufacturers. ANAC explained that it was exercising a close oversight of MAI, including numerous ramp checks, and taking firm enforcement actions when needed.
- (61) MAI reported that it had initiated its flights to Las Palmas de Gran Canaria on 8 May 2013 and that it had also drafted an action plan in view of addressing all recommendations raised by the assessment team. Most actions of the plan were closed, including, among others, updating of manuals, new procedures and nomination of the quality and safety management post holder. MAI recognized that the implementation of the SMS was progressing but not already fully operational.
- (62) The first two ramp inspections carried out by Spain on MAI aircraft, on 8 and 22 May 2013 showed a number of findings, mainly regarding maintenance conditions, but their number and gravity decreased during a third ramp inspection performed on 12 June. Spain confirmed that MAI had provided information for the closing of open findings, which were still under assessment by Spain.
- (63) The Air Safety Committee welcomed the improvements made by ANAC and MAI in the implementation of international safety standards and encouraged them to continue improving with the same determination. ANAC and MAI were requested to provide regular reports to the Commission, at least twice a year, about their progress in the implementation of the ICAO requirements and in addressing the recommendations still open, particularly with regard to the incident reporting and analysis system in ANAC and the SMS implementation and flight data analysis in MAI. ANAC

⁽¹⁾ Recitals (71) to (81) of Commission implementing Regulation (EU) No 1146/2012, OJ L 333, 5.12.2012, p. 7.

committed to inform the Commission regarding new commercial airlines which would be certified by ANAC.

- (64) Member States will verify the effective compliance with relevant safety standards through the prioritisation of ramp inspections to be carried out on aircraft of air carriers licensed in Mauritania pursuant to Regulation (EU) No 965/2012.
- (65) Should the results of ramp checks or any other relevant safety information indicate that international safety standards are not being met, the Commission would be forced to take action in accordance with Regulation (EC) No 2111/2005.

Air carriers from Mozambique

- (66) The competent authorities of Mozambique (Institute of Civil Aviation of Mozambique – 'IACM') and representatives of the air carrier Linhas Aéreas de Moçambique (LAM) met with the Commission and EASA in Brussels on 31 May 2013. IACM comprehensively briefed on the current status of implementation of the CAP filed with ICAO. LAM briefed at length on the current status of adoption of international safety standards in their structure and daily operations as well as on their expansion plans.
- (67) The competent authorities of Mozambique presented in detail the internal structure and staffing of their organisation and described the scale and the substance of their activities. The various streams of past and on-going activities, together with the respective timelines, were explored and put in the context of the CAP agreed with ICAO. Most of those actions have an implementation deadline of mid-June 2013. The number and volume of the actions, as well as the tight deadlines, demonstrate a firm commitment by the authorities, but might need rescheduling in order to allow for sustainable implementation. The authorities appeared fully aware of this and are in the process of reviewing some of the deadlines in the CAP, a revised version of which will soon be filed with ICAO. The most important areas which will only be addressed in 2014 or 2015 are related to specific aspects in the legal framework, residual organisational matters in the authority's internal structure and airworthiness topics. All air operators have gone through a 5-step re-certification process, at the end of which 8 operators (Linhas Aéreas de Moçambique LAM S.A., Moçambique Expresso SARL MEX, CFM-TTA S.A., Kaya Airlines Lda, CR Aviation, Coastal Aviation, CFA-Mozambique S.A., TTA SARL) are now fully certified and 5 (Emilio Air Charter Lda, Aero-Servicos SARL, Helicopteros Capital Lda, UNIQUE Air Charter Lda, ETA Air Charter Lda) have seen their AOCs suspended.
- (68) The representatives of LAM made a detailed presentation of the company, including an outline of its internal structure, staffing, and scale of operations, and described the training activities as well as the various operational partnerships the company has entered into. The airline has established strategic partnerships with other airlines in Portugal, Kenya, South Africa, Angola, Zambia and Ethiopia (Moçambique Expresso MEX is a 100% owned feeder airline subsidiary), training organisations (in South Africa and Ethiopia) and maintenance organisations (in Portugal, Brazil, South Africa and Kenya). The internal safety management systems were described together with the planned deployment of the next phases. Phase I (Planning and Organisation) has mostly been completed up to 2011 (some on-going activities will be concluded in 2014). Phase II (Reactive Processes) has mostly been implemented between 2005 and 2009, with 2 processes to be completed by 2014. Most of the actions pertaining to Phase III (Proactive and Predictive Processes) are on-going, with completion date set to 2014-2015, while 3 of the processes have been implemented in 2009. Most of Phase IV (Operational Safety Assurance & Continuous Improvement) is planned for deployment in 2014-2015, with one process completed in 2009.
- (69) LAM also briefed on their expansion strategy and plans, including new routes and fleet evolution.
- (70) The Air Safety Committee welcomed the progress reported by the competent authorities of Mozambique in the rectification of the deficiencies identified by ICAO and encouraged their efforts towards completing their work of establishing an aviation system fully compliant with ICAO Standards.

Air carriers from Nepal

- (71) The results of an ICAO audit in May 2009 found Nepal not in effective compliance with the majority of international safety standards. Although no SSCs were identified, the audit showed that the competent authority of Nepal was not capable of ensuring effective implementation of international safety standards in the areas of air operations, airworthiness and accident investigation, and that there were significant findings affecting the country's capability also in the areas of primary aviation legislation and civil aviation regulations, civil aviation organisation and personnel licensing and training.
- (72) Five fatal accidents, involving a number of EU citizens, have occurred in Nepal involving Nepal registered aircraft over a period of two years (August 2010 – September 2012). In addition, there were three more accidents in 2013.

- (73) Consultations with the competent authorities of Nepal started in October 2012, on the basis of safety-related deficiencies identified by the ICAO USOAP audit in May 2009 and the high number of fatal accidents over a short time period. No Nepalese air carrier operates in the Union.
- (74) As part of the consultations, the Commission received documentation of the oversight activities planned and carried out by the competent authorities of Nepal for the years 2012 and 2013. The examination of this documentation indicated that there remained some safety deficiencies and that the oversight activities seemed to be insufficient with regard to controlling the identified safety risks.
- (75) The Commission, assisted by EASA, held technical consultations with the Nepalese competent authorities ('CAAN') in Brussels on 30 May 2013. During those consultations the CAAN explained the situation in depth and provided information related to the control of safety risks. The explanations provided by Nepal indicated that the oversight activities were more complete than revealed in the preceding documentation sent by Nepal. The CAAN also provided information on the follow up of recommendations from accident investigation reports and several safety initiatives. These safety initiatives included the establishment of safety objectives and safety targets. An effective implementation of all the safety initiatives should lead to improved oversight and better control of safety risks. The information provided by the CAAN at the meeting will be verified by further documentation review.
- (76) The air carrier SITA Air Plc Ltd also participated in the technical consultation, where it provided information on their safety related activities and the interaction with the CAAN. SITA Air suffered a fatal accident in September 2012 and explained lessons learned from this accident.
- (77) Several challenges remain for CAAN and the aviation industry of Nepal, including factors such as recruiting and keeping sufficient and competent staff in CAAN and conducting air operations in a very demanding mountainous environment. CAAN showed that it is working on addressing these challenges and the Commission will therefore continue to monitor the situation in Nepal.
- (78) ICAO will be carrying out an on-site coordination and validation mission ('ICVM') audit in Nepal in July 2013 and it seems appropriate to wait for the results of that ICAO activity before completing the assessment of the safety situation in Nepal.
- (79) Should the results of the ICAO audit or any other relevant safety information indicate that the safety risks are not adequately contained, the Commission would be forced to take action in accordance with Regulation (EC) No 2111/2005.

Air carriers from the Philippines

- (80) Consultations with the competent authorities of the Philippines ('CAAP') continue with the aim of confirming the corrective actions taken by CAAP in order to address the safety issues highlighted by the audits conducted by both ICAO and the Federal Aviation Administration of the United States (FAA) in 2012 and 2013.
- (81) CAAP informed that ICAO had carried out an ICVM in February 2013, and that on 1 March 2013 ICAO wrote to CAAP informing them that the corrective actions taken by the Philippines had successfully addressed and resolved the two SSCs identified, firstly, during the ICAO USOAP audit in October 2009 and, secondly, during the ICVM conducted in October 2012.
- (82) Consequently, on 16 April 2013, the Commission, assisted by EASA and representatives from the Member States, held a meeting with CAAP and the air carriers Philippine Airlines and Cebu Pacific Airways to discuss the progress made in addressing the outstanding issues identified by ICAO, the FAA and the Union on-site visit conducted by the Commission in October 2010.
- (83) During the meeting, CAAP confirmed that they had introduced a five phase certification process together with a revalidation process which was underway for all existing air carriers. 7 large and 9 small air carriers had completed that process including Philippine Airlines (PAL) and Cebu Pacific Air. CAAP briefed on the establishment of a two system approach to air carrier oversight, with a Certificate Management Office ('CMO') established with an inspecting staff of 24 persons to supervise PAL and Cebu Pacific Air only, the other air carriers being supervised by the Operations and Airworthiness Departments.
- (84) CAAP also explained that they were addressing the issue of the sustainability of the system by increasing staff salaries to attract inspecting staff from the industry. Training programmes for inspectors had also been implemented. However, CAAP did not formally inspect either the Quality Management Systems ('QMS') or the SMS of the air carriers under their supervision.
- (85) PAL briefed that they had a fleet of 44 aircraft (Boeing B747, B777, Airbus A340, A330, A320/319) with 68 additional aircraft on order (44 Airbus A321, 20 A330, and 4 A340). Their SMS had a target to reduce events which have a detrimental effect on safety standards by 10% from the previous year. The Flight Data Monitoring ('FDM') data of 95 to 100% of the flights were examined, with emphasis on un-stabilised approaches and Ground Proximity Warning System ('GPWS') events. Their QMS had conducted 260 inspections in 2012 with 94 findings against company procedures which differed from findings made by CAAP because more training issues were identified. Cebu Pacific Air briefed that fleet growth was at 7% p.a. They were receiving 2 Airbus A330 aircraft in 2013

to commence long-haul flights in June, and the aim was to have a fleet of 47 aircraft by the end of 2013. As a result of the meeting the Commission, assisted by the Member States conducted an on-site visit to the Philippines between 3 to 7 June 2013.

- (86) The conclusions of the visit were that the CAAP had yet to embrace modern aviation safety management techniques both with the air carriers it supervises and internally. In the operations area there remains insufficient attention to human factors and SMS processes.
- (87) However, it was clear from the visit that while considerable work remained to be done within the CAAP, the Director General for Civil Aviation is taking clear actions to ensure that the CAAP becomes more effective in its day to day work. In addition, it was noted that there are plans in place to address the issue of an ageing inspector cadre by improving remuneration to facilitate recruitment from the industry, and the use of external expertise to reduce the risk of gaps in the oversight of the air carriers. In summary, the CAAP oversight of its air carriers was essentially sound although some weaknesses remained particularly in the areas of training, standardisation, quality management and safety management systems.
- (88) In the case of the air carriers, both PAL and Cebu Pacific Air were able to demonstrate that they had effective safety management process in place and were able to ensure compliance with the relevant safety regulations. However, at the time of the visit, Cebu Pacific Air suffered an accident which raised questions regarding their control of flight operations. As a result Cebu Pacific Air decided not to attend the hearing of the Air Safety Committee in order to concentrate on addressing any safety issues that emerge from the safety investigations currently underway.
- (89) During the visit the CAAP updated the list of current AOCs, showing that 32 air carriers were currently certified by the CAAP. Annex A should be updated accordingly.
- (90) On 26 June 2013 the Air Safety Committee heard presentations from the CAAP and PAL. The CAAP detailed the actions underway to ensure sustainability, including addressing human resource issues, the provision of IT equipment, the production of a State Safety programme, the updating of legislation, and the enhancement of training particularly on SMS.
- (91) PAL, in addition to covering points made during the meeting on 16 April 2013, briefed on the actions taken to address the observations made by the on-site

visit. In terms of their expansion plans they recognised that the provision of a suitable number of pilots would be a challenge but noted that the new aircraft would also replace older aircraft and consequently the rate of expansion was manageable.

- (92) Taking into account the safety oversight provided by CAAP and the ability of PAL to ensure effective compliance with relevant aviation safety regulations, on the basis of the common criteria, it is assessed that the air carrier Philippine Airlines should be removed from Annex A.
- (93) Member States will verify the effective compliance with relevant safety standards through the prioritisation of ramp inspections to be carried out on aircraft of PAL pursuant to Regulation (EU) No 965/2012. Should the results of such checks, or any other relevant safety information, indicate that international safety standards are not being met, the Commission would be forced to take action in accordance with Regulation (EC) 2111/2005.
- (94) However, the Commission and the Air Safety Committee were encouraged by the actions being taken by CAAP in addressing the outstanding safety issues and will continue to closely monitor the situation with a view to conducting further reviews of the case at future Air Safety Committees.

Air carriers from the Russian Federation

- (95) Aircraft operated by some air carriers certified in the Russian Federation and flying into airports in the Union are being subjected to prioritised SAFA ramp inspections to verify their compliance with the international safety standards. The competent authorities of the Member States and EASA continue to inform their counterparts in the Russian Federation of the identified concerns and invite them to take action to address any non-compliance with ICAO standards.
- (96) In the meantime, the Commission continues the dialogue on aviation safety issues with the competent authorities of the Russian Federation, in particular to ensure that any current risks stemming from poor safety performance of air carriers certified in the Russian Federation are adequately contained.
- (97) On 13 June 2013, the Commission, assisted by EASA and several Member States, held a meeting with the representatives of the Russian Federal Air Transport Agency ('FATA') where FATA provided an update on the measures undertaken by the authority and the air carriers concerned to address findings identified during

SAFA ramp inspections. In particular, FATA stated that one air carrier had been placed under a special control, while another carrier had seen its AOC revoked.

of air carriers, maintenance organisations and approved training organisations. Therefore, following an ICMV audit in May 2012, ICAO had removed the SSC.

- (98) At the meeting, FATA advised that during the first half of 2013 Vim Airlines had been frequently inspected and concluded that according to the audit results Vim Airlines operated at an acceptable safety level. With regard to Red Wings, FATA informed that following suspension of its AOC in February 2013, this air carrier had undergone significant corporate developments. Also, depending on the outcome of the inspection of the carrier, on-going at the time of the meeting, commercial air operations might be re-authorised. The Commission recommended a thorough check of the level of readiness of Red Wings to perform commercial air operations to the EU before such operations be re-authorised and requested information thereof prior to the next meeting of the Air Safety Committee..
- (99) Following the meeting, FATA provided further information. In particular, it reported that Red Wings had been re-authorised to perform commercial operations as of 17 June 2013.
- (100) The Commission, EASA and Member States shall continue to closely monitor the safety performance of the air carriers, certified in the Russian Federation, operating to the Union. The Commission shall continue to exchange safety related information with the Russian competent authorities in order to confirm that findings resulting from SAFA ramp inspections have been adequately addressed by the air carriers concerned.
- (101) Should the results of ramp inspections or any other relevant safety information indicate that international safety standards are not being met, the Commission would be forced to take action in accordance with Regulation (EC) No 2111/2005.
- (104) Subsequently, the Commission, assisted by EASA, held a meeting with the SCAA on 29 April 2013. The SCAA briefed that it was now an autonomous organisation with its own budget, that improvements to the Sudan aviation safety system had been possible through the use of external expertise, and that it was actively recruiting locally and raising salaries to be competitive with the industry. SCAA stated that only 6 air carriers were now certified to operate international flights (Sudan Airways, Marshland Aviation, Badr Airlines, Sun Air Aviation, Nova Airways and Tarco Air) with a further 7 air carriers restricted to domestic operations. The SCAA briefed on the results of the ICMV in May 2012, and noted that the level of effective implementation of ICAO Standards was now high, particularly in Flight Operations and Airworthiness.
- (105) The SCAA further informed that they had conducted a risk assessment concerning the continued operation of old, Soviet-built, aircraft which resulted in the grounding of 50% of those aircraft on the Sudan Register.
- (106) On 4 June 2013 the SCAA provided to the Commission a copy of their AOC Register showing 18 air carriers with AOCs, of which 6 were currently suspended. They also provided details of the revocation of the AOCs of Attico Airlines (AOC No. 023); Sudanese States Aviation Company (AOC No. 010); Azza Air Transport (AOC No 012); Almajarah Aviation (AOC No. 049); Helilift (AOC No. 042); and Feeder Airlines (AOC No. 050). On the basis of the information provided by the SCAA Annex A should be updated accordingly.
- (107) The SCAA made a presentation to the Air Safety Committee on 25 June 2013. The SCAA was accompanied by the Director General of the Arab Civil Aviation Commission ('ACAC'), who acknowledged that the EU Safety List can act as a catalyst for states to address systemic safety issues, noted the benefit of States working together in a regional context and highlighted the support which ACAC is providing in this respect.

Sudan

- (102) Consultations with the Sudan Civil Aviation Authority ('SCAA') continued with the aim of confirming that Sudan is progressing in its work to reform its civil aviation safety system in order to address the safety findings raised by ICAO during the USOAP audit of 2006 and the ICMV audit conducted in December 2011. Those audits led to a SSC related to the certification process for the issuance of air operator certificates.
- (103) On 3 January 2013, the SCAA informed the Commission that the SCAA had improved its oversight capabilities, including the system for the certification and supervision
- (108) The SCAA, in addition to the points made during the meeting on 29 April 2013, briefed the Committee about the plan for inspecting staff to attend the ICAO Inspector Course in July and August 2013 and the removal, planned for July 2013, of all aircraft of types Tupolev Tu134 and Antonov An12 from the Sudanese aircraft register. The SCAA also briefed that all air carriers in Sudan are expected to be compliant with safety requirements by the end of 2013.

- (109) The Air Safety Committee welcomed the major progress reported by the competent authorities of Sudan in the rectification of the deficiencies identified by ICAO but recognised that there was still some way to go to arrive at a situation where both the SCAA and the air carriers under its supervision will be in a position to ensure full compliance with ICAO standards. The Commission will therefore continue to closely monitor the progress made by the SCAA with a view to reviewing the case at future Air Safety Committee meetings.

Conviasa

- (110) One air carrier certified in the Bolivarian Republic of Venezuela, Conviasa, has been subject to an operating ban since April 2012 given very poor performance in SAFA checks, several accidents and absence of adequate response to the requests of information made by the Air Safety Committee. Following this, the Commission agreed with the competent authorities of Venezuela, on 18 June 2012, a roadmap for resolving identified safety deficiencies and allowing a review of the Union decision.
- (111) Consultations with the Venezuela Civil Aviation Authority ('INAC') continued in 2013 with the aim of confirming that Venezuela is progressing in its work to further improve its oversight of the air operators and ensuring that Conviasa continues to work toward raising its safety status to fully meet the required international standards.
- (112) In May 2013, the competent authorities of Venezuela provided to the Commission, via the Spanish competent authorities, a series of written submissions detailing the implementation of some of the actions in the roadmap agreed in June 2012.
- (113) Subsequently, the Commission, assisted by EASA, held a meeting with INAC and Conviasa on 7 June 2013. Conviasa briefed extensively on the improvements made in order to address findings of past SAFA inspections, on lessons learned and recommendations stemming from accidents, as well as on those changes introduced as a consequence of the latest INAC audit. In particular, Conviasa highlighted its system of pre-flight SAFA-like checks and improvements made in its safety management systems, overall quality, maintenance and continuous airworthiness processes. Conviasa also informed of their expansion plans and fleet renewal for the years to come, with the progressive retirement of the ageing Boeing B737-200 and B737-300 aircraft types and the acceleration of the already started introduction of the new aircraft type Embraer ERJ 190.
- (114) INAC briefed on their internal structure and mechanisms, provided detailed information on the procedures in place to deal with the EU SAFA results of Venezuelan air carriers, and expanded on the planning and implementation of their oversight activities, which will soon include ramp inspections to their national air carriers.

INAC also explained that the recent ICAO's ICVM mission, which took place between 22 and 28 May 2013, should result in an improvement in the country's current level of implementation of ICAO standards.

- (115) INAC made a presentation to the Air Safety Committee on 26 June 2013. They briefed the Committee about the points discussed in the meeting held on 7 June 2013.
- (116) Conviasa also made a presentation to the Air Safety Committee on 26 June 2013. They briefed the Committee about the points discussed in the meeting held on 7 June 2013 and emphasised that, should they be allowed to restart operations into the Union, they would adopt a mixed mode of operations, combining the operation of their own Airbus A340-200 with a wet lease operation of an equivalent aircraft type.
- (117) On the basis of the audit conducted by Spain and the recent visit by ICAO as well as the presentations made by INAC and Conviasa, the Air Safety Committee welcomed the major and extensive progress made in the rectification of the deficiencies identified by the Air Safety Committee in 2012. Taking into account this progress, on the basis of the common criteria, it is assessed that Conviasa should be removed from Annex A.
- (118) Member States will verify the effective compliance with relevant safety standards through the prioritisation of ramp inspections to be carried out on aircraft of air carriers licensed in Venezuela pursuant to Regulation (EU) No 965/2012.
- (119) Should the results of ramp checks or any other relevant safety information indicate that international safety standards are not being met, the Commission would be forced to take action in accordance with Regulation (EC) No 2111/2005.
- (120) In the context of updating the Annexes, Article 8(2) of Regulation (EC) No 2111/2005 recognizes the need for decisions to be taken swiftly and, where appropriate, urgently, given the safety implications. Experience with the updating of the Annexes has also showed that it is essential, for the protection of sensitive information and for minimising commercial impacts, that the decisions in the context of updating the list are published and enter into force very quickly after their adoption.
- (121) Regulation (EC) No 474/2006 should therefore be amended accordingly.
- (122) The measures provided for in this Regulation are in accordance with the opinion of the Air Safety Committee.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 474/2006 is amended as follows:

1. Annex A is replaced by the text set out in Annex A to this Regulation.

2. Annex B is replaced by the text set out in Annex B to this Regulation.

Article 2

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

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

Done at Brussels, 10 July 2013.

*For the Commission,
On behalf of the President,
Siim KALLAS
Vice-President*

ANNEX A

LIST OF AIR CARRIERS OF WHICH ALL OPERATIONS ARE SUBJECT TO A BAN WITHIN THE EU ⁽¹⁾

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate ('AOC') Number or Operating Licence Number	ICAO airline designation number	State of the Operator
BLUE WING AIRLINES	SRBWA-01/2002	BWI	Suriname
MERIDIAN AIRWAYS LTD	AOC 023	MAG	Republic of Ghana
All air carriers certified by the authorities with responsibility for regulatory oversight of Afghanistan, including			Islamic Republic of Afghanistan
ARIANA AFGHAN AIRLINES	AOC 009	AFG	Islamic Republic of Afghanistan
KAM AIR	AOC 001	KMF	Islamic Republic of Afghanistan
PAMIR AIRLINES	Unknown	PIR	Islamic Republic of Afghanistan
SAFI AIRWAYS	AOC 181	SFW	Islamic Republic of Afghanistan
All air carriers certified by the authorities with responsibility for regulatory oversight of Angola, with the exception of TAAG Angola Airlines put in Annex B, including			Republic of Angola
AEROJET	AO 008-01/11	TEJ	Republic of Angola
AIR26	AO 003-01/11-DCD	DCD	Republic of Angola
AIR GICANGO	009	Unknown	Republic of Angola
AIR JET	AO 006-01/11-MBC	MBC	Republic of Angola
AIR NAVE	017	Unknown	Republic of Angola
ANGOLA AIR SERVICES	006	Unknown	Republic of Angola
DIEXIM	007	Unknown	Republic of Angola
FLY540	AO 004-01 FLYA	Unknown	Republic of Angola
GIRA GLOBO	008	GGL	Republic of Angola
HELIANG	010	Unknown	Republic of Angola
HELIMALONGO	AO 005-01/11	Unknown	Republic of Angola
MAVEWA	016	Unknown	Republic of Angola

⁽¹⁾ Air carriers listed in Annex A could be permitted to exercise traffic rights by using wet-leased aircraft of an air carrier which is not subject to an operating ban, provided that the relevant safety standards are complied with.

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate ('AOC') Number or Operating Licence Number	ICAO airline designation number	State of the Operator
SONAIR	AO 002-01/10-SOR	SOR	Republic of Angola
All air carriers certified by the authorities with responsibility for regulatory oversight of Benin, including			Republic of Benin
AERO BENIN	PEA No 014/MDCTTTATP-PR/ANAC/DEA/SCS	AEB	Republic of Benin
AFRICA AIRWAYS	Unknown	AFF	Republic of Benin
ALAFIA JET	PEA No 014/ANAC/MDCTTTATP-PR/DEA/SCS	Unknown	Republic of Benin
BENIN GOLF AIR	PEA No 012/MDCTTP-PR/ANAC/DEA/SCS.	BGL	Republic of Benin
BENIN LITTORAL AIRWAYS	PEA No 013/MDCTTTATP-PR/ANAC/DEA/SCS.	LTL	Republic of Benin
COTAIR	PEA No 015/MDCTTTATP-PR/ANAC/DEA/SCS.	COB	Republic of Benin
ROYAL AIR	PEA No 11/ANAC/MDCTTP-PR/DEA/SCS	BNR	Republic of Benin
TRANS AIR BENIN	PEA No 016/MDCTTTATP-PR/ANAC/DEA/SCS	TNB	Republic of Benin
All air carriers certified by the authorities with responsibility for regulatory oversight of the Republic of Congo, including			Republic of Congo
AERO SERVICE	RAC06-002	RSR	Republic of Congo
CANADIAN AIRWAYS CONGO	RAC06-012	Unknown	Republic of Congo
EMERAUDE	RAC06-008	Unknown	Republic of Congo
EQUAFLIGHT SERVICES	RAC 06-003	EKA	Republic of Congo
EQUAJET	RAC06-007	EKJ	Republic of Congo
EQUATORIAL CONGO AIRLINES S.A.	RAC 06-014	Unknown	Republic of Congo
MISTRAL AVIATION	RAC06-011	Unknown	Republic of Congo
TRANS AIR CONGO	RAC 06-001	TSG	Republic of Congo

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate ('AOC') Number or Operating Licence Number	ICAO airline designation number	State of the Operator
All air carriers certified by the authorities with responsibility for regulatory oversight of Democratic Republic of Congo (DRC), including			Democratic Republic of Congo (DRC)
AFRICAN AIR SERVICE COMMUTER	104/CAB/MIN/TVC/2012	Unknown	Democratic Republic of Congo (DRC)
AIR BARAKA	409/CAB/MIN/TVC/002/2011	Unknown	Democratic Republic of Congo (DRC)
AIR CASTILLA	409/CAB/MIN/TVC/007/2010	Unknown	Democratic Republic of Congo (DRC)
AIR FAST CONGO	409/CAB/MIN/TVC/0112/2011	Unknown	Democratic Republic of Congo (DRC)
AIR MALEBO	409/CAB/MIN/TVC/0122/2012	Unknown	Democratic Republic of Congo (DRC)
AIR KASAI	409/CAB/MIN/TVC/0053/2012	Unknown	Democratic Republic of Congo (DRC)
AIR KATANGA	409/CAB/MIN/TVC/0056/2012	Unknown	Democratic Republic of Congo (DRC)
AIR TROPIQUES	409/CAB/MIN/TVC/00625/2011	Unknown	Democratic Republic of Congo (DRC)
ARMY GLOBAL BUSINESS AIRWAYS	409/CAB/MIN/TVC/029/2012	Unknown	Democratic Republic of Congo (DRC)
BIEGA AIRWAYS	409/CAB/MIN/TVC/051/2012	Unknown	Democratic Republic of Congo (DRC)
BLUE AIRLINES	106/CAB/MIN/TVC/2012	BUL	Democratic Republic of Congo (DRC)
BLUE SKY	409/CAB/MIN/TVC/0028/2012	Unknown	Democratic Republic of Congo (DRC)
BUSINESS AVIATION	409/CAB/MIN/TVC/048/09	ABB	Democratic Republic of Congo (DRC)
BUSY BEE CONGO	409/CAB/MIN/TVC/0064/2010	Unknown	Democratic Republic of Congo (DRC)
CETRACA	105/CAB/MIN/TVC/2012	CER	Democratic Republic of Congo (DRC)
CHC STELLAVIA	409/CAB/MIN/TVC/0078/2011	Unknown	Democratic Republic of Congo (DRC)
CONGO EXPRESS AIRLINES	409/CAB/MIN/TVC/059/2012	EXY	Democratic Republic of Congo (DRC)
COMPAGNIE AFRICAINE D'AVIATION (CAA)	409/CAB/MIN/TVC/0050/2012	Unknown	Democratic Republic of Congo (DRC)

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate ('AOC') Number or Operating Licence Number	ICAO airline designation number	State of the Operator
DOREN AIR CONGO	102/CAB/MIN/TVC/2012	Unknown	Democratic Republic of Congo (DRC)
EPHRATA AIRLINES	409/CAB/MIN/TVC/040/2011	Unknown	Democratic Republic of Congo (DRC)
EAGLES SERVICES	409/CAB/MIN/TVC/0196/2011	Unknown	Democratic Republic of Congo (DRC)
FILAIR	409/CAB/MIN/TVC/037/2008	Unknown	Democratic Republic of Congo (DRC)
FLY CONGO	409/CAB/MIN/TVC/0126/2012	Unknown	Democratic Republic of Congo (DRC)
GALAXY KAVATSI	409/CAB/MIN/TVC/0027/2008	Unknown	Democratic Republic of Congo (DRC)
GILEMBE AIR SOUTENANCE (GISAIR)	409/CAB/MIN/TVC/0082/2010	Unknown	Democratic Republic of Congo (DRC)
GOMA EXPRESS	409/CAB/MIN/TVC/0051/2011	Unknown	Democratic Republic of Congo (DRC)
GOMAIR	409/CAB/MIN/TVC/011/2010	Unknown	Democratic Republic of Congo (DRC)
GTRA	409/CAB/MIN/TVC/0060/2011	Unknown	Democratic Republic of Congo (DRC)
INTERNATIONAL TRANS AIR BUSINESS (ITAB)	409/CAB/MIN/TVC/0065/2010	Unknown	Democratic Republic of Congo (DRC)
JET CONGO AIRLINES	409/CAB/MIN/TVC/0011/2012	Unknown	Democratic Republic of Congo (DRC)
KATANGA EXPRESS	409/CAB/MIN/TVC/0083/2010	Unknown	Democratic Republic of Congo (DRC)
KATANGA WINGS	409/CAB/MIN/TVC/0092/2011	Unknown	Democratic Republic of Congo (DRC)
KIN AVIA	409/CAB/MIN/TVC/0059/2010	Unknown	Democratic Republic of Congo (DRC)
KORONGO AIRLINES	409/CAB/MIN/TVC/001/2011	Unknown	Democratic Republic of Congo (DRC)
LIGNES AÉRIENNES CONGOLAISES (LAC)	Ministerial signature (ordonnance No. 78/205)	LCG	Democratic Republic of Congo (DRC)
MANGO AIRLINES	409/CAB/MIN/TVC/009/2011	Unknown	Democratic Republic of Congo (DRC)
MAVIVI AIR TRADE	409/CAB/MIN/TVC/00/2011	Unknown	Democratic Republic of Congo (DRC)

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate ('AOC') Number or Operating Licence Number	ICAO airline designation number	State of the Operator
OKAPI AIRLINES	409/CAB/MIN/TVC/086/2011	OKP	Democratic Republic of Congo (DRC)
PATRON AIRWAYS	409/CAB/MIN/TVC/0066/2011	Unknown	Democratic Republic of Congo (DRC)
PEGASUS	409/CAB/MIN/TVC/021/2012	Unknown	Democratic Republic of Congo (DRC)
SAFE AIR	409/CAB/MIN/TVC/021/2008	Unknown	Democratic Republic of Congo (DRC)
SERVICES AIR	103/CAB/MIN/TVC/2012	Unknown	Democratic Republic of Congo (DRC)
STELLAR AIRWAYS	409/CAB/MIN/TVC/056/2011	Unknown	Democratic Republic of Congo (DRC)
SION AIRLINES	409/CAB/MIN/TVC/0081/2011	Unknown	Democratic Republic of Congo (DRC)
SWALA AVIATION	409/CAB/MIN/TVC/0084/2010	Unknown	Democratic Republic of Congo (DRC)
TRACEP CONGO	409/CAB/MIN/TVC/0085/2010	Unknown	Democratic Republic of Congo (DRC)
TRANSAIR CARGO SERVICES	409/CAB/MIN/TVC/073/2011	Unknown	Democratic Republic of Congo (DRC)
WALTAIR AVIATION	409/CAB/MIN/TVC/004/2011	Unknown	Democratic Republic of Congo (DRC)
WILL AIRLIFT	409/CAB/MIN/TVC/0247/2011	Unknown	Democratic Republic of Congo (DRC)
WIMBI DIRA AIRWAYS	409/CAB/MIN/TVC/039/2008	WDA	Democratic Republic of Congo (DRC)
All air carriers certified by the authorities with responsibility for regulatory oversight of Djibouti, including			Djibouti
DAALLO AIRLINES	Unknown	DAO	Djibouti
All air carriers certified by the authorities with responsibility for regulatory oversight of Equatorial Guinea, including			Equatorial Guinea
CRONOS AIRLINES	2011/0004/MTTCT/DGAC/SOPS	Unknown	Equatorial Guinea
CEIBA INTERCONTINENTAL	2011/0001/MTTCT/DGAC/SOPS	CEL	Equatorial Guinea

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate ('AOC') Number or Operating Licence Number	ICAO airline designation number	State of the Operator
PUNTO AZUL	2012/0006/MTTCT/DGAC/SOPS	Unknown	Equatorial Guinea
TANGO AIRWAYS	Unknown	Unknown	Equatorial Guinea
All air carriers certified by the authorities with responsibility for regulatory oversight of Eritrea, including			Eritrea
ERITREAN AIRLINES	AOC No 004	ERT	Eritrea
NASAIR ERITREA	AOC No 005	NAS	Eritrea
All air carriers certified by the authorities with responsibility for regulatory oversight of Indonesia, with the exception of Garuda Indonesia, Airfast Indonesia, Mandala Airlines, EkspresTransportasiAntarbenua and Indonesia Air Asia, including			Republic of Indonesia
AIR BORN INDONESIA	135-055	Unknown	Republic of Indonesia
AIR PACIFIC UTAMA	135-020	Unknown	Republic of Indonesia
ALFA TRANS DIRGANTATA	135-012	Unknown	Republic of Indonesia
ANGKASA SUPER SERVICES	135-050	Unknown	Republic of Indonesia
ASCO NUSA AIR	135-022	Unknown	Republic of Indonesia
ASI PUDJIASTUTI	135-028	Unknown	Republic of Indonesia
AVIASTAR MANDIRI	135-029	Unknown	Republic of Indonesia
CITILINK INDONESIA	121-046	CTV	Republic of Indonesia
DABI AIR NUSANTARA	135-030	Unknown	Republic of Indonesia
DERAYA AIR TAXI	135-013	DRY	Republic of Indonesia
DERAZONA AIR SERVICE	135-010	DRZ	Republic of Indonesia
DIRGANTARA AIR SERVICE	135-014	DIR	Republic of Indonesia
EASTINDO	135-038	Unknown	Republic of Indonesia
ENGGANG AIR SERVICE	135-045	Unknown	Republic of Indonesia
ERSA EASTERN AVIATION	135-047	Unknown	Republic of Indonesia
GATARI AIR SERVICE	135-018	GHS	Republic of Indonesia
HEAVY LIFT	135-042	Unknown	Republic of Indonesia
INDONESIA AIR TRANSPORT	121-034	IDA	Republic of Indonesia

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate ('AOC') Number or Operating Licence Number	ICAO airline designation number	State of the Operator
INTAN ANGKASA AIR SERVICE	135-019	Unknown	Republic of Indonesia
JAYAWIJAYA DIRGANTARA	121-044	Unknown	Republic of Indonesia
JOHNLIN AIR TRANSPORT	135-043	JLB	Republic of Indonesia
KAL STAR	121-037	KLS	Republic of Indonesia
KARTIKA AIRLINES	121-003	KAE	Republic of Indonesia
KOMALA INDONESIA	135-051	Unknown	Republic of Indonesia
KURA-KURA AVIATION	135-016	KUR	Republic of Indonesia
LION MENTARI AIRLINES	121-010	LNI	Republic of Indonesia
MANUNGAL AIR SERVICE	121-020	Unknown	Republic of Indonesia
MARTABUANA ABADION	135-049	Unknown	Republic of Indonesia
MATTHEW AIR NUSANTARA	135-048	Unknown	Republic of Indonesia
MERPATI NUSANTARA AIRLINES	121-002	MNA	Republic of Indonesia
MIMIKA AIR	135-007	Unknown	Republic of Indonesia
NATIONAL UTILITY HELICOPTER	135-011	Unknown	Republic of Indonesia
NUSANTARA AIR CHARTER	121-022	Unknown	Republic of Indonesia
NUSANTARA BUANA AIR	135-041	Unknown	Republic of Indonesia
PACIFIC ROYALE AIRWAYS	121-045	Unknown	Republic of Indonesia
PEGASUS AIR SERVICES	135-036	Unknown	Republic of Indonesia
PELITA AIR SERVICE	121-008	PAS	Republic of Indonesia
PENERBANGAN ANGKASA SEMESTA	135-026	Unknown	Republic of Indonesia
PURA WISATA BARUNA	135-025	Unknown	Republic of Indonesia
RIAU AIRLINES	121-016	RIU	Republic of Indonesia
SAYAP GARUDA INDAH	135-004	Unknown	Republic of Indonesia
SKY AVIATION	135-044	Unknown	Republic of Indonesia
SMAC	135-015	SMC	Republic of Indonesia
SRIWIJAYA AIR	121-035	SJY	Republic of Indonesia
SURVEI UDARA PENAS	135-006	Unknown	Republic of Indonesia

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate ('AOC') Number or Operating Licence Number	ICAO airline designation number	State of the Operator
SURYA AIR	135-046	Unknown	Republic of Indonesia
TRANSNUSA AVIATION MANDIRI	121-048	Unknown	Republic of Indonesia
TRANSWISATA PRIMA AVIATION	135-021	Unknown	Republic of Indonesia
TRAVEL EXPRESS AVIATION SERVICE	121-038	XAR	Republic of Indonesia
TRAVIRA UTAMA	135-009	Unknown	Republic of Indonesia
TRI MG INTRA ASIA AIRLINES	121-018	TMG	Republic of Indonesia
TRIGANA AIR SERVICE	121-006	TGN	Republic of Indonesia
UNINDO	135-040	Unknown	Republic of Indonesia
WING ABADI AIRLINES	121-012	WON	Republic of Indonesia
All air carriers certified by the authorities with responsibility for regulatory oversight of Kazakhstan, with the exception of Air Astana, including			Republic of Kazakhstan
AIR ALMATY	AK-0453-11	LMY	Republic of Kazakhstan
AIR TRUST AIRCOMPANY	AK-0455-12	RTR	Republic of Kazakhstan
ASIA CONTINENTAL AIRLINES	AK-0317-12	CID	Republic of Kazakhstan
ATMA AIRLINES	AK-0437-10	AMA	Republic of Kazakhstan
AVIA-JAYNAR / AVIA-ZHAYNAR	AK-067-12	SAP	Republic of Kazakhstan
BEYBARS AIRCOMPANY	AK-0442-11	BBS	Republic of Kazakhstan
BEK AIR	AK-0463-12	BEK	Republic of Kazakhstan
BURUNDAYAVIA AIRLINES	AK-0456-12	BRY	Republic of Kazakhstan
COMLUX-KZ	AK-0449-11	KAZ	Republic of Kazakhstan
DETA AIR	AK-0458-12	DET	Republic of Kazakhstan
EAST WING	AK-0465-12	EWZ	Republic of Kazakhstan
LUK AERO (FORMER EASTERN EXPRESS)	AK-0464-12	LIS	Republic of Kazakhstan
EURO-ASIA AIR	AK-0441-11	EAK	Republic of Kazakhstan
EURO-ASIA AIR INTERNATIONAL	AK-0445-11	KZE	Republic of Kazakhstan
FLY JET KZ	AK-0446-11	FJK	Republic of Kazakhstan

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate ('AOC') Number or Operating Licence Number	ICAO airline designation number	State of the Operator
INVESTAVIA	AK-0447-11	TLG	Republic of Kazakhstan
IRTYSH AIR	AK-0439-11	MZA	Republic of Kazakhstan
JET AIRLINES	AK-0459-12	SOZ	Republic of Kazakhstan
JET ONE	AK-0468-12	JKZ	Republic of Kazakhstan
KAZAIR JET	AK-0442-11	KEJ	Republic of Kazakhstan
KAZAIRTRANS AIRLINE	AK-0466-12	KUY	Republic of Kazakhstan
KAZAVIASPAS	AK-0452-11	KZS	Republic of Kazakhstan
MEGA AIRLINES	AK-0462-12	MGK	Republic of Kazakhstan
PRIME AVIATION	AK-0448-11	PKZ	Republic of Kazakhstan
SAMAL AIR	AK-0454-12	SAV	Republic of Kazakhstan
SEMEYAVIA	AK-450-11	SMK	Republic of Kazakhstan
SCAT	AK-0460-12	VSV	Republic of Kazakhstan
ZHETYSU AIRCOMPANY	AK-0438-11	JTU	Republic of Kazakhstan
All air carriers certified by the authorities with responsibility for regulatory oversight of the Kyrgyz Republic, including			Kyrgyz Republic
SKY BISHKEK	Unknown	BIS	Kyrgyz Republic
AIR MANAS	17	MBB	Kyrgyz Republic
AVIA TRAFFIC COMPANY	23	AVJ	Kyrgyz Republic
CENTRAL ASIAN AVIATION SERVICES (CAAS)	13	CBK	Kyrgyz Republic
CLICK AIRWAYS	11	CGK	Kyrgyz Republic
STATE AVIATION ENTERPRISE UNDER THE MINISTRY OF EMERGENCY SITUATIONS (SAEMES)	20	DAM	Kyrgyz Republic
AIR BISHKEK (FORMERLY EASTOK AVIA)	15	EAA	Kyrgyz Republic
KYRGYZ TRANS AVIA	31	KTC	Kyrgyz Republic
KYRGYZSTAN	03	LYN	Kyrgyz Republic
MANAS AIRWAYS	42	BAM	Kyrgyz Republic

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate ('AOC') Number or Operating Licence Number	ICAO airline designation number	State of the Operator
S GROUP AVIATION	6	SGL	Kyrgyz Republic
SKY KG AIRLINES	41	KGK	Kyrgyz Republic
SKY WAY AIR	39	SAB	Kyrgyz Republic
SUPREME AVIATION	40	SGK	Kyrgyz Republic
VALOR AIR	07	VAC	Kyrgyz Republic
All air carriers certified by the authorities with responsibility for regulatory oversight of Liberia.			Liberia
All air carriers certified by the authorities with responsibility for regulatory oversight of the Republic of Gabon, with the exception of Gabon Airlines, Afrijet and SN2AG put in Annex B, including			Republic of Gabon
AFRIC AVIATION	010/MTAC/ANAC-G/DSA	EKG	Republic of Gabon
AIR SERVICES SA	004/MTAC/ANAC-G/DSA	RVS	Republic of Gabon
AIR TOURIST (ALLEGIANCE)	007/MTAC/ANAC-G/DSA	LGE	Republic of Gabon
NATIONALE ET REGIONALE TRANSPORT (NATIONALE)	008/MTAC/ANAC-G/DSA	NRG	Republic of Gabon
SCD AVIATION	005/MTAC/ANAC-G/DSA	SCY	Republic of Gabon
SKY GABON	009/MTAC/ANAC-G/DSA	SKG	Republic of Gabon
SOLENTA AVIATION GABON	006/MTAC/ANAC-G/DSA	SVG	Republic of Gabon
All air carriers certified by the authorities with responsibility for regulatory oversight of the Republic of Mozambique, including			Republic of Mozambique
AERO-SERVICOS SARL	MOZ-08	Unknown	Republic of Mozambique
AEROVISAO DE MOZAMBIQUE	Unknown	Unknown	Republic of Mozambique
CFA MOZAMBIQUE	MOZ-10	Unknown	Republic of Mozambique
CFM-TRANSPORTES E TRABALHO AEREO SA	MOZ-07	Unknown	Republic of Mozambique

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate ('AOC') Number or Operating Licence Number	ICAO airline designation number	State of the Operator
COASTAL AVIATION	MOZ-15	Unknown	Republic of Mozambique
CR AVIATION	MOZ-14	Unknown	Republic of Mozambique
EMILIO AIR CHARTER LDA	MOZ-05	Unknown	Republic of Mozambique
ETA AIR CHARTER LDA	MOZ-04	Unknown	Republic of Mozambique
HELICOPTEROS CAPITAL	MOZ-11	Unknown	Republic of Mozambique
KAYA AIRLINES	MOZ-09	KYY	Republic of Mozambique
MOZAMBIQUE AIRLINES (LINHAS AEREAS DE MOÇAMBIQUE)	MOZ-01	LAM	Republic of Mozambique
MOZAMBIQUE EXPRESS/MEX	MOZ-02	MXE	Republic of Mozambique
UNIQUE AIR CHARTER	MOZ-13	Unknown	Republic of Mozambique
SAFARI AIR	MOZ-12	Unknown	Republic of Mozambique
TTA SARL	MOZ-16	Unknown	Republic of Mozambique
VR CROPSPRAYERS LDA	MOZ-06	Unknown	Republic of Mozambique
All air carriers certified by the authorities with responsibility for regulatory oversight of the Philippines, with the exception of Philippine Airlines, including			Republic of the Philippines
AEROEQUIPEMENT AVIATION	2010037	Unknown	Republic of the Philippines
AIR ASIA PHILIPPINES	2012047	APG	Republic of the Philippines
AIR PHILIPPINES CORPORATION	2009006	GAP	Republic of the Philippines
AIR JUAN AVIATION	2013053	Unknown	Republic of the Philippines
ASIA AIRCRAFT OVERSEAS PHILIPPINES INC.	2012048	Unknown	Republic of the Philippines
ASIAN AEROSPACE CORPORATION	2012050	Unknown	Republic of the Philippines
ASTRO AIR INTERNATIONAL	2012049	Unknown	Republic of the Philippines
AYALA AVIATION CORP.	4AN9900003	Unknown	Republic of the Philippines
CANADIAN HELICOPTERS PHILIPPINES INC.	2010026	Unknown	Republic of the Philippines
CEBU PACIFIC AIR	2009002	CEB	Republic of the Philippines

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate ('AOC') Number or Operating Licence Number	ICAO airline designation number	State of the Operator
CM AERO SERVICES	20110401	Unknown	Republic of the Philippines
CYCLONE AIRWAYS	2010034	Unknown	Republic of the Philippines
FAR EAST AVIATION SERVICES	2009013	Unknown	Republic of the Philippines
INAEC AVIATION CORP.	2010028	Unknown	Republic of the Philippines
INTERISLAND AIRLINES	2010023	Unknown	Republic of the Philippines
ISLAND AVIATION	2009009	SOY	Republic of the Philippines
ISLAND TRANSVOYAGER	2010022	Unknown	Republic of the Philippines
LION AIR	2009019	Unknown	Republic of the Philippines
MACRO ASIA AIR TAXI SERVICES	2010029	Unknown	Republic of the Philippines
MAGNUM AIR	2012051	Unknown	Republic of the Philippines
MISIBIS AVIATION & DEVELOPMENT CORP	2010020	Unknown	Republic of the Philippines
NORTHSKY AIR INC.	2011042	Unknown	Republic of the Philippines
OMNI AVIATION CORP.	2010033	Unknown	Republic of the Philippines
ROYAL AIR CHARTER SERVICES INC.	2010024	Unknown	Republic of the Philippines
ROYAL STAR AVIATION, INC.	2010021	Unknown	Republic of the Philippines
SOUTH EAST ASIAN AIRLINES	2009 004	Unknown	Republic of the Philippines
SOUTH EAST ASIAN AIRLINES (SEAIR) INTERNATIONAL	2012052	Unknown	Republic of the Philippines
SOUTHERN AIR FLIGHT SERVICES	2011045	Unknown	Republic of the Philippines
SUBIC SEAPLANE, INC.	2011035	Unknown	Republic of the Philippines
WCC AVIATION COMPANY	2009015	Unknown	Republic of the Philippines
ZEST AIRWAYS INCORPORATED	2009003	EZD	Republic of the Philippines
All air carriers certified by the authorities with responsibility for regulatory oversight of Sao Tome and Principe, including			Sao Tome and Principe
AFRICA CONNECTION	10/AOC/2008	ACH	Sao Tome and Principe
BRITISH GULF INTERNATIONAL COMPANY LTD	01/AOC/2007	BGI	Sao Tome and Principe

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate ('AOC') Number or Operating Licence Number	ICAO airline designation number	State of the Operator
EXECUTIVE JET SERVICES	03/AOC/2006	EJZ	Sao Tome and Principe
GLOBAL AVIATION OPERATION	04/AOC/2006	Unknown	Sao Tome and Principe
GOLIAF AIR	05/AOC/2001	GLE	Sao Tome and Principe
ISLAND OIL EXPLORATION	01/AOC/2008	Unknown	Sao Tome and Principe
STP AIRWAYS	03/AOC/2006	STP	Sao Tome and Principe
TRANSAFRIK INTERNATIONAL LTD	02/AOC/2002	TFK	Sao Tome and Principe
TRANSCARG	01/AOC/2009	Unknown	Sao Tome and Principe
TRANSLIZ AVIATION (TMS)	02/AOC/2007	TLZ	Sao Tome and Principe
All air carriers certified by the authorities with responsibility for regulatory oversight of Sierra Leone, including			Sierra Leone
AIR RUM, LTD	Unknown	RUM	Sierra Leone
DESTINY AIR SERVICES, LTD	Unknown	DTY	Sierra Leone
HEAVYLIFT CARGO	Unknown	Unknown	Sierra Leone
ORANGE AIR SIERRA LEONE LTD	Unknown	ORJ	Sierra Leone
PARAMOUNT AIRLINES, LTD	Unknown	PRR	Sierra Leone
SEVEN FOUR EIGHT AIR SERVICES LTD	Unknown	SVT	Sierra Leone
TEEBAH AIRWAYS	Unknown	Unknown	Sierra Leone
All air carriers certified by the authorities with responsibility for regulatory oversight of Sudan, including			Republic of Sudan
ALFA AIRLINES	054	AAJ	Republic of the Sudan
ALMAJAL AVIATION SERVICE	015	MGG	Republic of the Sudan
BADER AIRLINES	035	BDR	Republic of the Sudan
BENTIU AIR TRANSPORT	029	BNT	Republic of the Sudan
BLUE BIRD AVIATION	011	BLB	Republic of the Sudan
DOVE AIRLINES	052	DOV	Republic of the Sudan
ELIDINER AVIATION	008	DND	Republic of the Sudan

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate ('AOC') Number or Operating Licence Number	ICAO airline designation number	State of the Operator
FOURTY EIGHT AVIATION	053	WHB	Republic of the Sudan
GREEN FLAG AVIATION	017	Unknown	Republic of the Sudan
HELEJETIC AIR	057	HJT	Republic of the Sudan
KATA AIR TRANSPORT	009	KTV	Republic of the Sudan
KUSH AVIATION	060	KUH	Republic of the Sudan
MARSLAND COMPANY	040	MSL	Republic of the Sudan
MID AIRLINES	025	NYL	Republic of the Sudan
NOVA AIRLINES	046	NOV	Republic of the Sudan
SUDAN AIRWAYS	001	SUD	Republic of the Sudan
SUN AIR COMPANY	051	SNR	Republic of the Sudan
TARCO AIRLINES	056	TRQ	Republic of the Sudan
All air carriers certified by the authorities with responsibility for regulatory oversight of Swaziland, including			Swaziland
SWAZILAND AIRLINK	Unknown	SZL	Swaziland
All air carriers certified by the authorities with responsibility for regulatory oversight of Zambia, including			Zambia
ZAMBEZI AIRLINES	Z/AOC/001/2009	ZMA	Zambia

ANNEX B

LIST OF AIR CARRIERS OF WHICH OPERATIONS ARE SUBJECT TO OPERATIONAL RESTRICTIONS
WITHIN THE EU ⁽¹⁾

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate ('AOC') Number	ICAO airline designation number	State of the Operator	Aircraft type restricted	Registration mark(s) and, when available, construction serial number(s)	State of registry
AIR KORYO	GAC-AOC/KOR-01	KOR	DPRK	All fleet with the exception of: 2 aircraft of type TU- 204	All fleet with the exception of: P-632, P-633	DPRK
AFRIJET ⁽¹⁾	002/MTAC/ANAC-G/DSA	ABS	Republic of Gabon	All fleet with the exception of: 2 aircraft of type Falcon 50, 2 aircraft of type Falcon 900	All fleet with the exception of: TR-LGV; TR-LGY; TR-AFJ; TR-AFR	Republic of Gabon
AIR ASTANA ⁽²⁾	AK-0443-11	KZR	Kazakhstan	All fleet with the exception of: aircraft of type Boeing B767, aircraft of type Boeing B757, aircraft of type Airbus A319/320/321	All fleet with the exception of: aircraft within the Boeing B767 fleet, as mentioned on the AOC; aircraft within the Boeing B757 fleet, as mentioned on the AOC; aircraft within the Airbus A319/320/321 fleet, as mentioned on the AOC	Aruba (Kingdom of the Netherlands)
AIRLIFT INTERNATIONAL (GH) LTD	AOC 017	ALE	Republic of Ghana	All fleet with the exception of: 2 aircraft of type DC8-63F	All fleet with the exception of: 9G-TOP and 9G-RAC	Republic of Ghana
AIR MADAGASCAR	5R-M01/2009	MDG	Madagascar	All fleet with the exception of: 3 aircraft of type Boeing B737-300, 2 aircraft of type ATR 72-500, 1 aircraft of type ATR 42-500, 1 aircraft of type ATR 42-320 and 3 aircraft of type DHC 6-300	All fleet with the exception of: 5R-MFH, 5R-MFI, 5R-MFL, 5R-MJE, 5R-MJF, 5R-MJG, 5R-MVT, 5R-MGC, 5R-MGD, 5R-MGF	Republic of Madagascar
AIR SERVICE COMORES	06-819/TA-15/DGACM	KMD	Comoros	All fleet with the exception of: LET 410 UVP	All fleet with the exception of: D6-CAM (851336)	Comoros
GABON AIRLINES ⁽³⁾	001/MTAC/ANAC	GBK	Republic of Gabon	All fleet with the exception of: 1 aircraft of type Boeing B767-200	All fleet with the exception of: TR-LHP	Republic of Gabon

⁽¹⁾ Air carriers listed in Annex B could be permitted to exercise traffic rights by using wet-leased aircraft of an air carrier which is not subject to an operating ban, provided that the relevant safety standards are complied with.

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate ('AOC') Number	ICAO airline designation number	State of the Operator	Aircraft type restricted	Registration mark(s) and, when available, construction serial number(s)	State of registry
IRAN AIR ⁽⁴⁾	FS100	IRA	Islamic Republic of Iran	All fleet with the exception of: 14 aircraft of type Airbus A300, 8 aircraft of type Airbus A310, 1 aircraft Boeing B737	All fleet with the exception of: EP-IBA EP-IBB EP-IBC EP-IBD EP-IBG EP-IBH EP-IBI EP-IBJ EP-IBM EP-IBN EP-IBO EP-IBS EP-IBT EP-IBV EP-IBX EP-IBZ EP-ICE EP-ICF EP-IBK EP-IBL EP-IBP EP-IBQ EP-AGA	Islamic Republic of Iran
NOUVELLE AIR AFFAIRES GABON (SN2AG)	003/MTAC/ANAC-G/DSA	NVS	Republic of Gabon	All fleet with the exception of: 1 aircraft of type Challenger CL-601, 1 aircraft of type HS-125-800	All fleet with the exception of: TR-AAG, ZS-AFG	Republic of Gabon; Republic of South Africa
TAAG ANGOLA AIRLINES	001	DTA	Republic of Angola	All fleet with the exception of: 5 aircraft of type Boeing B777 and 4 aircraft of type Boeing B737-700	All fleet with the exception of: D2-TED, D2-TEE, D2-TEF, D2-TEG, D2-TEH, D2-TBF, D2-TBG, D2-TBH, D2-TBJ	Republic of Angola

⁽¹⁾ Afrijet is only allowed to use the specific aircraft mentioned for its current level of operations within the Union.

⁽²⁾ For their current level of operations within the Union Air Astana is only allowed to use the specific aircraft types mentioned, provided that they are registered in Aruba and that all changes to the AOC are timely submitted to the Commission and to Eurocontrol.

⁽³⁾ Gabon Airlines is only allowed to use the specific aircraft mentioned for its current level of operations within the Union.

⁽⁴⁾ Iran Air is allowed to operate to the Union using the specific aircraft under the conditions set out in Recital (69) of Regulation (EU) No 590/2010, OJ L 170, 6.7.2010, p.15.

COMMISSION IMPLEMENTING REGULATION (EU) No 660/2013**of 10 July 2013****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,

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

Whereas:

- (1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multi-lateral trade negotiations, the criteria whereby the

Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto.

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Done at Brussels, 10 July 2013.

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

*Jerzy PLEWA
Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

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

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0707 00 05	MK	33,9
	TR	105,8
	ZZ	69,9
0709 93 10	TR	128,7
	ZZ	128,7
0805 50 10	AR	82,0
	TR	70,0
	UY	80,2
	ZA	99,2
	ZZ	82,9
0808 10 80	AR	162,5
	BR	93,2
	CL	129,6
	CN	109,5
	NZ	141,2
	US	156,4
	ZA	114,5
	ZZ	129,6
0808 30 90	AR	104,7
	CL	140,3
	CN	66,6
	ZA	120,5
	ZZ	108,0
0809 10 00	IL	275,4
	TR	201,1
	ZZ	238,3
0809 29 00	TR	349,5
	US	793,8
	ZZ	571,7
0809 30	TR	200,5
	ZZ	200,5
0809 40 05	IL	99,1
	MA	99,1
	ZA	125,3
	ZZ	107,8

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

DECISIONS

COUNCIL DECISION

of 21 June 2013

establishing that no effective action has been taken by Belgium in response to the Recommendation of 2 December 2009

(2013/369/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 126(8) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) According to Article 126 of the Treaty on the Functioning of the European Union (TFEU), Member States are to avoid excessive government deficits.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation. The Stability and Growth Pact includes Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure⁽¹⁾, which was adopted in order to further the prompt correction of excessive general government deficits.
- (3) The Council, acting on a recommendation by the Commission, decided, on 2 December 2009, in accordance with Article 126(6) TFEU, that an excessive deficit existed in Belgium⁽²⁾. On the same day, and also on the basis of a recommendation by the Commission, the Council adopted a Recommendation under Article 126(7) TFEU ("Council Recommendation of 2 December 2009") requesting the Belgian authorities to take action in a medium-term framework in order to bring the deficit below 3 % of GDP by 2012.
- (4) Specifically, in order to bring the general government deficit below 3 % of GDP in a credible and sustainable manner, the Belgian authorities were recommended to (a) implement the deficit-reducing measures in 2010 as planned in the draft budget for 2010 and strengthen the planned fiscal effort in 2011 and 2012; (b) ensure an average annual fiscal effort of $\frac{3}{4}$ % of GDP over the period 2010-2012, which was also to contribute to bringing the gross debt ratio back on a declining path that approaches the reference value at a satisfactory pace by restoring an adequate level of the primary surplus; (c) specify the measures that are necessary to achieve the correction of the excessive deficit by 2012, cyclical conditions permitting, and to accelerate the reduction of the deficit if economic or budgetary conditions turned out better than expected at the time the excessive deficit procedure (EDP) recommendations were issued; and (d) strengthen the monitoring mechanisms to ensure that fiscal targets are respected. In its recommendations, the Council established a deadline of 2 June 2010 for effective action to be taken in line with the provisions of Article 3(4) of Regulation (EC) No 1467/97.
- (5) The Commission services 2009 autumn forecast, which was underlying the Council Recommendation of 2 December 2009, projected that the Belgian economy would expand by 0,6 % in 2010 and 1,5 % in 2011. The year 2012 was beyond that forecast's horizon, but under the hypothesis of a gradual closure of the large negative output gap by 2015, higher growth than in 2011 was expected for 2012. GDP growth in 2010 was substantially above that expected in that forecast; in 2011 it was slightly above the projected 1,5 %, while in 2012 the Belgian economy went through a contraction of 0,2 %.
- (6) On 15 June 2010, the Commission concluded that, based on the Commission services 2010 spring forecast, Belgium had taken effective action in compliance with the Council Recommendation of 2 December 2009 to bring its government deficit below the 3 % of GDP reference value and considered that no additional step in the EDP was therefore necessary at that point in time.
- (7) Based on the Commission services 2011 autumn forecast, there was clear evidence of compliance risks

⁽¹⁾ OJ L 209, 2.8.1997, p. 6.

⁽²⁾ OJ L 125, 21.5.2010, p. 34. All documents related to the excessive deficit procedure of Belgium can be found at: http://ec.europa.eu/economy_finance/economic_governance/sgp/deficit/countries/belgium_en.htm

with the Council Recommendation of 2 December 2009, given the still significant excess over the 3 %-of-GDP deficit threshold close to the deadline in the absence of a 2012 budget and the fact that the fiscal effort achieved until then fell short of the recommended one. Therefore, the Commission expressed its concerns and urged Belgium to take the necessary measures in time to avoid a stepping up of its EDP. In December 2011, the newly constituted Belgian government agreed on a draft budget. On 11 January 2012 the Commission concluded that, based on the macroeconomic scenario prevailing at that moment (a growth projection of 0,9 % according to the Commission services 2011 autumn forecast), the consolidation measures in the budget and the additional freeze, the deficit would reach 2,9 % of GDP in 2012. Hence the Commission considered that no further steps in the EDP concerning Belgium were needed at that point in time.

- (8) A new assessment of the action taken by Belgium to correct the excessive deficit by 2012 in response to the Council Recommendation of 2 December 2009, leads to the following conclusions:

- Following the EDP notification of the 2012 general government deficit and its validation by the Commission (Eurostat), the 2012 deficit came out at 3,9 % of GDP. This was partly due to the urgent need to recapitalise the banking group Dexia at the end of 2012, which had a negative impact of 0,8 % of GDP on the government deficit. However, even without this operation the deadline would have been missed, with a deficit of 3,2 % of GDP excluding the one-off negative impact of that operation. Moreover, the 2012 budget contained substantial deficit reducing one-off measures, estimated at around 0,4 % of GDP.
- The primary balance improved from a deficit of 1,9 % of GDP in 2009 to 0,4 % of GDP in 2010, while remaining broadly stable in 2011. In 2012, the primary deficit deteriorated to 0,5 % because of the impact of the Dexia recapitalisation, without which the primary balance would have shown a surplus of 0,3 % of GDP.
- The average annual fiscal effort since 2010 is estimated at 0,3 % of GDP, significantly below the $\frac{3}{4}$ % of GDP recommended by the Council. Also after correction for the effects of revised potential output growth and revenue developments, the adjusted average fiscal effort is less than half of the recommended effort. A bottom-up calculation estimates the cumulative net impact of discretionary measures of a permanent nature at around 2 % of GDP over 2010-2012. This calculation includes both deficit-reducing measures as well as expenditure increases to some extent due to policy decisions of the past (such as, welfare adaptations of social benefits, rapidly rising wage subsidies to companies) which partly offset the consolidation efforts. Moreover, the impact of these 2 %-of-GDP discretionary measures has been insufficient to offset the autonomously rising trend in public expenditure due to population ageing and, at the same time, achieve the recommended improvement of the structural balance over the consolidation period.
- In 2010, Belgium broadly implemented the deficit-reducing measures as planned, which led to a structural improvement of $\frac{1}{2}$ % of GDP, of which $\frac{1}{4}$ percentage points were due to a strong decline in interest expenditure. The nominal deficit fell from 5,6 % of GDP in 2009 (which included 0,6 percentage points of negative one-off factors) to 3,8 % of GDP, substantially lower than the objective of 4,8 % of GDP planned by the Belgian authorities in the January 2010 Stability Programme, due to the better-than-expected macro-economic outturn. In 2010 GDP grew by 2,4 %, compared to a growth rate of 0,6 % expected at the time of the Council Recommendation of 2 December 2009.
- Despite relatively favourable macro-economic conditions in the first half of 2011 (annual GDP growth of 1,8 %), the nominal balance fell only marginally that year, to 3,7 % of GDP, compared to a target of 3,6 % of GDP in the 2011 Stability Programme. The structural balance deteriorated by 0,1 % in 2011. Therefore, Belgium failed to take advantage of the relatively favourable economic times to reduce its deficit, partly due to the political deadlock at federal level between the June 2010 elections and December 2011.
- In December 2011, the newly constituted Belgian government included in the 2012 budget a series of consolidation measures amounting, according to the budget and the Stability Programme for 2011 to 2015, to about 3 % of GDP. Additional measures were taken in March 2012 and October 2012 in order to offset the negative impact of the economic slowdown on the budget. At the end of 2012, the Belgian and French governments needed to increase the capital of the banking group Dexia, in order to remedy a negative net asset position and allow the orderly resolution of the group to go ahead. For Belgium, this had a one-off negative impact on the deficit of 0,8 % of GDP. Moreover, despite a mechanism of reinforced monitoring, the economic downturn impacted government revenue more than expected, resulting in a deficit at federal level of 2,7 % of GDP excluding the impact of the Dexia operation compared to a target of 2,4 %. In addition, in the April 2013 EDP notification, it turned out that the local government level had missed its deficit target (-0,3 % of GDP instead of -0,2 %), which was only partly offset by a better-than-expected result by regions and communities (-0,1 % of GDP instead of -0,2 %). The structural

budget balance is estimated to have improved by ½ percentage point of GDP in 2012. Sizeable government measures have been partly offset by rising interest expenditure, a negative impact of the automatic indexation of wages and social benefits linked to past inflation, and a strong increase in pension expenditure.

— Public debt rose from 84,0 % of GDP in 2007 to 99,6 % of GDP in 2012. The dynamics of the deficit and of GDP account for around 6,5 percentage points of the increase, while exogenous factors amount to around 9 percentage points, mainly due to rescue operations in the financial sector in the form of equity injections.

- (9) Belgium took some measures to strengthen the monitoring mechanisms to ensure that fiscal targets are respected, such as the establishment of a monitoring committee in 2010 and a strengthened monitoring of the budget execution in 2012. However, no significant progress has been made to adjust the fiscal framework in order to ensure that the budgetary targets are binding at federal and sub-federal levels, and increase transparency of burden-sharing and accountability across government layers.

- (10) This leads to the conclusion that the response of Belgium to the Council Recommendation of 2 December 2009 has been insufficient. Belgium did not put an end to its excessive deficit by 2012. The fiscal effort falls significantly short of what was recommended by the Council, and was even entirely absent in 2011,

HAS ADOPTED THIS DECISION:

Article 1

Belgium has not taken effective action in response to the Council Recommendation of 2 December 2009.

Article 2

This Decision is addressed to the Kingdom of Belgium.

Done at Luxembourg, 21 June 2013.

For the Council
The President
M. NOONAN

COUNCIL DECISION

of 21 June 2013

giving notice to Belgium to take measures for the deficit reduction judged necessary in order to remedy the situation of excessive deficit

(2013/370/EU)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the recommendation from the European Commission,

Whereas:

- (1) According to Article 126 Treaty on the Functioning of the European Union (TFEU) Member States are to avoid excessive government deficits.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.
- (3) On 2 December 2009, the Council decided ⁽¹⁾, in accordance with Article 126(6) TFEU, that an excessive deficit existed in Belgium. On 2 December 2009, and also on the basis of a recommendation by the Commission, the Council adopted a Recommendation ("Council Recommendation of 2 December 2009") to correct it by 2012, in accordance with Article 126(7) TFEU and Article 3 of Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure ⁽²⁾. In order to bring the general government deficit below 3 % of GDP in a credible and sustainable manner, the Belgian authorities were recommended to: (a) implement the deficit-reducing measures in 2010 as planned in the draft budget for 2010 and strengthen the planned fiscal effort in 2011 and 2012; (b) ensure an average annual fiscal effort of ¾ % of GDP over the period 2010-2012, which was also to contribute to bringing the government gross debt ratio back on a declining path that approaches the reference value at a satisfactory pace by restoring an adequate level of the primary surplus; (c) specify the measures that are necessary to achieve the correction of the excessive deficit by 2012, cyclical conditions permitting, and to accelerate the reduction of the deficit if economic or budgetary conditions turned out better than expected at the time the EDP recommendations were issued; and (d) strengthen the monitoring mechanisms to ensure that fiscal targets are respected. In its recommendations, the Council established a

deadline of 2 June 2010 for effective action to be taken in line with the provisions of Article 3(4) of Regulation (EC) No 1467/97.

- (4) According to the provisions of Article 126(8) TFEU, the Council decided on 21 June 2013 that Belgium did not take effective action in response to the Council Recommendation of 2 December 2009 within the period laid down therein.
- (5) According to Article 10(3) of Regulation (EC) No 1467/97, if actual data pursuant to Regulation (EC) No 479/2009 indicate that an excessive deficit has not been corrected by a participating Member State within the time-limits specified in a recommendation issued under Article 126(7) TFEU, the Council is immediately to take a decision under Article 126(9) TFEU, that is, give notice to the Member State to take, within a specified time-limit, measures for the deficit reduction which is judged necessary by the Council in order to remedy the situation.
- (6) The Commission services 2013 spring forecast, projects real GDP to remain flat in 2013 with domestic demand continuing the contraction initiated in 2012. While household consumption is likely to stagnate, investment is expected to drop, driven by an economy-wide lack of confidence, a depressed construction sector, tightening credit conditions and an industry featuring ample spare capacity. Both private consumption and investment are anticipated to gain pace only as of 2014 when domestic demand would become the main driver behind a real GDP growth rate of 1,2 %. Against the background of this more robust domestic demand, import growth is assumed to catch up with export growth. This would limit further gains from net exports in 2014, contrary to 2013 when positive net foreign demand growth is expected to prevent GDP from contracting.
- (7) According to the Commission services 2013 spring forecast, the general government deficit is projected to decrease to 2,9 % of GDP in 2013. The initial 2013 budget targeted a nominal deficit of 2,15 % of GDP. However, since the drafting of the budget, the official growth projections underpinning the budget (+0,7 %, in line with the Commission services 2012 autumn forecast) have been substantially revised downwards, to 0,2 % in the Stability Programme for 2012 to 2016 and 0,0 % in that spring forecast. Therefore, the Government abandoned the nominal deficit target and replaced it by a commitment to improve the structural balance by 1,0 % of GDP. In March 2013, the Government took additional measures amounting to 0,2 % of GDP on top of around 0,75 % of GDP of measures taken in the initial 2013 budget, which have been taken into account in the

⁽¹⁾ OJ L 125, 21.5.2010, p. 34. All documents related to the excessive deficit procedure of Belgium can be found at: http://ec.europa.eu/economy_finance/economic_governance/sgp/deficit/countries/belgium_en.htm

⁽²⁾ OJ L 209, 2.8.1997, p. 6.

Commission services 2013 spring forecast. This forecast projects a structural improvement of $\frac{3}{4}$ % of GDP in 2013, including a $\frac{1}{4}$ percentage point contribution from lower interest expenditure.

- (8) At unchanged policy, the Commission services 2013 spring forecast projects the deficit to rise again above the reference value in 2014, to 3,1% of GDP, despite the projected growth above potential. This new rise is due to the autonomous rising trend in social transfers and the fact that the 2013 budget also included around 0,4% of GDP of one-off and temporary revenues, such as a fiscal amnesty, the sale of telecom licenses and an exceptionally high dividend from the National Bank of Belgium.
- (9) Public debt rose from 84 % of GDP in 2007 to almost 100 % of GDP in 2012. The dynamics of the deficit and of GDP account for around 6,5 percentage points of the increase, while exogenous factors amount to around 9 percentage points, mainly due to rescue operations in the financial sector in the form of equity injections. According to the Commission services 2013 spring forecast, it is expected to increase to over 102 % of GDP in 2014. The Government intends to sell financial assets in order to keep the debt below 100 % of GDP in 2013. In this context, the Government announced recently the sale of Royal Park Investment (the special purpose vehicle created in the context of the Fortis rescue operation) which would reduce the debt level by 0,2% of GDP.
- (10) The European Commission Fiscal Sustainability Report 2012 shows that Belgium does not appear to face a risk of fiscal stress in the short term. However, fiscal sustainability risks are high in a medium- to long-term perspective. The long-term budgetary impact of ageing in Belgium is well above the EU average, which is mainly the result of a rapid increase in pension expenditure as a share of GDP over the coming decades. Although the December 2011 pension reform was an important positive step, additional measures appear necessary to fully restore the long-term sustainability of public finances.
- (11) Measures taken in the initial 2013 budget and the March 2013 budget control are currently expected to bring the deficit below 3 % of GDP in 2013. However, according to the Commission services 2013 spring forecast, the safety margin against breaching the Treaty reference value is very narrow. Moreover, the correction is currently not yet sustainable.
- (12) Against the background of high uncertainties regarding economic and budgetary developments, the budgetary target recommended for the final year of the correction period should be set at a level clearly below the reference value, in order to guarantee an effective and lasting achievement of the correction within the requested deadline.
- (13) Therefore, a further reduction of the 2013 deficit to 2,7 % of GDP is justified, which is consistent with a structural improvement of 1 % of GDP in 2013. To this end, additional measures with an estimated impact of $\frac{1}{4}$ % of GDP are considered necessary, also in view of possible negative second round effects.
- (14) Belgium has made a commitment in its Stability Programme for 2012 to 2016 to achieve a balanced budget in structural terms in 2015, before reaching its medium-term budgetary objective (MTO) of a surplus of 0,75 % of GDP in structural terms in 2016. After submitting the Stability Programme for 2012 to 2016, in a letter sent to the Commission on 28 May 2013, the Belgian authorities committed themselves to targetting a higher fiscal effort at $\frac{3}{4}$ % of GDP in 2014. Also, in view of the high level of debt this is an appropriate effort and it will comply with the debt reduction benchmark. After 2016, Belgium should continue to make sufficient progress towards its MTO including meeting the expenditure benchmark, and towards compliance with the debt reduction benchmark.
- (15) Furthermore, Belgium should strengthen the long-term sustainability of the pension and social security systems. In this respect, additional efforts are needed to close the gap between the effective and the statutory retirement ages, while measures to link the statutory retirement age to developments in life expectancy would allow safeguarding the sustainability of the pension system in the long term.
- (16) In addition, Belgium should adopt explicit coordination arrangements to ensure that budgetary targets are binding at federal level and sub-federal levels within a medium-term planning perspective, including through the prompt adoption of a rule on the general government budget balance/surplus that complies with the requirements of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union.
- (17) Finally, to ensure the success of the fiscal consolidation strategy, it will also be important to back the fiscal consolidation by comprehensive structural reforms, in line with the Council recommendations addressed to Belgium in the context of the European Semester and in particular those related to the Macroeconomic Imbalances Procedure,

HAS ADOPTED THIS DECISION:

Article 1

1. Belgium shall put an end to the present excessive deficit situation by 2013.

2. Belgium shall reduce the headline deficit to 2,7 % of GDP in 2013. This nominal improvement is consistent with an improvement in the structural balance of 1 % of GDP in 2013, based on the Commission services 2013 spring forecast.

3. Belgium shall adopt and fully implement all the consolidation measures incorporated in the 2013 budget as well as additional measures of a structural nature to achieve the recommended structural effort for 2013.

4. Belgium shall stand ready to adopt further measures if risks to the budgetary plans materialise. Budgetary consolidation measures shall secure a lasting improvement in the general government structural balance in a growth-friendly manner.

Article 2

1. Belgium shall submit to the Commission, by 21 September 2013, a report outlining the measures taken to comply with this Decision. The Commission shall evaluate this report with a view to assessing progress made towards the correction of the excessive deficit.

2. Belgium shall submit further quarterly reports to the Commission, in which it examines progress made in complying with this Decision.

3. Belgium shall submit a report by 31 December 2013 on the intended implementation of the first recommendation issued under the European Semester regarding the adoption of explicit coordination arrangements to ensure that budgetary targets are binding at federal level and sub-federal levels within a medium-term planning perspective.

4. Belgium shall present structural measures for 2014 which ensure a sustainable correction of the excessive deficit and appropriate progress towards its medium-term objective.

Article 3

This Decision is addressed to the Kingdom of Belgium.

Done at Luxembourg, 21 June 2013.

For the Council
The President
M. NOONAN

COUNCIL DECISION**of 9 July 2013****appointing a Dutch member and a Dutch alternate member of the Committee of the Regions**

(2013/371/EU)

THE COUNCIL OF THE EUROPEAN UNION,

(a) as member:

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 305 thereof,

— Mr Rogier van der SANDE, *member of the Executive Council of the Province of Zuid-Holland;*

Having regard to the proposal of the Dutch Government,

Whereas:

and

(1) On 22 December 2009 and on 18 January 2010, the Council adopted Decisions 2009/1014/EU ⁽¹⁾ and 2010/29/EU ⁽²⁾ appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2010 to 25 January 2015.

(b) as alternate member:

— Ms Annemieke TRAAG, *member of the Executive Council of the Province of Gelderland.*

(2) A member's seat on the Committee of the Regions has become vacant following the end of the term of office of Ms Annemieke TRAAG.

Article 2

(3) An alternate member's seat will become vacant following the appointment of Mr Rogier van der SANDE as member of the Committee of the Regions,

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

HAS ADOPTED THIS DECISION:

Done at Brussels, 9 July 2013.

Article 1

The following are hereby appointed to the Committee of the Regions for the remainder of the current term of office, which runs until 25 January 2015:

For the Council
The President
R. ŠADŽIUS

⁽¹⁾ OJ L 348, 29.12.2009, p. 22.

⁽²⁾ OJ L 12, 19.1.2010, p. 11.

III

(Other acts)

EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY DECISION

No 438/12/COL

of 28 November 2012

amending for the eighty-sixth time the procedural and substantive rules in the field of state aid

THE EFTA SURVEILLANCE AUTHORITY,

HAVING REGARD to the Agreement on the European Economic Area, ⁽¹⁾ in particular to Articles 61 to 63 and Protocol 26 thereof,

HAVING REGARD to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, ⁽²⁾ in particular its Articles 5(2)(b) and 24,

Whereas:

The Chapter in the EFTA Surveillance Authority's State Aid Guidelines on state aid for rescuing and restructuring firms in difficulty ⁽³⁾ is due to expire on 30 November 2012, ⁽⁴⁾

That Chapter corresponds to the Community Guidelines on State aid for Rescuing and Restructuring Firms in Difficulty, ⁽⁵⁾ which expired on 9 October 2012, ⁽⁶⁾

On 28 September 2012 the European Commission adopted a Communication concerning the Prolongation of the application of the Community Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty of 1 October 2004, until they are replaced by new rules. ⁽⁷⁾

The current Chapter on state aid for rescuing and restructuring firms in difficulty which will expire on 30 November 2012

must therefore be prolonged in order to ensure the uniform application of state aid rules throughout the European Economic Area,

The European Commission and the EFTA States have been consulted,

HAS ADOPTED THIS DECISION:

Article 1

The validity of the Chapter in the EFTA Surveillance Authority's State Aid Guidelines on state aid for rescuing and restructuring firms in difficulty is prolonged until it is replaced by new rules.

Article 2

Only the English version is authentic.

Done at Brussels, 28 November 2012.

For the EFTA Surveillance Authority

Oda Helen SLETNES
President

Sverrir Haukur GUNNLAUGSSON
College Member

⁽¹⁾ The "EEA Agreement".

⁽²⁾ The "Surveillance and Court Agreement".

⁽³⁾ OJ L 97, 15.4.2005, p. 41, EEA Supplement No 18, 15.4.2005, p. 1.

⁽⁴⁾ See paragraph 90, as extended by EFTA Surveillance Authority Decision No. 433/09/COL of 30.10.2009 amending for the seventy-third time the procedural and substantive rules in the field of state aid. OJ L 48, 25.2.2010, p. 27, EEA Supplement No. 9, 25.2.2010, p. 12.

⁽⁵⁾ OJ C 244, 1.10.2004, p. 2-17.

⁽⁶⁾ See paragraph 102, as extended by European Commission Communication concerning the prolongation of the Community Guidelines on State aid for Rescuing and Restructuring Firms in Difficulty, OJ C 156, 9.7.2009, p. 3.

⁽⁷⁾ OJ C 296, 2.10.2012, p. 3.

EFTA SURVEILLANCE AUTHORITY DECISION**No 441/12/COL****of 29 November 2012****on the designation of new Hearing Officers in certain competition proceedings**

THE EFTA SURVEILLANCE AUTHORITY,

HAVING REGARD to the Rules of Procedures of the EFTA Surveillance Authority, in particular, Article 15 thereof,

HAVING REGARD to Decision No 442/12/COL of the EFTA Surveillance Authority of 29 November 2012 on the function and terms of reference of the Hearing Officers in certain competition proceedings, and in particular its Article 2,

Whereas:

In order to ensure the efficient conduct of competition proceedings and that the rights of parties to be heard is guaranteed in such proceedings, one or more Hearing Officers shall be designated,

The Member of the Authority with special responsibility for competition can decide that the Authority official shall continue to serve as a Hearing Officer in that case after the termination of his or her employment with the Authority,

Where a Hearing Officer is unable to act, his or her role shall be carried out by another Hearing Officer. If no Hearing Officer is able to act, the competent member of the College shall designate another competent Authority official, who is not involved in the case in question, to carry out the Hearing Officer's duties,

HAS ADOPTED THIS DECISION:

*Article 1***Appointment of Hearing Officers**

1. Ms. Clémence Perrin and Ms. Auður Steinarsdóttir, Legal Officers, are appointed Hearing Officers for competition proceedings.

2. If no Hearing Officer is able to act, the College Member with responsibility for competition is hereby empowered to designate another competent official of the EFTA Surveillance Authority, who is not involved in the case in question, to carry out the Hearing Officer's duties.

*Article 2***Repeal of previous Decisions**

Decision No 554/08/COL and Decision No 7/10/COL of the EFTA Surveillance Authority are repealed and the services of former Hearing Officers are terminated.

*Article 3***Information**

The EFTA States and the European Commission shall be informed by a means of a copy of the Decision.

*Article 4***Entry into force**

This Decision takes effect on the day of its adoption.

Done at Brussels, 29 November 2012.

For the EFTA Surveillance Authority

Oda Helen SLETNES
President

Sverrir Haukur GUNNLAUGSSON
College Member

EFTA SURVEILLANCE AUTHORITY DECISION

No 442/12/COL

of 29 November 2012

on the function and terms of reference of the hearing officer in certain competition proceedings

THE EFTA SURVEILLANCE AUTHORITY,

HAVING REGARD to the Agreement on the European Economic Area (the “EEA Agreement”), in particular Article 55 thereof,

HAVING REGARD to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (the “Surveillance and Court Agreement”), in particular Articles 13 and 14 thereof and Protocol 4 thereto,

HAVING REGARD to Article 15 of the Rules of Procedure of the EFTA Surveillance Authority (the “Authority”),

Whereas:

- (1) Under the system for competition law enforcement established under the EEA Agreement, the Authority investigates and decides on cases by administrative decision, subject to judicial review by the EFTA Court.
- (2) The Authority has to conduct its competition proceedings fairly, impartially and objectively and must ensure respect of the procedural rights of the parties concerned as set out in Chapter II of Protocol 4 to the Surveillance and Court Agreement (Implementation of the rules on competition laid down in Articles 53 and 54 of the EEA Agreement), Chapter III of Protocol 4 to the Surveillance and Court Agreement (Rules relating to the conduct of proceedings by the Authority pursuant to Articles 53 and 54 of the EEA Agreement), Chapter IV of Protocol 4 to the Surveillance and Court Agreement (Rules relating to control of concentrations between undertakings), and Chapter V of Protocol 4 to the Surveillance and Court Agreement (Implementing Chapter IV on the control of concentrations between undertakings), as well as in the relevant case-law of the EFTA Court and the Court of Justice of the European Union (the “Court of Justice”). In particular, the right of the parties concerned to be heard is a fundamental right recognised by the European Convention on Human Rights.⁽¹⁾
- (3) In order to ensure the effective exercise of the procedural rights of the parties concerned, other involved parties within the meaning of Article 11(b) of Chapter V of Protocol 4 to the Surveillance and Court Agreement (hereinafter “other involved parties”), complainants

within the meaning of Article 7(2) of Chapter II of Protocol 4 to the Surveillance and Court Agreement (hereinafter “complainants”) and persons other than those referred to in Articles 5 and 11 of Chapter III of Protocol 4 to the Surveillance and Court Agreement and third persons within the meaning of Article 11 of Chapter V of Protocol 4 to the Surveillance and Court Agreement (hereinafter “third persons”) involved in competition proceedings, responsibility for safeguarding the observance of such rights should be entrusted to an independent person experienced in competition matters who has the integrity necessary to contribute to the objectivity, transparency and efficiency of those proceedings.

- (4) Authority Decision No 177/02/COL of 30 October 2002 set out the terms of reference of Hearing Officers in certain competition proceedings. Decision No 177/02/COL was revised by Decision No 792/08/COL of 17 December 2008 delegating certain powers in the field of competition to the Hearing Officers. It is now necessary to clarify and further strengthen the role of the hearing officer and to adapt the terms of reference of the hearing officer in the light of developments in EEA competition law.
- (5) The function of the hearing officer has been generally perceived as an important contribution to the competition proceedings before the Authority due to the independence and expertise that hearing officers have brought to these proceedings. In order to ensure the continued independence of the hearing officer from the Directorate for Competition and State Aid, he or she should be attached, for administrative purposes, to the member of the College with special responsibility for competition.
- (6) The Authority may, when necessary, appoint one or more hearing officers. Where the hearing officer perceives a conflict of interests in the performance of his or her functions, the hearing officer should cease from acting on a case. If the hearing officer is unable to act, his or her role should be carried out by another hearing officer.
- (7) The hearing officer should operate as an independent arbiter who seeks to resolve issues affecting the effective exercise of the procedural rights of the parties concerned, other involved parties, complainants or interested third persons where such issues could not be resolved through prior contacts with the Directorate of the Authority responsible for the conduct of competition proceedings, which must respect these procedural rights.

⁽¹⁾ See, for example, Case E-15/10 - *Posten Norge AS v EFTA Surveillance Authority*, judgment of 18 April 2012, not yet published, paragraphs 85-92.

- (8) The terms of reference of the hearing officer in competition proceedings should be framed in such a way as to safeguard the effective exercise of procedural rights throughout proceedings before the Authority pursuant to Articles 53, 54 and 57 of the EEA Agreement, in particular the right to be heard.
- (9) In order to strengthen this role, the hearing officer should be attributed with the function of safeguarding the effective exercise of procedural rights of undertakings and associations of undertakings in the context of the Authority's powers of investigation under Chapter II of Protocol 4 to the Surveillance and Court Agreement, as well as pursuant to Article 14 of Chapter IV of Protocol 4 to the Surveillance and Court Agreement which empowers the Authority to impose fines on undertakings and associations of undertakings. The hearing officer should also be attributed with specific functions during this investigative phase in relation to claims for legal professional privilege, the privilege against self-incrimination, deadlines for replying to decisions requesting information pursuant to Article 18(3) of Chapter II of Protocol 4 to the Surveillance and Court Agreement, as well as with regard to the right of undertakings and associations of undertakings subject to an investigative measure by the Authority under Chapter II of Protocol 4 to the Surveillance and Court Agreement to be informed of their procedural status, namely whether they are subject to an investigation and, if so, the subject matter and purpose of that investigation. In assessing claims made in relation to the privilege against self-incrimination, the hearing officer may consider whether undertakings make clearly unfounded claims for protection merely as a delaying tactic.
- (10) The hearing officer should be able to facilitate the resolution of claims that a document is covered by legal professional privilege. To this end, if the undertaking or association of undertakings making the claim agrees, the hearing officer will be allowed to examine the document concerned and make an appropriate recommendation, referring to the applicable case-law of the EFTA Court and the Court of Justice.
- (11) The hearing officer should be responsible for deciding whether a third person shows a sufficient interest to be heard. Consumer associations that apply to be heard should be generally regarded as having a sufficient interest, where the proceedings concern products or services used by end-consumers or products or services that constitute a direct input into such products or services.
- (12) The hearing officer should decide whether to admit complainants and interested third persons to the oral hearing, taking into account the contribution they can make to the clarification of the relevant facts of the case.
- (13) The right of the parties concerned to be heard before a final decision adversely affecting their interests is taken is guaranteed through their right to reply in writing to the preliminary position of the Authority, as set out in the statement of objections, and their right to develop their arguments, if they so request, at the oral hearing. In order to exercise these rights effectively, parties to whom a statement of objections has been addressed have the right of access to the Authority's investigation file.
- (14) In order to safeguard the effective exercise of the rights of defence of parties to whom a statement of objections has been addressed, the hearing officer should be responsible for ensuring that disputes about access to the file or about the protection of business secrets and other confidential information between those parties and the Authority's Directorate for Competition and State Aid are resolved. In exceptional circumstances, the hearing officer may suspend the running of the time period in which an addressee of a statement of objections should reply to that statement until a dispute about access to file has been resolved, if the addressee would not be in a position to reply within the deadline granted and an extension would not be an adequate solution at that point in time.
- (15) In order to safeguard the effective exercise of procedural rights while respecting the legitimate interests of confidentiality, the hearing officer should, where appropriate, be able to order specific measures for access to the Authority's file. In particular, the hearing officer should have the power to decide that parts of the file are made accessible to the party requesting access in a restricted manner, for example by limiting the number or category of persons having access, and the use of the information being accessed.
- (16) The hearing officer should be responsible for deciding on requests for the extension of time limits set for the reply to a statement of objections, a supplementary statement of objections or a letter of facts or time limits within which other involved parties, complainants or interested third persons may make comments, in case of disagreement between any such person and the Directorate for Competition and State Aid.
- (17) The hearing officer should promote the effectiveness of the oral hearing by, *inter alia*, taking all appropriate preparatory measures, including the circulation, in due time before the hearing, of a provisional list of participants and a provisional agenda.

- (18) The oral hearing allows the parties to whom the Authority has addressed a statement of objections and other involved parties to further exercise their right to be heard by developing their arguments orally before the Authority, which should be represented by the Competition and State Aid Directorate as well as any other Directorates that contribute to the further preparation of a decision to be taken by the Authority. It should provide an additional opportunity to ensure that all relevant facts – whether favourable or unfavourable to the parties concerned, including the factual elements relating to the gravity and duration of the alleged infringement – are clarified as much as possible. The oral hearing should also allow the parties to present their arguments as to the matters that may be of importance for the possible imposition of fines.
- (19) To ensure the effectiveness of oral hearings, the hearing officer may allow the parties to whom a statement of objections has been addressed, other involved parties, complainants, other persons invited to the hearing, the Authority's Directorates, the European Commission, and the authorities of the EEA States to ask questions during the hearing. The oral hearing should not be public so as to guarantee that all participants can express themselves freely. Therefore, information disclosed during the oral hearing should not be used for a purpose other than judicial and/or administrative proceedings for the application of Articles 53 and/or 54 of the EEA Agreement. Where justified to protect business secrets and other confidential information, the hearing officer should be able to hear persons in a closed session.
- (20) Parties to the proceedings which offer commitments pursuant to Article 9 of Chapter II of Protocol 4 to the Surveillance and Court Agreement, as well as parties which engage in settlement procedures in cartel cases pursuant to Article 10a of Chapter III of Protocol 4 to the Surveillance and Court Agreement, should be able to call upon the hearing officer in relation to the effective exercise of their procedural rights.
- (21) The hearing officer should report on the respect for the effective exercise of procedural rights throughout competition proceedings. Moreover, and separately from his or her reporting function, the hearing officer should also be able to make observations on the further progress and objectivity of the proceedings and thereby contribute to ensuring that competition proceedings are concluded on the basis of a sound assessment of all relevant facts.
- (22) Decision 177/02/COL of 30 October 2002 and Decision 792/08/COL of 17 December 2008 should be repealed.

HAS ADOPTED THIS DECISION:

CHAPTER 1

ROLE, APPOINTMENT AND DUTIES OF THE HEARING OFFICER

Article 1

The hearing officer

1. There shall be one or more hearing officers for competition proceedings, whose powers and functions are laid down in the present decision.

2. The hearing officer shall safeguard the effective exercise of procedural rights throughout competition proceedings before the Authority for the implementation of Articles 53, 54 and 57 of the EEA Agreement (hereinafter "competition proceedings").

Article 2

Appointment, termination of appointment and deputising

1. The Authority shall appoint the hearing officer(s). The appointment shall be published in the *Official Journal of the European Union and the EEA Supplement thereto*. Any interruption, termination or transfer of the hearing officer shall be the subject of a reasoned decision of the Authority. That decision shall be published in the *Official Journal of the European Union and the EEA Supplement thereto*.

2. The hearing officer shall be attached, for administrative purposes, to the member of the Authority with special responsibility for competition (hereinafter "the competent College Member").

3. Where the hearing officer is unable to act, his or her role shall be carried out by another hearing officer. If no hearing officer is able to act, the competent College member, where appropriate after consultation of the hearing officer, shall designate another competent Authority official, who is not involved in the case in question, to carry out the hearing officer's duties.

4. In the case of an actual or potential conflict of interests, the hearing officer shall refrain from acting on a case. Paragraph 3 shall apply.

Article 3

Method of operation

1. In exercising his or her functions, the hearing officer shall act independently.

2. In exercising his or her functions, the hearing officer shall take account of the need for effective application of the competition rules in accordance with the EEA legislation in force and the principles laid down by the EFTA Court and the Court of Justice.⁽¹⁾

3. In exercising his or her functions, the hearing officer shall have access to any files relating to competition proceedings.

4. The hearing officer shall be kept informed by the director of the Competition and State Aid Directorate about the development of the procedure.

5. The hearing officer may present observations on any matter arising out of any Authority competition proceedings to the competent College Member.

6. If the hearing officer makes reasoned recommendations to the competent College Member or takes decisions as foreseen in this Decision, the hearing officer shall provide a copy of these documents to the director of the Competition and State Aid Directorate and the Directorate for Legal and Executive Affairs of the Authority.

7. Any issue regarding the effective exercise of the procedural rights of the parties concerned, other involved parties within the meaning of Article 11(b) of Chapter V of Protocol 4 to the Surveillance and Court Agreement (hereinafter "the other involved parties"), complainants within the meaning of Article 7(2) of Chapter II of Protocol 4 to the Surveillance and Court Agreement (hereinafter "complainants") and interested third persons within the meaning of Article 5 of this Decision involved in such proceedings shall first be raised with the Directorate for Competition and State Aid. If the issue is not resolved, it may be referred to the hearing officer for independent review. Requests related to a measure for which a time limit applies must be made in due time, within the original time limit.

CHAPTER 2

INVESTIGATION

Article 4

Procedural rights in the investigation phase

1. The hearing officer shall safeguard the effective exercise of procedural rights which arise in the context of the exercise of

the Authority's powers of investigation under Section V of Chapter II of Protocol 4 to the Surveillance and Court Agreement and in proceedings that can result in the imposition of fines pursuant to Article 14 of Chapter IV of Protocol 4 to the Surveillance and Court Agreement.

2. In particular, the hearing officer shall have the following functions, subject to Article 3(7):

(a) The hearing officer may be asked by undertakings or associations of undertakings to examine claims that a document required by the Authority in the exercise of powers conferred on it pursuant to Article 18, 20 or 21 of Chapter II of Protocol 4 to the Surveillance and Court Agreement, in inspections pursuant to Article 13 of Chapter IV of Protocol 4 to the Surveillance and Court Agreement or in the context of investigatory measures in proceedings that can result in the imposition of fines pursuant to Article 14 of Chapter IV of Protocol 4 to the Surveillance and Court Agreement and which was withheld from the Authority is covered by legal professional privilege, within the meaning of the case-law of the Court of Justice and the EFTA Court. The hearing officer may only review the matter if the undertaking or association of undertakings making the claim consent to the hearing officer viewing the information claimed to be covered by legal professional privilege as well as related documents that the hearing officer considers necessary for his or her review. Without revealing the potentially privileged content of the information, the hearing officer shall communicate to the director of the Competition and State Aid Directorate and the undertaking or association of undertakings concerned his or her preliminary view, and may take appropriate steps to promote a mutually acceptable resolution. Where no resolution is reached, the hearing officer may formulate a reasoned recommendation to the competent College Member, without revealing the potentially privileged content of the document. The party making the claim shall receive a copy of this recommendation.

(b) Where the addressee of a request for information pursuant to Article 18(2) of Chapter II of Protocol 4 to the Surveillance and Court Agreement refuses to reply to a question in such a request invoking the privilege against self-incrimination, as determined by the case-law of the Court of Justice and the EFTA Court, it may refer the matter, in due time following the receipt of the request, to the hearing officer. In appropriate cases, and having regard to the need to avoid undue delay in proceedings, the hearing officer may make a reasoned recommendation as to whether the privilege against self-incrimination applies and inform the director of the Competition and State Aid Directorate of the conclusions drawn, to be taken into account in case of any decision taken subsequently pursuant to Article 18(3) of Chapter II of Protocol 4 to the Surveillance and Court Agreement. The addressee of the request shall receive a copy of the reasoned recommendation.

⁽¹⁾ Article 6 of the EEA Agreement provides that, "without prejudice to future development of case law, the provisions of this Agreement, in so far as they are identical in substance to corresponding rules of the Treaty establishing the European Economic Community and the Treaty establishing the European Coal and Steel Community and to acts adopted in application of these two Treaties, shall, in their implementation and application, be interpreted in conformity with the relevant rulings of the Court of Justice of the European Communities given prior to the date of signature of this Agreement". As regards relevant rulings given after the date of signature of the EEA Agreement, it follows from Article 3(2) of the Surveillance and Court Agreement that the EFTA Surveillance Authority and the EFTA Court shall pay due respect to the principles laid down by such rulings.

- (c) Where the addressee of a decision requesting information pursuant to Article 18(3) of Chapter II of Protocol 4 to the Surveillance and Court Agreement considers that the time limit imposed for its reply is too short, it may refer the matter to the hearing officer, in due time before the expiry of the original time limit set. The hearing officer shall decide on whether an extension of the time limit should be granted, taking account of the length and complexity of the request for information and the requirements of the investigation.
- (d) Undertakings or associations of undertakings subject to an investigative measure by the Authority under Section V of Chapter II of Protocol 4 to the Surveillance and Court Agreement shall have the right to be informed of their procedural status, namely whether they are subject to an investigation and, if so, the subject matter and purpose of that investigation. If such an undertaking or association of undertakings considers that it has not been properly informed by the Directorate for Competition and State Aid of its procedural status, it may refer the matter to the hearing officer for resolution. The hearing officer shall take a decision that the Directorate for Competition and State Aid will inform the undertaking or association of undertakings that made the request of their procedural status. This decision shall be communicated to the undertaking or association of undertakings that made the request.

CHAPTER 3

APPLICATIONS TO BE HEARD

Article 5

Interested third persons

1. Applications to be heard from persons other than those referred to in Articles 5 and 11 of Chapter III of Protocol 4 to the Surveillance and Court Agreement and third persons within the meaning of Article 11 of Chapter V of Protocol 4 to the Surveillance and Court Agreement shall be made in accordance with Article 13(1) of Chapter III of Protocol 4 to the Surveillance and Court Agreement and Article 16 of Chapter V of Protocol 4 to the Surveillance and Court Agreement. Applications shall be submitted in writing and explain the applicant's interest in the outcome of the procedure.
2. The hearing officer shall decide as to whether third persons are to be heard after consulting the director of the Competition and State Aid Directorate. In assessing whether a third person shows a sufficient interest, the hearing officer shall take into account whether and to what extent the applicant is sufficiently affected by the conduct which is the subject of the competition proceedings or whether the applicant fulfils the requirements of Article 18(4) of Chapter IV of Protocol 4 to the Surveillance and Court Agreement.
3. Where the hearing officer considers that an applicant has not shown a sufficient interest to be heard, he or she shall inform the applicant in writing of the reasons thereof. A time limit shall be fixed within which the applicant may make

known its views in writing. If the applicant makes known its views in writing within the time limit set by the hearing officer and the written submission does not lead to a different assessment, that finding shall be stated in a reasoned decision which shall be notified to the applicant.

4. The hearing officer shall inform parties to competition proceedings as from the initiation of proceedings pursuant to Article 11(6) of Chapter II of Protocol 4 to the Surveillance and Court Agreement or Article 6(1)(c) of Chapter IV of Protocol 4 to the Surveillance and Court Agreement of the identities of interested third persons to be heard, unless such disclosure would significantly harm a person or undertaking.

Article 6

Right to an oral hearing; participation of complainants and third persons in the oral hearing

1. At the request of parties to whom the Authority has addressed a statement of objections or other involved parties, the hearing officer shall conduct an oral hearing so that such parties can further develop their written submissions.
2. The hearing officer may, where appropriate and after consulting the director of the Competition and State Aid Directorate, decide to afford complainants and interested third persons within the meaning of Article 5 the opportunity to express their views at the oral hearing of the parties to whom a statement of objections has been issued, provided they so request in their written comments. The hearing officer may also invite representatives from competition authorities from third countries to attend the oral hearing as observers.

CHAPTER 4

ACCESS TO FILE, CONFIDENTIALITY AND BUSINESS SECRETS

Article 7

Access to file and access to documents and information

1. Where a party which has exercised its right of access to the file has reason to believe that the Authority has in its possession documents which have not been disclosed to it and that those documents are necessary for the proper exercise of the right to be heard, it may make a reasoned request for access to these documents to the hearing officer, subject to Article 3(7).
2. Subject to Article 3(7), other involved parties, complainants and interested third persons within the meaning of Article 5 may make a reasoned request to the hearing officer in the circumstances listed hereafter:
 - (a) Other involved parties who have reason to believe that they have not been informed of the objections addressed to the notifying parties in accordance with Article 13(2) of Chapter V of Protocol 4 to the Surveillance and Court Agreement.

- (b) A complainant who has been informed by the Authority of its intention to reject a complaint pursuant to Article 7(1) of Chapter III of Protocol 4 to the Surveillance and Court Agreement and has reason to believe that the Authority has in its possession documents which have not been disclosed to it and that those documents are necessary for the proper exercise of its rights in accordance with Article 8(1) of Chapter III of Protocol 4 to the Surveillance and Court Agreement.
- (c) A complainant who considers that it has not received a copy of the non-confidential version of the statement of objections in accordance with Article 6(1) of Chapter III of Protocol 4 to the Surveillance and Court Agreement or that the non-confidential version of the statement of objections has not been established in a manner which enables it to exercise its rights effectively, with the exception of cases where the settlement procedure applies.
- (d) An interested third person within the meaning of Article 5 of this Decision who has reason to believe that it has not been informed of the nature and subject matter of a procedure in accordance with Article 13(1) of Chapter III of Protocol 4 to the Surveillance and Court Agreement and Article 16(1) of Chapter V of Protocol 4 to the Surveillance and Court Agreement. The same applies to a complainant in a case to which the settlement procedure applies who has reason to believe that it has not been informed of the nature and subject matter of the procedure in accordance with Article 6(1) of Chapter III of Protocol 4 to the Surveillance and Court Agreement.

3. The hearing officer shall take a reasoned decision on a request addressed to him or her under paragraph 1 or 2 and communicate such decision to the person that made the request and to any other person concerned by the procedure.

Article 8

Business secrets and other confidential information

1. Where the Authority intends to disclose information which may constitute a business secret or other confidential information of any undertaking or person, the latter shall be informed in writing of this intention and the reasons thereof by the Directorate for Competition and State Aid. A time limit shall be fixed within which the undertaking or person concerned may submit any written comments.

2. Where the undertaking or person concerned objects to the disclosure of the information it may refer the matter to the hearing officer. If the hearing officer finds that the information may be disclosed because it does not constitute a business secret or other confidential information or because there is an overriding interest in its disclosure that finding shall be stated in a reasoned decision which shall be notified to the undertaking or person concerned. The decision shall specify the date after which the information will be disclosed. This date shall not be less than 1 week from the date of notification.

3. Paragraphs 1 and 2 shall apply *mutatis mutandis* to the disclosure of information by publication in the *Official Journal of the European Union* and the *EEA Supplement* thereto.

4. Where appropriate in order to balance the effective exercise of a party's rights of defence with legitimate interests of confidentiality, the hearing officer may decide that parts of the file which are indispensable for the exercise of the party's rights of defence will be made accessible to the party requesting access in a restricted manner, the details of which shall be determined by the hearing officer.

CHAPTER 5

EXTENSION OF TIME LIMITS

Article 9

Requests for extension of time limits

1. If an addressee of a statement of objections considers that the time limit imposed for its reply to the statement of objections is too short, it may seek an extension of that time limit by means of a reasoned request addressed to the director of the Competition and State Aid Directorate. Such a request must be made in due time before the expiry of the original time limit in proceedings pursuant to Articles 53 and 54 of the EEA Agreement and at least 5 working days before the expiry of the original time limit in proceedings under Article 57 of the EEA Agreement. If such a request is not granted or the addressee of the statement of objections making the request disagrees with the length of the extension granted, it may refer the matter to the hearing officer for review before the expiry of the original time limit. After hearing the director of the Competition and State Aid Directorate, the hearing officer shall decide on whether an extension of the time limit is necessary to allow the addressee of a statement of objections to exercise its right to be heard effectively, while also having regard to the need to avoid undue delay in proceedings. In proceedings pursuant to Articles 53 and 54 of the EEA Agreement, the hearing officer shall take into account, among others, the following elements:

- (a) the size and complexity of the file;
- (b) whether the addressee of the statement of objections making the request has had prior access to information;
- (c) any other objective obstacles which may be faced by the addressee of the statement of objections making the request in providing its observations.

For the purposes of assessing point (a) of the first subparagraph, the number of infringements, the alleged duration of the infringement(s), the size and number of documents and the size and complexity of expert studies may be taken into consideration.

2. If other involved parties, a complainant or an interested third person within the meaning of Article 5 considers that the time limit to make its views known is too short, it may seek an extension of that time limit by means of a reasoned request addressed to the director of the Competition and State Aid Directorate in due time before the expiry of the original time limit. If such a request is not granted or the other involved party, complainant or interested third person disagrees with this decision, it may refer the matter to the hearing officer for review. After hearing the director of the Competition and State Aid Directorate, the hearing officer shall decide on whether an extension of the time limit should be granted.

CHAPTER 6

THE ORAL HEARING

Article 10

Organisation and function

1. The hearing officer shall organise and conduct the hearings provided for in the provisions implementing Articles 53, 54 and 57 of the EEA Agreement.

2. The oral hearing shall be conducted by the hearing officer in full independence.

3. The hearing officer shall ensure that the hearing is properly conducted and shall contribute to the objectivity of the hearing itself and of any decision taken subsequently.

4. The hearing officer shall ensure that the oral hearing provides addressees of the statement of objections, other involved parties, as well as complainants and interested third persons within the meaning of Article 5 which have been admitted to the oral hearing, with sufficient opportunity to develop their views as to the preliminary findings of the Authority.

Article 11

Preparation of the oral hearing

1. The hearing officer shall be responsible for the preparation of the oral hearing and shall take all appropriate measures in that regard. In order to ensure the proper preparation of the oral hearing, the hearing officer may, after consulting the director of the Competition and State Aid Directorate, supply in advance to the persons invited to the hearing a list of questions on which they are invited to make known their views. The hearing officer may also indicate to the persons invited to the hearing the focal areas for debate, having regard, in particular, to the facts and issues that the addressees of a statement of objections who have requested an oral hearing want to raise.

2. For this purpose, after consulting the director of the Competition and State Aid Directorate, the hearing officer may hold a meeting with the persons invited to the hearing and, where appropriate, the relevant Directorates of the Authority, in order to prepare for the hearing itself.

3. The hearing officer may also ask for prior written notification of the essential contents of the intended statements of persons invited to the hearing.

4. The hearing officer may set a time limit for all persons invited to the oral hearing to provide a list of participants who will attend on their behalf. The hearing officer shall make this list available to all persons invited to the oral hearing in due time before the date of the hearing.

Article 12

Timing and conduct

1. After consulting the director of the Competition and State Aid Directorate, the hearing officer shall determine the date, the duration and the place of the hearing. Where a postponement is requested, the hearing officer shall decide whether or not to allow it.

2. The hearing officer shall decide whether new documents should be admitted during the hearing and which persons should be heard on behalf of a party.

3. The hearing officer may allow the parties to whom a statement of objections has been addressed, other involved parties, complainants, other persons invited to the hearing, Directorates of the Authority and the authorities of the EEA States to ask questions during the hearing. To the extent that, exceptionally, a question cannot be answered in whole or in part at the oral hearing, the hearing officer may allow the reply to be given in writing within a set time limit. Such written reply shall be distributed to all participants in the oral hearing, unless the hearing officer decides otherwise in order to protect the rights of defence of an addressee of a statement of objections or the business secrets or other confidential information of any person.

4. Where required by the need to ensure the right to be heard, the hearing officer may, after consulting the director of the Competition and State Aid Directorate, afford the parties concerned, other involved parties, complainants or interested third persons within the meaning of Article 5 the opportunity to submit further written comments after the oral hearing. The hearing officer shall fix a date by which such submissions may be made. The Authority shall not be obliged to take into account written comments received after that date.

Article 13

Protection of business secrets and confidentiality at the oral hearing

Each person shall normally be heard in the presence of all other persons invited to attend the oral hearing. The hearing officer may also decide to hear persons separately in a closed session, having regard to their legitimate interest in the protection of their business secrets and other confidential information.

CHAPTER 7

INTERIM REPORT AND RIGHT TO MAKE OBSERVATIONS*Article 14***Interim report and observations**

1. The hearing officer shall submit an interim report to the competent College Member on the hearing and the conclusions he or she draws with regard to the respect for the effective exercise of procedural rights. The observations in this report shall concern procedural issues including the following:

- (a) disclosure of documents and access to the file;
- (b) time limits for replying to the statement of objections;
- (c) the observance of the right to be heard;
- (d) the proper conduct of the oral hearing.

A copy of the report shall be given to the director of the Competition and State Aid Directorate and to the Directorate for Legal and Executive Affairs.

2. In addition to, and separately from, the report referred to in paragraph 1, the hearing officer may make observations on the further progress and impartiality of the proceedings. In so doing, the hearing officer shall seek to ensure in particular that, in the preparation of draft decisions by the Authority, due account is taken of all the relevant facts, whether favourable or unfavourable to the parties concerned, including the factual elements relevant to the gravity and duration of any infringement. Such observations may relate to, *inter alia*, the need for further information, the withdrawal of certain objections, the formulation of further objections or suggestions for further investigative measures pursuant to Section V of Chapter II of Protocol 4 to the Surveillance and Court Agreement.

The director of the Competition and State Aid Directorate and the Directorate for Legal and Executive Affairs shall be informed of such observations.

CHAPTER 8

COMMITMENTS AND SETTLEMENTS*Article 15***Commitments and settlements**

1. Parties to the proceedings which offer commitments to meet the concerns expressed to them by the Authority in its preliminary assessment pursuant to Article 9 of Chapter II of Protocol 4 to the Surveillance and Court Agreement may call upon the hearing officer at any stage in the procedure pursuant to Article 9, in order to ensure the effective exercise of their procedural rights.

2. Parties to proceedings in cartel cases which engage in settlement discussions pursuant to Article 10a of Chapter III

of Protocol 4 to the Surveillance and Court Agreement may call upon the hearing officer at any stage during the settlement procedure in order to ensure the effective exercise of their procedural rights.

CHAPTER 9

FINAL REPORT*Article 16***Content and transmission prior to the adoption of a decision**

1. The hearing officer shall, on the basis of the draft decision to be submitted to the Advisory Committee in the case in question, prepare a final report in writing on the respect for the effective exercise of procedural rights, as referred to in Article 14(1), at any stage of the proceedings. That report will also consider whether the draft decision deals only with objections in respect of which the parties have been afforded the opportunity of making known their views.

2. The final report shall be submitted to the competent College Member, the director of the Competition and State Aid Directorate and the Directorate for Legal and Executive Affairs. It shall be communicated to the competent authorities of the EEA EFTA States and, in accordance with the provisions on cooperation laid down in Protocol 23 to the EEA Agreement, to the European Commission.

*Article 17***Submission to the Authority and publication**

1. The hearing officer's final report shall be presented to the Authority together with the draft decision submitted to it, in order to ensure that, when it reaches a decision on an individual case, the Authority is fully apprised of all relevant information as to the course of the procedure and that the effective exercise of procedural rights has been respected throughout the proceedings.

2. The final report may be modified by the hearing officer in the light of any amendments to the draft decision prior to its adoption by the Authority.

3. The Authority shall communicate the hearing officer's final report, together with the decision, to the addressees of the decision. It shall publish the hearing officer's final report in the *Official Journal of the European Union and the EEA Supplement thereto*, together with the decision, having regard to the legitimate interest of undertakings in the protection of their business secrets.

CHAPTER 10

FINAL PROVISIONS*Article 18***Repeal and transitional provision**

1. Decision No 177/02/COL of 30 October 2002 and Decision No 792/08/COL of 17 December 2008 are repealed.

2. Procedural steps already taken under Decision No 177/02/COL and/or Decision No 792/08/COL of 17 December 2008 shall continue to have effect. In relation to investigatory measures that were taken before the entry into force of this Decision, the hearing officer may decline to exercise his or her powers pursuant to Article 4.

In cases where the initiation of proceedings pursuant to Article 11(6) of Chapter II of Protocol 4 to the Surveillance and Court Agreement or the initiation of proceedings pursuant to Article 6(1)(c) of Chapter IV of Protocol 4 to the Surveillance and Court Agreement took place before the entry into force of the present Decision, the interim report pursuant to Article 14 of the present Decision and the final report pursuant to Article 16 shall not cover the investigation phase, unless the hearing officer decides otherwise.

Article 19

Entry into force

This Decision shall be authentic in the English language and shall enter into force from the day of its adoption. It shall be published in the *Official Journal of the European Union* and in the *EEA Supplement thereto*.

Article 20

The EFTA States shall be informed by means of a copy of this Decision.

Article 21

The European Commission shall be informed by means of a copy of this Decision.

Done at Brussels, 29 November 2012.

For the EFTA Surveillance Authority

Oda Helen SLETNES
President

Sverrir Haukur GUNNLAUGSSON
College Member

CORRIGENDA

Corrigendum to Commission Regulation (EU) No 513/2013 of 4 June 2013 imposing a provisional anti-dumping duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells and wafers) originating in or consigned from the People's Republic of China and amending Regulation (EU) No 182/2013 making these imports originating in or consigned from the People's Republic of China subject to registration

(Official Journal of the European Union L 152 of 5 June 2013)

On page 43, in the Annex:

for: 'ChuangZhou EGing Photovoltaic Technology Co. Ltd',

read: 'Changzhou EGing Photovoltaic Technology Co. Ltd';

on page 45, in the Annex:

for: 'Nanjing Dago New Energy Co. Ltd',

read: 'Nanjing Daqo New Energy Co. Ltd'.

NOTICE TO READERS

Council Regulation (EU) No 216/2013 of 7 March 2013 on the electronic publication of the *Official Journal of the European Union*

In accordance with Council Regulation (EU) No 216/2013 of 7 March 2013 on the electronic publication of the *Official Journal of the European Union* (OJ L 69, 13.3.2013, p. 1), as of 1 July 2013, only the electronic edition of the Official Journal shall be considered authentic and shall have legal effect.

Where it is not possible to publish the electronic edition of the Official Journal due to unforeseen and exceptional circumstances, the printed edition shall be authentic and shall have legal effect in accordance with the terms and conditions set out in Article 3 of Regulation (EU) No 216/2013.

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