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II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION

of 21 October 2010

on the position to be taken by the European Union within the Association Council set up by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, with regard to the adoption of provisions on the coordination of social security systems

(2010/697/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 79(2)(b) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Article 67 of the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part⁽¹⁾ (the Agreement), provides that the Association Council shall adopt provisions to implement the principles on the coordination of social security systems as set out in Article 65 of the Agreement before the end of the first year following its entry into force.
- (2) Objective 29, third indent, of the EU-Morocco Action Plan adopted by the Association Council in the context of the European Neighbourhood Policy on 27 July 2005 calls for the adoption by the Association Council of a decision implementing Article 65 of the Agreement.
- (3) In accordance with Articles 1 and 2 of Protocol (No 22) on the Position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.

- (4) In accordance with Articles 1 and 2 of Protocol (No 21) on the Position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of the said Protocol, these Member States are not taking part in the adoption of this Decision and are not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union within the Association Council set up by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, concerning the implementation of Article 67 of the Agreement, shall be based on the draft decision of the Association Council attached to this Decision.

Article 2

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

Done at Luxembourg, 21 October 2010.

For the Council
The President
J. MILQUET

⁽¹⁾ OJ L 70, 18.3.2000, p. 2.

Draft

DECISION No .../... OF THE ASSOCIATION COUNCIL

set up by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part,

of ...

with regard to the provisions on the coordination of social security systems contained in the Euro-Mediterranean Agreement

THE ASSOCIATION COUNCIL,

benefits with respect to members of their family who reside in another State, for instance Morocco.

Having regard to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part⁽¹⁾, and in particular Article 67 thereof,

Whereas:

(1) Articles 65 to 68 of the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part (the Agreement), provide for the coordination of the social security systems of Morocco and the Member States. Article 65 lays down the principles for such coordination.

(2) Article 67 of the Agreement provides that the Association Council shall adopt a decision implementing the principles set out in Article 65 before the end of the first year following the entry into force of the Agreement.

(3) Objective 29, third indent, of the EU-Morocco Action Plan, as adopted by the Association Council in the context of the European Neighbourhood Policy on 27 July 2005, calls for the adoption of a decision implementing Article 65 of the Agreement.

(4) With regard to the application of the non-discrimination principle, this Decision should not give any additional rights arising from certain facts or events occurring on the territory of the other contracting party, where such facts or events are not taken into account under the legislation of the first contracting party, other than the right to export certain benefits.

(5) In applying this Decision, the right of Moroccan workers to family benefits should be subject to the condition that their family members legally reside with these workers in the Member State where the workers are employed. This Decision should not give any entitlement to family

(6) Council Regulation (EC) No 859/2003⁽²⁾ already extends the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the grounds of their nationality. Regulation (EC) No 859/2003 already covers the principle of aggregation of insurance periods acquired by Moroccan workers in the various Member States regarding entitlement to certain benefits, as set out in Article 65(2) of the Agreement.

(7) It might be necessary to lay down special provisions which correspond to the specific characteristics of the legislation of Morocco, in order to facilitate the application of the coordination rules.

(8) To ensure the smooth functioning of the coordination of the social security systems of the Member States and of Morocco, it is necessary to provide for specific provisions regarding the cooperation between the Member States and Morocco as well as between the person concerned and the institution of the competent State.

(9) Transitional provisions should be adopted to protect the persons covered by this Decision and to ensure that they do not lose rights as a result of its entry into force,

HAS ADOPTED THIS DECISION:

PART I

GENERAL PROVISIONS

Article 1

Definitions

1. For the purposes of this Decision:

(a) 'Agreement' means the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part;

⁽¹⁾ OJ L 70, 18.3.2000, p. 2.

⁽²⁾ OJ L 124, 20.5.2003, p. 1.

(b) 'Regulation' means Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems ⁽¹⁾ as applicable in the Member States of the European Union;

(c) 'implementing Regulation' means Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems ⁽²⁾;

(d) 'Member State' means a Member State of the European Union;

(e) 'worker' means,

(i) for the purposes of the legislation of a Member State, a person pursuing an activity as an employed person within the meaning of Article 1(a) of the Regulation;

(ii) for the purposes of the legislation of Morocco, a person pursuing an activity as an employed person within the meaning of that legislation;

(f) 'member of the family' means,

(i) for the purposes of the legislation of a Member State, a member of the family within the meaning of Article 1(i) of the Regulation;

(ii) for the purposes of the legislation of Morocco, a member of the family within the meaning of that legislation;

(g) 'legislation' means,

(i) in relation to the Member States, legislation within the meaning of Article 1(l) of the Regulation;

(ii) in relation to Morocco, the corresponding relevant legislation as applicable in Morocco;

(h) 'benefits' means,

(i) in relation to the Member States, benefits within the meaning of Article 3 of the Regulation;

(ii) in relation to Morocco, the corresponding benefits applying in Morocco;

(i) 'exportable benefits' means,

(i) in relation to the Member States:

— old-age pensions,

— survivors' pensions,

— pensions in respect of accidents at work and occupational diseases,

— invalidity pensions related to accidents at work and occupational diseases,

within the meaning of the Regulation, with the exception of special non-contributory cash benefits as listed in Annex X to the Regulation;

(ii) in relation to Morocco, the corresponding benefits provided under the legislation of Morocco, with the exception of special non-contributory cash benefits as set out in Annex I to this Decision.

2. Other terms used in this Decision shall have the meaning which is assigned to them:

(a) in relation to the Member States, in the Regulation and the implementing Regulation;

(b) in relation to Morocco, in the relevant legislation as applicable in Morocco.

Article 2

Persons covered

This Decision shall apply:

(a) to workers who are Moroccan nationals and who are or have been legally employed in the territory of a Member State and who are or have been subject to the legislation of one or more Member States, and their survivors;

(b) to the members of the family of workers referred to in point (a) provided that these family members are or have been legally resident with the worker concerned while the worker is employed in a Member State;

(c) to workers who are nationals of a Member State who are or have been legally employed in the territory of Morocco and who are or have been subject to the legislation of Morocco, and their survivors; and

⁽¹⁾ OJ L 166, 30.4.2004, p. 1.

⁽²⁾ OJ L 284, 30.10.2009, p. 1.

- (d) to the members of the family of workers referred to in point (c) provided that these family members are or have been legally resident with the worker concerned while the worker is employed in Morocco.

Article 3

Equality of treatment

1. Workers who are Moroccan nationals and are legally employed in a Member State and any members of their families legally residing with them shall enjoy, with regard to the benefits within the meaning of Article 1(1)(h), treatment free from any discrimination based on nationality relative to nationals of the Member States in which those workers are employed.

2. Workers who are nationals of a Member State and are legally employed in Morocco and any members of their families legally residing with them shall enjoy, with regard to the benefits within the meaning of Article 1(1)(h), treatment free from any discrimination based on nationality relative to Moroccan nationals.

PART II

RELATIONS BETWEEN THE MEMBER STATES AND MOROCCO

Article 4

Waiving of residence clauses

1. Exportable benefits within the meaning of Article 1(1)(i) to which the persons as referred to in Article 2(a) and (c) are entitled shall not be subject to any reduction, modification, suspension, withdrawal or confiscation by reason of the fact that the beneficiary is residing,

(i) for the purpose of a benefit under the legislation of a Member State, within the territory of Morocco; or

(ii) for the purpose of a benefit under the legislation of Morocco, within the territory of a Member State.

2. Family members of a worker as referred to in Article 2(b) are entitled to exportable benefits within the meaning of Article 1(1)(i) in the same way as the family members of a worker who is a national of the Member State concerned when these family members reside within the territory of Morocco.

3. Family members of a worker as referred to in Article 2(d) are entitled to exportable benefits within the meaning of Article 1(1)(i) in the same way as the family members of a worker who is a national of Morocco when these family members reside within the territory of a Member State.

PART III

MISCELLANEOUS PROVISIONS

Article 5

Cooperation

1. The Member States and Morocco shall communicate to each other all information regarding changes in their legislation which may affect the implementation of this Decision.

2. For the purposes of this Decision, the authorities and institutions of the Member States and of Morocco shall lend one another their good offices and act as though implementing their own legislation. The administrative assistance given by the said authorities and institutions shall, as a rule, be free of charge. However, the competent authorities of the Member States and of Morocco may agree to certain expenses being reimbursed.

3. The authorities and institutions of the Member States and of Morocco may, for the purposes of this Decision, communicate directly with one another and with the persons involved or their representatives.

4. The institutions and persons covered by this Decision shall have a duty of mutual information and cooperation to ensure the correct implementation of this Decision.

5. The persons concerned must inform the institutions of the competent Member State or Morocco, where the latter is the competent State, and of the Member State of residence or Morocco, where the latter is the State of residence, as soon as possible of any change in their personal or family situation which affects their right to benefits under this Decision.

6. Failure to respect the obligation of information referred to in paragraph 5 may result in the application of proportionate measures in accordance with national law. Nevertheless, these measures shall be equivalent to those applicable to similar situations under domestic law and shall not make it impossible or excessively difficult in practice for claimants to exercise the rights conferred on them by this Decision.

7. The Member States and Morocco may provide for national provisions that establish conditions for the verification of entitlement to benefits to take into account the fact that the beneficiaries are staying or residing outside the territory of the State where the debtor institution is located. Such provisions shall be proportionate, free from any discrimination based on nationality and in accordance with the principles of this Decision. Such provisions shall be notified to the Association Council.

Article 6

Administrative checks and medical examinations

1. This Article shall apply to the persons as referred to in Article 2 and in receipt of exportable benefits as referred to in Article 1(1)(i), as well as to the institutions in charge of the implementation of this Decision.

2. Where a recipient or a claimant of benefits, or a member of his family, is staying or residing within the territory of a Member State when the debtor institution is located in Morocco or in Morocco when the debtor institution is located in a Member State, the medical examination shall be carried out, at the request of that institution, by the institution of the beneficiary's place of stay or residence in accordance with the procedures laid down by the legislation applied by that institution.

The debtor institution shall inform the institution of the place of stay or residence of any special requirements, if necessary, to be followed and points to be covered by the medical examination.

The institution of the place of stay or residence shall forward a report to the debtor institution that requested the medical examination.

The debtor institution shall reserve the right to have the beneficiary examined by a doctor of its choice, either in the territory where the recipient or claimant of benefit is staying or residing or in the country where the debtor institution is located. However, the beneficiary may be asked to return to the State of the debtor institution only if he or she is able to make the journey without prejudice to his health and the cost of travel and accommodation is paid for by the debtor institution.

3. Where a recipient or a claimant of benefits, or a member of his family, is staying or residing in the territory of a Member State when the debtor institution is located in Morocco or in Morocco when the debtor institution is located in a Member State, the administrative check shall, at the request of the debtor institution, be performed by the institution of the beneficiary's place of stay or residence.

The institution of the place of stay or residence shall forward a report to the debtor institution that requested the administrative check.

The debtor institution shall reserve the right to have the situation of the beneficiary examined by a professional of its choice. However, the beneficiary may be asked to return to the State of the debtor institution only if he or she is able to make the journey without prejudice to his health and the cost of travel and accommodation is paid for by the debtor institution.

4. One or more Member States and Morocco may agree on other administrative provisions, subject to their informing the Association Council thereof.

5. As an exception to the principle of free-of-charge mutual administrative assistance set out in Article 5(2) of this Decision, the effective amount of the expenses of the checks referred to in paragraphs 2 and 3 of this Article shall be refunded to the institution which was requested to carry them out by the debtor institution which requested them.

Article 7

Application of Article 90 of the Agreement

Article 90 of the Agreement shall apply in case either Party considers that the other Party has not complied with the obligations as laid down in Articles 5 and 6.

Article 8

Special provisions for the application of the legislation of Morocco

The Association Council may, if necessary, lay down special provisions for the application of the legislation of Morocco in Annex II.

Article 9

Administrative procedures from existing bilateral agreements

Administrative procedures contained in existing bilateral agreements between a Member State and Morocco may continue to apply provided that those procedures do not adversely affect the rights or obligations of the persons concerned established by this Decision.

Article 10

Agreements supplementing the procedures for implementing this Decision

One or more Member States and Morocco may conclude agreements designed to supplement the administrative procedures for implementing this Decision especially with regard to preventing and combating fraud and error.

PART IV

TRANSITIONAL AND FINAL PROVISIONS

Article 11

Transitional provisions

1. No rights shall be acquired pursuant to this Decision for the period before its date of entry into force.

2. Subject to paragraph 1, a right shall be acquired under this Decision even if it relates to a contingency arising before its date of entry into force.

3. Any benefit which has not been awarded or which has been suspended by reason of the nationality or place of residence of the person concerned shall, at the request of that person, be provided or resumed with effect from the date of entry into force of this Decision, provided that the rights for which benefits were previously provided have not given rise to a lump-sum payment.

4. If a request as referred to in paragraph 3 is submitted within two years from the date of entry into force of this Decision, the rights acquired in accordance with this Decision shall have effect from the date of entry into force of this Decision, and the legislation of any Member State or Morocco concerning the forfeiture or limitation of rights may not be invoked against the persons concerned.

5. If a request as referred to in paragraph 3 is submitted after the expiry of the two-year period following the date of entry into force of this Decision, rights not forfeited or not time-barred shall have effect from the date on which the request was submitted, subject to any more favourable provisions under the legislation of any Member State or Morocco.

Article 12

Annexes to this Decision

1. The Annexes to this Decision constitute an integral part thereof.

2. At the request of Morocco, the Annexes may be amended by a decision of the Association Council.

Article 13

Entry into force

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

Done at ..., ...

For the Association Council
The President

*ANNEX I***LIST OF MOROCCAN SPECIAL NON-CONTRIBUTORY CASH BENEFITS**

...

*ANNEX II***SPECIAL PROVISIONS FOR THE APPLICATION OF THE LEGISLATION OF MOROCCO**

...

COUNCIL DECISION

of 21 October 2010

on the position to be taken by the European Union within the Association Council set up by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part, with regard to the adoption of provisions on the coordination of social security systems

(2010/698/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 79(2)(b) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Article 67 of the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part ⁽¹⁾ (the Agreement), provides that the Association Council shall adopt provisions to implement the principles on the coordination of social security systems as set out in Article 65 of the Agreement before the end of the first year following its entry into force.
- (2) Objective 29, second indent, of the EU-Tunisia Action Plan adopted by the Association Council in the context of the European Neighbourhood Policy on 4 July 2005 calls for the adoption by the Association Council of a decision implementing Article 65 of the Agreement.
- (3) In accordance with Articles 1 and 2 of Protocol (No 22) on the Position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.

- (4) In accordance with Articles 1 and 2 of Protocol (No 21) on the Position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on the European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Decision and are not bound by it nor subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union within the Association Council set up by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part, concerning the implementation of Article 67 of the Agreement, shall be based on the draft decision of the Association Council attached to this Decision.

Article 2

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

Done at Luxembourg, 21 October 2010.

For the Council
The President
J. MILQUET

⁽¹⁾ OJ L 97, 30.3.1998, p. 2.

Draft

DECISION No .../... OF THE ASSOCIATION COUNCIL

set up by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part,

of ...

with regard to the provisions on the coordination of social security systems contained in the Euro-Mediterranean Agreement

THE ASSOCIATION COUNCIL,

Having regard to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part,⁽¹⁾ and in particular Article 67 thereof,

Whereas:

- (1) Articles 65 to 68 of the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part (the Agreement), provide for the coordination of the social security systems of Tunisia and the Member States. Article 65 lays down the principles for such coordination.
- (2) Article 67 of the Agreement provides that the Association Council shall adopt a decision implementing the principles set out in Article 65 before the end of the first year following the entry into force of the Agreement.
- (3) Objective 29, second indent, of the EU-Tunisia Action Plan, as adopted by the Association Council in the context of the European Neighbourhood Policy on 4 July 2005, calls for the adoption of a decision implementing Article 65 of the Agreement.
- (4) With regard to the application of the non-discrimination principle, this Decision should not give any additional rights arising from certain facts or events occurring on the territory of the other contracting party, where such facts or events are not taken into account under the legislation of the first contracting party, other than the right to export certain benefits.
- (5) In applying this Decision, the right of Tunisian workers to family benefits should be subject to the condition that their family members legally reside with these workers in the Member State where the workers are employed. This Decision should not give any entitlement to family benefits with respect to members of their family who reside in another State, for instance Tunisia.

- (6) Council Regulation (EC) No 859/2003⁽²⁾ already extends the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the grounds of their nationality. Regulation (EC) No 859/2003 already covers the principle of aggregation of insurance periods acquired by Tunisian workers in the various Member States regarding entitlement to certain benefits, as set out in Article 65(2) of the Agreement.

- (7) It might be necessary to lay down special provisions which correspond to the specific characteristics of the legislation of Tunisia, in order to facilitate the application of the coordination rules.
- (8) To ensure the smooth functioning of the coordination of the social security systems of the Member States and of Tunisia, it is necessary to provide for specific provisions regarding the cooperation between the Member States and Tunisia as well as between the person concerned and the institution of the competent State.
- (9) Transitional provisions should be adopted to protect the persons covered by this Decision and to ensure that they do not lose rights as a result of its entry into force,

HAS ADOPTED THIS DECISION:

PART I

GENERAL PROVISIONS

Article 1

Definitions

1. For the purposes of this Decision:
 - (a) 'Agreement' means the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part;
 - (b) 'Regulation' means Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems⁽³⁾ as applicable in the Member States of the European Union;

⁽¹⁾ OJ L 97, 30.3.1998, p. 2.

⁽²⁾ OJ L 124, 20.5.2003, p. 1.

⁽³⁾ OJ L 166, 30.4.2004, p. 1.

- (c) 'implementing Regulation' means Regulation (EC) No 987/2009 of the European Parliament and the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems ⁽¹⁾;
- (d) 'Member State' means a Member State of the European Union;
- (e) 'worker' means,
- (i) for the purposes of the legislation of a Member State, a person pursuing an activity as an employed person within the meaning of Article 1(a) of the Regulation;
 - (ii) for the purposes of the legislation of Tunisia, a person pursuing an activity as an employed person within the meaning of that legislation;
- (f) 'member of the family' means,
- (i) for the purposes of the legislation of a Member State, a member of the family within the meaning of Article 1(i) of the Regulation;
 - (ii) for the purposes of the legislation of Tunisia, a member of the family within the meaning of that legislation;
- (g) 'legislation' means,
- (i) in relation to the Member States, legislation within the meaning of Article 1(l) of the Regulation;
 - (ii) in relation to Tunisia, the corresponding relevant legislation as applicable in Tunisia;
- (h) 'benefits' means,
- (i) in relation to the Member States, benefits within the meaning of Article 3 of the Regulation;
 - (ii) in relation to Tunisia, the corresponding benefits applying in Tunisia;
- (i) 'exportable benefits' means,
- (i) in relation to the Member States:
 - old-age pensions,
 - survivors' pensions,
 - pensions in respect of accidents at work and occupational diseases,
 - invalidity pensions related to accidents at work and occupational diseases,
 within the meaning of the Regulation, with the exception of special non-contributory cash benefits as listed in Annex X to the Regulation;
 - (ii) in relation to Tunisia, the corresponding benefits provided under the legislation of Tunisia, with the exception of special non-contributory cash benefits as set out in Annex I to this Decision.

2. Other terms used in this Decision shall have the meaning which is assigned to them:

- (a) in relation to the Member States, in the Regulation and the implementing Regulation;
- (b) in relation to Tunisia, in the relevant legislation as applicable in Tunisia.

Article 2

Persons covered

This Decision shall apply:

- (a) to workers who are Tunisian nationals and who are or have been legally employed in the territory of a Member State and who are or have been subject to the legislation of one or more Member States, and their survivors;
- (b) to the members of the family of workers referred to in point (a) provided that these family members are or have been legally resident with the worker concerned while the worker is employed in a Member State;
- (c) to workers who are nationals of a Member State who are or have been legally employed in the territory of Tunisia and who are or have been subject to the legislation of Tunisia, and their survivors; and
- (d) to the members of the family of workers referred to in point (c) provided that these family members are or have been legally resident with the worker concerned while the worker is employed in Tunisia.

Article 3

Equality of treatment

1. Workers who are Tunisian nationals and are legally employed in a Member State and any members of their families legally residing with them shall enjoy, with regard to the benefits within the meaning of Article 1(1)(h), treatment free from any discrimination based on nationality relative to nationals of the Member States in which those workers are employed.

2. Workers who are nationals of a Member State and are legally employed in Tunisia and any members of their families legally residing with them shall enjoy, with regard to the benefits within the meaning of Article 1(1)(h), treatment free from any discrimination based on nationality relative to Tunisian nationals.

PART II

RELATIONS BETWEEN THE MEMBER STATES AND TUNISIA

Article 4

Waiving of residence clauses

1. Exportable benefits within the meaning of Article 1(1)(i) to which the persons as referred to in Article 2(a) and (c) are entitled shall not be subject to any reduction, modification, suspension, withdrawal or confiscation by reason of the fact that the beneficiary is residing,

⁽¹⁾ OJ L 284, 30.10.2009, p. 1.

(i) for the purpose of a benefit under the legislation of a Member State, within the territory of Tunisia; or

(ii) for the purpose of a benefit under the legislation of Tunisia, within the territory of a Member State.

2. Family members of a worker as referred to in Article 2(b) are entitled to exportable benefits within the meaning of Article 1(1)(i) in the same way as the family members of a worker who is a national of the Member State concerned when these family members reside within the territory of Tunisia.

3. Family members of a worker as referred to in Article 2(d) are entitled to exportable benefits within the meaning of Article 1(1)(i) in the same way as the family members of a worker who is a national of Tunisia when these family members reside within the territory of a Member State.

PART III

MISCELLANEOUS PROVISIONS

Article 5

Cooperation

1. The Member States and Tunisia shall communicate to each other all information regarding changes in their legislation which may affect the implementation of this Decision.

2. For the purposes of this Decision, the authorities and institutions of the Member States and of Tunisia shall lend one another their good offices and act as though implementing their own legislation. The administrative assistance given by the said authorities and institutions shall, as a rule, be free of charge. However, the competent authorities of the Member States and of Tunisia may agree to certain expenses being reimbursed.

3. The authorities and institutions of the Member States and of Tunisia may, for the purposes of this Decision, communicate directly with one another and with the persons involved or their representatives.

4. The institutions and persons covered by this Decision shall have a duty of mutual information and cooperation to ensure the correct implementation of this Decision.

5. The persons concerned must inform the institutions of the competent Member State or Tunisia, where the latter is the competent State, and of the Member State of residence or Tunisia, where the latter is the State of residence, as soon as possible of any change in their personal or family situation which affects their right to benefits under this Decision.

6. Failure to respect the obligation of information referred to in paragraph 5 may result in the application of proportionate measures in accordance with national law. Nevertheless, these measures shall be equivalent to those applicable to similar situations under domestic law and shall not make it impossible

or excessively difficult in practice for claimants to exercise the rights conferred on them by this Decision.

7. The Member States and Tunisia may provide for national provisions that establish conditions for the verification of entitlement to benefits to take into account the fact that the beneficiaries are staying or residing outside the territory of the State where the debtor institution is located. Such provisions shall be proportionate, free from any discrimination based on nationality and in accordance with the principles of this Decision. Such provisions shall be notified to the Association Council.

Article 6

Administrative checks and medical examinations

1. This Article shall apply to the persons as referred to in Article 2 and in receipt of exportable benefits as referred to in Article 1(1)(i), as well as to the institutions in charge of the implementation of this Decision.

2. Where a recipient or a claimant of benefits, or a member of his family, is staying or residing within the territory of a Member State when the debtor institution is located in Tunisia or in Tunisia when the debtor institution is located in a Member State, the medical examination shall be carried out, at the request of that institution, by the institution of the beneficiary's place of stay or residence in accordance with the procedures laid down by the legislation applied by that institution.

The debtor institution shall inform the institution of the place of stay or residence of any special requirements, if necessary, to be followed and points to be covered by the medical examination.

The institution of the place of stay or residence shall forward a report to the debtor institution that requested the medical examination.

The debtor institution shall reserve the right to have the beneficiary examined by a doctor of its choice, either in the territory where the recipient or claimant of benefit is staying or residing or in the country where the debtor institution is located. However, the beneficiary may be asked to return to the State of the debtor institution only if he or she is able to make the journey without prejudice to his health and the cost of travel and accommodation is paid for by the debtor institution.

3. Where a recipient or a claimant of benefits, or a member of his family, is staying or residing in the territory of a Member State when the debtor institution is located in Tunisia or in Tunisia when the debtor institution is located in a Member State, the administrative check shall, at the request of the debtor institution, be performed by the institution of the beneficiary's place of stay or residence.

The institution of the place of stay or residence shall forward a report to the debtor institution that requested the administrative check.

The debtor institution shall reserve the right to have the situation of the beneficiary examined by a professional of its choice. However, the beneficiary may be asked to return to the State of the debtor institution only if he or she is able to make the journey without prejudice to his health and the cost of travel and accommodation is paid for by the debtor institution.

4. One or more Member States and Tunisia may agree on other administrative provisions, subject to their informing the Association Council thereof.

5. As an exception to the principle of free-of-charge mutual administrative assistance set out in Article 5(2) of this Decision, the effective amount of the expenses of the checks referred to in paragraphs 2 and 3 of this Article shall be refunded to the institution which was requested to carry them out by the debtor institution which requested them.

Article 7

Application of Article 90 of the Agreement

Article 90 of the Agreement shall apply in case either Party considers that the other Party has not complied with the obligations as laid down in Articles 5 and 6.

Article 8

Special provisions for the application of the legislation of Tunisia

The Association Council may, if necessary, lay down special provisions for the application of the legislation of Tunisia in Annex II.

Article 9

Administrative procedures from existing bilateral agreements

Administrative procedures contained in existing bilateral agreements between a Member State and Tunisia may continue to apply provided that those procedures do not adversely affect the rights or obligations of the persons concerned established by this Decision.

Article 10

Agreements supplementing the procedures for implementing this Decision

One or more Member States and Tunisia may conclude agreements designed to supplement the administrative procedures for implementing this Decision, especially with regard to preventing and combating fraud and error.

PART IV

TRANSITIONAL AND FINAL PROVISIONS

Article 11

Transitional provisions

1. No rights shall be acquired pursuant to this Decision for the period before its date of entry into force.

2. Subject to paragraph 1, a right shall be acquired under this Decision even if it relates to a contingency arising before its date of entry into force.

3. Any benefit which has not been awarded or which has been suspended by reason of the nationality or place of residence of the person concerned shall, at the request of that person, be provided or resumed with effect from the date of entry into force of this Decision, provided that the rights for which benefits were previously provided have not given rise to a lump-sum payment.

4. If a request as referred to in paragraph 3 is submitted within two years from the date of entry into force of this Decision, the rights acquired in accordance with this Decision shall have effect from the date of entry into force of this Decision, and the legislation of any Member State or Tunisia concerning the forfeiture or limitation of rights may not be invoked against the persons concerned.

5. If a request as referred to in paragraph 3 is submitted after the expiry of the two-year period following the date of entry into force of this Decision, rights not forfeited or not time-barred shall have effect from the date on which the request was submitted, subject to any more favourable provisions under the legislation of any Member State or Tunisia.

Article 12

Annexes to this Decision

1. The Annexes to this Decision constitute an integral part thereof.

2. At the request of Tunisia, the said Annexes may be amended by a decision of the Association Council.

Article 13

Entry into force

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

Done at ..., ...

For the Association Council
The President

*ANNEX I***LIST OF TUNISIAN SPECIAL NON-CONTRIBUTORY CASH BENEFITS**

...

*ANNEX II***SPECIAL PROVISIONS FOR THE APPLICATION OF THE LEGISLATION OF TUNISIA**

...

COUNCIL DECISION

of 21 October 2010

on the position to be taken by the European Union within the Association Council set up by the Euro-Mediterranean Agreement establishing an association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part, with regard to the adoption of provisions on the coordination of social security systems

(2010/699/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 79(2)(b) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Article 70 of the Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part ⁽¹⁾ ('the Agreement'), provides that the Association Council shall adopt provisions to implement the principles on the coordination of social security systems as set out in Article 68 of the Agreement before the end of the first year following its entry into force.
- (2) In accordance with Articles 1 and 2 of Protocol (No 22) on the Position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (3) In accordance with Articles 1 and 2 of Protocol (No 21) on the Position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice,

annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Decision and are not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union within the Association Council set up by the Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part ('the Agreement'), concerning the implementation of Article 70 of the Agreement, shall be based on the draft decision of the Association Council attached to this Decision.

Article 2

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

Done at Luxembourg, 21 October 2010.

For the Council
The President
J. MILQUET

⁽¹⁾ OJ L 265, 10.10.2005, p. 2.

Draft

DECISION No .../... OF THE ASSOCIATION COUNCIL

set up by the Euro-Mediterranean Agreement establishing an association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part,

of ...

with regard to the provisions on the coordination of social security systems contained in the Euro-Mediterranean Agreement

THE ASSOCIATION COUNCIL,

Having regard to the Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part ⁽¹⁾, and in particular Article 70 thereof,

Whereas:

(1) Articles 68 to 71 of the Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part ('the Agreement'), provide for the coordination of the social security systems of Algeria and the Member States. Article 68 lays down the principles for such coordination.

(2) Article 70 of the Agreement provides that the Association Council shall adopt a decision implementing the principles set out in Article 68 before the end of the first year following the entry into force of the Agreement.

(3) With regard to the application of the non-discrimination principle, this Decision should not give any additional rights arising from certain facts or events occurring on the territory of the other contracting party, where such facts or events are not taken into account under the legislation of the first contracting party, other than the right to export certain benefits.

(4) In applying this Decision, the right of Algerian workers to family benefits should be subject to the condition that their family members legally reside with these workers in the Member State where the workers are employed. This Decision should not give any entitlement to family benefits with respect to members of their family who reside in another state, for instance Algeria.

(5) Council Regulation (EC) No 859/2003 ⁽²⁾ already extends the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the grounds of their nationality. Regulation (EC) No 859/2003 already covers the principle of aggregation of insurance periods acquired by Algerian workers in the various Member States regarding entitlement to certain benefits, as set out in Article 68(2) of the Agreement.

(6) It might be necessary to lay down special provisions which correspond to the specific characteristics of the legislation of Algeria, in order to facilitate the application of the coordination rules.

(7) To ensure the smooth functioning of the coordination of the social security systems of the Member States and of Algeria, it is necessary to provide for specific provisions regarding the cooperation between the Member States and Algeria as well as between the person concerned and the institution of the competent state.

(8) Transitional provisions should be adopted to protect the persons covered by this Decision and to ensure that they do not lose rights as a result of its entry into force,

HAS ADOPTED THIS DECISION:

PART I

GENERAL PROVISIONS

Article 1

Definitions

1. For the purposes of this Decision:

(a) 'Agreement' means the Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part;

⁽¹⁾ OJ L 265, 10.10.2005, p. 2.

⁽²⁾ OJ L 124, 20.5.2003, p. 1.

- (b) 'Regulation' means Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems ⁽¹⁾ as applicable in the Member States of the European Union;
- (c) 'implementing Regulation' means Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems ⁽²⁾;
- (d) 'Member State' means a Member State of the European Union;
- (e) 'worker' means:
- (i) for the purposes of the legislation of a Member State, a person pursuing an activity as an employed person within the meaning of Article 1(a) of the Regulation;
 - (ii) for the purposes of the legislation of Algeria, a person pursuing an activity as an employed person within the meaning of that legislation;
- (f) 'member of the family' means:
- (i) for the purposes of the legislation of a Member State, a member of the family within the meaning of Article 1(i) of the Regulation;
 - (ii) for the purposes of the legislation of Algeria, a member of the family within the meaning of that legislation;
- (g) 'legislation' means:
- (i) in relation to the Member States, legislation within the meaning of Article 1(l) of the Regulation;
 - (ii) in relation to Algeria, the corresponding relevant legislation as applicable in Algeria;
- (h) 'benefits' means:
- (i) in relation to the Member States, benefits within the meaning of Article 3 of the Regulation;
 - (ii) in relation to Algeria, the corresponding benefits applying in Algeria;
- (i) 'exportable benefits' means:
- (i) in relation to the Member States:
 - old-age pensions,
 - survivors' pensions,
 - pensions in respect of accidents at work and occupational diseases,
 - invalidity pensions related to accidents at work and occupational diseases,
- within the meaning of the Regulation, with the exception of special non-contributory cash benefits as listed in Annex X to the Regulation;
- (ii) in relation to Algeria, the corresponding benefits provided under the legislation of Algeria, with the exception of special non-contributory cash benefits as set out in Annex I to this Decision.
2. Other terms used in this Decision shall have the meaning which is assigned to them:
- (a) in relation to the Member States, in the Regulation and the implementing Regulation;
 - (b) in relation to Algeria, in the relevant legislation as applicable in Algeria.

Article 2

Persons covered

This Decision shall apply:

- (a) to workers who are Algerian nationals and who are or have been legally employed in the territory of a Member State and who are or have been subject to the legislation of one or more Member States, and their survivors;
- (b) to the members of the family of workers referred to in point (a) provided that these family members are or have been legally resident with the worker concerned while the worker is employed in a Member State;
- (c) to workers who are nationals of a Member State who are or have been legally employed in the territory of Algeria and who are or have been subject to the legislation of Algeria, and their survivors; and
- (d) to the members of the family of workers referred to in point (c) provided that these family members are or have been legally resident with the worker concerned while the worker is employed in Algeria.

⁽¹⁾ OJ L 166, 30.4.2004, p. 1.

⁽²⁾ OJ L 284, 30.10.2009, p. 1.

*Article 3***Equality of treatment**

1. Workers who are Algerian nationals and are legally employed in a Member State and any members of their families legally residing with them shall enjoy, with regard to the benefits within the meaning of Article 1(1)(h), treatment free from any discrimination based on nationality relative to nationals of the Member States in which those workers are employed.

2. Workers who are nationals of a Member State and are legally employed in Algeria and any members of their families legally residing with them shall enjoy, with regard to the benefits within the meaning of Article 1(1)(h), treatment free from any discrimination based on nationality relative to Algerian nationals.

PART II

RELATIONS BETWEEN THE MEMBER STATES AND ALGERIA*Article 4***Waiving of Residence Clauses**

1. Exportable benefits within the meaning of Article 1(1)(i) to which the persons as referred to in Article 2(a) and (c) are entitled shall not be subject to any reduction, modification, suspension, withdrawal or confiscation by reason of the fact that the beneficiary is residing:

(i) for the purpose of a benefit under the legislation of a Member State, within the territory of Algeria; or

(ii) for the purpose of a benefit under the legislation of Algeria, within the territory of a Member State.

2. Family members of a worker as referred to in Article 2(b) are entitled to exportable benefits within the meaning of Article 1(1)(i) in the same way as the family members of a worker who is a national of the Member State concerned when these family members reside within the territory of Algeria.

3. Family members of a worker as referred to in Article 2(d) are entitled to exportable benefits within the meaning of Article 1(1)(i) in the same way as the family members of a worker who is a national of Algeria when these family members reside within the territory of a Member State.

PART III

MISCELLANEOUS PROVISIONS*Article 5***Cooperation**

1. The Member States and Algeria shall communicate to each other all information regarding changes in their legislation which may affect the implementation of this Decision.

2. For the purposes of this Decision, the authorities and institutions of the Member States and of Algeria shall lend one another their good offices and act as though implementing their own legislation. The administrative assistance given by the said authorities and institutions shall, as a rule, be free of charge. However, the competent authorities of the Member States and of Algeria may agree to certain expenses being reimbursed.

3. The authorities and institutions of the Member States and of Algeria may, for the purposes of this Decision, communicate directly with one another and with the persons involved or their representatives.

4. The institutions and persons covered by this Decision shall have a duty of mutual information and cooperation to ensure the correct implementation of this Decision.

5. The persons concerned must inform the institutions of the competent Member State or Algeria, where the latter is the competent state, and of the Member State of residence or Algeria, where the latter is the state of residence, as soon as possible of any change in their personal or family situation which affects their right to benefits under this Decision.

6. Failure to respect the obligation of information referred to in paragraph 5 may result in the application of proportionate measures in accordance with national law. Nevertheless, these measures shall be equivalent to those applicable to similar situations under domestic law and shall not make it impossible or excessively difficult in practice for claimants to exercise the rights conferred on them by this Decision.

7. The Member States and Algeria may provide for national provisions that establish conditions for the verification of entitlement to benefits to take into account the fact that the beneficiaries are staying or residing outside the territory of the State where the debtor institution is located. Such provisions shall be proportionate, free from any discrimination based on nationality and in accordance with the principles of this Decision. Such provisions shall be notified to the Association Council.

*Article 6***Administrative Checks and Medical Examinations**

1. This Article shall apply to the persons as referred to in Article 2 and in receipt of exportable benefits as referred to in Article 1(1)(i), as well as to the institutions in charge of the implementation of this Decision.

2. Where a recipient or a claimant of benefits, or a member of his family, is staying or residing within the territory of a Member State when the debtor institution is located in Algeria or in Algeria when the debtor institution is located in a Member State, the medical examination shall be carried out, at the request of that institution, by the institution of the beneficiary's place of stay or residence in accordance with the procedures laid down by the legislation applied by that institution.

The debtor institution shall inform the institution of the place of stay or residence of any special requirements, if necessary, to be followed and points to be covered by the medical examination.

The institution of the place of stay or residence shall forward a report to the debtor institution that requested the medical examination.

The debtor institution shall reserve the right to have the beneficiary examined by a doctor of its choice, either in the territory where the recipient or claimant of benefit is staying or residing or in the country where the debtor institution is located. However, the beneficiary may be asked to return to the State of the debtor institution only if he or she is able to make the journey without prejudice to his health and the cost of travel and accommodation is paid for by the debtor institution.

3. Where a recipient or a claimant of benefits, or a member of his family, is staying or residing in the territory of a Member State when the debtor institution is located in Algeria or in Algeria when the debtor institution is located in a Member State, the administrative check shall, at the request of the debtor institution, be performed by the institution of the beneficiary's place of stay or residence.

The institution of the place of stay or residence shall forward a report to the debtor institution that requested the administrative check.

The debtor institution shall reserve the right to have the situation of the beneficiary examined by a professional of its choice. However, the beneficiary may be asked to return to the State of the debtor institution only if he or she is able to make the journey without prejudice to his health and the cost of travel and accommodation is paid for by the debtor institution.

4. One or more Member States and Algeria may agree on other administrative provisions, subject to their informing the Association Council thereof.

5. As an exception to the principle of free-of-charge mutual administrative assistance set out in Article 5(2) of this Decision, the effective amount of the expenses of the checks referred to in paragraphs 2 and 3 of this Article shall be refunded to the institution which was requested to carry them out by the debtor institution which requested them.

*Article 7***Application of Article 104 of the Agreement**

Article 104 of the Agreement shall apply in case either Party considers that the other Party has not complied with the obligations as laid down in Articles 5 and 6.

*Article 8***Special provisions for the application of the legislation of Algeria**

The Association Council may, if necessary, lay down special provisions for the application of the legislation of Algeria in Annex II.

*Article 9***Administrative procedures from existing bilateral agreements**

Administrative procedures contained in existing bilateral agreements between a Member State and Algeria may continue to apply provided that those procedures do not adversely affect the rights or obligations of the persons concerned established by this Decision.

*Article 10***Agreements supplementing the procedures for implementing this Decision**

One or more Member States and Algeria may conclude agreements designed to supplement the administrative procedures for implementing this Decision especially with regard to preventing and combating fraud and error.

PART IV

TRANSITIONAL AND FINAL PROVISIONS*Article 11***Transitional provisions**

1. No rights shall be acquired pursuant to this Decision for the period before its date of entry into force.
2. Subject to paragraph 1, a right shall be acquired under this Decision even if it relates to a contingency arising before its date of entry into force.
3. Any benefit which has not been awarded or which has been suspended by reason of the nationality or place of residence of the person concerned shall, at the request of that person, be provided or resumed with effect from the date of entry into force of this Decision, provided that the rights for which benefits were previously provided have not given rise to a lump-sum payment.
4. If a request as referred to in paragraph 3 is submitted within 2 years from the date of entry into force of this Decision, the rights acquired in accordance with this Decision shall have effect from the date of entry into force of this Decision, and the legislation of any Member State or Algeria concerning the forfeiture or limitation of rights may not be invoked against the persons concerned.

5. If a request as referred to in paragraph 3 is submitted after the expiry of the 2-year period following the date of entry into force of this Decision, rights not forfeited or not time-barred shall have effect from the date on which the request was submitted, subject to any more favourable provisions under the legislation of any Member State or Algeria.

*Article 12***Annexes to this Decision**

1. The Annexes to this Decision constitute an integral part thereof.
2. At the request of Algeria, the Annexes may be amended by a decision of the Association Council.

*Article 13***Entry into force**

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

Done at ..., ...

For the Association Council
The President

ANNEX I

LIST OF ALGERIAN SPECIAL NON-CONTRIBUTORY CASH BENEFITS

...

ANNEX II

SPECIAL PROVISIONS FOR THE APPLICATION OF THE LEGISLATION OF ALGERIA

...

COUNCIL DECISION

of 21 October 2010

on the position to be taken by the European Union within the Association Council set up by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the State of Israel, of the other part, with regard to the adoption of provisions on the coordination of social security systems

(2010/700/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 79(2)(b) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Article 65 of the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the State of Israel, of the other part ⁽¹⁾ ('the Agreement'), provides that the Association Council shall, by decision, adopt the appropriate provisions to implement the objectives set out in Article 64 of the Agreement.
- (2) Objective 2.3.3, first indent, of the EU-Israel Action Plan adopted by the Association Council in the context of the European Neighbourhood Policy on 11 April 2005 calls for the adoption by the Association Council of a decision implementing Article 65 of the Agreement.
- (3) In accordance with Articles 1 and 2 of Protocol (No 22) on the Position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it nor subject to its application.

- (4) In accordance with Articles 1 and 2 of Protocol (No 21) on the Position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Decision and are not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union within the Association Council set up by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the State of Israel, of the other part ('the Agreement'), concerning the implementation of Article 64 of the Agreement, shall be based on the draft decision of the Association Council attached to this Decision.

Article 2

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

Done at Luxembourg, 21 October 2010.

For the Council
The President
J. MILQUET

⁽¹⁾ OJ L 147, 21.6.2000, p. 3.

Draft

DECISION No .../... OF THE ASSOCIATION COUNCIL

set up by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the State of Israel, of the other part,

of ...

with regard to the provisions on the coordination of social security systems contained in the Euro-Mediterranean Agreement

THE ASSOCIATION COUNCIL,

Having regard to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the State of Israel, of the other part ⁽¹⁾, and in particular Article 65 thereof,

Whereas:

- (1) Article 64 of the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the State of Israel, of the other part ('the Agreement'), provides for the coordination of the social security systems of Israel and the Member States and lays down the principles for such coordination.
- (2) Article 65 of the Agreement provides that the Association Council shall adopt a decision implementing the objectives set out in Article 64.
- (3) Objective 2.3.3, first indent, of the EU-Israel Action Plan, as adopted by the Association Council in the context of the European Neighbourhood Policy on 11 April 2005, calls for the adoption of a decision implementing Article 65 of the Agreement.
- (4) With regard to the application of the non-discrimination principle, this Decision should not give any additional rights arising from certain facts or events occurring on the territory of the other Contracting Party, where such facts or events are not taken into account under the legislation of the first Contracting Party, other than the right to export certain benefits.
- (5) In applying this Decision, the right of Israeli workers to family benefits should be subject to the condition that their family members legally reside with these workers in the Member State where the workers are employed. This Decision should not give any entitlement to family benefits with respect to members of their family who reside in another state, for instance Israel.

- (6) Council Regulation (EC) No 859/2003 ⁽²⁾ already extends the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the grounds of their nationality. Regulation (EC) No 859/2003 already covers the principle of aggregation of insurance periods acquired by Israeli workers in the various Member States regarding entitlement to certain benefits, as set out in the first indent of Article 64(1) of the Agreement.

- (7) It might be necessary to lay down special provisions which correspond to the specific characteristics of the legislation of Israel, in order to facilitate the application of the coordination rules.
- (8) To ensure the smooth functioning of the coordination of the social security systems of the Member States and of Israel, it is necessary to provide for specific provisions regarding the cooperation between the Member States and Israel as well as between the person concerned and the institution of the competent state.
- (9) Transitional provisions should be adopted to protect the persons covered by this Decision and to ensure that they do not lose rights as a result of its entry into force,

HAS ADOPTED THIS DECISION:

PART I

GENERAL PROVISIONS

Article 1

Definitions

1. For the purposes of this Decision:
 - (a) 'Agreement' means the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the State of Israel, of the other part;

⁽¹⁾ OJ L 147, 21.6.2000, p. 3.

⁽²⁾ OJ L 124, 20.5.2003, p. 1.

- (b) 'Regulation' means Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems ⁽¹⁾, as applicable in the Member States of the European Union;
- (c) 'implementing Regulation' means Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems ⁽²⁾;
- (d) 'Member State' means a Member State of the European Union;
- (e) 'worker' means:
- (i) for the purposes of the legislation of a Member State, a person pursuing an activity as an employed person within the meaning of Article 1(a) of the Regulation;
 - (ii) for the purposes of the legislation of Israel, a person pursuing an activity as an employed person within the meaning of that legislation;
- (f) 'member of the family' means:
- (i) for the purposes of the legislation of a Member State, a member of the family within the meaning of Article 1(i) of the Regulation;
 - (ii) for the purposes of the legislation of Israel, a member of the family within the meaning of that legislation;
- (g) 'legislation' means:
- (i) in relation to the Member States, legislation within the meaning of Article 1(l) of the Regulation as applicable to the benefits covered by this Decision;
 - (ii) in relation to Israel, the relevant legislation as applicable in Israel relating to the benefits covered by this Decision;
- (h) 'benefits' means:
- old-age pensions,
 - survivors' pensions,
 - pensions in respect of accidents at work and occupational diseases,
 - invalidity pensions,
 - family allowances;
- (i) 'exportable benefits' means:
- (i) in relation to the Member States:
 - old-age pensions,
 - survivors' pensions,
 - pensions in respect of accidents at work and occupational diseases,
 - invalidity pensions, - within the meaning of the Regulation, with the exception of special non-contributory cash benefits as listed in Annex X to the Regulation;
 - (ii) in relation to Israel, the corresponding benefits provided under the legislation of Israel, with the exception of special non-contributory cash benefits as set out in Annex I to this Decision.
2. Other terms used in this Decision shall have the meaning which is assigned to them:
- (a) in relation to the Member States, in the Regulation and the implementing Regulation;
 - (b) in relation to Israel, in the relevant legislation as applicable in Israel.

Article 2

Persons covered

This Decision shall apply:

- (a) to workers who are Israeli nationals and who are or have been legally employed in the territory of a Member State and who are or have been subject to the legislation of one or more Member States, and their survivors;
- (b) to the members of the family of workers referred to in point (a) provided that these family members are or have been legally resident with the worker concerned while the worker is employed in a Member State;
- (c) to workers who are nationals of a Member State who are or have been legally employed in the territory of Israel and who are or have been subject to the legislation of Israel, and their survivors; and
- (d) to the members of the family of workers referred to in point (c) provided that these family members are or have been legally resident with the worker concerned while the worker is employed in Israel.

⁽¹⁾ OJ L 166, 30.4.2004, p. 1.

⁽²⁾ OJ L 284, 30.10.2009, p. 1.

*Article 3***Equality of treatment**

1. Workers who are Israeli nationals and are legally employed in a Member State and any members of their families legally residing with them shall enjoy, with regard to the benefits within the meaning of Article 1(1)(h), treatment free from any discrimination based on nationality relative to nationals of the Member States in which those workers are employed.

2. Workers who are nationals of a Member State and are legally employed in Israel, and any members of their families legally residing with them, shall enjoy, with regard to the benefits within the meaning of Article 1(1)(h), treatment free from any discrimination based on nationality relative to Israeli nationals.

*PART II***RELATIONS BETWEEN THE MEMBER STATES AND ISRAEL***Article 4***Waiving of Residence Clauses**

1. Exportable benefits within the meaning of Article 1(1)(i) to which the persons as referred to in Article 2(a) and (c) are entitled shall not be subject to any reduction, modification, suspension, withdrawal or confiscation by reason of the fact that the beneficiary is residing:

(i) for the purpose of a benefit under the legislation of a Member State, within the territory of Israel; or

(ii) for the purpose of a benefit under the legislation of Israel, within the territory of a Member State.

2. Family members of a worker as referred to in Article 2(b) are entitled to exportable benefits within the meaning of Article 1(1)(i) in the same way as the family members of a worker who is a national of the Member State concerned when these family members reside within the territory of Israel.

3. Family members of a worker as referred to in Article 2(d) are entitled to exportable benefits within the meaning of Article 1(1)(i) in the same way as the family members of a worker who is a national of Israel when these family members reside within the territory of a Member State.

*PART III***MISCELLANEOUS PROVISIONS***Article 5***Cooperation**

1. The Member States and Israel shall communicate to each other all information regarding changes in their legislation which may affect the implementation of this Decision.

2. For the purposes of this Decision, the authorities and institutions of the Member States and of Israel shall lend one another their good offices and act as though implementing their own legislation. The administrative assistance given by the said authorities and institutions shall, as a rule, be free of charge. However, the competent authorities of the Member States and of Israel may agree to certain expenses being reimbursed.

3. The authorities and institutions of the Member States and of Israel may, for the purposes of this Decision, communicate directly with one another and with the persons involved or their representatives.

4. The institutions and persons covered by this Decision shall have a duty of mutual information and cooperation to ensure the correct implementation of this Decision.

5. The persons concerned must inform the institutions of the competent Member State or Israel, where the latter is the competent state, and of the Member State of residence or Israel, where the latter is the state of residence, as soon as possible of any change in their personal or family situation which affects their right to benefits under this Decision.

6. Failure to respect the obligation of information referred to in paragraph 5 may result in the application of proportionate measures in accordance with national law. Nevertheless, these measures shall be equivalent to those applicable to similar situations under domestic law and shall not make it impossible or excessively difficult in practice for claimants to exercise the rights conferred on them by this Decision.

7. The Member States and Israel may provide for national provisions that establish conditions for the verification of entitlement to benefits to take into account the fact that the beneficiaries are staying or residing outside the territory of the State where the debtor institution is located. Such provisions shall be proportionate, free from any discrimination based on nationality and in accordance with the principles of this Decision. Such provisions shall be notified to the Association Council.

*Article 6***Administrative Checks and Medical Examinations**

1. This Article shall apply to the persons as referred to in Article 2 and in receipt of exportable benefits as referred to in Article 1(1)(i), as well as to the institutions in charge of the implementation of this Decision.

2. Where a recipient or a claimant of benefits, or a member of his family, is staying or residing within the territory of a Member State when the debtor institution is located in Israel or in Israel when the debtor institution is located in a Member State, the medical examination shall be carried out, at the request of that institution, by the institution of the beneficiary's place of stay or residence in accordance with the procedures laid down by the legislation applied by that institution.

The debtor institution shall inform the institution of the place of stay or residence of any special requirements, if necessary, to be followed and points to be covered by the medical examination.

The institution of the place of stay or residence shall forward a report to the debtor institution that requested the medical examination.

The debtor institution shall reserve the right to have the beneficiary examined by a doctor of its choice, either in the territory where the recipient or claimant of benefit is staying or residing or in the country where the debtor institution is located. However, the beneficiary may be asked to return to the State of the debtor institution only if he or she is able to make the journey without prejudice to his health and the cost of travel and accommodation is paid for by the debtor institution.

3. Where a recipient or a claimant of benefits, or a member of his family, is staying or residing in the territory of a Member State when the debtor institution is located in Israel or in Israel when the debtor institution is located in a Member State, the administrative check shall, at the request of the debtor institution, be performed by the institution of the beneficiary's place of stay or residence.

The institution of the place of stay or residence shall forward a report to the debtor institution that requested the administrative check.

The debtor institution shall reserve the right to have the situation of the beneficiary examined by a professional of its choice. However, the beneficiary may be asked to return to the

State of the debtor institution only if he or she is able to make the journey without prejudice to his health and the cost of travel and accommodation is paid for by the debtor institution.

4. One or more Member States and Israel may agree on other administrative provisions, subject to their informing the Association Council thereof.

5. As an exception to the principle of free-of-charge mutual administrative assistance set out in Article 5(2) of this Decision, the effective amount of the expenses of the checks referred to in paragraphs 2 and 3 of this Article shall be refunded to the institution which was requested to carry them out by the debtor institution which requested them.

*Article 7***Application of Article 79 of the Agreement**

Article 79 of the Agreement shall apply in case either Party considers that the other Party has not complied with the obligations as laid down in Articles 5 and 6.

*Article 8***Special provisions for the application of the legislation of Israel**

The Association Council may, if necessary, lay down special provisions for the application of the legislation of Israel in Annex II.

*Article 9***Administrative procedures from existing bilateral agreements**

Administrative procedures contained in existing bilateral agreements between a Member State and Israel may continue to apply provided that those procedures do not adversely affect the rights or obligations of the persons concerned established by this Decision.

*Article 10***Agreements supplementing the procedures for implementing this Decision**

One or more Member States and Israel may conclude agreements designed to supplement the administrative procedures for implementing this Decision, especially with regard to preventing and combating fraud and error.

PART IV

TRANSITIONAL AND FINAL PROVISIONS*Article 11***Transitional provisions**

1. No rights shall be acquired pursuant to this Decision for the period before its date of entry into force.
2. Subject to paragraph 1, a right shall be acquired under this Decision even if it relates to a contingency arising before its date of entry into force.
3. Any benefit which has not been awarded or which has been suspended by reason of the nationality or place of residence of the person concerned shall, at the request of that person, be provided or resumed with effect from the date of entry into force of this Decision, provided that the rights for which benefits were previously provided have not given rise to a lump-sum payment.
4. If a request as referred to in paragraph 3 is submitted within 2 years from the date of entry into force of this Decision, the rights acquired in accordance with this Decision shall have effect from the date of entry into force of this Decision, and the legislation of any Member State or Israel concerning the forfeiture or limitation of rights may not be invoked against the persons concerned.

5. If a request as referred to in paragraph 3 is submitted after the expiry of the 2-year period following the date of entry into force of this Decision, rights not forfeited or not time-barred shall have effect from the date on which the request was submitted, subject to any more favourable provisions under the legislation of any Member State or Israel.

*Article 12***Annexes to this Decision**

1. The Annexes to this Decision constitute an integral part thereof.
2. At the request of Israel, the Annexes may be amended by a decision of the Association Council.

*Article 13***Entry into force**

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

Done at ..., ...

For the Association Council
The President

*ANNEX I***LIST OF ISRAELI SPECIAL NON-CONTRIBUTORY CASH BENEFITS**

...

*ANNEX II***SPECIAL PROVISIONS FOR THE APPLICATION OF THE LEGISLATION OF ISRAEL**

...

COUNCIL DECISION

of 21 October 2010

on the position to be taken by the European Union within the Stabilisation and Association Council established by the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, with regard to the adoption of provisions on the coordination of social security systems

(2010/701/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 79(2)(b) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Article 46 of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part ⁽¹⁾ (the Agreement), provides that the Stabilisation and Association Council shall, by decision, adopt the appropriate provisions to implement the objectives set out in that Article.
- (2) In accordance with Articles 1 and 2 of Protocol (No 22) on the Position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (3) In accordance with Articles 1 and 2 of Protocol (No 21) on the Position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice,

annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Decision and are not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union within the Stabilisation and Association Council set up by the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, concerning the implementation of Article 46 of the Agreement, shall be based on the draft decision of the Stabilisation and Association Council attached to this Decision.

Article 2

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

Done at Luxembourg, 21 October 2010.

For the Council
The President
J. MILQUET

⁽¹⁾ OJ L 84, 20.3.2004, p. 13.

Draft

DECISION No .../... OF THE STABILISATION AND ASSOCIATION COUNCIL

established by the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part,

of ...

with regard to the provisions on the coordination of social security systems contained in the Stabilisation and Association Agreement

THE STABILISATION AND ASSOCIATION COUNCIL,

Having regard to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part ⁽¹⁾, and in particular Article 46 thereof,

Whereas:

(1) Article 46 of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part (the Agreement), provides for the coordination of the social security systems of the former Yugoslav Republic of Macedonia and the Member States and lays down the principles for such coordination.

(2) Article 46 of the Agreement provides that the Stabilisation and Association Council shall adopt a Decision for the purpose of implementing the objectives set out in that Article.

(3) With regard to the application of the non-discrimination principle, this Decision should not give any additional rights arising from certain facts or events occurring on the territory of the other contracting party, where such facts or events are not taken into account under the legislation of the first contracting party, other than the right to export certain benefits.

(4) In applying this Decision, the right of workers with the nationality of the former Yugoslav Republic of Macedonia to family benefits should be subject to the condition that their family members legally reside with these workers in the Member State where these workers are employed. This Decision should not give any entitlement to family benefits with respect to members of their family who reside in another State, for instance the former Yugoslav Republic of Macedonia.

(5) Council Regulation (EC) No 859/2003 ⁽²⁾ already extends the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the grounds of their nationality. Regulation (EC) No 859/2003 already covers the principle of aggregation of insurance periods acquired by workers of the former Yugoslav Republic of Macedonia in the various Member States regarding entitlement to certain benefits, as set out in the first indent of Article 46 of the Agreement.

(6) It might be necessary to lay down special provisions which correspond to the specific characteristics of the legislation of the former Yugoslav Republic of Macedonia, in order to facilitate the application of the coordination rules.

(7) To ensure the smooth functioning of the coordination of the social security systems of the Member States and of the former Yugoslav Republic of Macedonia, it is necessary to provide for specific provisions regarding the cooperation between the Member States and the former Yugoslav Republic of Macedonia as well as between the person concerned and the institution of the competent State.

(8) Transitional provisions should be adopted to protect the persons covered by this Decision and to ensure that they do not lose rights as a result of its entry into force,

HAS ADOPTED THIS DECISION:

PART I

GENERAL PROVISIONS*Article 1***Definitions**

1. For the purposes of this Decision:

(a) 'Agreement' means the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part;

⁽¹⁾ OJ L 84, 20.3.2004, p. 13.

⁽²⁾ OJ L 124, 20.5.2003, p. 1.

- (b) 'Regulation' means Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems ⁽¹⁾ as applicable in the Member States of the European Union;
- (c) 'implementing Regulation' means Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems ⁽²⁾;
- (d) 'Member State' means a Member State of the European Union;
- (e) 'worker' means,
- (i) for the purposes of the legislation of a Member State, a person pursuing an activity as an employed person within the meaning of Article 1(a) of the Regulation;
 - (ii) for the purposes of the legislation of the former Yugoslav Republic of Macedonia, a person pursuing an activity as an employed person within the meaning of that legislation;
- (f) 'member of the family' means,
- (i) for the purposes of the legislation of a Member State, a member of the family within the meaning of Article 1(i) of the Regulation;
 - (ii) for the purposes of the legislation of the former Yugoslav Republic of Macedonia, a member of the family within the meaning of that legislation;
- (g) 'legislation' means,
- (i) in relation to the Member States, legislation within the meaning of Article 1(l) of the Regulation as applicable to the benefits covered by this Decision;
 - (ii) in relation to the former Yugoslav Republic of Macedonia, the relevant legislation as applicable in the former Yugoslav Republic of Macedonia relating to the benefits covered by this Decision;
- (h) 'benefits' means,
- old-age pensions,
 - survivors' pensions,
 - pensions in respect of accidents at work and occupational diseases,
 - invalidity pensions related to accidents at work and occupational diseases,
 - family allowances;
- (i) 'exportable benefits' means,
- (i) in relation to the Member States:
 - old-age pensions,
 - survivors' pensions,
 - pensions in respect of accidents at work and occupational diseases,
 - invalidity pensions related to accidents at work and occupational diseases,
 within the meaning of the Regulation, with the exception of special non-contributory cash benefits as listed in Annex X to the Regulation;
 - (ii) in relation to the former Yugoslav Republic of Macedonia, the corresponding benefits provided under the legislation of the former Yugoslav Republic of Macedonia, with the exception of special non-contributory cash benefits as set out in Annex I to this Decision;

2. Other terms used in this Decision shall have the meaning which is assigned to them:

- (a) in relation to the Member States, in the Regulation and the implementing Regulation;
- (b) in relation to the former Yugoslav Republic of Macedonia, in the relevant legislation as applicable in the former Yugoslav Republic of Macedonia.

Article 2

Persons covered

This Decision shall apply:

- (a) to workers who are nationals of the former Yugoslav Republic of Macedonia and who are or have been legally employed in the territory of a Member State and who are or have been subject to the legislation of one or more Member States, and their survivors;
- (b) to the members of the family of workers referred to in point (a) provided that these family members are or have been legally resident with the worker concerned while the worker is employed in a Member State;

⁽¹⁾ OJ L 166, 30.4.2004, p. 1.

⁽²⁾ OJ L 284, 30.10.2009, p. 1.

- (c) to workers who are nationals of a Member State who are or have been legally employed in the territory of the former Yugoslav Republic of Macedonia and who are or have been subject to the legislation of the former Yugoslav Republic of Macedonia, and their survivors; and
- (d) to the members of the family of workers referred to in point (c) provided that these family members are or have been legally resident with the worker concerned while the worker is employed in the former Yugoslav Republic of Macedonia.

Article 3

Equality of treatment

1. Workers who are nationals of the former Yugoslav Republic of Macedonia and are legally employed in a Member State and any members of their families legally residing with them shall enjoy, with regard to the benefits within the meaning of Article 1(1)(h), treatment free from any discrimination based on nationality relative to nationals of the Member States in which those workers are employed.

2. Workers who are nationals of a Member State and are legally employed in the former Yugoslav Republic of Macedonia and any members of their families legally residing with them shall enjoy, with regard to the benefits within the meaning of Article 1(1)(h), treatment free from any discrimination based on nationality relative to nationals of the former Yugoslav Republic of Macedonia.

PART II

RELATIONS BETWEEN THE MEMBER STATES AND THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

Article 4

Waiving of residence clauses

1. Exportable benefits within the meaning of Article 1(1)(i) to which the persons as referred to in Article 2(a) and (c) are entitled shall not be subject to any reduction, modification, suspension, withdrawal or confiscation by reason of the fact that the beneficiary is residing,

- (i) for the purpose of a benefit under the legislation of a Member State, within the territory of the former Yugoslav Republic of Macedonia; or
- (ii) for the purpose of a benefit under the legislation of the former Yugoslav Republic of Macedonia, within the territory of a Member State.

2. Family members of a worker as referred to in Article 2(b) are entitled to exportable benefits within the meaning of Article 1(1)(i) in the same way as the family members of a worker who is a national of the Member State concerned,

when these family members reside within the territory of the former Yugoslav Republic of Macedonia.

3. Family members of a worker as referred to in Article 2(d) are entitled to exportable benefits within the meaning of Article 1(1)(i) in the same way as the family members of a worker who is a national of the former Yugoslav Republic of Macedonia when these family members reside within the territory of a Member State.

PART III

MISCELLANEOUS PROVISIONS

Article 5

Cooperation

1. The Member States and the former Yugoslav Republic of Macedonia shall communicate to each other all information regarding changes in their legislation which may affect the implementation of this Decision.

2. For the purposes of this Decision, the authorities and institutions of the Member States and of the former Yugoslav Republic of Macedonia shall lend one another their good offices and act as though implementing their own legislation. The administrative assistance given by the said authorities and institutions shall, as a rule, be free of charge. However, the competent authorities of the Member States and of the former Yugoslav Republic of Macedonia may agree to certain expenses being reimbursed.

3. The authorities and institutions of the Member States and of the former Yugoslav Republic of Macedonia may, for the purposes of this Decision, communicate directly with one another and with the persons involved or their representatives.

4. The institutions and persons covered by this Decision shall have a duty of mutual information and cooperation to ensure the correct implementation of this Decision.

5. The persons concerned must inform the institutions of the competent Member State or the former Yugoslav Republic of Macedonia, where the latter is the competent State, and of the Member State of residence or the former Yugoslav Republic of Macedonia, where the latter is the State of residence, as soon as possible of any change in their personal or family situation which affects their right to benefits under this Decision.

6. Failure to respect the obligation of information referred to in paragraph 5 may result in the application of proportionate measures in accordance with national law. Nevertheless, these measures shall be equivalent to those applicable to similar situations under domestic law and shall not make it impossible or excessively difficult in practice for claimants to exercise the rights conferred on them by this Decision.

7. The Member States and the former Yugoslav Republic of Macedonia may provide for national provisions that establish conditions for the verification of entitlement to benefits to take into account the fact that the beneficiaries are staying or residing outside the territory of the State where the debtor institution is located. Such provisions shall be proportionate, free from any discrimination based on nationality and in accordance with the principles of this Decision. Such provisions shall be notified to the Stabilisation and Association Council.

Article 6

Administrative checks and medical examinations

1. This Article shall apply to the persons as referred to in Article 2 and in receipt of exportable benefits as referred to in Article 1(1)(i), as well as to the institutions in charge of the implementation of this Decision.

2. Where a recipient or a claimant of benefits, or a member of his family, is staying or residing within the territory of a Member State when the debtor institution is located in the former Yugoslav Republic of Macedonia or in the former Yugoslav Republic of Macedonia when the debtor institution is located in a Member State, the medical examination shall be carried out, at the request of that institution, by the institution of the beneficiary's place of stay or residence in accordance with the procedures laid down by the legislation applied by that institution.

The debtor institution shall inform the institution of the place of stay or residence of any special requirements, if necessary, to be followed and points to be covered by the medical examination.

The institution of the place of stay or residence shall forward a report to the debtor institution that requested the medical examination.

The debtor institution shall reserve the right to have the beneficiary examined by a doctor of its choice, either in the territory where the recipient or claimant of benefit is staying or residing or in the country where the debtor institution is located. However, the beneficiary may be asked to return to the State of the debtor institution only if he or she is able to make the journey without prejudice to his health and the cost of travel and accommodation is paid for by the debtor institution.

3. Where a recipient or a claimant of benefits, or a member of his family, is staying or residing in the territory of a Member State when the debtor institution is located in the former Yugoslav Republic of Macedonia or in the former Yugoslav Republic of Macedonia when the debtor institution is located in a Member State, the administrative check shall, at the request of the debtor institution, be performed by the institution of the beneficiary's place of stay or residence.

The institution of the place of stay or residence shall forward a report to the debtor institution that requested the administrative check.

The debtor institution shall reserve the right to have the situation of the beneficiary examined by a professional of its choice. However, the beneficiary may be asked to return to the State of the debtor institution only if he or she is able to make the journey without prejudice to his health and the cost of travel and accommodation is paid for by the debtor institution.

4. One or more Member States and the former Yugoslav Republic of Macedonia may agree on other administrative provisions, subject to their informing the Stabilisation and Association Council thereof.

5. As an exception to the principle of free-of-charge mutual administrative assistance set out in Article 5(2) of this Decision, the effective amount of the expenses of the checks referred to in paragraphs 2 and 3 of this Article shall be refunded to the institution which was requested to carry them out by the debtor institution which requested them.

Article 7

Application of Article 118 of the Agreement

Article 118 of the Agreement shall apply in case either Party considers that the other Party has not complied with the obligations as laid down in Articles 5 and 6.

Article 8

Special provisions for the application of the legislation of the former Yugoslav Republic of Macedonia

The Stabilisation and Association Council may, if necessary, lay down special provisions for the application of the legislation of the former Yugoslav Republic of Macedonia in Annex II.

Article 9

Administrative procedures from existing bilateral agreements

Administrative procedures contained in existing bilateral agreements between a Member State and the former Yugoslav Republic of Macedonia may continue to apply provided that those procedures do not adversely affect the rights or obligations of the persons concerned established by this Decision.

Article 10

Agreements supplementing the procedures for implementing this Decision

One or more Member States and the former Yugoslav Republic of Macedonia may conclude agreements designed to supplement the administrative procedures for implementing this Decision, especially with regard to preventing and combating fraud and error.

PART IV

TRANSITIONAL AND FINAL PROVISIONS

Article 11

Transitional provisions

1. No rights shall be acquired pursuant to this Decision for the period before its date of entry into force.
2. Subject to paragraph 1, a right shall be acquired under this Decision even if it relates to a contingency arising before its date of entry into force.
3. Any benefit which has not been awarded or which has been suspended by reason of the nationality or place of residence of the person concerned shall, at the request of that person, be provided or resumed with effect from the date of entry into force of this Decision, provided that the rights for which benefits were previously provided have not given rise to a lump-sum payment.
4. If a request as referred to in paragraph 3 is submitted within two years from the date of entry into force of this Decision, the rights acquired in accordance with this Decision shall have effect from the date of entry into force of this Decision, and the legislation of any Member State or the former Yugoslav Republic of Macedonia concerning the forfeiture or limitation of rights may not be invoked against the persons concerned.

5. If a request as referred to in paragraph 3 is submitted after the expiry of the two-year period following the date of entry into force of this Decision, rights not forfeited or not time-barred shall have effect from the date on which the request was submitted, subject to any more favourable provisions under the legislation of any Member State or the former Yugoslav Republic of Macedonia.

Article 12

Annexes to this Decision

1. The Annexes to this Decision constitute an integral part thereof.
2. At the request of the former Yugoslav Republic of Macedonia, the Annexes may be amended by a decision of the Stabilisation and Association Council.

Article 13

Entry into force

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

Done at ..., ...

For the Stabilisation and
Association Council
The President

ANNEX I

**LIST OF THE SPECIAL NON-CONTRIBUTORY CASH BENEFITS OF THE FORMER YUGOSLAV REPUBLIC OF
MACEDONIA**

...

ANNEX II

**SPECIAL PROVISIONS FOR THE APPLICATION OF THE LEGISLATION OF THE FORMER YUGOSLAV
REPUBLIC OF MACEDONIA**

...

COUNCIL DECISION

of 21 October 2010

on the position to be taken by the European Union within the Stabilisation and Association Council established by the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part, with regard to the adoption of provisions on the coordination of social security systems

(2010/702/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 79(2)(b) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Article 47 of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part ⁽¹⁾ (the Agreement), provides that the Stabilisation and Association Council shall, by decision, adopt the appropriate provisions to implement the objectives set out in that Article.
- (2) In accordance with Articles 1 and 2 of Protocol (No 22) on the Position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (3) In accordance with Articles 1 and 2 of Protocol (No 21) on the Position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice,

annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Decision and are not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union within the Stabilisation and Association Council set up by the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part, concerning the implementation of Article 47 of the Agreement shall be based on the draft decision of the Stabilisation and Association Council attached to this Decision.

Article 2

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

Done at Luxembourg, 21 October 2010.

For the Council
The President
J. MILQUET

⁽¹⁾ OJ L 26, 28.1.2005, p. 3.

Draft

DECISION No .../... OF THE STABILISATION AND ASSOCIATION COUNCIL

established by the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part,

of ...

with regard to the provisions on the coordination of social security systems contained in the Stabilisation and Association Agreement

THE STABILISATION AND ASSOCIATION COUNCIL,

Having regard to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part ⁽¹⁾, and in particular Article 47 thereof,

Whereas:

- (1) Article 47 of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part (the Agreement), provides for the co-ordination of the social security systems of Croatia and the Member States and lays down the principles for such coordination.
- (2) Article 47 of the Agreement provides that the Stabilisation and Association Council shall adopt a Decision for the purpose of implementing the objectives set out in that Article.
- (3) With regard to the application of the non-discrimination principle, this Decision should not give any additional rights arising from certain facts or events occurring on the territory of the other Contracting Party, where such facts or events are not taken into account under the legislation of the first Contracting Party, other than the right to export certain benefits.
- (4) In applying this Decision, the right of Croatian workers to family benefits should be subject to the condition that their family members legally reside with these workers in the Member State where the workers are employed. This Decision should not give any entitlement to family benefits with respect to members of their family who reside in another State, for instance Croatia.
- (5) Council Regulation (EC) No 859/2003 ⁽²⁾ already extends the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the grounds of their nationality. Regulation (EC) No 859/2003 already covers the principle of aggregation of insurance periods acquired

by Croatian workers in the various Member States regarding entitlement to certain benefits, as set out in the first indent of Article 47(1) of the Agreement.

- (6) It might be necessary to lay down special provisions which correspond to the specific characteristics of the legislation of Croatia, in order to facilitate the application of the coordination rules.
- (7) To ensure the smooth functioning of the coordination of the social security systems of the Member States and of Croatia, it is necessary to provide for specific provisions regarding the cooperation between the Member States and Croatia as well as between the person concerned and the institution of the competent State.
- (8) Transitional provisions should be adopted to protect the persons covered by this Decision and to ensure that they do not lose rights as a result of its entry into force,

HAS ADOPTED THIS DECISION:

PART I

GENERAL PROVISIONS*Article 1***Definitions**

1. For the purposes of this Decision:
 - (a) 'Agreement' means the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part;
 - (b) 'Regulation' means Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems ⁽³⁾ as applicable in the Member States of the European Union;
 - (c) 'implementing Regulation' means Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the co-ordination of social security systems ⁽⁴⁾;

⁽¹⁾ OJ L 26, 28.1.2005, p. 3.

⁽²⁾ OJ L 124, 20.5.2003, p. 1.

⁽³⁾ OJ L 166, 30.4.2004, p. 1.

⁽⁴⁾ OJ L 284, 30.10.2009, p. 1.

(d) 'Member State' means a Member State of the European Union;

(e) 'worker' means,

(i) for the purposes of the legislation of a Member State, a person pursuing an activity as an employed person within the meaning of Article 1(a) of the Regulation;

(ii) for the purposes of the legislation of Croatia, a person pursuing an activity as an employed person within the meaning of that legislation;

(f) 'member of the family' means,

(i) for the purposes of the legislation of a Member State, a member of the family within the meaning of Article 1(i) of the Regulation;

(ii) for the purposes of the legislation of Croatia, a member of the family within the meaning of that legislation;

(g) 'legislation' means,

(i) in relation to the Member States, legislation within the meaning of Article 1(l) of the Regulation as applicable to the benefits covered by this Decision;

(ii) in relation to Croatia, the relevant legislation as applicable in Croatia relating to the benefits covered by this Decision;

(h) 'benefits' means,

— old-age pensions,

— survivors' pensions,

— pensions in respect of accidents at work and occupational diseases,

— invalidity pensions related to accidents at work and occupational diseases,

— family allowances;

(i) 'exportable benefits' means,

(i) in relation to the Member States:

— old-age pensions,

— survivors' pensions,

— pensions in respect of accidents at work and occupational diseases,

— invalidity pensions related to accidents at work and occupational diseases,

within the meaning of the Regulation, with the exception of special non-contributory cash benefits as listed in Annex X to the Regulation;

(ii) in relation to Croatia, the corresponding benefits provided under the legislation of Croatia, with the exception of special non-contributory cash benefits as set out in Annex I to this Decision;

2. Other terms used in this Decision shall have the meaning which is assigned to them:

(a) in relation to the Member States, in the Regulation and the implementing Regulation;

(b) in relation to Croatia, in the relevant legislation as applicable in Croatia.

Article 2

Persons covered

This Decision shall apply:

(a) to workers who are Croatian nationals and who are or have been legally employed in the territory of a Member State and who are or have been subject to the legislation of one or more Member States, and their survivors;

(b) to the members of the family of workers referred to in point (a) provided that these family members are or have been legally resident with the worker concerned while the worker is employed in a Member State;

(c) to workers who are nationals of a Member State who are or have been legally employed in the territory of Croatia and who are or have been subject to the legislation of Croatia, and their survivors; and

(d) to the members of the family of workers referred to in point (c) provided that these family members are or have been legally resident with the worker concerned while the worker is employed in Croatia.

*Article 3***Equality of treatment**

1. Workers who are Croatian nationals and are legally employed in a Member State and any members of their families legally residing with them shall enjoy, with regard to the benefits within the meaning of Article 1(1)(h), treatment free from any discrimination based on nationality relative to nationals of the Member States in which those workers are employed.

2. Workers who are nationals of a Member State and are legally employed in Croatia and any members of their families legally residing with them shall enjoy, with regard to the benefits within the meaning of Article 1(1)(h), treatment free from any discrimination based on nationality relative to Croatian nationals.

PART II

RELATIONS BETWEEN THE MEMBER STATES AND CROATIA*Article 4***Waiving of residence clauses**

1. Exportable benefits within the meaning of Article 1(1)(i) to which the persons as referred to in Article 2(a) and (c) are entitled shall not be subject to any reduction, modification, suspension, withdrawal or confiscation by reason of the fact that the beneficiary is residing,

(i) for the purpose of a benefit under the legislation of a Member State, within the territory of Croatia; or

(ii) for the purpose of a benefit under the legislation of Croatia, within the territory of a Member State.

2. Family members of a worker as referred to in Article 2(b) are entitled to exportable benefits within the meaning of Article 1(1)(i) in the same way as the family members of a worker who is a national of the Member State concerned when these family members reside within the territory of Croatia.

3. Family members of a worker as referred to in Article 2(d) are entitled to exportable benefits within the meaning of Article 1(1)(i) in the same way as the family members of a worker who is a national of Croatia when these family members reside within the territory of a Member State.

PART III

MISCELLANEOUS PROVISIONS*Article 5***Cooperation**

1. The Member States and Croatia shall communicate to each other all information regarding changes in their legislation which may affect the implementation of this Decision.

2. For the purposes of this Decision, the authorities and institutions of the Member States and of Croatia shall lend one another their good offices and act as though implementing their own legislation. The administrative assistance given by the said authorities and institutions shall, as a rule, be free of charge. However, the competent authorities of the Member States and of Croatia may agree to certain expenses being reimbursed.

3. The authorities and institutions of the Member States and of Croatia may, for the purposes of this Decision, communicate directly with one another and with the persons involved or their representatives.

4. The institutions and persons covered by this Decision shall have a duty of mutual information and cooperation to ensure the correct implementation of this Decision.

5. The persons concerned must inform the institutions of the competent Member State or Croatia, where the latter is the competent State, and of the Member State of residence or Croatia, where the latter is State of the residence, as soon as possible of any change in their personal or family situation which affects their right to benefits under this Decision.

6. Failure to respect the obligation of information referred to in paragraph 5 may result in the application of proportionate measures in accordance with national law. Nevertheless, these measures shall be equivalent to those applicable to similar situations under domestic law and shall not make it impossible or excessively difficult in practice for claimants to exercise the rights conferred on them by this Decision.

7. The Member States and Croatia may provide for national provisions that establish conditions for the verification of entitlement to benefits to take into account the fact that the beneficiaries are staying or residing outside the territory of the State where the debtor institution is located. Such provisions shall be proportionate, free from any discrimination based on nationality and in accordance with the principles of this Decision. Such provisions shall be notified to the Stabilisation and Association Council.

*Article 6***Administrative checks and medical examinations**

1. This Article shall apply to the persons as referred to in Article 2 and in receipt of exportable benefits as referred to in Article 1(1)(i), as well as to the institutions in charge of the implementation of this Decision.

2. Where a recipient or a claimant of benefits, or a member of his family, is staying or residing within the territory of a Member State when the debtor institution is located in Croatia or in Croatia when the debtor institution is located in a Member State, the medical examination shall be carried out, at the request of that institution, by the institution of the beneficiary's place of stay or residence in accordance with the procedures laid down by the legislation applied by that institution.

The debtor institution shall inform the institution of the place of stay or residence of any special requirements, if necessary, to be followed and points to be covered by the medical examination.

The institution of the place of stay or residence shall forward a report to the debtor institution that requested the medical examination.

The debtor institution shall reserve the right to have the beneficiary examined by a doctor of its choice, either in the territory where the recipient or claimant of benefit is staying or residing or in the country where the debtor institution is located. However, the beneficiary may be asked to return to the State of the debtor institution only if he or she is able to make the journey without prejudice to his health and the cost of travel and accommodation is paid for by the debtor institution.

3. Where a recipient or a claimant of benefits, or a member of his family, is staying or residing in the territory of a Member State when the debtor institution is located in Croatia or in Croatia when the debtor institution is located in a Member State, the administrative check shall, at the request of the debtor institution, be performed by the institution of the beneficiary's place of stay or residence.

The institution of the place of stay or residence shall forward a report to the debtor institution that requested the administrative check.

The debtor institution shall reserve the right to have the situation of the beneficiary examined by a professional of its choice. However, the beneficiary may be asked to return to the State of the debtor institution only if he or she is able to make the journey without prejudice to his health and the cost of travel and accommodation is paid for by the debtor institution.

4. One or more Member States and Croatia may agree on other administrative provisions, subject to their informing the Stabilisation and Association Council thereof.

5. As an exception to the principle of free-of-charge mutual administrative assistance set out in Article 5(2) of this Decision, the effective amount of the expenses of the checks referred to in paragraphs 2 and 3 of this Article shall be refunded to the institution which was requested to carry them out by the debtor institution which requested them.

Article 7

Application of Article 120 of the Agreement

Article 120 of the Agreement shall apply in case either Party considers that the other Party has not complied with the obligations as laid down in Articles 5 and 6.

Article 8

Special provisions for the application of the legislation of Croatia

The Stabilisation and Association Council may, if necessary, lay down special provisions for the application of the legislation of Croatia in Annex II.

Article 9

Administrative procedures from existing bilateral agreements

Administrative procedures contained in existing bilateral agreements between a Member State and Croatia may continue to apply provided that these procedures do not adversely affect the rights or obligations of the persons concerned established by this Decision.

Article 10

Agreements supplementing the procedures for implementing this Decision

One or more Member States and Croatia may conclude agreements designed to supplement the administrative procedures for implementing this Decision, especially with regard to preventing and combating fraud and error.

PART IV

TRANSITIONAL AND FINAL PROVISIONS

Article 11

Transitional provisions

1. No rights shall be acquired pursuant to this Decision for the period before its date of entry into force.

2. Subject to paragraph 1, a right shall be acquired under this Decision even if it relates to a contingency arising before its date of entry into force.

3. Any benefit which has not been awarded or which has been suspended by reason of the nationality or place of residence of the person concerned shall, at the request of that person, be provided or resumed with effect from the date of entry into force of this Decision, provided that the rights for which benefits were previously provided have not given rise to a lump-sum payment.

4. If a request as referred to in paragraph 3 is submitted within two years from the date of entry into force of this Decision, the rights acquired in accordance with this Decision shall have effect from the date of entry into force of this Decision, and the legislation of any Member State or Croatia concerning the forfeiture or limitation of rights may not be invoked against the persons concerned.

5. If a request as referred to in paragraph 3 is submitted after the expiry of the two-year period following the date of entry into force of this Decision, rights not forfeited or not time-barred shall have effect from the date on which the request was submitted, subject to any more favourable provisions under the legislation of any Member State or Croatia.

Article 12

Annexes to this Decision

1. The Annexes to this Decision constitute an integral part thereof.
2. At the request of Croatia, the Annexes may be amended by a decision of the Stabilisation and Association Council.

Article 13

Entry into force

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

Done at ..., ...

For the Stabilisation and Association Council
The President

*ANNEX I***LIST OF CROATIAN SPECIAL NON-CONTRIBUTORY CASH BENEFITS**

...

*ANNEX II***SPECIAL PROVISIONS FOR THE APPLICATION OF THE LEGISLATION OF CROATIA**

...

REGULATIONS

COMMISSION REGULATION (EU) No 1070/2010

of 22 November 2010

amending Directive 2008/38/EC by adding to the list of intended uses as a particular nutritional purpose the support of the metabolism of the joints in the case of osteoarthritis in dogs and cats

(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 767/2009 of the European Parliament and of the Council of 13 July 2009 on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC ⁽¹⁾, and in particular Article 10(5) thereof,

Whereas:

- (1) In accordance with Article 10 of Regulation (EC) No 767/2009 the Commission received an application to add the particular nutritional purpose 'support of the joint function in the case of osteoarthritis' as regards dogs and cats to the list of intended uses of feed intended for particular nutritional purposes in Part B of Annex I to Commission Directive 2008/38/EC of 5 March 2008 establishing a list of intended uses of animal feedingstuffs for particular nutritional purposes ⁽²⁾. The Commission made the application, including the dossier, available to the Member States.

- (2) The dossier included in the application demonstrates that the specific composition of the feed fulfils the particular intended nutritional purpose and that it has no adverse effects on animal health, human health, the environment or animal welfare. The application is therefore valid and the particular nutritional purpose 'support of the metabolism of the joints in the case of osteoarthritis' as regards dogs and cats should be added to the list of intended uses.

- (3) Directive 2008/38/EC should therefore be amended accordingly.

- (4) 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 has opposed them,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Directive 2008/38/EC is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the 20th 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, 22 November 2010.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ OJ L 229, 1.9.2009, p. 1.

⁽²⁾ OJ L 62, 6.3.2008, p. 9.

ANNEX

In Part B of Annex I to Directive 2008/38/EC, the following row is inserted between the row of the particular nutritional purpose 'Support of skin function in the case of dermatosis and excessive loss of hair' and the row of the particular nutritional purpose 'Reduction of the risk of milk fever':

Particular nutritional purpose	Essential nutritional characteristics	Species or category of animal	Labelling declarations	Recommended length of time for use	Other provisions
'Support of the metabolism of joints in the case of osteoarthritis	Dogs: Minimum dry matter content of total omega-3 fatty acids 3,3 % and of eicosapentaenoic acid (EPA) 0,38 %. Adequate level of vitamin E. Cats: Minimum dry matter content of total omega-3 fatty acids 1,2 % and of docosahexaenoic acid (DHA) 0,28 %. Increased levels of methionine and manganese. Adequate level of vitamin E.	Dogs and cats	Dogs: — Total omega-3 fatty acids — Total EPA — Total vitamin E Cats: — Total omega-3 fatty acids — Total DHA — Total methionine — Total manganese — Total vitamin E	Initially up to 3 months	It is recommended that a veterinary surgeon's opinion be sought before use or before extending the period of use.'

COMMISSION REGULATION (EU) No 1071/2010**of 22 November 2010****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,

Whereas:

- (1) Commission Regulation (EC) No 474/2006 of 22 March 2006 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⁾.
- (2) In accordance with Article 4(3) of Regulation (EC) No 2111/2005, some Member States 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 this basis, the Community list should be updated.
- (3) The Commission informed all air carriers concerned either directly or, when this was not practicable, through the authorities responsible for their regulatory oversight, indicating 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) Opportunity was given by the Commission to the air carriers concerned to consult documents provided by Member States, to submit written comments and to

make an oral presentation to the Commission within 10 working days and to the Air Safety Committee established by Council Regulation (EEC) No 3922/1991 of 16 December on the harmonization of the technical requirements and administrative procedures in the field of civil aviation ⁽³⁾.

- (5) The authorities with responsibility for regulatory oversight over the air carriers concerned have been consulted by the Commission as well as, in specific cases, by some Member States.
- (6) The Air Safety Committee has heard presentations by the European Aviation Safety Agency and by the Commission on the main operational conclusions agreed in the course of the last meeting of the European SAFA Steering Group (ESSG) held in Vienna on the 28 and 29 October 2010. In particular, it has been informed about the endorsement by the ESSG of the introduction on a voluntary basis of a minimum annual quota of inspections to be carried out by Member States as of 2011.
- (7) The Air Safety Committee has heard presentations on the analysis of reports of comprehensive safety audits carried out by the International Civil Aviation Organisation (ICAO) in the framework of the Universal Safety Oversight Audit Programme (USOAP) and on the results of cooperation activities between the Commission and ICAO in the areas of safety and in particular on the possibilities to the exchange safety information regarding the level of compliance with international safety standards and recommended practices.
- (8) Following the conclusions of ICAO general assembly, the Commission mandated the European Aviation Safety Agency (EASA) to coordinate the regular analysis of the reports of comprehensive safety audits carried out by the International Civil Aviation Organisation (ICAO) in the framework of the Universal Safety Oversight Audit Programme (USOAP) carried out with experts of Member States in the framework of a working group set up by the Air Safety Committee. Member States are invited to nominate experts to contribute to this important task.

⁽¹⁾ OJ L 344, 27.12.2005, p. 15.

⁽²⁾ OJ L 84, 23.3.2006, p. 14.

⁽³⁾ OJ L 373, 31.12.1991, p. 4.

- (9) The Air Safety Committee has heard presentations by the European Aviation Safety Agency (EASA) and the Commission about the technical assistance projects carried out in the countries affected by Regulation (EC) No 2111/2005. It has been informed about the requests for further technical assistance and cooperation to improve the administrative and technical capability of civil aviation authorities with a view to resolving any non-compliance with applicable international standards.
- (10) The Air Safety Committee has also been informed about enforcement actions taken by EASA and Member States to ensure the continuing airworthiness and maintenance of aircraft registered in the Union and operated by air carriers certified by civil aviation authorities of third countries.
- (11) Regulation (EC) No 474/2006 should be therefore amended accordingly,

European Union air carriers

- (12) Following information resulting from SAFA ramp checks carried out on aircraft of certain Union air carriers, as well as area specific inspections and audits carried out by their national aviation authorities, some Member States have taken certain enforcement measures. They informed the Commission and the Air Safety Committee about these measures: Greece informed about the revocation of the Air Operator Certificate (AOC) and of the operating license of Hellas Jet on 2 November 2010 following the stop of operations on 30 April 2010. Germany informed about the suspension of the AOC of the air carrier ACH Hamburg on 27 October 2010 and about the limitation of the AOC of the air carrier Advance Air Luftfahrtgesellschaft on 30 September 2010 to exclude an aircraft with registration mark D-CJJJ. Spain confirmed that the AOC of Baleares Link Express continues to be suspended since 9 June 2010; Sweden informed that the AOC of Viking Airlines AB was suspended on 29 October 2010.
- (13) Portugal informed that following serious concerns about the safety of operation and the continuing airworthiness of aircraft operated by two Portuguese air carriers – Luzair and White and consultations with the Commission held on 25 October 2010, they decided to increase the continuing oversight of these carriers to ensure adequate corrective action plan are timely implemented by these. Portugal informed the Air Safety Committee about some improvement of the performance of the air carrier White. The Commission took note of the announced measures. A standardisation inspection will be carried out in Portugal by EASA in the framework of Regulation (EC) No 216/2008. The Air Safety Committee will be informed as appropriate about the results of this visit at its next meeting.

Air carriers from the Islamic Republic of Afghanistan

Kam Air

- (14) There is verified evidence of safety deficiencies on the part of Kam Air certified in the Islamic Republic of Afghanistan. On 11 August 2010 a Kam Air aircraft of type DC8, registration YA-VIC, struck its tail on the runway and the grass surface beyond the runway before becoming airborne during take-off from Manston Airport (United Kingdom). Investigations of this serious incident by the United Kingdom concluded that there were serious deficiencies with the operational control of the DC8 fleet of Kam Air. The United Kingdom therefore imposed a national ban on Kam Air DC 8 operations as of 2 September 2010.
- (15) Furthermore, the Competent Authorities of Austria detected a significant number of serious safety deficiencies during a SAFA ramp inspection of a Kam Air aircraft of type Boeing B767, registration number YA-KAM, on 16 September 2010⁽¹⁾. The results of this SAFA ramp inspection lead Austria to conclude that there were serious failures on the part of Kam Air in the areas of operational procedures, equipment, system handling and cargo loading. In view of the deficiencies identified during the investigation in the United Kingdom and the convergence of these deficiencies with those detected during the SAFA ramp inspection performed at Vienna airport, Austria imposed a national ban on all Kam Air operations as from 17 September 2010.
- (16) Pursuant to Article 6 of Regulation No 2111/2005 the Air Safety Committee was informed of the measures decided by the two Member States.
- (17) On 6 October 2010 the Competent Authorities of the Islamic Republic of Afghanistan (MoTCA) and representatives from Kam Air met with the Commission and representatives from Member States to discuss the circumstances surrounding the Manston incident and the SAFA inspection in Austria.
- (18) At the meeting the air carrier was unable to demonstrate that it is capable of complying with the relevant international safety standards. As regards the aircraft of type DC8, it had been introduced into service in March 2010 without adequate management oversight and without any adequate training given to the crews recruited to operate the aircraft. Furthermore, these crews had yet to complete the relevant training even though the aircraft continued to be used for international commercial flights. In addition, the air carrier did not provide any evidence that the flight crew were current in their flying duties at the time of the serious incident in the United Kingdom. As regards the aircraft of type Boeing B-767,

⁽¹⁾ ACG-2010-335.

Kam Air explained that the aircraft with registration mark YA-KAM which was subject to the ramp inspection in Austria, was on its first flight after having been parked for a long period, and had not been adequately prepared for operation before being employed on the flight to Vienna. Furthermore, the air carrier explained that, because of the introduction of the DC8, their management resources had been overstretched and had been unable to ensure the correct safety activities were conducted prior to the dispatch of the aircraft.

- (19) The air carrier Kam Air requested to be heard by the Air Safety Committee and made a presentation on 9 November 2010. Kam Air informed the Committee that it no longer operated the aircraft of type DC 8. Also, whilst Kam Air had reviewed the events leading to the bans by the United Kingdom and Austria, it failed to identify any systemic deficiencies within the air carrier which would explain the identified non-compliances with ICAO Standards.
- (20) At the meeting on 6 October 2010, the MoTCA were unable to explain the existence of two different Operations Specifications for Kam Air signed on the same day (29 September 2010) one of which showed the DC8 and the other which had the DC8 removed. It was therefore unclear whether Kam Air was approved to conduct operations with aircraft of type DC8 from that date. Furthermore, MoTCA was not able to demonstrate the results of any certification and surveillance activities carried out on Kam Air.
- (21) In view of these findings, on the basis of the common criteria it is assessed that the air carrier Kam Air does not comply with the common criteria and should be therefore placed on Annex A.

Overall safety oversight of air carriers from Afghanistan

- (22) There is verified evidence that the competent authorities of the Islamic Republic of Afghanistan are currently not capable to implement and enforce the relevant safety standards and to oversee the aircraft used by the air carriers under its regulatory authority in accordance with its obligations under the Chicago Convention. As presented by MoTCA on 6 October 2010, the authority has currently considerable difficulties to comply with its international obligations in all critical elements of a safety system. It is currently totally reliant on the expertise provided by ICAO to conduct inspections, and stated that, because of that lack of qualified staff, it had issued Certificates of Airworthiness to some aircraft without conducting the relevant inspections. In addition, primary legislation concerning aircraft operations was outdated (1972); a draft law had been

submitted to the Government for approval without any indication of date of adoption. Furthermore operational regulations had only non-binding nature (advisory circulars).

- (23) The MoTCA requested to be heard by the Air Safety Committee and made a presentation on 9 November 2010. They accepted that their oversight to date had not adequately ensured that ICAO Standards were met by the air carriers certified in Afghanistan. However, the MoTCA informed the Committee that they had decided to refrain from issuing any further Air Operator Certificates, that they had changed the management structure within the MoTCA and that they had banned the operation of aircraft of type AN 24. In addition, a new set of Aviation Regulations had just been introduced into law and MoTCA were preparing to re-certify all air carriers in Afghanistan to these new Regulations.
- (24) The Commission noted the extremely difficult conditions that the MoTCA were operating under, and welcomed the commitment by the competent authority to improve the situation in the future. However, the Commission noted that, at present, the MoTCA is unable to discharge correctly its responsibilities as certification authority and to ensure that their international carriers comply with the international safety standards.
- (25) In view of these findings, on the basis of the common criteria, it is assessed that all air carriers certified in the Islamic Republic of Afghanistan should be placed in Annex A.

Air carriers from the Republic of Ghana

- (26) Following the measures imposed by Regulation (EU) No 791/2010 of 6 September 2010⁽¹⁾ on two air carriers certified in Ghana – Meridian Airways and Airlift International (GH) Ltd, the competent authorities of the Republic of Ghana (GCAA) requested to be heard at the Air Safety Committee and did so on 10 November 2010.
- (27) During their presentation, the GCAA detailed the actions taken to date to address the shortcomings identified with Meridian Airways, Air Charter Express and Airlift International, and described the improvements they were putting in place to the oversight regime in Ghana, including the requirement that all air carriers certified in Ghana should conduct their activities in Ghana. The GCAA also informed the Committee that it had conducted an inspection of aircraft of type DC 8, registration 9G-RAC operated by Airlift International and confirmed that the non-compliances identified by the United Kingdom had been addressed.

⁽¹⁾ OJ L 237, 8.9.2010, p. 10.

- (28) The Commission noted the willingness of the GCAA to address the shortcomings in their oversight by the investment in additional resources, and welcomed the decision to require air carriers certified in Ghana to relocate to Ghana and to maintain their principal place of business in Ghana to enable the CAA to ensure proper oversight. In an effort to support the work of the GCAA in achieving improvements to their oversight system, the Commission has requested the European Aviation Safety Agency to provide technical assistance by means of a visit during the early part of 2011.

Airlift International (GH) Ltd.

- (29) The air carrier Airlift International (GH) Ltd requested to be heard by the Air Safety Committee and made a presentation on 10 November 2010. The air carrier presented the improvements made in their organisational structure, policy and procedures, resources and regulatory compliance. The air carrier confirmed that aircraft 9G-SIM and 9G-FAB remain in storage awaiting decisions on maintenance action to restore their airworthiness before resuming operations. The air carrier concurred with the GCAA view that they had adequately addressed the faults previously identified with 9G-RAC.

- (30) The Commission noted the progress made by the air carrier in addressing identified safety concerns. In view of these findings, based on the common criteria, it is assessed that the aircraft of type DC8 with registration marks 9G-RAC, should be removed from Annex B and allowed to operate into the Union.
- (31) Member States will continue to verify the effective compliance of Airlift International with the relevant safety standards through the prioritisation of ramp inspections to be carried out on aircraft of this air carrier pursuant to Regulation (EC) No 351/2008 and the Commission will continue to closely monitor the actions taken by Airlift International.

Air Charter Express

- (32) There is verified evidence of safety deficiencies on the part of Air Charter Express certified in Ghana. These deficiencies have been identified by Belgium, France, the Netherlands and the United Kingdom during ramp inspections performed under the SAFA programme⁽¹⁾.
- (33) The air carrier met with the Commission and Member States on 9 June 2010 to discuss concerns resulting from SAFA inspections and the air carrier agreed to provide a corrective action plan to address the identified deficiencies.

- (34) The air carrier Air Charter Express requested to be heard by the Air Safety Committee and made a presentation on 10 November 2010. The air carrier described the actions taken as part of their corrective action plan to date, in particular in the areas of procedures, operational control, maintenance and training, and confirmed that work on remedial actions was ongoing.

- (35) The Commission noted the progress the air carrier was making and emphasised the need to ensure that any remedial and preventive actions taken by Air Charter Express were effectively implemented to avoid recurrence of any safety deficiencies raised before during ramp inspections of its aircraft. Member States will continue to verify the effective compliance of Air Charter Express with the relevant safety standards through the prioritisation of ramp inspections to be carried out on aircraft of this carrier pursuant to Regulation (EC) No 351/2008 and the Commission will continue to closely monitor the actions taken by Air Charter Express.

Air carriers from Kazakhstan

- (36) As provided in Regulation (EC) No 1144/2009 the Commission actively continued the consultations with the competent authorities of Kazakhstan with a view to following-up progress of these authorities in the implementation of the corrective action plan established by the State to remedy the deficiencies identified by ICAO during its comprehensive safety audit carried out in April 2009 in the framework of its Universal Safety oversight Audit Programme, and in particular the significant safety concerns notified by ICAO to all States Party to the Chicago Convention.
- (37) Following to consultations with the Commission held on 27 September 2010, the competent authorities of Kazakhstan (CAC) were heard by the Air Safety Committee on 10 November 2010. They informed that they further progressed in the implementation of their corrective action. In particular, a new aviation law was adopted by Kazakhstan on 15 July 2010 and work is in progress on more than 100 acts of secondary legislation which need to be enacted for the implementation of the aviation law in the coming months.
- (38) On 18 October 2010 a first package of such legislation pertaining to aerial work was adopted and on the same day the competent authorities of Kazakhstan revoked the AOC of 15 companies – KazAirWest, IJT Aviation, Euro Asia Air International, Berkut ZK, Tyan Shan, Kazavia, Navigator, Salem, Orlan 2000, Fenix, Association of amateur pilots of Kazakhstan, Burundayavia, Sky Service, Aeroprakt KZ, Asia Continental Avialines.

⁽¹⁾ BCAA-2009-157, BCAA-2010-87, DGAC/F-2009-2422, DGAC/F-2009-2651, DGAC/F-2009-2766, DGAC/F-2010-1678, DGAC/F-2010-2075, CAA-NL-20109-195, CAA-NL-20109-196, CAA-UK-2010-923.

- (39) The competent authorities of Kazakhstan informed that two of these carriers, Burundayavia and Euro Asia Air International had requested on 28 October 2010 the reinstatement of their AOC. At the meeting of the Air Safety Committee the competent authorities of Kazakhstan failed to clarify the status of operations of these two companies. Consequently, on the basis of the common criteria, it is assessed that Burundayavia and Euro Asia Air International should remain in Annex A.
- (40) The submissions and presentations made by the competent authorities of Kazakhstan (CAC) regarding the companies: Asia Continental Avialines, KazAirWest, Kazavia, Orlan 2000, do not include sufficient information to demonstrate that these companies have ceased commercial air transport activities. The CAC failed to provide complete documentation regarding the certificates and approvals held by these companies following the revocation of their AOCs. In particular, for these companies there is information indicating that they have been operating large transport aircraft. Therefore, on the basis of the common criteria, it is assessed that at this stage these four companies should remain in Annex A.
- (41) The competent authorities of Kazakhstan stated and provided evidence showing that the Association of Amateur Pilots of Kazakhstan, Aeroprakt KZ, Berkut ZK, IJT Aviation, Navigator, Fenix, Salem, Sky Service, Tyan Shan Flight Center, are not any more engaged in commercial air transportation and do not hold any more a valid operating licence. Therefore they are not considered any more as air carriers within the meaning of Article 2(a) of Regulation (EC) No 2111/2005. In view of this, on the basis of the common criteria, it is assessed that these nine companies should be removed from Annex A.
- (42) The Commission supports the ambitious reform of the Civil aviation system undertaken by the authorities of Kazakhstan and invites these authorities to continue with determination their efforts to implement the corrective actions plan agreed with ICAO, focusing in priority on the unresolved significant safety concerns and the recertification of all operators under their responsibility. The Commission is ready to organise in due time, with the assistance of the European Aviation Safety Agency and the support of Member States, an on-site assessment to verify the progress achieved in the implementation of the action plan.
- address effectively safety deficiencies and to resolve safety concerns, as demonstrated by the results of the audit of Mauritania carried out by ICAO in the framework of its Universal Safety Oversight Audit Programme (USOAP) in April 2008. The final report made available in March 2009 reported a large number of significant deficiencies with regard to the capability of the civil aviation authorities to discharge their air safety oversight responsibilities. At the time of the completion of the ICAO audit, more than 67 % of ICAO standards were not effectively implemented. In the critical element pertaining to the resolution of the identified safety concerns, ICAO reported that more than 93 % of ICAO standards were not implemented.
- (44) There is verified evidence of serious safety deficiencies on the part of the air carrier Mauritania Airways certified in Mauritania. These deficiencies have been identified by France and Spain during ramp inspections performed under the SAFA programme⁽¹⁾. Mauritania Airways did not respond adequately to the authorities which carried out the inspections and has not demonstrated that these deficiencies have been rectified in a sustainable manner.
- (45) The Commission initiated consultations with the competent authorities of Mauritania in February 2010, expressing serious concerns about the safety of the operations of air carriers licensed in this country and requesting clarifications regarding the actions undertaken by the competent authorities of Mauritania to respond to ICAO findings and to the SAFA findings. These consultations were followed by correspondence in March and October 2010 on the same issues. The competent authorities of Mauritania were also heard by the Air Safety Committee on 9 November 2010.
- (46) There is insufficient ability of the competent authorities of Mauritania (ANAC) to remedy effectively the non-compliance findings made by ICAO, as demonstrated by the fact that the implementation of the action plan aimed at addressing the findings made by ICAO is delayed. ANAC did not provide evidence of satisfactory closure of those findings reported as closed. For instance, the civil aviation act of 1972 has not yet been revised nor the related secondary specific aviation legislation. Consequently, the legal basis for the certification and continuing oversight of all air carriers licensed in Mauritania is not in compliance with the applicable international safety standards.

Air carriers from the Republic of Mauritania

- (43) There is verified evidence of lack of ability of the authorities responsible for the oversight of air carriers licensed in the Islamic Republic of Mauritania to

⁽¹⁾ DGAC/F-2009-2728; DGAC/F-2010-343; DGAC/F-2010-520, DGAC/F-2010-723, DGAC/F-2010-1007, DGAC/F-2010-1294, DGAC/F-2010-1573, DGAC/F-2010-1914, DGAC/F-2010-2004; AESA-E-2010-46, AESA-E-2010-249; AESA-E-2010-396; AESA-E-2010-478.

(47) ANAC informed that Mauritania Airways is currently the only air carrier certified in Mauritania and that the AOC of this carrier was renewed on 8 July 2010 for a limited period of 6 months, expiring on 31 December 2010. ANAC, however, failed to provide evidence of the verifications made before the renewal together with details of any action plans mandated to ensure the safety deficiencies identified are being effectively remedied in a sustainable manner. In particular, no evidence of approval of the operator's operations manual, the operator's minimum equipment list, the operator's maintenance management exposition and maintenance organisation exposition was provided.

(48) Mauritania Airways was heard by the Air Safety Committee on 9 November 2010 and informed that the air carrier initiated a series of corrective actions to address the deficiencies identified in the course of the SAFA ramp inspections as well as the internal investigation following the accident of their aircraft in July 2010. However, Mauritania Airways failed to demonstrate that these actions have produced results so far. In addition, the failed to demonstrate that the company holds the necessary approvals previously referred to.

(49) Mauritania Airways confirmed that an aircraft of type Boeing B737-700 with registration mark TS-IEA operated by Mauritania Airways was involved in an accident on 27 July 2010 which caused several injuries and substantial damage to the aircraft that has been since that time under repair. Preliminary information from the air carrier revealed several deficiencies, in particular an anomaly in the extension of slats as well as a non-stabilised approach.

(50) The competent authorities of Mauritania (ANAC) have not demonstrated that they are in a position to effectively discharge their responsibilities regarding safety oversight of air carriers certified in Mauritania. In view of these findings, on the basis of the common criteria, it is assessed that all air carriers certified in Mauritania should be included in Annex A.

(51) The Commission encourages the competent authorities of Mauritania (ANAC) to pursue actively the implementation of the corrective action plan submitted to ICAO and is ready to provide support if necessary. The Commission is in particular ready to organise, with the assistance of the European Aviation Safety Agency and the support of Member States, an on-site assessment to verify the progress achieved in the implementation of the action plan.

Ukrainian Mediterranean Airlines

(52) Ukrainian Mediterranean Airlines certified in Ukraine requested to be heard by the Air Safety Committee and did so on 9 November 2010. The carrier informed that it is currently renewing its fleet and that the DC-9 aircraft are not operated anymore. However Ukrainian Mediterranean Airlines did not provide the complete and current operational specifications attached to the current Air Operator Certificate and failed to clarify at the hearing the fleet currently operated. Furthermore, it was confirmed that the competent authorities of Ukraine are conducting an audit of Ukrainian Mediterranean Airlines as part of the renewal process of its Air Operator Certificate, expiring on 28 November 2010, and that this process is not completed yet. Therefore, on the basis of the common criteria, it is assessed that Ukrainian Mediterranean Airlines should remain in Annex B.

(53) Submissions made after the hearing of the air carrier will be examined by the Commission and the Air Safety Committee at the next meeting of the Air Safety Committee.

Air Algérie

(54) Following the adoption of Regulation (EU) No 590/2010 ⁽¹⁾, the air carrier Air Algérie has performed numerous inspections on its aircraft before departure for destinations in the Union. The competent authorities of Algeria also put in place in September 2010 teams of technicians to perform inspections (called SANAA inspections), on the basis of the SAFA methodology, on aircraft operated by the company Air Algérie, notably those which are operated on routes to the Union. These concerted efforts should enable them to discover and solve a number of deficiencies before aircraft departure. However, the results of these inspections raise some questions about the quality of the maintenance activities of the air carrier.

(55) As requested by Regulation (EU) No 590/2010 and until the meeting of the Air Safety Committee on 10 November 2010, the civil aviation authorities of Algeria submitted four monthly reports covering June, July, August and September 2010. These reports focused on the results of safety oversight conducted on the activities of Air Algérie and were supplemented with the findings discovered during the inspections carried out by inspectors of Air Algérie on aircraft of the air carrier. These reports however, do not provide the information of risk assessment being carried out by the competent authorities of Algeria and how the results of such risk assessment are considered in the oversight process and planning.

⁽¹⁾ OJ L 170, 5.7.2010, p. 9.

- (56) In view of the persistence of findings in the areas of continuing airworthiness, maintenance, operations, as well as the safety of cargo on board, discovered during SAFA, SANAA and the internal Air Algérie inspections and in order to obtain clarifications on the monthly reports, consultations with the competent authority and the air carrier were held on 11 October 2010 with the participation of the European Aviation Safety Agency and a Member State. At this meeting the Commission took note of the commitment made by the competent authorities of Algeria to carry out a comprehensive root cause analysis and to present a solid corrective action plan as well as all relevant information showing the actions taken by both the competent authorities of Algeria and of Air Algérie to bring a sustainable solution. A corrective action plan approved by the competent authorities of Algeria was submitted to the Commission on 20 October 2010.
- (57) Air Algérie presented a further enhanced corrective action plan to the Air Safety Committee on 10 November 2010. The Committee acknowledged the efforts made by the air carrier towards resolving the detected safety deficiencies and urged the competent authorities of Algeria to enhance its oversight activities with a view to ensuring that the relevant safety standards are respected. During the meeting of the Air Safety Committee the competent authorities of Algeria indicated their wish to further strengthen their capabilities through a twinning project. With a view to supporting the competent authorities of Algeria in further enhancing their efforts to reinforce their capacity to discharge their responsibilities, a technical assistance mission lead by the European Aviation Safety Agency will be carried out in February 2011.
- (58) In the meantime, the Member States shall continue to closely monitor the performance of Air Algérie in the framework of Regulation (EC) No 351/2006 in order to provide the basis for a new assessment of this case at the next meeting of the Air Safety Committee.
- Air carriers from the Republic of Congo**
- (59) Pursuant to Regulation (EC) No 1144/2009 ⁽¹⁾ all air carriers certified in the Republic of Congo are subject to an operational ban within the Union and listed in Annex A.
- (60) The Commission informed the Air Safety Committee on the results of a technical assistance mission carried out in February 2010 by the European Aviation Safety Agency
- to the Republic of Congo following the ICAO USOAP audit, conducted in November 2008. The ICAO USOAP Audit resulted in a Significant Safety Concern regarding aircraft operations, certification and supervision exercised by the Civil Aviation Authority of the Republic of Congo (ANAC) along with a very high rate of lack of implementation of safety standards (76,89 %); the Significant Safety Concern is currently unresolved. During the technical assistance mission it was noted that ANAC had made clear efforts at every level to implement a corrective action plan and had demonstrated a strong commitment to overcome the safety issues highlighted by the ICAO audit. The Commission welcomes these encouraging moves and will continue to closely monitor the progress of the ANAC towards effective implementation of their corrective action plan to ensure that the current safety deficiencies are addressed without undue delay.
- (61) The air carrier Equafight Service certified by ANAC requested to be heard by the Air Safety Committee and did so on 10 November 2010. The air carrier presented its activity and informed about the progress in the implementation of its action plan.
- (62) The air carrier Trans Air Congo certified by ANAC requested to be heard by the Air Safety Committee and did so on 10 November 2010. The air carrier presented its activity and informed about the progress in the implementation of its action plan.
- (63) The Air Safety Committee took note of the progress report. However, the presentations by the air carriers did not allow ascertaining that they meet at this stage the applicable ICAO safety standards. In addition, on the basis of the common criteria, pending the effective implementation of adequate corrective actions to resolve the ICAO significant safety concern and in the absence of significant progress in the closure of the findings raised during the ICAO audit, it is assessed that the competent authorities of the Republic of Congo are, at this stage, not able to implement and enforce the relevant safety standards on all carriers under their regulatory control. Therefore, all air carriers certified by these authorities should remain in Annex A.
- (64) The Commission will actively continue the consultations with the competent authorities of the Republic of Congo on the actions undertaken by them to improve aviation safety and is willing to engage a second mission of technical assistance in 2011 aiming at building up their administrative and technical capacity in civil aviation.

⁽¹⁾ OJ L 312, 27.11.2009, p. 16.

Air carriers from Kyrgyzstan

- (65) The competent authorities of Kyrgyzstan requested to be heard by the Air Safety Committee and did so on 10 November 2010. They informed that they are progressing in an ambitious reform of the aviation sector undertaken since 2006 with a view to enhancing air safety. The competent authorities are in particular progressing in their capacity building with the recruitment of additional qualified inspectors, to be continued in the coming months. The State aviation legislation is being revised with a view to ensuring compliance with international safety standards by November 2011.
- (66) The competent authorities of Kyrgyzstan informed that they have issued a new AOC to the air carrier CAAS. On the basis of the common criteria, it is assessed that CAAS should be included in Annex A.
- (67) The competent authorities of Kyrgyzstan also informed that they had suspended the AOCs of three air carriers – Itek Air, TransAero and Asian Air. Additionally, they informed that they have undertaken enforcement actions regarding the following carriers: Golden Rules Airlines, Kyrgyzstan Airline, Max Avia, Tenir Airlines. However, they failed to demonstrate that the license or the AOC of these carriers was revoked. Consequently, on the basis of the common criteria, it is assessed that these carriers should remain in Annex A.
- (68) Given that no evidence of full implementation of appropriate remedial actions by the air carriers certified in Kyrgyzstan and by the authorities with responsibility for regulatory oversight of these air carriers has been communicated to the Commission so far, on the basis of the common criteria, it is assessed that these air carriers should remain in Annex A.
- (69) The Commission encourages the competent authorities of Kyrgyzstan to continue their efforts towards resolution of all non-compliance findings identified during the audit carried out by ICAO in April 2009 as part of its Universal Safety Oversight Audit Programme (USOAP). The European Commission, assisted by the European Aviation Safety Agency and with the support of the Member States, is ready to carry out an assessment on site once the implementation of the action plan submitted to ICAO has sufficiently advanced; The objective of this visit would be to verify the implementation of the applicable safety requirements by the competent authorities and by the undertakings under its oversight..

Air carriers from Gabon

- (70) The competent authorities of Gabon (ANAC) held consultations on 26 October 2010 with the

Commission, the European Aviation Safety Agency and the competent authorities of France to present the progress made to date. ANAC informed that the legislative framework is currently being revised, with a reform of the civil aviation code, entailing the following actions: (a) a reorganisation of ANAC, the adoption of which is expected by 31 December 2010; (b) the progressive establishment of a comprehensive set of Gabonese aeronautical regulations (RAG), which will enter into force in a phased approach by 2011. ANAC reported further progress in its capacity-building, with the recruitment of additional inspectors. ANAC also reported progress in the oversight of the air carriers and the enforcement of the current safety regulations (RACAM), as demonstrated by the suspension of the AOC of the air carrier Air Services on 30 July 2010, and the temporary suspension of the AOC of the air carrier Allegiance between 22 August and 2 September 2010.

- (71) However, ANAC did not demonstrate that appropriate remedial actions had been implemented before the air carrier Allegiance had its AOC reinstated. Furthermore, the number and the nature of some of the deficiencies identified reveal that further enforcement actions may be necessary, should air carriers certified in Gabon fail to implement the applicable safety standards.
- (72) Given that no evidence of the full implementation of appropriate corrective and preventive actions by the air carriers included in the Community list and by the authorities with responsibility for regulatory oversight of these air carriers has been communicated to the Commission so far, on the basis of the common criteria, it is assessed that these air carriers should continue to be subject to an operating ban (Annex A) or operating restrictions (Annex B), as the case may be.
- (73) ANAC informed of the issuance of a new AOC to the air carrier Afric Aviation on 25 September 2010 without demonstrating that the certification and oversight of this air carrier complies fully with applicable international safety standards. Therefore, on the basis of the common criteria, it is assessed that Afric Aviation should be included in Annex A.
- (74) Member States will continue to monitor the performance of air carriers certified in Gabon through focused ramp inspections carried out in the framework of the SAFA programme with a view to monitoring sustainable compliance of their operations and maintenance with the applicable safety standards. Should ramp inspections identify safety concerns, the Commission will be compelled to reconsider the measures applicable to these carriers at the next meeting of the Air Safety Committee.

Air carriers from the Republic of Philippines

- (75) The Commission, assisted by the European Aviation Safety Agency and the competent authorities of Germany and Spain carried out a safety assessment visit to the Philippines in October 2010 in order to assess the progress achieved by the competent authorities of the Philippines (CAAP) and certain air carriers under its supervision, in the implementation of the measures undertaken to address the safety concerns described in Regulation (EU) No 273/2010.
- (76) The report resulting from this assessment confirms that, under the leadership of its new Director General, the Civil Aviation Authority of the Philippines has undertaken since April 2010 a series of ambitious reforms of the civil aviation oversight system in place in the Republic of the Philippines. The actions undertaken go clearly into the right direction and are deemed to allow, once effectively and sustainably implemented, for significant improvements towards compliance with the safety standards set forth by the International Civil Aviation Organisation (ICAO). These actions entail in particular (a) a recast of the existing implementing rules and regulation to the basic Civil Aviation Act; (b) a complete revision of the existing Civil Aviation Regulations; (c) the appointment of a significant amount of personnel in accordance with enhanced qualification criteria; (d) the continuation of extensive training programmes for the staff recruited; (e) the modernisation of the facilities and the provision of adequate information systems to allow the control of approvals and licenses; (f) the certification of those air carriers which, although they continue commercial activities, are not certified yet in accordance with the civil aviation regulation in force; (g) the development of comprehensive surveillance plans including all aspects of the operations; and (h) the resolution of those safety concerns which may have been encountered.
- (77) The report also underlines that, in spite of the commitments of the CAAP and the energy invested since April 2010, these ambitious reforms could not be completed within a few months, in particular due the length of the recruitment and appointment process in the Philippines beyond the control of the CAAP and the corresponding lack of appropriate resources. More time appears necessary to allow the progress to be sustainable and for achievements to be recognised. Although the CAAP has undertaken actions to address the significant safety concern notified by ICAO to all Contracting States in 2009, progress to date has not been sufficient to close the significant safety concern. Equally, despite actions undertaken by the CAAP to address the non-compliance findings reported by the FAA in 2007, progress to date has not been sufficient to be recognised by the US FAA as compliant with international safety standards (category 1). In view of these findings, it is assessed that at this stage, all air carriers certified in the Republic of the Philippines should remain on Annex A.

- (78) The Commission invites the Philippines to respect the timetable of implementation of its commitments towards the international community, in particular with regard to the resolution of the significant safety concern notified by ICAO. To achieve this, it is essential that the CAAP continues to act with the necessary independence and ensures the appointment of sufficient staff meeting the qualification criteria to be in a position to effectively discharge its responsibilities towards the international community and ensure a robust oversight in compliance with the applicable safety standards. Support from the government of the Philippines to the CAAP is essential towards such goals.

Air carriers from the Russian Federation

- (79) Following the adoption of Regulation (EU) No 590/2010 the Commission received information from the competent authorities of the Russian Federation that all operating restrictions previously applicable on the air carrier YAK Service had been removed on 11 August 2010 following satisfactory results of oversight activities performed by these authorities. However, the Commission did not receive the requested results of all surveillance activities regarding the verification of correct implementation of remedial actions as well as of the certification of the equipment in accordance with ICAO standards installed on the aircraft of the air carrier used to operate international flights.
- (80) Furthermore, as part of the continuous monitoring of the performance of air carriers flying into the Union on the basis of the results of ramp inspections carried out on aircraft of such air carriers, on 11 October 2010 the Commission informed the competent authorities of the Russian Federation of the results of such inspections carried out on Russian air carriers during the previous twelve months.
- (81) These results indicated that for certain Russian air carriers, albeit from a limited number of inspections, there is a persistent rate of findings equivalent to over two significant and/or major findings per inspection during the last 2 years. These results show that there is need for improvement if these air carriers are to be fully compliant with international safety standards. Consultations between the Commission and the competent authorities of the Russian Federation on the safety performance of Russian air carriers were held on 18 October 2010 in Moscow. At this meeting the competent authorities of the Russian Federation agreed to provide the Commission with the following information: (a) documentation that was requested on 2 September 2010 for Yak Service (transmission in English of the results of all surveillance activities regarding the verification of correct implementation of remedial actions as well as of the certification of the

equipment in accordance with ICAO standards that is now installed on the aircraft of the company used to operate international flights; the new AOC of the company issued following the removal of the restrictions along with the operating specifications); (b) the results of surveillance activities of Russian authorities on Russian air carriers for which SAFA ramp inspections reports and analysis have been transmitted by the Commission. Furthermore, at this meeting the competent authorities of the Russian Federation announced that they would also transmit to the Commission the reports and analysis of the performance (incidents, methodology of calculation of ratios etc.) for the ramp checks performed on aircraft of EU carriers flying into the Russian Federation.

(82) Following this meeting the competent authorities of the Russian Federation transmitted on 25 October correspondence regarding Yak Service showing that certain equipment fitted on aircraft operated by YAK Service had been recertified by the Interstate Aviation Committee (MAK). However, at the meeting of the Air Safety Committee on 10 November 2010 the competent authorities of the Russian Federation did not provide evidence that all aircraft operated by YAK Service are fitted with serviceable ICAO mandatory equipment necessary for international commercial air transport. Therefore, two aircraft on the AOC of this air carrier with registration RA-87648 and RA-88308 should not be operated into the European Union. Member States will continue to verify the effective compliance of Yak Service with the relevant safety standards through the prioritisation of ramp inspections to be carried out on aircraft of this carrier pursuant to Regulation (EC) No 351/2008.

(83) At the meeting of the Air Safety Committee the competent authorities of the Russian Federation did not provide any evidence of the results of their oversight activities on various air carriers certified in the Russian Federation as requested by the Commission.

(84) At the meeting of the Air Safety Committee the competent authorities of the Russian Federation also confirmed that the following aircraft continue to be excluded for international commercial air transport as they are not fitted with ICAO mandatory equipment.

(a) Aircompany Yakutia: Antonov AN-140: RA-41250; AN-24RV: RA-46496, RA-46665, RA-47304, RA-47352, RA-47353, RA-47360; AN-26: RA-26660;

(b) Atlant Soyuz: Tupolev TU-154M: RA-85672 and RA-85682 previously operated by Atlant Soyuz are both aircraft currently operated by other air carriers certified in the Russian Federation.

(c) Gazpromavia: Tupolev TU-154M: RA-85625 and RA-85774; Yakovlev Yak-40: RA-87511, RA-88300 and RA-88186; Yak-40K: RA-21505, RA-98109 and RA-8830; Yak-42D: RA-42437; all (22) helicopters Kamov Ka-26 (unknown registration); all (49) helicopters Mi-8 (unknown registration); all (11) helicopters Mi-171 (unknown registration); all (8) helicopters Mi-2 (unknown registration); all (1) helicopter EC-120B: RA-04116.

(d) Kavminvodyavia: Tupolev TU-154B: RA-85307, RA-85494 and RA-85457.

(e) Krasnoyarsky Airlines: the aircraft of type TU-154M RA-85672 previously on the AOC of Krasnoyarsky Airlines, which was revoked in 2009 is currently operated by Atlant Soyuz; the aircraft of the same type with registration RA-85682 is operated by another air carrier certified in the Russian Federation.

(f) Kuban Airlines: Yakovlev Yak-42: RA-42331, RA-42336, RA-42350, RA-42538, and RA-42541; the aircraft of the same type RA-42526 is currently not operated for financial reasons;

(g) Orenburg Airlines: Tupolev TU-154B: RA-85602; all TU-134 (unknown registration); all Antonov An-24 (unknown registration); all An-2 (unknown registration); all helicopters Mi-2 (unknown registration); all helicopters Mi-8 (unknown registration).

(h) Siberia Airlines: Tupolev TU-154M: RA-85613, RA-85619, RA-85622 and RA-85690;

(i) Tatarstan Airlines: Yakovlev Yak-42D: RA-42374, RA-42433 and RA-42347 operated by another Russian air carrier; Tupolev TU-134A: RA-65970, RA-65691, RA-65973, RA-65065 and RA-65102; Antonov AN-24RV: RA-46625 and RA-47818 which are currently operated by another Russian carrier.

(j) Ural Airlines: Tupolev TU-154B: RA-85508 (the aircraft RA-85319, RA-85337, RA-85357, RA-85375, RA-85374 and RA-85432 are currently not operated for financial reasons).

(k) UTAir: Tupolev TU-154M: RA-85733, RA-85755, RA-85806, RA-85820; all (24) TU-134: RA-65024, RA-65033, RA-65127, RA-65148, RA-65560, RA-65572, RA-65575, RA-65607, RA-65608, RA-65609, RA-65611, RA-65613, RA-65616, RA-65620, RA-65622, RA-65728, RA-65755, RA-65777, RA-65780, RA-65793, RA-65901, RA-65902, and RA-65977; the aircraft RA-65143 and RA-65916 are operated by another Russian carrier; all (1) TU-134B: RA-65726; all (10) Yakovlev Yak-40: RA-87348 (currently not operated for financial reasons), RA-87907, RA-87941, RA-87997, RA-88209, RA-88227 and RA-88280; the aircraft of the same type RA-87292 and RA-88244 have been retired; all helicopters Mil-26: (unknown registration); all helicopters Mil-10: (unknown registration); all helicopters Mil-8 (unknown registration); all helicopters AS-355 (unknown registration); all helicopters BO-105 (unknown registration); the aircraft of type AN-24B RA-46388 and RA-87348 are not operated for financial reasons; RA-46267 and RA-47289 and the aircraft of type AN-24RV RA-46509, RA-46519 and RA-47800 are operated by another Russian carrier.

(l) Rossija (STC Russia): Tupolev TU-134: RA-65979, the aircraft RA-65904, RA-65905, RA-65911, RA-65921 and RA-65555 are operated by another Russian carrier; Ilyushin IL-18: RA-75454 is operated by another Russian carrier; Yakovlev Yak-40: RA-87203, RA-87968, RA-87971, RA-87972 and RA-88200 are operated by another Russian carrier.

(m) Russair: aircraft Tupolev TU-134A3 registration RA 65124; TU-154 registration RA-65124.

(85) The Commission and the Air Safety Committee took note of the presentation and the submissions by the competent authority of the Russian Federation and will pursue the sustainable resolution of safety non-compliance detected during SAFA ramp inspections through further technical consultations with the competent authority of the Russian Federation. In the meantime, Member States will continue to verify the

effective compliance of Russian air carriers with the relevant safety standards through the prioritisation of ramp inspections to be carried out on aircraft of these carriers pursuant to Regulation (EC) No 351/2008 and the Commission will continue to closely monitor the actions taken by them.

General considerations concerning the other carriers included in Annexes A and B

(86) No evidence of the full implementation of appropriate remedial actions by the other air carriers included in the Community list updated on 6 September 2010 and by the authorities with responsibility for regulatory oversight of these air carriers has been communicated to the Commission so far in spite of specific requests submitted by the latter. Therefore, on the basis of the common criteria, it is assessed that these air carriers should continue to be subject to an operating ban (Annex A) or operating restrictions (Annex B), as the case may be.

(87) 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 that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 22 November 2010.

*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
SIEM REAP AIRWAYS INTERNATIONAL	AOC/013/00	SRH	Kingdom of Cambodia
SILVERBACK CARGO FREIGHTERS	Unknown	VRB	Republic of Rwanda
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	015	Unknown	Republic of Angola
AIR26	004	DCD	Republic of Angola
AIR GEMINI	002	GLL	Republic of Angola
AIR GICANGO	009	Unknown	Republic of Angola
AIR JET	003	MBC	Republic of Angola
AIR NAVE	017	Unknown	Republic of Angola
ALADA	005	RAD	Republic of Angola
ANGOLA AIR SERVICES	006	Unknown	Republic of Angola
DIEXIM	007	Unknown	Republic of Angola
GIRA GLOBO	008	GGL	Republic of Angola
HELIANG	010	Unknown	Republic of Angola
HELIMALONGO	011	Unknown	Republic of Angola
MAVEWA	016	Unknown	Republic of Angola
PHA	019	Unknown	Republic of Angola
RUI & CONCEICAO	012	Unknown	Republic of Angola
SAL	013	Unknown	Republic of Angola
SERVISAIR	018	Unknown	Republic of Angola
SONAIR	014	SOR	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
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	N/A	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
EQUAFLIGHT SERVICES	RAC 06-003	EKA	Republic of Congo
SOCIETE NOUVELLE AIR CONGO	RAC 06-004	Unknown	Republic of Congo
TRANS AIR CONGO	RAC 06-001	Unknown	Republic of Congo
All air carriers certified by the authorities with responsibility for regulatory oversight of Democratic Republic of Congo (RDC), including			Democratic Republic of Congo (RDC)
AFRICAN AIR SERVICES COMMUTER	409/CAB/MIN/TVC/ 051/09	Unknown	Democratic Republic of Congo (RDC)
AIR KASAI	409/CAB/MIN/TVC/ 036/08	Unknown	Democratic Republic of Congo (RDC)
AIR KATANGA	409/CAB/MIN/TVC/ 031/08	Unknown	Democratic Republic of Congo (RDC)
AIR TROPIQUES	409/CAB/MIN/TVC/ 029/08	Unknown	Democratic Republic of Congo (RDC)
BLUE AIRLINES	409/CAB/MIN/TVC/ 028/08	BUL	Democratic Republic of Congo (RDC)

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
BRAVO AIR CONGO	409/CAB/MIN/TC/0090/2006	BRV	Democratic Republic of Congo (RDC)
BUSINESS AVIATION	409/CAB/MIN/TVC/048/09	Unknown	Democratic Republic of Congo (RDC)
BUSY BEE CONGO	409/CAB/MIN/TVC/052/09	Unknown	Democratic Republic of Congo (RDC)
CETRACA AVIATION SERVICE	409/CAB/MIN/TVC/026/08	CER	Democratic Republic of Congo (RDC)
CHC STELLAVIA	409/CAB/MIN/TC/0050/2006	Unknown	Democratic Republic of Congo (RDC)
CONGO EXPRESS	409/CAB/MIN/TVC/083/2009	EXY	Democratic Republic of Congo (RDC)
COMPAGNIE AFRICAINE D'AVIATION (CAA)	409/CAB/MIN/TVC/035/08	Unknown	Democratic Republic of Congo (RDC)
DOREN AIR CONGO	409/CAB/MIN/TVC/0032/08	Unknown	Democratic Republic of Congo (RDC)
ENTREPRISE WORLD AIRWAYS (EWA)	409/CAB/MIN/TVC/003/08	EWS	Democratic Republic of Congo (RDC)
FILAIR	409/CAB/MIN/TVC/037/08	Unknown	Democratic Republic of Congo (RDC)
GALAXY KAVATSI	409/CAB/MIN/TVC/027/08	Unknown	Democratic Republic of Congo (RDC)
GILEMBE AIR SOUTENANCE (GISAIR)	409/CAB/MIN/TVC/053/09	Unknown	Democratic Republic of Congo (RDC)
GOMA EXPRESS	409/CAB/MIN/TC/0051/2006	Unknown	Democratic Republic of Congo (RDC)
GOMAIR	409/CAB/MIN/TVC/045/09	Unknown	Democratic Republic of Congo (RDC)
HEWA BORA AIRWAYS (HBA)	409/CAB/MIN/TVC/038/08	ALX	Democratic Republic of Congo (RDC)
INTERNATIONAL TRANS AIR BUSINESS (ITAB)	409/CAB/MIN/TVC/033/08	Unknown	Democratic Republic of Congo (RDC)
KIN AVIA	409/CAB/MIN/TVC/042/09	Unknown	Democratic Republic of Congo (RDC)
LIGNES AÉRIENNES CONGOLAISES (LAC)	Ministerial signature (ordonnance No. 78/205)	LCG	Democratic Republic of Congo (RDC)
MALU AVIATION	409/CAB/MIN/TVC/04008	Unknown	Democratic Republic of Congo (RDC)
MANGO AVIATION	409/CAB/MIN/TVC/034/08	Unknown	Democratic Republic of Congo (RDC)
SAFE AIR COMPANY	409/CAB/MIN/TVC/025/08	Unknown	Democratic Republic of Congo (RDC)

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
SERVICES AIR	409/CAB/MIN/TVC/030/08	Unknown	Democratic Republic of Congo (RDC)
SWALA AVIATION	409/CAB/MIN/TVC/050/09	Unknown	Democratic Republic of Congo (RDC)
TMK AIR COMMUTER	409/CAB/MIN/TVC/044/09	Unknown	Democratic Republic of Congo (RDC)
TRACEP CONGO AVIATION	409/CAB/MIN/TVC/046/09	Unknown	Democratic Republic of Congo (RDC)
TRANS AIR CARGO SERVICES	409/CAB/MIN/TVC/024/08	Unknown	Democratic Republic of Congo (RDC)
WIMBI DIRA AIRWAYS	409/CAB/MIN/TVC/039/08	WDA	Democratic Republic of Congo (RDC)
ZAABU INTERNATIONAL	409/CAB/MIN/TVC/049/09	Unknown	Democratic Republic of Congo (RDC)
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	Unknown	Unknown	Equatorial Guinea
CEIBA INTERCONTINENTAL	Unknown	CEL	Equatorial Guinea
EGAMS	Unknown	EGM	Equatorial Guinea
EUROGUINEANA DE AVIACION Y TRANSPORTES	2006/001/MTTCT/DGAC/SOPS	EUG	Equatorial Guinea
GENERAL WORK AVIACION	002/ANAC	n/a	Equatorial Guinea
GETRA - GUINEA ECUATORIAL DE TRANSPORTES AEREOS	739	GET	Equatorial Guinea
GUINEA AIRWAYS	738	n/a	Equatorial Guinea
STAR EQUATORIAL AIRLINES	Unknown	Unknown	Equatorial Guinea
UTAGE – UNION DE TRANSPORT AEREO DE GUINEA ECUATORIAL	737	UTG	Equatorial Guinea
All air carriers certified by the authorities with responsibility for regulatory oversight of Indonesia, with the exception of Garuda Indonesia, Airfast Indonesia, Mandala Airlines, Ekspres Transportasi Antarbenua, Indonesia Air Asia and Metro Batavia, including			Republic of Indonesia
AIR PACIFIC UTAMA	135-020	Unknown	Republic of Indonesia
ALFA TRANS DIRGANTATA	135-012	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
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
CARDIG AIR	121-013	Unknown	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
GATARI AIR SERVICE	135-018	GHS	Republic of Indonesia
INDONESIA AIR TRANSPORT	135-034	IDA	Republic of Indonesia
INTAN ANGKASA AIR SERVICE	135-019	Unknown	Republic of Indonesia
JOHNLIN AIR TRANSPORT	135-043	Unknown	Republic of Indonesia
KAL STAR	121-037	KLS	Republic of Indonesia
KARTIKA AIRLINES	121-003	KAE	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
MEGANTARA	121-025	MKE	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
NYAMAN AIR	135-042	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
REPUBLIC EXPRESS AIRLINES	121-040	RPH	Republic of Indonesia
RIAU AIRLINES	121-016	RIU	Republic of Indonesia
SAMPOERNA AIR NUSANTARA	135-036	SAE	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
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
AERO AIR COMPANY	Unknown	Unknown	Republic of Kazakhstan
AIR ALMATY	AK-0331-07	LMY	Republic of Kazakhstan
AIR COMPANY KOKSHETAU	AK-0357-08	KRT	Republic of Kazakhstan
AIR DIVISION OF EKA	Unknown	Unknown	Republic of Kazakhstan
AIR FLAMINGO	Unknown	Unknown	Republic of Kazakhstan
AIR TRUST AIRCOMPANY	Unknown	Unknown	Republic of Kazakhstan
AK SUNKAR AIRCOMPANY	Unknown	AKS	Republic of Kazakhstan
ALMATY AVIATION	Unknown	LMT	Republic of Kazakhstan
ARKHABAY	Unknown	KEK	Republic of Kazakhstan
ASIA CONTINENTAL AIRLINES	AK-0345-08	CID	Republic of Kazakhstan
ASIA CONTINENTAL AVIALINES	AK-0371-08	RRK	Republic of Kazakhstan
ASIA WINGS	AK-0390-09	AWA	Republic of Kazakhstan
ATMA AIRLINES	AK-0372-08	AMA	Republic of Kazakhstan
ATYRAU AYE JOLY	AK-0321-07	JOL	Republic of Kazakhstan
AVIA-JAYNAR	Unknown	SAP	Republic of Kazakhstan
BEYBARS AIRCOMPANY	Unknown	BBS	Republic of Kazakhstan
BERKUT AIR/BEK AIR	AK-0311-07	BKT/BEK	Republic of Kazakhstan
BURUNDAYAVIA AIRLINES	AK-0374-08	BRY	Republic of Kazakhstan
COMLUX	AK-0352-08	KAZ	Republic of Kazakhstan
DETA AIR	AK-0344-08	DET	Republic of Kazakhstan
EAST WING	AK-0332-07	EWZ	Republic of Kazakhstan
EASTERN EXPRESS	AK-0358-08	LIS	Republic of Kazakhstan
EURO-ASIA AIR	AK-0384-09	EAK	Republic of Kazakhstan
EURO-ASIA AIR INTERNATIONAL	Unknown	KZE	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
FLY JET KZ	AK-0391-09	FJK	Republic of Kazakhstan
INVESTAVIA	AK-0342-08	TLG	Republic of Kazakhstan
IRTYSH AIR	AK-0381-09	MZA	Republic of Kazakhstan
JET AIRLINES	AK-0349-09	SOZ	Republic of Kazakhstan
JET ONE	AK-0367-08	JKZ	Republic of Kazakhstan
KAZAIR JET	AK-0387-09	KEJ	Republic of Kazakhstan
KAZAIRTRANS AIRLINE	AK-0347-08	KUY	Republic of Kazakhstan
KAZAIRWEST	Unknown	KAW	Republic of Kazakhstan
KAZAVIA	Unknown	KKA	Republic of Kazakhstan
KAZAVIASPAS	Unknown	KZS	Republic of Kazakhstan
KOKSHETAU	AK-0357-08	KRT	Republic of Kazakhstan
MEGA AIRLINES	AK-0356-08	MGK	Republic of Kazakhstan
MIRAS	AK-0315-07	MIF	Republic of Kazakhstan
ORLAN 2000 AIRCOMPANY	Unknown	KOV	Republic of Kazakhstan
PANKH CENTER KAZAKHSTAN	Unknown	Unknown	Republic of Kazakhstan
PRIME AVIATION	Unknown	PKZ	Republic of Kazakhstan
SAMAL AIR	Unknown	SAV	Republic of Kazakhstan
SAYAKHAT AIRLINES	AK-0359-08	SAH	Republic of Kazakhstan
SEMEYAVIA	Unknown	SMK	Republic of Kazakhstan
SCAT	AK-0350-08	VSV	Republic of Kazakhstan
SKYBUS	AK-0364-08	BYK	Republic of Kazakhstan
SKYJET	AK-0307-09	SEK	Republic of Kazakhstan
UST-KAMENOGORSK	AK-0385-09	UCK	Republic of Kazakhstan
ZHETYSU AIRCOMPANY	Unknown	JTU	Republic of Kazakhstan
ZHERSU AVIA	Unknown	RZU	Republic of Kazakhstan
ZHEZKAZGANAIR	Unknown	KZH	Republic of Kazakhstan
All air carriers certified by the authorities with responsibility for regulatory oversight of the Kyrgyz Republic, including			Kyrgyz Republic
AIR MANAS	17	MBB	Kyrgyz Republic
ASIAN AIR	36	AAZ	Kyrgyz Republic
AVIA TRAFFIC COMPANY	23	AVJ	Kyrgyz Republic
AEROSTAN (EX BISTAIR-FEZ BISHKEK)	08	BSC	Kyrgyz Republic
CAAS	13	CBK	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
CLICK AIRWAYS	11	CGK	Kyrgyz Republic
DAMES	20	DAM	Kyrgyz Republic
EASTOK AVIA	15	EEA	Kyrgyz Republic
GOLDEN RULE AIRLINES	22	GRS	Kyrgyz Republic
ITEK AIR	04	IKA	Kyrgyz Republic
KYRGYZ TRANS AVIA	31	KTC	Kyrgyz Republic
KYRGYZSTAN	03	LYN	Kyrgyz Republic
KYRGYZSTAN AIRLINE	Unknown	KGA	Kyrgyz Republic
MAX AVIA	33	MAI	Kyrgyz Republic
S GROUP AVIATION	6	SGL	Kyrgyz Republic
SKY GATE INTERNATIONAL AVIATION	14	SGD	Kyrgyz Republic
SKY WAY AIR	21	SAB	Kyrgyz Republic
TENIR AIRLINES	26	TEB	Kyrgyz Republic
TRAST AERO	05	TSJ	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		Unknown	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	Unknown	Republic of Gabon
All air carriers certified by the authorities with responsibility for regulatory oversight of the Republic of Mauritania, including			Republic of Mauritania
MAURITANIA AIRWAYS		MTW	Republic of Mauritania

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 the Philippines, including			Republic of the Philippines
AEROWURKS AERIAL SPRAYING SERVICES	2010030	Unknown	Republic of the Philippines
AIR PHILIPPINES CORPORATION	2009006	GAP	Republic of the Philippines
AIR WOLF AVIATION INC.	200911	Unknown	Republic of the Philippines
AIRTRACK AGRICULTURAL CORPORATION	2010027	Unknown	Republic of the Philippines
ASIA AIRCRAFT OVERSEAS PHILIPPINES INC.	4AN9800036	Unknown	Republic of the Philippines
AVIATION TECHNOLOGY INNOVATORS, INC.	4AN2007005	Unknown	Republic of the Philippines
AVIATOUR'S FLY'N INC.	200910	Unknown	Republic of the Philippines
AYALA AVIATION CORP.	4AN9900003	Unknown	Republic of the Philippines
BEACON	Unknown	Unknown	Republic of the Philippines
BENDICE TRANSPORT MANAGEMENT INC.	4AN2008006	Unknown	Republic of the Philippines
CANADIAN HELICOPTERS PHILIPPINES INC.	4AN9800025	Unknown	Republic of the Philippines
CEBU PACIFIC AIR	2009002	CEB	Republic of the Philippines
CHEMTRAD AVIATION CORPORATION	2009018	Unknown	Republic of the Philippines
CM AERO	4AN2000001	Unknown	Republic of the Philippines
CORPORATE AIR	Unknown	Unknown	Republic of the Philippines
CYCLONE AIRWAYS	4AN9900008	Unknown	Republic of the Philippines
FAR EAST AVIATION SERVICES	2009013	Unknown	Republic of the Philippines
F.F. CRUZ AND COMPANY, INC.	2009017	Unknown	Republic of the Philippines
HUMA CORPORATION	2009014	Unknown	Republic of the Philippines
INAEC AVIATION CORP.	4AN2002004	Unknown	Republic of the Philippines
ISLAND AVIATION	2009009	SOY	Republic of the Philippines
ISLAND TRANSVOYAGER	2010022	Unknown	Republic of the Philippines
LION AIR, INCORPORATED	2009019	Unknown	Republic of the Philippines
MACRO ASIA AIR TAXI SERVICES	2010029	Unknown	Republic of the Philippines
MINDANAO RAINBOW AGRICULTURAL DEVELOPMENT SERVICES	2009016	Unknown	Republic of the Philippines
MISIBIS AVIATION & DEVELOPMENT CORP	2010020	Unknown	Republic of the Philippines
OMNI AVIATION CORP.	2010033	Unknown	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
PACIFIC EAST ASIA CARGO AIRLINES, INC.	4AS9800006	PEC	Republic of the Philippines
PACIFIC AIRWAYS CORPORATION	4AN9700007	Unknown	Republic of the Philippines
PACIFIC ALLIANCE CORPORATION	4AN2006001	Unknown	Republic of the Philippines
PHILIPPINE AIRLINES	2009001	PAL	Republic of the Philippines
PHILIPPINE AGRICULTURAL AVIATION CORP.	4AN9800015	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 ASIA INC.	2009004	Unknown	Republic of the Philippines
SOUTHSTAR AVIATION COMPANY, INC.	4AN9800037	Unknown	Republic of the Philippines
SPIRIT OF MANILA AIRLINES CORPORATION	2009008	MNP	Republic of the Philippines
SUBIC INTERNATIONAL AIR CHARTER	4AN9900010	Unknown	Republic of the Philippines
SUBIC SEAPLANE, INC.	4AN2000002	Unknown	Republic of the Philippines
TOPFLITE AIRWAYS, INC.	4AN9900012	Unknown	Republic of the Philippines
TRANSGLOBAL AIRWAYS CORPORATION	2009007	TCU	Republic of the Philippines
WORLD AVIATION, CORP.	Unknown	Unknown	Republic of the Philippines
WCC AVIATION COMPANY	2009015	Unknown	Republic of the Philippines
YOKOTA AVIATION, INC.	Unknown	Unknown	Republic of the Philippines
ZENITH AIR, INC.	2009012	Unknown	Republic of the Philippines
ZEST AIRWAYS INCORPORATED	2009003	RIT	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	Unknown	Sao Tome and Principe
BRITISH GULF INTERNATIONAL COMPANY LTD	01/AOC/2007	BGI	Sao Tome and Principe
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	TMS	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
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
SUDAN AIRWAYS	Unknown	SUD	Republic of the Sudan
SUN AIR COMPANY	051	SNR	Republic of the Sudan
MARSLAND COMPANY	040	MSL	Republic of the Sudan
ATTICO AIRLINES	023	ETC	Republic of the Sudan
FOURTY EIGHT AVIATION	054	WHB	Republic of the Sudan
SUDANESE STATES AVIATION COMPANY	010	SNV	Republic of the Sudan
ALMAJARA AVIATION	Unknown	MJA	Republic of the Sudan
BADER AIRLINES	035	BDR	Republic of the Sudan
ALFA AIRLINES	054	AAJ	Republic of the Sudan
AZZA TRANSPORT COMPANY	012	AZZ	Republic of the Sudan
GREEN FLAG AVIATION	017	Unkown	Republic of the Sudan
ALMAJAL AVIATION SERVICE	015	MGG	Republic of the Sudan
NOVA AIRLINES	001	NOV	Republic of the Sudan
TARCO AIRLINES	056	Unknown	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		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-0388-09	KZR	Kazakhstan	All fleet with the exception of: 2 aircraft of type B767; 4 aircraft of type B757; 10 aircraft of type A319/320/321; 5 aircraft of type Fokker 50	All fleet with the exception of: P4-KCA, P4-KCB; P4-EAS, P4-FAS, P4-GAS, P4-MAS; P4-NAS, P4-OAS, P4-PAS, P4-SAS, P4-TAS, P4-UAS, P4-VAS, P4-WAS, P4-YAS, P4-XAS; P4-HAS, P4-IAS, P4-JAS, P4-KAS, P4-LAS	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 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 B-767-200	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 A300, 8 aircraft of type A310, 1 aircraft 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 CL601; 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: 3 aircraft of type Boeing B-777 and 4 aircraft of type Boeing B-737-700	All fleet with the exception of: D2-TED, D2-TEE, D2-TEF, D2-TBF, D2, TBG, D2-TBH, D2-TBJ	Republic of Angola
UKRAINIAN MEDITERRANEAN	164	UKM	Ukraine	All fleet with the exception of: one aircraft of type MD-83	All fleet with the exception of: UR-CFF	Ukraine

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

⁽²⁾ Air Astana is only allowed to use the specific aircraft mentioned for its current operations within the European Union.

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

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

COMMISSION REGULATION (EU) No 1072/2010
of 22 November 2010
establishing a prohibition of fishing for northern prawn in NAFO 3L by vessels flying the flag of
Lithuania

THE EUROPEAN COMMISSION,

HAS ADOPTED THIS REGULATION:

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

Article 1

Quota exhaustion

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy ⁽¹⁾, and in particular Article 36(2) thereof,

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2010 shall be deemed to be exhausted from the date set out in that Annex.

Whereas:

Article 2

Prohibitions

(1) Council Regulation (EU) No 53/2010 of 14 January 2010 fixing for 2010 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in waters where catch limitations are required ⁽²⁾, lays down quotas for 2010.

Fishing activities for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. In particular it shall be prohibited to retain on board, relocate, tranship or land fish from that stock caught by those vessels after that date.

(2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2010.

Article 3

Entry into force

(3) It is therefore necessary to prohibit fishing activities for that stock,

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

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

Done at Brussels, 22 November 2010.

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

Lowri EVANS

Director-General for Maritime Affairs and Fisheries

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ OJ L 21, 26.1.2010, p. 1.

ANNEX

No	46/T&Q
Member State	Lithuania
Stock	PRA/N3L.
Species	Northern prawn (<i>Pandalus borealis</i>)
Zone	NAFO 3L
Date	21.10.2010

COMMISSION REGULATION (EU) No 1073/2010**of 22 November 2010****establishing a prohibition of fishing for saithe in IIIa; EU waters of IIa, IIb, IIc, IIId and IV by vessels flying the flag of Sweden**

THE EUROPEAN COMMISSION,

HAS ADOPTED THIS REGULATION:

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

*Article 1***Quota exhaustion**

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy ⁽¹⁾, and in particular Article 36(2) thereof,

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2010 shall be deemed to be exhausted from the date set out in that Annex.

Whereas:

*Article 2***Prohibitions**

(1) Council Regulation (EU) No 53/2010 of 14 January 2010 fixing for 2010 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in waters where catch limitations are required ⁽²⁾, lays down quotas for 2010.

Fishing activities for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. In particular it shall be prohibited to retain on board, relocate, tranship or land fish from that stock caught by those vessels after that date.

(2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2010.

*Article 3***Entry into force**

(3) It is therefore necessary to prohibit fishing activities for that stock,

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

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

Done at Brussels, 22 November 2010.

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

Lowri EVANS

Director-General for Maritime Affairs and Fisheries

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ OJ L 21, 26.1.2010, p. 1.

ANNEX

No	47/T&Q
Member State	Sweden
Stock	POK/2A34.
Species	Saithe (<i>Pollachius virens</i>)
Zone	IIIa; EU waters of IIa, IIb, IIc, IIId and IV
Date	1.11.2010

COMMISSION REGULATION (EU) No 1074/2010**of 22 November 2010****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 Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector ⁽²⁾, and in particular Article 138(1) thereof,

Whereas:

Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 23 November 2010.

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

Done at Brussels, 22 November 2010.

*For the Commission,
On behalf of the President,**Jean-Luc DEMARTY
Director-General for Agriculture and
Rural Development*⁽¹⁾ OJ L 299, 16.11.2007, p. 1.⁽²⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

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

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	AL	70,2
	EC	92,0
	IL	95,1
	MA	72,3
	MK	57,4
	ZZ	77,4
0707 00 05	AL	54,8
	EG	145,5
	JO	182,1
	MK	59,4
	TR	144,5
	ZZ	117,3
0709 90 70	MA	70,3
	TR	144,5
	ZZ	107,4
0805 20 10	MA	57,4
	ZA	141,4
	ZZ	99,4
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	HR	47,1
	IL	75,6
	MA	61,9
	TN	78,6
	TR	57,1
	UY	58,6
	ZZ	63,2
0805 50 10	AR	43,3
	CL	79,2
	MA	68,0
	TR	66,6
	UY	57,1
	ZZ	62,8
0808 10 80	AR	74,9
	AU	187,8
	BR	49,6
	CL	75,8
	CN	82,6
	MK	24,7
	NZ	98,1
	US	113,3
	ZA	103,5
0808 20 50	ZZ	90,0
	CL	78,3
	CN	71,0
	US	160,9
	ZZ	103,4

⁽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'.

COMMISSION REGULATION (EU) No 1075/2010**of 22 November 2010****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EU) No 867/2010 for the 2010/11 marketing year**

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 Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector ⁽²⁾, and in particular Article 36(2), second subparagraph, second sentence thereof,

Whereas:

- (1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups

for the 2010/11 marketing year are fixed by Commission Regulation (EU) No 867/2010 ⁽³⁾. These prices and duties have been last amended by Commission Regulation (EU) No 1069/2010 ⁽⁴⁾

- (2) The data currently available to the Commission indicate that those amounts should be amended in accordance with the rules and procedures laid down in Regulation (EC) No 951/2006,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties applicable to imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Regulation (EU) No 867/2010 for the 2010/11, marketing year, are hereby amended as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 23 November 2010.

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

Done at Brussels, 22 November 2010.

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

Jean-Luc DEMARTY
*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 178, 1.7.2006, p. 24.

⁽³⁾ OJ L 259, 1.10.2010, p. 3.

⁽⁴⁾ OJ L 304, 20.11.2010, p. 16.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 23 November 2010

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 11 10 ⁽¹⁾	54,92	0,00
1701 11 90 ⁽¹⁾	54,92	0,00
1701 12 10 ⁽¹⁾	54,92	0,00
1701 12 90 ⁽¹⁾	54,92	0,00
1701 91 00 ⁽²⁾	49,66	2,57
1701 99 10 ⁽²⁾	49,66	0,00
1701 99 90 ⁽²⁾	49,66	0,00
1702 90 95 ⁽³⁾	0,50	0,22

⁽¹⁾ For the standard quality defined in point III of Annex IV to Regulation (EC) No 1234/2007.⁽²⁾ For the standard quality defined in point II of Annex IV to Regulation (EC) No 1234/2007.⁽³⁾ Per 1 % sucrose content.

DECISIONS

DECISION OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES

of 18 November 2010

appointing a Judge to the General Court

(2010/703/EU)

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 19 thereof,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 254 and 255 thereof,

Whereas:

- (1) In accordance with the provisions of the Treaties, every 3 years there should be a partial replacement of the Judges of the General Court. For the period from 1 September 2010 to 31 August 2016, 14 Judges had to be appointed to the General Court.
- (2) By Decisions 2010/362/EU ⁽¹⁾, 2010/400/EU ⁽²⁾ and 2010/629/EU ⁽³⁾, the Conference of the Representatives of the Governments of the Member States appointed 13 Judges to the General Court for the above period.
- (3) Pending completion of the process of appointment of a Judge to the post remaining to be filled, in accordance with the provisions of the Treaty on the Functioning of the European Union, Mr Valeriu CIUCĂ, appointed as a Judge on 1 January 2007, remained in office after 31 August 2010.

- (4) The Government of Romania has nominated Mr Andrei POPESCU for the post of Judge of the General Court. The panel set up by Article 255 of the Treaty on the Functioning of the European Union has given an opinion on the suitability of that candidate to perform the duties of Judge of the General Court.

- (5) A member of the General Court should therefore be appointed for the period from 26 November 2010 to 31 August 2016,

HAVE ADOPTED THIS DECISION:

Article 1

Mr Andrei POPESCU is hereby appointed Judge of the General Court for the period from 26 November 2010 to 31 August 2016.

Article 2

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

Done at Brussels, 18 November 2010.

For the Council
The President
J. DE RUYT

⁽¹⁾ OJ L 163, 30.6.2010, p. 41.

⁽²⁾ OJ L 186, 20.7.2010, p. 29.

⁽³⁾ OJ L 278, 22.10.2010, p. 29.

COMMISSION DECISION

of 22 November 2010

on the recognition of Sri Lanka as regards education, training and certification of seafarers for the recognition of certificates of competency

(notified under document C(2010) 7963)

(Text with EEA relevance)

(2010/704/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers⁽¹⁾ and in particular Article 19(3) thereof,

Having regard to the letter of 13 May 2005 from the Cypriot authorities, requesting the recognition of Sri Lanka in order to recognise certificates of competency issued by this country,

Whereas:

- (1) Member States may decide to endorse seafarers' certificates of competency issued by third countries, provided that the relevant third country is recognised by the Commission as ensuring that this country complies with the requirements of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW Convention)⁽²⁾.
- (2) Following the request of the Cypriot authorities, the Commission assessed the maritime education, training and certification systems in Sri Lanka in order to verify whether this country complies with the requirements of the STCW Convention and whether appropriate measures have been taken to prevent fraud involving certificates. This assessment was based on the results of a fact-finding inspection performed by experts of the European Maritime Safety Agency in November 2006.
- (3) Where deficiencies had been identified during the assessment of compliance with the STCW Convention, the Sri Lankan authorities provided to the Commission the requested relevant information and evidence concerning the implementation of appropriate and sufficient corrective action that address most of these issues.
- (4) Some remaining shortcomings, relating to few aspects of the national procedures concerning education training

and certification of seafarers, concern in particular missing specific legal provisions regarding qualifications of instructors, the use of simulators, as well as the lack of design and testing for simulators exercises in one of the maritime education and training institutions that were examined. The Sri Lankan authorities have therefore been invited to implement further corrective action regarding these matters. However, these shortcomings do not warrant calling into question the overall level of compliance of the Sri Lankan systems regarding maritime education, training and certification with the STCW Convention.

- (5) The outcome of the assessment of compliance and the evaluation of the information provided by the Sri Lankan authorities demonstrate that Sri Lanka complies with the relevant requirements of the STCW Convention. Sri Lanka has also taken appropriate measures to prevent fraud involving certificates and should thus be recognised by the Union.
- (6) The measures provided for in this Decision are in accordance with the opinion of the Committee on Safe Seas and the Prevention of Pollution from Ships,

HAS ADOPTED THIS DECISION:

Article 1

Sri Lanka is recognised as regards education, training and certification of seafarers, for the purpose of recognition of certificates of competency issued by this country.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 22 November 2010.

For the Commission

Siim KALLAS

Vice-President

⁽¹⁾ OJ L 323, 3.12.2008, p. 33.

⁽²⁾ Adopted by the International Maritime Organisation.

COMMISSION DECISION

of 22 November 2010

on the withdrawal of the recognition of Georgia as regards education, training and certification of seafarers for the recognition of certificates of competency

(notified under document C(2010) 7966)

(Text with EEA relevance)

(2010/705/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers⁽¹⁾ and in particular Article 20(2) thereof,

Having regard to the reassessment of compliance of Georgia carried out by the Commission pursuant to Article 21(1) of Directive 2008/106/EC,

Whereas:

- (1) Member States may decide to endorse seafarers' certificates of competency issued by third countries, provided that the relevant third country is recognised by the Commission as ensuring that this country complies with the requirements of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW Convention)⁽²⁾.
- (2) Georgia is recognised at the level of the European Union under the procedure established by Article 18(3)(c) of Directive 2001/25/EC of the European Parliament and of the Council of 4 April 2001 on the minimum level of training of seafarers⁽³⁾, as recognitions of Georgian certificates by Italy and Greece are published in the *Official Journal of the European Union*⁽⁴⁾ and therefore remain valid in accordance with Article 19(5) of Directive 2008/106/EC, in spite of the fact that Directive 2001/25/EC has been repealed.
- (3) The Commission assessed the maritime education, training and certification systems in Georgia, in line with Article 21(1) of Directive 2008/106/EC, to verify whether this country continues to comply with the requirements of the STCW Convention and whether appropriate measures have been taken to prevent fraud involving certificates. This assessment, which was based on the results of a fact-finding inspection performed by experts of the European Maritime Safety Agency in September 2006, revealed several deficiencies.

- (4) The Commission provided the Member States with a report on the results of the assessment of compliance.
- (5) Subsequently, the Commission requested the Georgian authorities, by letters of 27 February 2009 and 23 March 2010, to provide evidence demonstrating whether the deficiencies detected during the assessment were adequately addressed.
- (6) Where deficiencies had been identified during the assessment of compliance with the STCW Convention, the Georgian authorities provided to the Commission on its request, by letters of 1 May 2009, 12 January 2010, 17 February 2010 and 14 April 2010, some information concerning the implementation of corrective action as regards these issues.
- (7) The evaluation of the replies of the Georgian authorities, which was conducted by the Commission, confirmed that the information provided address only a very minor part of these deficiencies, while it revealed that the majority of the deficiencies that were identified during the assessment of compliance remain unresolved. These deficiencies concern several sections of the STCW Convention and especially missing national provisions to implement some requirements of the STCW Convention, such as in particular the implementation of a quality standards system and the use of simulators, the functioning of the quality standards system both in the administration and some maritime education and training institutions, the monitoring of these institutions by the administration, as well as numerous certification requirements relating to both the deck and engine departments.
- (8) These non-conformities affect various core provisions of the STCW Convention and risk affecting the overall level of competence of seafarers holding certificates issued by Georgia.
- (9) The outcome of the assessment of compliance and the evaluation of the information provided by the Georgian authorities demonstrate that Georgia does not comply fully with the relevant requirements of the STCW Convention and therefore its recognition by the European Union should be withdrawn.

⁽¹⁾ OJ L 323, 3.12.2008, p. 33.

⁽²⁾ Adopted by the International Maritime Organisation.

⁽³⁾ OJ L 136, 18.5.2001, p. 17.

⁽⁴⁾ OJ C 268, 7.11.2003, p. 7, and OJ C 85, 7.4.2005, p. 8.

- (10) The measures provided for in this Decision are in accordance with the opinion of the Committee on Safe Seas and the Prevention of Pollution from Ships,

Article 2

This Decision is addressed to the Member States.

HAS ADOPTED THIS DECISION:

Done at Brussels, 22 November 2010.

Article 1

The recognition of Georgia that was granted according to Article 18(3)(c) of Directive 2001/25/EC is withdrawn as regards education, training and certification of seafarers, for the purpose of recognition of certificates of competency issued by this country.

For the Commission

Siim KALLAS

Vice-President

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⁽¹⁾ Text with EEA relevance

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