

Survey on the Implementation of the EC Interest and Royalty Directive

This Survey aims to provide a comprehensive overview of the implementation of the Interest and Royalty Directive and application of Article 15(2) of the Agreement between the EU and the Swiss Confederation in the Member States covered

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PREFACE

Council Directive 2003/49/EC on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States (the "**Directive**") was adopted on 3 June 2003. Its main objective is to eliminate source taxation of interest and royalty payments, albeit limited to payments made between associated companies of different Member States. The adopted Directive covers cross-border situations and includes payments made to or by permanent establishments of the associated companies. Member States were required to implement the Directive by 1 January 2004.

The Directive was adapted to the accession of the new Member States by Council Directives 2004/66/EC and 2004/76/EC, which incorporated the respective taxes and qualifying legal forms of the new Member States and provided for temporary derogations. These amendments had to be implemented by the date of the accession, i.e. 1 May 2004.

By means of an agreement concluded between the EU and the Swiss Confederation, a regime similar to that applicable to intra-EU interest and royalty flows covered by the Directive was extended to Switzerland. The agreement between the EU and Switzerland, providing for measures equivalent to those set out in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments (the "**Agreement**"), was concluded on 26 October 2004 and became effective on 1 July 2005. The Agreement, signed on the basis of Art. 300 of the EC Treaty, is binding on the Member States from the date of its conclusion.

Article 15 (2) of the Agreement exempts interest and royalty payments made between associated companies of Member States and Switzerland and their permanent establishments from taxation at source. In comparison to the Directive, the provisions of the Agreement dealing with interest and royalty income are less extensive. The Agreement sets out association and residency criteria similar to those set out in the Directive. It requires interest and royalty income, in particular, to be subject to tax and designates the forms of Swiss limited companies benefiting from the exemption. Article 15 (2) does not, however, include a definition of interest and royalties. In contrast to the Directive, it requires the companies of Member States to take the form of a limited company, thereby being silent on possible legal forms. The Agreement does not contain sourcing or procedural rules.

The Court of Justice of the European Communities (the "**ECJ**") has stated that a provision of an international agreement concluded by the EU and a third state is directly applicable in the Member States if it provides for a clear and unambiguous obligation, the fulfilment or the effects of which do not depend on the issuing of a further act (see, e.g., Case 12/86 *Demirel* and Case C-192/89, *Sevinçe*). To our knowledge, no opinion of the ECJ is available on the direct effect of Art. 15 (2) of the Agreement up to the present.

THE SURVEY

We were asked to conduct a survey on the implementation of the Directive and application of the Agreement with respect to exemption from withholding taxes on interest and royalty payments in the Member States of the EU (the "Survey"). The Survey covers the implementation in the following twenty EU Member States: Austria, Belgium, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Luxembourg, Malta, the Netherlands, the Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom. Five Member States benefiting from the transitional regime on both interest and royalty payments (Greece, Latvia, Lithuania, Poland and Portugal) were excluded from the scope of the Survey. The Survey does not deal with the transitional arrangements set out in Art. 6 of the Directive. Information included in the Survey is based on legislation effective in the Member States covered as of 19 December 2005, with updates on relevant developments for the Czech Republic, Slovakia, and Slovenia.

This Survey aims to provide a comprehensive overview of the implementation of the Directive and application of Art. 15 (2) of the Agreement in the Member States covered. In this respect, the Survey presents a detailed description of the national rules combined with an analysis of the implementation of the basic rules of the Directive and the Agreement. Although the Survey generally identifies potential deficiencies or inconsistencies in implementation, it does not aim at drawing conclusions as to the degree of compliance by each Member State with its obligations under the Directive or the Agreement.

The Survey was carried out by the European Team of the IBFD Research Department, and where necessary with the assistance of local IBFD correspondents. The team members used their expertise and the authentic legislation as primary sources of reference in drafting the individual country surveys.

The Survey includes the following sections:

- an executive summary;
- a comparative analysis in the form of tables; and
- the individual chapters on the implementation of the Directive and the Agreement for each Member State covered.

The country chapters, which form the principal part of the Survey, present a detailed description of the relevant national rules applicable under the individual provisions of the Directive or relevant provisions of the Agreement, including complete legal references. Each chapter is structured based on a questionnaire prepared by the Commission. A comment on interpretation of national rules and on practices adopted by the tax authorities of the Member States is included only if such information is publicly available. The comparative analysis is the key reference for an overview for the situation in the EU as whole, as it consists of tables focusing on options used by the Member States under the Directive and some aspects of the implementation of the Directive and the Agreement. The executive summary outlines the findings of the country reports and the comparative analysis in such a way as to make it feasible to draw general conclusions on the implementation and compliance by the Member States. For reference purposes, we enclose the legal texts obtained from the web-site of the Official Journal of the European Communities.

EXECUTIVE SUMMARY

I. THE INTEREST AND ROYALTIES DIRECTIVE

1. General

1.1. Time and methods

The Directive has been generally implemented in all twenty Member States by means of relevant legislative measures. The legislative measures transposing the Directive have been adopted before 1 January 2004 in all Member States, except for **Denmark, Estonia, Germany, Italy, Luxembourg, the Slovak Republic** and **Sweden**. In these Member States the implementation legislation was adopted at a later date and became effective retroactively from 1 January 2004. In respect of **the Slovak Republic**, the implementation legislation only became effective on 1 January 2005. **Belgium** has generally implemented the Directive in time, except with regard to a particular category of interest, for which measures with retroactive effect were adopted in July and August 2004.

In general, most Member States implemented the Directive by introducing legislative amendments that adapted the existing national rules with the aim of bring them into line with the Directive. Rules directly referring to the provisions of the Directive have been introduced in **Denmark, Ireland, Malta** and **the UK**.

In most Member States, with the exception of **Italy**, no comprehensive administrative guidance has been issued to date.

1.2. Practical implications of the Directive: tax treatment of payments under domestic and treaty law

Some of the Member States did not levy taxes on interest and/or royalty payments before 1 January 2004. A number of Member States abolished withholding taxes on interest or royalty income paid to non-resident entities in the framework of the adoption of the Directive. As a result of this:

- **Cyprus, Hungary, Luxembourg, Malta** and **the Netherlands** presently do not generally levy withholding taxes on both interest and royalty income paid to non-resident entities;
- **Austria, Denmark, Estonia, Germany** and **Sweden** do not levy any tax on outbound interest paid to non-resident entities, subject to certain exceptions; while **Belgium** and **Finland** exempt a wide range of categories of interest from withholding tax; and
- **Ireland** does not levy a withholding tax on royalties paid to non-resident entities, except for patent royalties.

In the absence of withholding taxes, the implementation of the Directive in these Member States was limited to separate categories of interest or royalty income that were subject to withholding tax. Furthermore, the bilateral tax treaties between the Member States often provide for the exemption at source for interest and royalty payments (see annexes to country surveys).

2. Concepts of interest and royalties

No significant deviations from the concepts of interest and royalties were identified in the Member States with the exception of **the Slovak Republic** and **Slovenia**. In these Member States, the concept of royalties appears to be significantly narrower than that set out in Art. 2 (b) of the

Directive (see Table 3 and the country reports for details). No further significant issues were identified.

It should be noted that the relevant concepts do not always literally reproduce the definitions set out in Art. 2 of the Directive. As a rule, however, the wording of the national concepts permits an interpretation that covers the scope of interest or royalty concepts under the Directive. In countries in which no taxes are imposed on interest and/or royalties (e.g. Hungary and Luxembourg), the deficiencies of the concepts for domestic tax law purposes do not produce a result contrary to the Directive, as there will be no tax levied on any type of payments listed in Art. 2 (a) and (b) of the Directive.

All Member States with exception of **Cyprus, Denmark, Estonia, Malta, Slovenia** and **Spain** exercised an option not to apply the relief under the Directive to interest or royalties falling within the categories of payments listed in Art. 4 (1) of the Directive (see Table 3 for details). In addition, the Member States largely use transfer pricing and/or thin capitalization rules to deny the relief to the excess amounts of interest or royalties, as authorized by Art. 4 (2) of the Directive. As a result, a withholding tax may be levied on excess or reclassified amounts. For payments reclassified as distributions of profit, all Member States, except for **France**, would nevertheless apply the exemption available under the EC Parent-Subsidiary Directive, provided that all relevant conditions are met (see Table 3).

3. Criteria applicable to companies

3.1. Types of entities

In those Member States in which no taxes are generally levied on outbound interest and/or royalty payments to non-resident entities, the general exemption applies irrespective of the type of entity. These Member States may still levy tax on some categories of interest or royalty income and, therefore, have transposed the Directive to provide for an exemption for these particular categories of income (for the list of Member States and overview of non-exempt categories, see section 1.2. above and Table 1). With regard to these specific categories, the benefits are usually available only for companies listed in the Annex to the Directive.

The Survey identified that the Member States have often implemented the term "company of the Member State" in respect of recipients of income only. Some Member States have not restricted application of relief to types of domestic entities listed in the Annex, but extended it to all types of resident companies making interest or royalty payment. In some instances, the Annex to the Directive lists all forms of companies possible under domestic law (e.g., **Slovenia**). With regard to the recipients of payments, the implementing provisions are usually restricted to entities listed in the Directive. **The Slovak Republic** has extended application of benefits to any types of legal entities, which are taxpayers resident in a Member State.

3.2. Hybrid entities

The Survey identified that no domestic comprehensive guidance has been issued so far in Member States for situations involving hybrid entities. It appears that there is no clear approach as to how to deal with these situations. It was identified that certain types of **Czech and Slovak** entities listed in the Annex to the Directive take the form of a partnership transparent for tax purposes, and certain types of **Italian** entities listed have the option to be subject to tax at the level of their members. These entities may potentially be regarded as transparent by other Member States, thereby giving rise the issues of compliance with the residency and subject-to-tax requirements. It was often suggested that the benefits of the Directive may be denied when payments are made to these entities if they fail to prove that all necessary requirements are met.

3.3. Residence and subject-to-tax requirements

In those Member States in which no taxes are levied on outbound interest and/or royalty payments to non-resident entities, it is generally not required that the recipient is resident in an EU Member State, or meets a subject-to tax requirement.

The Member States generally follow the residency requirements of Art. 3 (a) of the Directive in respect of companies, although sometimes with slight deviations (see Table 4 and the country surveys for details). **Austria** and **France** require that a company must have its effective management in one of the Member States and be liable to corporate income tax, also in the state in which its effective management is located. In **Belgium**, there is no explicit reference to the place of effective management in the text of the implementing provision, but this criterion follows from specific domestic provisions. This factor affects the application of the Directive in situations involving dual resident companies between Member States and may result in the denial of benefits. Potential problems in situations involving dual resident companies have also been identified in **Italy**.

The Member States largely transposed the requirement that the recipient company must be subject to tax ("subjective" subject-to-tax requirement, see Table 4). **France** and **Italy** require that the recipient company must be subject to tax on the interest or royalty income ("objective" subject-to-tax requirement). **The Czech Republic**, in addition to the requirement that the recipient company must not be exempt from tax as set out in Art. 3 (a) (iii), also requires that the recipient company must not have an option of being exempt. The ruling request to be filed with the Czech tax authorities for the application of relief under the Directive must include confirmation by the tax authorities of the other Member State that the recipient is subject to a listed tax, which has the same or similar character as the Czech income tax.

3.4. "Association" criteria

In those Member States in which no taxes are levied on outbound interest and/or royalty payments to non-resident entities, no affiliation is required.

For the purposes of the application of the exemption under the Directive, the majority of the Member States covered require a 25% direct holding in the capital and/or of voting rights (see Table 5). **Belgium** permits indirect holdings, but there is no guidance on the calculation of these holdings. **Czech** law does not require a parent company to be resident in a Member State in situations involving "sister" companies (Art. 3 (b) (iii) of the Directive) and, moreover, permits an individual to act as a holding element.

With the exception of **Ireland** and **Italy**, none of the Member States have exercised the option under Art. 3 (b) to replace the holding in the capital criterion with that of the voting rights. **The Czech Republic** and **the UK** require minimum holding of either in the capital or of voting rights. In **France**, the implementing provision requires a holding in the capital; however, similarly to the corresponding provision for implementing the EC Parent-Subsidiary Directive the term "capital" could be interpreted as requiring full ownership in terms of both capital and voting rights. This is expected to be clarified by the tax authorities in an administrative guideline.

3.5. Beneficial ownership

Member States usually require the recipient company to be the beneficial owner of income received. In many instances, however, the definition of the beneficial owner has been transposed with deviations, has not been incorporated into the law or has not been incorporated because the existing domestic law concept applies (for details, see Table 4).

The Survey identified that no extensive case law or guidance on the interpretation of this requirement specific to the legislation transposing the Directive has yet been made available publicly.

4. Permanent establishments

4.1. Definition

Austria, Finland, Germany, Ireland and **the UK** have implemented a specific definition for the purposes of exemption of interest and royalties paid to qualifying companies. Other Member States use the concept of permanent establishment under general domestic law (see Table 6).

4.2. Tax-deductible expense and beneficial ownership requirements

The Survey identified that several Member States have not transposed the requirement under Art. 1 (3) of the Directive that the payment must represent a tax-deductible expense for a permanent establishment making a payment as well as the beneficial ownership criteria set out in Art. 1 (5) (see Table 6 for details). No instances have been identified of a Member State denying the relief to a payment not recognized as a tax-deductible expense. Also no issues have been identified regarding the application of source rules (Art. 1 (2) of the Directive) (see Table 6).

4.3. Permanent establishments in third countries

Apart from those Member States that in general do not levy taxes on interest and/or royalty payments paid to non-resident entities, all Member States, with the exception of **the Slovak Republic**, have transposed Art. 1 (8) of the Directive, which provides that the exemption does not apply if the recipient of the payment is a permanent establishment situated in a third state (see Table 6).

5. Procedure

5.1. Minimum holding period

Most of the Member States have exercised the option to require a minimum holding period, sometimes shorter than that provided for in Art. 1 (10) of the Directive (see Table 7 for details). The implementing rules in **Ireland, Slovenia** and **Spain** do not allow the relief to be applied if the minimum holding period is not satisfied at the time of payment but is complied with subsequently.

5.2. Formalities and method

Apart of those Member States which in general do not levy taxes on interest and/or royalty payments paid to non-resident entities, Member States often make the exemption conditional on an attestation or a prior decision of the tax authorities. **Cyprus, Estonia, Finland, the Netherlands, the Slovak Republic, Spain** and **Sweden** require neither an attestation nor a decision. All Member States operate an exemption at source method. Refunds are also generally available. See Table 7 for details.

6. Measures against fraud and abuse

All Member States apply general anti-abuse measures under domestic law to deny the relief under the Directive in cases of fraud and abuse. In many instances, specific measures for the purposes of the Directive have been introduced (see Table 7 for details). Only **Austria** and **Germany** have introduced specific measures that follow closely the wording of Art. 5 (2) of the



Directive. **France, Italy** and **Spain** have implemented provisions that allow the tax authorities to deny the benefits of the Directive when the recipient company is controlled by non-EU residents. In **Malta**, the tax authorities are allowed to deny the exemption at source if the recipient company is owned or controlled by a person ordinarily resident and domiciled in Malta.

II. THE AGREEMENT

In the majority of Member States covered by this Survey, no specific measures have been introduced in respect of Art. 15 (2) of the Agreement and the application of exemption in respect of interest and royalty payments under the Agreement is unclear (see Table 8). Interest and/or royalties paid to Swiss entities may be effectively exempt under either domestic law or a bilateral tax treaty with Switzerland (as, e.g., in **Denmark**, see the country reports for details). If measures have been adopted or announced, the Member States generally follow the concepts and provisions of the Directive.

TABLE 1. DOMESTIC RATES OF TAXES LEVIED ON INTEREST AND ROYALTY PAYMENTS TO NON-RESIDENT ENTITIES

Country	Interest	Royalties
Austria	0%; certain categories 25% <1>	20%
Belgium	15%, certain categories 0% <2>	15% <3>
Cyprus	0%	0%; certain category 10% <4>
Czech Republic	15%	25%
Denmark	0% <5>	30% <6>
Estonia	0%	15%
Finland	28%; certain categories 0% <7>	28%
France	16% <8>	33.1/3%
Germany	0%; certain categories 26.38%/36.9 <9>	21.1% <10>
Hungary	0%	0%
Ireland	20%, certain categories 0% <11>	0%, patent royalties 20%
Italy	12.5% or 27% <12>	22.5% or 30% <13>
Luxembourg	0% <14>	0%
Malta	0%	0%
Netherlands	0% <15>	0%
Slovak Republic	19%	19%

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Slovenia	25%	25%
Spain	15%	25%
Sweden	0%	28% <16>
United Kingdom	20% <17>	22% on certain categories <18>

- <1> 25% tax applies to interest paid on loans secured by mortgage on immovable property situated in Austria. A withholding tax of 25% is levied on bank deposit interest paid to resident individuals and, unless the company opts to be paid gross, on such interest paid to resident companies. The Ministry of Finance has indicated that this withholding tax will not be levied on bank deposit interest paid to non-resident s, provided that they state in writing that they are non-resident.
- <2> The types of exempt interest include interest on government bonds, registered bonds, mortgage loans on Belgian immovable property and bond interest paid by non-residents, interest on registered corporate bonds and interest on registered bonds issued by resident banks and other financial institutions as well as interest paid in relation to loans to non-profit associations and any other fixed revenue loans issued by corporations and deducted from income.
- <3> This rate is applied to gross income as reduced by a standard expense deduction of 15%. The effective rate is, therefore, 12.75%.
- <4> A flat rate of withholding tax at 10% is applicable on the gross amount of any royalty granted for use within the Republic.
- <5> From 1 April 2004, a withholding tax of 30% may apply in certain circumstances if interest is paid to a foreign controlling entity (having 50% of voting power or share capital). However, the withholding only applies if the foreign resident company is a financial company situated in (a) a tax haven (as defined) or (b) a jurisdiction that does not have a double taxation treaty with Denmark.
- <6> Under domestic law the concept of royalties subject to a withholding tax does not include payments for copyrights, e.g. software, manuscripts, music, movies and videos and payments for the use of industrial, commercial or scientific equipment.
- <7> Interest on bonds, debentures, deposits on bank accounts, foreign tax credits and other loans that are not similar to the borrower's own capital is exempt from tax if paid to a non-resident.
- <8> In practice, loan interest is exempted from French withholding tax provided specific formal conditions are fulfilled.

- <9> The rate is 26.375% (25%, increased by the 5.5% solidarity surcharge) on interest paid and profit-sharing loan instruments, and 36.925% (35%, increased by the 5.5% solidarity surcharge) on anonymous over-the-counter transactions.
- <10> The withholding tax rate of 21.10% is made up of a 20% withholding and a 5.5% solidarity surcharge on the amount of tax due ($5.5\% \times 20\% = 1.10\%$).
- <11> No tax is withheld from interest on hire-purchase payments, on bank deposits held by non-residents, subject to the completion of certain formalities or on payments between banks on current/nominal accounts. Also, no tax is withheld on "short" interest (broadly, interest that is paid on a debt which is not capable of exceeding one year), interest paid by companies on loans taken out in the course of their trade to EU member states or treaty countries.
- <12> Interest paid to non-residents on deposit accounts with banks and post offices is exempt. Interest paid to non-residents on bonds issued by the state, banks or quoted companies, with a maturity of at least 18 months, is exempt if the beneficial owner is a resident of a country with which Italy has an adequate exchange-of-information system. In order to benefit from this exemption, the non-resident must deposit the bond with a resident bank or other approved intermediary.
- Interest on bonds other than those mentioned above is subject to withholding tax and the rate is generally 27%. A 12.5% rate applies to interest on bonds with a maturity of at least 18 months, provided that, at the date of issue, the interest rate was not higher than (a) 200% of the official discount rate, in the case of bonds listed on a EU regulated market or (b) 166% of the official discount rate, in the case of other bonds. Interest on public and private bonds issued before 1 January 1997 may be subject to other rates.
- Interest on deposit accounts and current accounts other than those mentioned above is subject to a 27% withholding tax. Other types of interest paid to non-resident companies, including interest on loans, are subject to withholding tax at a 12.5% rate (27% if paid to a resident of a country or territory outside the European Union with a preferred tax regime).
- <13> Generally a 30% withholding tax must be applied to 75% of the gross income, making the effective rate 22.5% ($30\% \times 75\%$). A 30% withholding tax, levied on the entire amount, applies to the payments for the use, or the right to use, industrial, commercial or scientific equipment if the property is physically situated in Italy.
- <14> Withholding tax is levied at 20% on interest on profit-sharing bonds and debt instrument with remuneration linked to issuer profit. Otherwise interest is exempt from tax.
- <15> Under domestic law no withholding tax is levied on any interest other than interest on profit-sharing bonds, subject to tax at a rate of 25%. These bonds are treated as shares for tax purposes. Please note that in situations of interest payments to a non-resident company having a substantial shareholding (5%) in the Netherlands company, a corporate income tax might be levied (generally 31.5% for 2005), as may be reduced or eliminated under relevant tax treaty.

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- <16> Under domestic law there is no withholding tax on royalties. However, a non-resident recipient of royalties is deemed to have a permanent establishment in Sweden in respect of the royalties received. Thus, the recipient would be taxed in Sweden on the net royalty income, i.e. gross royalty less expenses related to the royalty, at the ordinary corporate income tax rate (28%). This should be compared to the treaty rates, which apply to the gross amount of royalty.
- <17> Interest paid on debts not capable of exceeding one year (short interest) is not subject to withholding tax.
- <18> Under UK domestic law, withholding tax is deducted from royalties in respect of UK registered patents, copyright royalties (other than film royalties), design royalties, certain mineral royalties and royalties which are regarded as annual payments.

TABLE 2. TIME OF IMPLEMENTATION AND AVAILABILITY OF ADDITIONAL GUIDANCE WITH RESPECT TO IMPLEMENTING LEGISLATION

Country	Implementation	Additional guidance to implementing laws
Austria	On time	No
Belgium	Generally on time	No
Cyprus	On time	No
Czech Republic	On time	No
Denmark	Retroactively	No
Estonia	Retroactively	No
Finland	On time (Directive 2004/66 not implemented)	No
France	On time	No
Germany	Retroactively	Explanatory statements to the implementing bill
Hungary	On time	No
Ireland	On time	No
Italy	Retroactively	Yes
Luxembourg	Retroactively	No
Malta	On time	No
Netherlands	On time	No

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Slovak Republic	1 January 2005	No
Slovenia	On time	No
Spain	On time	No
Sweden	Retroactively	Information in the implementing bill
United Kingdom	On time	No

TABLE 3. DEVIATIONS FROM THE CONCEPTS OF INTEREST AND ROYALTY PAYMENTS

Country	Interest	Royalty	Options exercised under Art. 4(1)	Application of Parent-Subsidiary Directive
Austria	None	None	Art.4 (1) (a), (b)	Yes
Belgium	None	Lists only rental payments, lease payments and payments for the use of licensing of tangible assets; no other types mentioned	Art.4 (1) (a)	Yes
Cyprus	None	Cinematograph films, software, information concerning industrial, commercial or scientific experience and industrial, commercial or scientific equipment are not explicitly mentioned but covered under "other like property"	None	N/a
Czech Republic	None	None	Art.4 (1) (b), (c)	N/a
Denmark	None	Does not include payments for the use/right to use copyright and industrial, commercial or scientific equipment	None	Yes
Estonia	None	Broader	None	N/a
Finland	None	None	Art.4 (1) (a)	Yes <1>
France	None	None	Art.4 (1) (a)	No
Germany	None	None	Art. 4 (1) (a), (b)	Yes
Hungary	None	Does not include payments for the use/right to use industrial, commercial or scientific equipment	Art.4 (1) (a)	Yes
Ireland	None	None	Art.4 (1) (a), (d)	N/a <2>

Italy	None	None	Art.4 (1) (a), (b), (c), (d)	Yes
Luxembourg	None	None	Art.4 (1) (a), (b)	Yes
Malta	None	None	None	N/a
Netherlands	None	None	Art.4 (1) (a), (b)	Yes
Slovak Republic	None	Does not include payments for the use/right to use - copyright and similar rights - industrial, commercial or scientific equipment	None	N/a
Slovenia	Includes the term "government securities" and not the term "securities"	Does not include payments for the use/right to use industrial, commercial or scientific equipment	Art. 4 (1) (b), (c), (d)	N/a
Spain	More detailed	Broader, includes personal rights	None	N/a
Sweden	None	Broader <4>	Art.4 (1) (a)	Yes
United Kingdom	None	None	Yes <3>	N/a

- <1> There is no published guidance or practice and application of the Parent-Subsidiary Directive has been suggested in literature.
- <2> Payments re-characterised as constructive dividends and paid to EU-resident companies are not subject to tax under domestic law.
- <3> Exclusions in Art. 4 Art.4 (1) (a), (b), (c), (d) are generally covered in UK domestic law but no withholding tax applies to these payments under domestic law.
- <4> The exemption introduced by the Swedish implementing provisions covers "royalties or periodical fees", which is broader than the concept under Art. 2 (b) of the Directive.

TABLE 4. RESIDENCY, SUBJECT-TO-TAX AND BENEFICIAL OWNERSHIP REQUIREMENTS

Please note that Hungary, Luxembourg and Malta do not generally impose a tax on interest and royalty payments paid to non-resident companies. In Member States, which do not levy tax on interest or royalties and/or subject to tax only a particular category of interest or royalty payments, the table shows relevant information on the implementing provisions exempting these particular categories only and does not generally focus on general exemptions.

Country	Residency	Subject-to-tax requirement	Reference to taxes listed	Beneficial ownership requirement
Austria	Residency with reference to effective management in an EU Member State	Subjective	Yes	Directive concept with additional criteria <1>
Belgium	Residency in an EU Member State <2>	Subjective <3>	No	Yes, definition not transposed
Cyprus	Residency in an EU Member State	Not transposed	No	Not required
Czech Republic	Residency in an EU Member State	Subjective <4>	Yes	Yes, Directive concept
Denmark	Residency in an EU Member State <5>	Subjective	Yes	Directive concept <5>
Estonia	Residency in an EU Member State	Not transposed	No	No
Finland	Residency in an EU Member State	Subjective	No	Yes, Directive concept
France	Effective management in an EU Member State	Objective	No	Yes, definition not transposed
Germany	Residency in an EU Member State	Subjective	Yes	Yes, domestic concept
Hungary	N/a	N/a	N/a	N/a
Ireland	Reference to Art.3 of the Directive	Same as Directive	Yes	Yes, definition not transposed
Italy	Residency in an EU Member State	Objective <6>	Yes	Yes, nearly Directive concept
Luxembourg	N/a	N/a	N/a	N/a

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Malta	N/a	Not transposed	N/a	N/a
Netherlands	Residency in an EU Member State	Subjective	Yes	No
Slovak Republic	Taxpayer in an EU Member State	Subjective	No	Yes, definition not transposed
Slovenia	Resident in an EU Member State	Subjective	Yes	Yes, Directive concept
Spain	Resident in an EU Member State <7>	Not transposed for interest Subjective for royalties	No	Not transposed for interest Directive concept for royalties
Sweden	Resident in an EU Member State	Subjective	Yes	Yes, definition transposed in part
United Kingdom	Resident in an EU Member State other than UK	Subjective	Yes	No

- <1> Austria additionally requires that a debt-claim, right or use of information in respect of which interest or royalty payments arise are effectively connected with the receiving enterprise.
- <2> Under domestic law, residency is based on effective management criteria; in addition a company must be subject to tax without being exempt in a place where its effective management is located.
- <3> Subject-to-tax requirement follows from the domestic anti-abuse provisions; however, no guidance with this respect has been published.
- <4> The Czech implementing provisions require the recipient company to be subject to the taxes listed in the Directive that have the same or similar character as Czech corporate income tax without being exempt or an option to be exempt.
- <5> The requirement was transposed by means of the direct reference to the Directive (see the national survey for Denmark for details).
- <6> The Italian implementing provisions require the recipient company to be subject to one of the taxes listed in the Directive without being exempt on the interest and royalty income.
- <7> Different residency rules apply depending on whether interest or royalties being paid. With respect to interest, exemption does not apply if interest is paid to a company resident in a listed tax haven, which currently includes Cyprus and Malta.

TABLE 5. TRANSPOSITION OF CRITERIA APPLICABLE TO 'ASSOCIATED COMPANIES'

Please note that Hungary, Luxembourg and Malta do not generally impose a tax on interest and royalty payments paid to non-resident companies. In Member States, which do not generally levy tax on interest or royalties or subject to tax only a particular category of interest or royalty payments, the table shows relevant information on the implementing provisions exempting these particular categories only and does not focus on general exemptions.

Country	Application to more types of entities	Application to hybrid entities	Association threshold	Indirect holdings	Capital or voting rights requirement	Dual residency problems
Austria	No <1>	No	25%	No	Capital	No
Belgium	Yes	Yes	25%	Yes	Capital	Yes
Cyprus	No	No	25%	No	Capital	No
Czech Republic	Yes <2>	Yes <2>	25%	No	Capital or voting	No
Denmark	No	No	25%	No	Capital	No
Estonia	Yes	No	25%	No	Capital	No
Finland	No	No	25 %	No	Capital	No
France	No	No	25%	No	Capital <3>	Yes
Germany	No	No	25%	No	Capital	No
Hungary	N/a	N/a	N/a	N/a	N/a	N/a
Ireland	No	No	25%	No	Voting	No
Italy	No	No	25%	No	Voting	Yes
Luxembourg	N/a	N/a	N/a	N/a	N/a	N/a

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Malta	N/a	N/a	N/a	N/a	N/a	N/a
Netherlands	Yes <4>	No	N/a	N/a	N/a	N/a
Slovak Republic	Yes <5>	Yes <5>	25%	No	Capital	No
Slovenia	No	No	25%	No	Capital	No
Spain	Yes <6>	Yes	No/25% <7>	Yes/No <7>	Capital <7>	No
Sweden	No	No	25%	No	Capital	No
United Kingdom	No	No	25%	No	Capital or voting	No

- <1> Austrian law limits the benefits of the Directive to entities listed in the Directive with respect to the recipients of income; with respect to the payer of income the list of the types of benefiting entities is broader than that in the Annex.
- <2> Czech law limits the benefits of the Directive to entities listed in the Directive with respect to the recipients of income; no limitation applies as to the payer of income resident in the Czech Republic. Czech entities subject to tax at the level of its members are listed in the Annex to the Directive.
- <3> The interpretation of term "capital" expected to be clarified in a guideline issues by the tax authority. The same term used in the implementing provisions of the Parent Subsidiary Directive covers holdings of both capital and voting rights.
- <4> The Netherlands limits the benefits of the Directive to entities listed in the Directive with respect to the recipients of income; the payer of income resident in the Netherlands may be an NV (public limited liability company), a BV (private limited liability company), a mutual fund or a cooperative.
- <5> The Slovak law requires the recipient company to be a legal entity, which is a taxpayer in another EU Member State; no limitation applies as to the payer of income resident in the Slovak Republic. Slovak entities subject to tax at the level of its members are listed in the Annex to the Directive.
- <6> No restrictions on the type of entity for interest payments; for royalties, only entities listed in the Annex to the Directive.
- <7> Exemption from tax on interest payments applies to interest paid to companies resident in EU Member States irrespective of affiliation.

TABLE 6. TRANSPOSITION OF CRITERIA APPLICABLE TO PERMANENT ESTABLISHMENT CONCEPT

Please note that Hungary, Luxembourg and Malta do not generally impose a tax on interest and royalty payments paid to non-resident entities. In Member States, which do not levy tax on interest or royalties and/or subject to tax only a particular category of interest or royalty payments, the table shows relevant information on the implementing provisions exempting these particular categories only and does not generally focus on general exemptions.

Country	General domestic or specific definition	Deductibility requirement	Beneficial ownership	Benefits available to PE in a 3rd country	Issues of characterisation of 'arising' or attribution
Austria	Specific	Yes	Yes, Directive concept	No	No
Belgium	General domestic	Not transposed	Not transposed	No	No
Cyprus	General domestic	Not transposed	Not transposed	No	No
Czech Republic	General domestic	Not transposed	Not transposed <1>	No	No
Denmark	General domestic	Not specifically transposed <2>	Yes, Directive concept <2>	No <2>	No
Estonia	General domestic	Not transposed	Not transposed	No	No
Finland	Specific	Not transposed	Yes, Directive concept	No	No
France	General domestic	Not transposed	Yes, definition not transposed	No	No
Germany	Specific	Yes	Yes, nearly Directive concept	No	No
Hungary	N/a	N/a	N/a	N/a	No
Ireland	Specific	Yes	Yes, partially different concept	No	No
Italy	General domestic	Yes	Yes, partially different concept	No	No

Luxembourg	N/a	N/a	N/a	N/a	No
Malta	N/a	N/a	N/a	N/a	No
Netherlands	General domestic <3>	N/a <3>	Not transposed	No	No
Slovak Republic	General domestic	Not transposed	Not transposed <4>	Yes	No
Slovenia	General domestic	Not transposed	Yes, Directive concept	No	No
Spain	General domestic	Yes for royalties Not transposed for interest	Nearly Directive concept for royalties Not transposed for interest	No	No
Sweden	General domestic	Yes	Yes, domestic concept	No	No
United Kingdom	Specific	No	Not transposed	No	No

- <1> With respect to permanent establishments, the Czech law does not draw distinction between the head office and the permanent establishment, therefore a company, the permanent establishment of which is the recipient of income, is required to meet the beneficial ownership criterion.
- <2> The requirement was transposed by means of the direct reference to the Directive (see the national survey for Denmark for details); as for deductibility requirement, see section 2.3.3. of the survey on Denmark.
- <3> The Netherlands levies a withholding tax on interest payments to a non-resident company having a substantial shareholding (5%) in the Netherlands company, and does not levy any withholding tax on payments made by Netherlands permanent establishments of non-resident companies.
- <4> With respect to permanent establishments, the Slovak law does not draw distinction between the head office and the permanent establishment, therefore a company, the permanent establishment of which is the recipient of income, is required to meet the beneficial ownership criterion.

TABLE 7. PROCEDURE AND ANTI ABUSE MEASURES

Please note that Hungary, Luxembourg and Malta do not generally impose a tax on interest and royalty payments paid to non-resident entities. In Member States, which do not levy tax on interest or royalties and/or subject to tax only a particular category of interest or royalty payments, the table shows relevant information on the implementing provisions exempting these particular categories only and does not generally focus on general exemptions.

Country	Holding period			Procedure			Exemption at source/refund	Anti -abuse measures (general/specific)
	Holding period	Deadline for fulfilment of holding period requirement	Application before the holding period criterion is met	Attestation	Decision	Availability of appeal		
Austria	1 year	Date of payment	Yes	Yes	No	Yes	Exemption	Yes (general and specific)
Belgium	1 year	Date of payment	Yes	Yes	Yes	Yes	Exemption and refund	Yes (general)
Cyprus	N/a	N/a	N/a	No	No	Yes	Exemption	Yes (general)
Czech Republic	24 months	Date of payment	Yes	Yes	Yes	Yes	Exemption	Yes (general)
Denmark	1 year	Time of payment	Yes	Yes	No	Yes	Exemption and refund	Yes (general)
Estonia	None	Date of payment	N/a	No	No	Yes	Exemption and refund	Yes (general)
Finland	None	N/a	N/a	No	No	Yes	Exemption	Yes (general)
France	2 years	Date of payment	Yes	Yes	No	Yes	Exemption and refund	Yes (general and specific)
Germany	None	N/a	N/a	Yes	Yes	Yes	Exemption and refund	Yes (general and specific)
Hungary	N/a	N/a	N/a	N/a	N/a	N/a	Exemption at source	Yes (general)

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Ireland	2 years	Date of payment	No	Yes	No	Yes	Exemption and refund	Yes (general and specific)
Italy	1 year	Date of payment	No	Yes	No	Yes	Exemption and refund	Yes (general and specific)
Luxembourg	N/a	N/a	N/a	N/a	N/a	N/a	Exemption at source	Yes (general)
Malta	N/a	N/a	N/a	N/a	N/a	N/a	Exemption and refund	Yes (general)
Netherlands	No	N/a	N/a	N/a <1>	N/a <1>	Yes	Exemption at source	Yes (general)
Slovak Republic	24 months	Date of payment	No	No	No	Yes	Exemption	Yes (general)
Slovenia	24 months	Moment of payment	No	No	Yes	Yes	Exemption and refund	Yes (general)
Spain	1 year <2>	Moment of payment <2>	Yes	No	No	Yes	Exemption and refund	Yes (general)
Sweden	None	N/a	N/a	No	No	Yes	Exemption	Yes (general and specific)
United Kingdom	None	N/a	N/a	Yes	Yes	Yes	Exemption and refund	Yes (specific)

<1> Tax is levied by way of self-assessment, therefore attestation or decision are not relevant.

<2> The minimum holding period is required only with respect to royalty payments. There is no holding period required if interest is paid.

TABLE 8. THE AGREEMENT

Country	Method of implementation	Concepts of interest and royalties under the Agreement	Procedure
Austria	Amendment of tax treaty with Switzerland	The same as under tax treaty with Switzerland (follows OECD MC)	Not clear
Belgium	Information note from Ministry of Finance	Same as Directive	Same as Directive
Cyprus	No measures taken	Not clear	Not clear
Czech Republic	Information note from the Ministry of Finance and draft legislative measures	Same as Directive	Not clear
Denmark	No measures taken; exemption under the tax treaty applies	Tax treaty concepts most likely applies	Tax treaty procedure most likely applies
Estonia	Legislative implementation announced	Same as Directive	Same as Directive
Finland	No measures taken	Not clear	Not clear
France	No measures taken	Not clear	Not clear
Germany	Administrative guidance/ legislative implementation announced	Same as Directive	Same as Directive
Hungary	Amendments to the Corporate Income Tax Act concerning Art. 15 (2) of the Agreement	Domestic	Exemption at source
Ireland	Domestic statute	Same as Directive	Same as Directive
Italy	No measures taken	Not clear	Not clear
Luxembourg	Clarification published by the Ministry of Finance	Same as Directive	Same as Directive
Malta	No measures taken	Domestic	Exemption at source

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Netherlands	Decree of 6 December 2005	Not clear	Not clear
Slovak Republic	Information note from the Ministry of Finance and draft legislative measures	Same as Directive	Not clear
Slovenia	No measures taken	Not clear	Not clear
Spain	Art. 15 does not currently apply under Art. 18 (3) of the Agreement	N/a	N/a
Sweden	No measures taken	Not clear	Not clear
United Kingdom	No measures taken	Not clear	Not clear

APPENDICES

COUNCIL DIRECTIVE 2003/49/EC**of 3 June 2003****on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 94 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽³⁾,

Whereas:

- (1) In a Single Market having the characteristics of a domestic market, transactions between companies of different Member States should not be subject to less favourable tax conditions than those applicable to the same transactions carried out between companies of the same Member State.
- (2) This requirement is not currently met as regards interest and royalty payments; national tax laws coupled, where applicable, with bilateral or multilateral agreements may not always ensure that double taxation is eliminated, and their application often entails burdensome administrative formalities and cash-flow problems for the companies concerned.
- (3) It is necessary to ensure that interest and royalty payments are subject to tax once in a Member State.
- (4) The abolition of taxation on interest and royalty payments in the Member State where they arise, whether collected by deduction at source or by assessment, is the most appropriate means of eliminating the aforementioned formalities and problems and of ensuring the equality of tax treatment as between national and cross-border transactions; it is particularly necessary to abolish such taxes in respect of such payments made between associated companies of different Member States as well as between permanent establishments of such companies.
- (5) The arrangements should only apply to the amount, if any, of interest or royalty payments which would have been agreed by the payer and the beneficial owner in the absence of a special relationship.
- (6) It is moreover necessary not to preclude Member States from taking appropriate measures to combat fraud or abuse.
- (7) Greece and Portugal should, for budgetary reasons, be allowed a transitional period in order that they can gradually decrease the taxes, whether collected by deduc-

tion at source or by assessment, on interest and royalty payments, until they are able to apply the provisions of Article 1.

- (8) Spain, which has launched a plan for boosting the Spanish technological potential, for budgetary reasons should be allowed during a transitional period not to apply the provisions of Article 1 on royalty payments.
- (9) It is necessary for the Commission to report to the Council on the operation of the Directive three years after the date by which it must be transposed, in particular with a view to extending its coverage to other companies or undertakings and reviewing the scope of the definition of interest and royalties in pursuance of the necessary convergence of the provisions dealing with interest and royalties in national legislation and in bilateral or multilateral double-taxation treaties.
- (10) Since the objective of the proposed action, namely setting up a common system of taxation applicable to interest and royalty payments of associated companies of different Member States cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Scope and procedure

1. Interest or royalty payments arising in a Member State shall be exempt from any taxes imposed on those payments in that State, whether by deduction at source or by assessment, provided that the beneficial owner of the interest or royalties is a company of another Member State or a permanent establishment situated in another Member State of a company of a Member State.

2. A payment made by a company of a Member State or by a permanent establishment situated in another Member State shall be deemed to arise in that Member State, hereafter referred to as the 'source State'.

⁽¹⁾ OJ C 123, 22.4.1998, p. 9.

⁽²⁾ OJ C 313, 12.10.1998, p. 151.

⁽³⁾ OJ C 284, 14.9.1998, p. 50.

3. A permanent establishment shall be treated as the payer of interest or royalties only insofar as those payments represent a tax-deductible expense for the permanent establishment in the Member State in which it is situated.

4. A company of a Member State shall be treated as the beneficial owner of interest or royalties only if it receives those payments for its own benefit and not as an intermediary, such as an agent, trustee or authorised signatory, for some other person.

5. A permanent establishment shall be treated as the beneficial owner of interest or royalties:

- (a) if the debt-claim, right or use of information in respect of which interest or royalty payments arise is effectively connected with that permanent establishment; and
- (b) if the interest or royalty payments represent income in respect of which that permanent establishment is subject in the Member State in which it is situated to one of the taxes mentioned in Article 3(a)(iii) or in the case of Belgium to the 'impôt des non-résidents/belasting der niet-verblijfhouders' or in the case of Spain to the 'Impuesto sobre la Renta de no Residentes' or to a tax which is identical or substantially similar and which is imposed after the date of entry into force of this Directive in addition to, or in place of, those existing taxes.

6. Where a permanent establishment of a company of a Member State is treated as the payer, or as the beneficial owner, of interest or royalties, no other part of the company shall be treated as the payer, or as the beneficial owner, of that interest or those royalties for the purposes of this Article.

7. This Article shall apply only if the company which is the payer, or the company whose permanent establishment is treated as the payer, of interest or royalties is an associated company of the company which is the beneficial owner, or whose permanent establishment is treated as the beneficial owner, of that interest or those royalties.

8. This Article shall not apply where interest or royalties are paid by or to a permanent establishment situated in a third State of a company of a Member State and the business of the company is wholly or partly carried on through that permanent establishment.

9. Nothing in this Article shall prevent a Member State from taking interest or royalties received by its companies, by permanent establishments of its companies or by permanent establishments situated in that State into account when applying its tax law.

10. A Member State shall have the option of not applying this Directive to a company of another Member State or to a permanent establishment of a company of another Member State in circumstances where the conditions set out in Article 3(b) have not been maintained for an uninterrupted period of at least two years.

11. The source State may require that fulfilment of the requirements laid down in this Article and in Article 3 be substantiated at the time of payment of the interest or royalties by an attestation. If fulfilment of the requirements laid down in this Article has not been attested at the time of payment, the Member State shall be free to require deduction of tax at source.

12. The source State may make it a condition for exemption under this Directive that it has issued a decision currently granting the exemption following an attestation certifying the fulfilment of the requirements laid down in this Article and in Article 3. A decision on exemption shall be given within three months at most after the attestation and such supporting information as the source State may reasonably ask for have been provided, and shall be valid for a period of at least one year after it has been issued.

13. For the purposes of paragraphs 11 and 12, the attestation to be given shall, in respect of each contract for the payment, be valid for at least one year but for not more than three years from the date of issue and shall contain the following information:

- (a) proof of the receiving company's residence for tax purposes and, where necessary, the existence of a permanent establishment certified by the tax authority of the Member State in which the receiving company is resident for tax purposes or in which the permanent establishment is situated;
- (b) beneficial ownership by the receiving company in accordance with paragraph 4 or the existence of conditions in accordance with paragraph 5 where a permanent establishment is the recipient of the payment;
- (c) fulfilment of the requirements in accordance with Article 3(a)(iii) in the case of the receiving company;
- (d) a minimum holding or the criterion of a minimum holding of voting rights in accordance with Article 3(b);
- (e) the period for which the holding referred to in (d) has existed.

Member States may request in addition the legal justification for the payments under the contract (e.g. loan agreement or licensing contract).

14. If the requirements for exemption cease to be fulfilled, the receiving company or permanent establishment shall immediately inform the paying company or permanent establishment and, if the source State so requires, the competent authority of that State.

15. If the paying company or permanent establishment has withheld tax at source to be exempted under this Article, a claim may be made for repayment of that tax at source. The Member State may require the information specified in paragraph 13. The application for repayment must be submitted within the period laid down. That period shall last for at least two years from the date when the interest or royalties are paid.

16. The source State shall repay the excess tax withheld at source within one year following due receipt of the application and such supporting information as it may reasonably ask for. If the tax withheld at source has not been refunded within that period, the receiving company or permanent establishment shall be entitled on expiry of the year in question to interest on the tax which is refunded at a rate corresponding to the national interest rate to be applied in comparable cases under the domestic law of the source State.

Article 2

Definition of interest and royalties

For the purposes of this Directive:

- (a) the term 'interest' means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures; penalty charges for late payment shall not be regarded as interest;
- (b) the term 'royalties' means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematograph films and software, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience; payments for the use of, or the right to use, industrial, commercial or scientific equipment shall be regarded as royalties.

Article 3

Definition of company, associated company and permanent establishment

For the purposes of this Directive:

- (a) the term 'company of a Member State' means any company:
 - (i) taking one of the forms listed in the Annex hereto; and

- (ii) which in accordance with the tax laws of a Member State is considered to be resident in that Member State and is not, within the meaning of a Double Taxation Convention on Income concluded with a third state, considered to be resident for tax purposes outside the Community; and

- (iii) which is subject to one of the following taxes without being exempt, or to a tax which is identical or substantially similar and which is imposed after the date of entry into force of this Directive in addition to, or in place of, those existing taxes:

- impôt des sociétés/vennootschapsbelasting in Belgium,
- selskabsskat in Denmark,
- Körperschaftsteuer in Germany,
- Φόρος εισοδήματος νομικών προσώπων in Greece,
- impuesto sobre sociedades in Spain,
- impôt sur les sociétés in France,
- corporation tax in Ireland,
- imposta sul reddito delle persone giuridiche in Italy,
- impôt sur le revenu des collectivités in Luxembourg,
- vennootschapsbelasting in the Netherlands,
- Körperschaftsteuer in Austria,
- imposto sobre o rendimento da pessoas colectivas in Portugal,
- yhteisöjen tulovero/inkomstskatten för samfund in Finland,
- statlig inkomstskatt in Sweden,
- corporation tax in the United Kingdom;

- (b) a company is an 'associated company' of a second company if, at least:

- (i) the first company has a direct minimum holding of 25 % in the capital of the second company, or
- (ii) the second company has a direct minimum holding of 25 % in the capital of the first company, or
- (iii) a third company has a direct minimum holding of 25 % both in the capital of the first company and in the capital of the second company.

Holdings must involve only companies resident in Community territory.

However, Member States shall have the option of replacing the criterion of a minimum holding in the capital with that of a minimum holding of voting rights;

- (c) the term 'permanent establishment' means a fixed place of business situated in a Member State through which the business of a company of another Member State is wholly or partly carried on.

Article 4

Exclusion of payments as interest or royalties

1. The source State shall not be obliged to ensure the benefits of this Directive in the following cases:

- (a) payments which are treated as a distribution of profits or as a repayment of capital under the law of the source State;
- (b) payments from debt-claims which carry a right to participate in the debtor's profits;
- (c) payments from debt-claims which entitle the creditor to exchange his right to interest for a right to participate in the debtor's profits;
- (d) payments from debt-claims which contain no provision for repayment of the principal amount or where the repayment is due more than 50 years after the date of issue.

2. Where, by reason of a special relationship between the payer and the beneficial owner of interest or royalties, or between one of them and some other person, the amount of the interest or royalties exceeds the amount which would have been agreed by the payer and the beneficial owner in the absence of such a relationship, the provisions of this Directive shall apply only to the latter amount, if any.

Article 5

Fraud and abuse

1. This Directive shall not preclude the application of domestic or agreement-based provisions required for the prevention of fraud or abuse.

2. Member States may, in the case of transactions for which the principal motive or one of the principal motives is tax evasion, tax avoidance or abuse, withdraw the benefits of this Directive or refuse to apply this Directive.

Article 6

Transitional rules for Greece, Spain and Portugal

1. Greece and Portugal shall be authorised not to apply the provisions of Article 1 until the date of application referred to in Article 17(2) and (3) of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments⁽¹⁾. During a transitional period of eight years starting on the aforementioned date, the rate of tax on payments of interest or royalties made to an associated company of another Member State or to a permanent establishment situated in another Member State of an associated company of a Member State must not exceed 10 % during the first four years and 5 % during the final four years.

Spain shall be authorised, for royalty payments only, not to apply the provisions of Article 1 until the date of application referred to in Article 17(2) and (3) of Directive 2003/48/EC.

⁽¹⁾ See page 38 of this Official Journal.

During a transitional period of six years starting on the aforementioned date, the rate of tax on payments of royalties made to an associated company of another Member State or to a permanent establishment situated in another Member State of an associated company of a Member State must not exceed 10 %.

These transitional rules shall, however, remain subject to the continued application of any rate of tax lower than those referred to in the first and second subparagraphs provided by bilateral agreements concluded between Greece, Spain or Portugal and other Member States. Before the end of any of the transitional periods mentioned in this paragraph the Council may decide unanimously, on a proposal from the Commission, on a possible extension of the said transitional periods.

2. Where a company of a Member State, or a permanent establishment situated in that Member State of a company of a Member State:

- receives interest or royalties from an associated company of Greece or Portugal,
- receives royalties from an associated company of Spain,
- receives interest or royalties from a permanent establishment situated in Greece or Portugal of an associated company of a Member State, or
- receives royalties from a permanent establishment situated in Spain of an associated company of a Member State,

the first Member State shall allow an amount equal to the tax paid in Greece, Spain or Portugal in accordance with paragraph 1 on that income as a deduction from the tax on the income of the company or permanent establishment which received that income.

3. The deduction provided for in paragraph 2 need not exceed the lower of:

- (a) the tax payable in Greece, Spain or Portugal on such income on the basis of paragraph 1, or
- (b) that part of the tax on the income of the company or permanent establishment which received the interest or royalties, as computed before the deduction is given, which is attributable to those payments under the domestic law of the Member State of which it is a company or in which the permanent establishment is situated.

Article 7

Implementation

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 1 January 2004. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive, together with a table showing how the provisions of this Directive correspond to the national provisions adopted.

Article 8

Review

By 31 December 2006, the Commission shall report to the Council on the operation of this Directive, in particular with a view to extending its coverage to companies or undertakings other than those referred to in Article 3 and the Annex.

Article 9

Delimitation clause

This Directive shall not affect the application of domestic or agreement-based provisions which go beyond the provisions of this Directive and are designed to eliminate or mitigate the double taxation of interest and royalties.

Article 10

Entry into force

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

Article 11

Addressees

This Directive is addressed to the Member States.

Done at Luxembourg, 3 June 2003.

For the Council

The President

N. CHRISTODOULAKIS

ANNEX

List of companies covered by Article 3(a) of the Directive

- (a) Companies under Belgian law known as: 'naamloze vennootschap/société anonyme, commanditaire vennootschap op aandelen/société en commandite par actions, besloten vennootschap met beperkte aansprakelijkheid/société privée à responsabilité limitée' and those public law bodies that operate under private law;
 - (b) companies under Danish law known as: 'aktieselskab' and 'anpartsselskab';
 - (c) companies under German law known as: 'Aktiengesellschaft, Kommanditgesellschaft auf Aktien, Gesellschaft mit beschränkter Haftung' and 'bergrechtliche Gewerkschaft';
 - (d) companies under Greek law known as: 'ανώνυμη εταιρία';
 - (e) companies under Spanish law known as: 'sociedad anónima, sociedad comanditaria por acciones, sociedad de responsabilidad limitada' and those public law bodies which operate under private law;
 - (f) companies under French law known as: 'société anonyme, société en commandite par actions, société à responsabilité limitée' and industrial and commercial public establishments and undertakings;
 - (g) companies in Irish law known as public companies limited by shares or by guarantee, private companies limited by shares or by guarantee, bodies registered under the Industrial and Provident Societies Acts or building societies registered under the Building Societies Acts;
 - (h) companies under Italian law known as: 'società per azioni, società in accomandita per azioni, società a responsabilità limitata' and public and private entities carrying on industrial and commercial activities;
 - (i) companies under Luxembourg law known as: 'société anonyme, société en commandite par actions and société à responsabilité limitée';
 - (j) companies under Dutch law known as: 'naamloze vennootschap' and 'besloten vennootschap met beperkte aansprakelijkheid';
 - (k) companies under Austrian law known as: 'Aktiengesellschaft' and 'Gesellschaft mit beschränkter Haftung';
 - (l) commercial companies or civil law companies having a commercial form, cooperatives and public undertakings incorporated in accordance with Portuguese law;
 - (m) companies under Finnish law known as: 'osakeyhtiö/aktiebolag, osuuskunta/andelslag, säästöpankki/sparbank' and 'vakuutusyhtiö/försäkringsbolag';
 - (n) companies under Swedish law known as: 'aktiebolag' and 'försäkringsaktiebolag';
 - (o) companies incorporated under the law of the United Kingdom.
-

COUNCIL DIRECTIVE 2004/66/EC

of 26 April 2004

adapting Directives 1999/45/EC, 2002/83/EC, 2003/37/EC and 2003/59/EC of the European Parliament and of the Council and Council Directives 77/388/EEC, 91/414/EEC, 96/26/EC, 2003/48/EC and 2003/49/EC, in the fields of free movement of goods, freedom to provide services, agriculture, transport policy and taxation, by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty on the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union⁽¹⁾ (hereinafter referred to as the 'Treaty of Accession'), and in particular Article 2(3) thereof,

Having regard to the Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded⁽²⁾ (hereinafter referred to as the 'Act of Accession'), and in particular Article 57 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) For certain acts which remain valid beyond 1 May 2004 and require adaptation by reason of accession, the necessary adaptations were not provided for in the Act of Accession, or were provided for but need further adaptation. All these adaptations need to be adopted before accession so as to be applicable as from accession.
- (2) Pursuant to Article 57(2) of the Act of Accession, such adaptations are to be adopted by the Council in all cases where the Council alone or jointly with the European Parliament adopted the original act.

⁽¹⁾ OJ L 236, 23.9.2003, p. 17.

⁽²⁾ OJ L 236, 23.9.2003, p. 33.

- (3) Directives 1999/45/EC⁽³⁾, 2002/83/EC⁽⁴⁾, 2003/37/EC⁽⁵⁾ and 2003/59/EC⁽⁶⁾ of the European Parliament and of the Council and Council Directives 77/388/EEC⁽⁷⁾, 91/414/EEC⁽⁸⁾, 96/26/EC⁽⁹⁾, 2003/48/EC⁽¹⁰⁾ and 2003/49/EC⁽¹¹⁾ should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directives 1999/45/EC, 2002/83/EC, 2003/37/EC, 2003/59/EC, 77/388/EEC, 91/414/EEC, 96/26/EC, 2003/48/EC and 2003/49/EC are amended as set out in the Annex of this Directive.

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by the date of entry into force of the Treaty of Accession. As regards the provisions of this Directive adapting Directive 91/414/EC as amended, as well as Directives 2002/83/EC, 2003/37/EC and 2003/59/EC, the date of transposition shall be that laid down therein. Member States shall forthwith submit the text of the provisions transposing this Directive to the Commission, with a table setting out their correlation with the specific provisions of this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

⁽³⁾ OJ L 200, 30.7.1999, p. 1. Directive as last amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

⁽⁴⁾ OJ L 345, 19.12.2002, p. 1.

⁽⁵⁾ OJ L 171, 9.7.2003, p. 1.

⁽⁶⁾ OJ L 226, 10.9.2003, p. 4.

⁽⁷⁾ OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2004/7/EC (OJ L 27, 30.1.2004, p. 44).

⁽⁸⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

⁽⁹⁾ OJ L 124, 23.5.1996, p. 1. Directive as last amended by the Act of Accession.

⁽¹⁰⁾ OJ L 157, 26.6.2003, p. 38.

⁽¹¹⁾ OJ L 157, 26.6.2003, p. 49.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 26 April 2004.

For the Council

B. COWEN

The President

ANNEX

I. FREE MOVEMENT OF GOODS

A. MOTOR VEHICLES

Directive 2003/37/EC of the European Parliament and of the Council of 26 May 2003 on type-approval of agricultural or forestry tractors, their trailers and interchangeable towed machinery, together with their systems, components and separate technical units and repealing Directive 74/150/EEC.

(a) In Annex II, Chapter C, Appendix 1, point 1, the following are inserted in the first subparagraph:

“8 for the Czech Republic”, “29 for Estonia”, “CY for Cyprus”, “32 for Latvia”, “36 for Lithuania”, “7 for Hungary”, “MT for Malta”, “20 for Poland”, “26 for Slovenia”, “27 for Slovakia”.

(b) In Annex III, Part I, ‘A – Complete/completed tractors’, point 16 is replaced by the following:

‘16. Fiscal horsepower(s) or class(es)

— Italy:	— Germany:	— Greece:
— Belgium:	— Netherlands:	— Portugal:
— Denmark:	— Ireland:	— Sweden:
— United Kingdom:	— Finland:	— Cyprus:
— Austria:	— Estonia:	— Hungary:
— Czech Republic:	— Lithuania:	— Slovenia:
— Latvia:	— Poland:	— Slovakia:
— Malta:	— Spain:	
— France:	— Luxembourg:	

(c) In Annex III, Part I, ‘B – Agricultural or forestry trailers – complete/completed’, point 16 is replaced by the following:

‘16. Fiscal horsepower(s) or class(es) (if applicable)

— Italy:	— Germany:	— Greece:
— Belgium:	— Netherlands:	— Portugal:
— Denmark:	— Ireland:	— Sweden:
— United Kingdom:	— Finland:	— Cyprus:
— Austria:	— Estonia:	— Hungary:
— Czech Republic:	— Lithuania:	— Slovenia:
— Latvia:	— Poland:	— Slovakia:
— Malta:	— Spain:	
— France:	— Luxembourg:	

- (d) In Annex III, Part I, 'C – Interchangeable towed machinery – complete/completed', point 16 is replaced by the following:

'16. Fiscal horsepower(s) or class(es) (if applicable)

— Italy:	— Germany:	— Greece:
— Belgium:	— Netherlands:	— Portugal:
— Denmark:	— Ireland:	— Sweden:
— United Kingdom:	— Finland:	— Cyprus:
— Austria:	— Estonia:	— Hungary:
— Czech Republic:	— Lithuania:	— Slovenia:
— Latvia:	— Poland:	— Slovakia:
— Malta:	— Spain:	
— France:	— Luxembourg:	

- (e) In Annex III, Part II, 'A – Agricultural or forestry trailers – incomplete', point 16 is replaced by the following:

'16. Fiscal horsepower(s) or class(es) (if applicable)

— Italy:	— Germany:	— Greece:
— Belgium:	— Netherlands:	— Portugal:
— Denmark:	— Ireland:	— Sweden:
— United Kingdom:	— Finland:	— Cyprus:
— Austria:	— Estonia:	— Hungary:
— Czech Republic:	— Lithuania:	— Slovenia:
— Latvia:	— Poland:	— Slovakia:
— Malta:	— Spain:	
— France:	— Luxembourg:	

- (f) In Annex III, Part II, 'B – Interchangeable towed machinery – incomplete', point 16 is replaced by the following:

'16. Fiscal horsepower(s) or class(es) (if applicable)

— Italy:	— Germany:	— Greece:
— Belgium:	— Netherlands:	— Portugal:
— Denmark:	— Ireland:	— Sweden:
— United Kingdom:	— Finland:	— Cyprus:
— Austria:	— Estonia:	— Hungary:
— Czech Republic:	— Lithuania:	— Slovenia:
— Latvia:	— Poland:	— Slovakia:
— Malta:	— Spain:	
— France:	— Luxembourg:	

B. CHEMICALS

Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations.

In Annex VI, Part A, point 5, the list of countries is replaced by the following:

Belgium:

Czech Republic:

Denmark:

Germany:

Estonia:

Greece:

Spain:

France:

Ireland:

Italy:

Cyprus:

Latvia:

Lithuania:

Luxembourg:

Hungary:

Malta:

Netherlands:

Austria:

Poland:

Portugal:

Slovenia:

Slovakia:

Finland:

Sweden:

United Kingdom'.

II. FREEDOM TO PROVIDE SERVICES

Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance.

(a) In Article 6(1)(a), the following is inserted between the entries for Belgium and Denmark:

‘— in the case of the Czech Republic: “akciová společnost”, “družstvo”,’

and, between the entries for Germany and Greece:

‘— in the case of the Republic of Estonia: “aktsiaselts”,’

and, between the entries for Italy and Luxembourg:

‘— in the case of the Republic of Cyprus: “Εταιρεία περιορισμένης ευθύνης με μετοχές ή εταιρεία περιορισμένης ευθύνης με εγγύηση”,’

— in the case of the Republic of Latvia: “apdrošināšanas akciju sabiedrība”, “savstarpējās apdrošināšanas kooperatīvā biedrība”,

— in the case of the Republic of Lithuania: “akcinės bendrovės”, “uždariosios akcinės bendrovės”,’

and, between the entries for Luxembourg and the Netherlands:

‘— in the case of the Republic of Hungary: “biztosító részvénytársaság”, “biztosító szövetkezet”, “biztosító egyesület”, “külföldi székhelyű biztosító magyarországi fióktelepe”,’

— in the case of the Republic of Malta: “kumpanija pubblika”, “kumpanija privata”, “fergħa”, “Korp ta’ l- Assikurazzjoni Rikonnxxut”,’

and, between the entries for Austria and Portugal:

‘— in the case of the Republic of Poland: “spółka akcyjna”, “towarzystwo ubezpieczeń wzajemnych”,’

and, between the entries for Portugal and Finland:

‘— in the case of the Republic of Slovenia: “delniška družba”, “družba za vzajemno zavarovanje”,’

— in the case of the Slovak Republic: “akciová spoločnosť”.

(b) In Article 18(3) the third indent is replaced by the following:

‘— 1 January 1995 for undertakings authorised in Austria, Finland and Sweden,’.

(c) In Article 18(3), the following is inserted after the third indent:

‘— 1 May 2004 for undertakings authorised in the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, and’.

III. AGRICULTURE

PHYTOSANITARY LEGISLATION

Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market.

(a) Point 1.1 in Annex IV is replaced by the following:

'1.1. Special risks related to humans (RSh)

RSh 1

ES: **Tóxico en contacto con los ojos.**

CS: **Toxický při styku s očima.**

DA: **Giftig ved kontakt med øjnene.**

DE: **Giftig bei Kontakt mit den Augen.**

ET: **Mürgine silma sattumisel.**

EL: **Τοξικό όταν έρθει σε επαφή με τα μάτια.**

EN: **Toxic by eye contact.**

FR: **Toxique par contact oculaire.**

IT: **Tossico per contatto oculare.**

LV: **Toksisks nonākot saskarē ar acīm.**

LT: **Toksiška patekus į akis.**

HU: **Szemmel érintkezve mérgező.**

MT: **Tossiku meta jmiss ma' l-ghajnejn.**

NL: **Giftig bij oogcontact.**

PL: **Działa toksycznie w kontakcie z oczami.**

PT: **Tóxico por contacto com os olhos.**

SK: **Jedovatý pri kontakte s očami.**

SL: **Strupeno v stiku z očmi.**

FI: **Myrkyllistä joutuessaan silmään.**

SV: **Giftigt vid kontakt med ögonen.**

RSh 2

ES: **Puede causar fotosensibilización.**

CS: **Může vyvolat fotosenzibilizaci.**

DA: **Kan give overfølsomhed over for sollys/UV-stråling.**

- DE: Sensibilisierung durch Licht möglich.
- ET: Võib põhjustada valgussensibiliseerimist.
- EL: Μπορεί να προκαλέσει φωτοευαισθητοποίηση.
- EN: May cause photosensitisation.
- FR: Peut entraîner une photosensibilisation.
- IT: Può causare fotosensibilizzazione.
- LV: Var izraisīt fotosensibilizāciju.
- LT: Gali sukelti fotosensibilizaciją.
- HU: Fényérzékenységet okozhat.
- MT: Jista' jikkawża fotosensitizzazzjoni.
- NL: Kan fotosensibilisatie veroorzaken.
- PL: Może powodować nadwrażliwość na światło.
- PT: Pode causar fotossensibilização.
- SK: Môže spôsobiť fotosenzibilizáciu.
- SL: Lahko povzroči preobčutljivost na svetlobo.
- FI: Voi aiheuttaa herkistymistä valolle.
- SV: Kan orsaka överkänslighet för solljus/UV-strålning.
- RSh 3
- ES: El contacto con los vapores provoca quemaduras de la piel y de los ojos; el contacto con el producto líquido provoca congelación.
- CS: Při styku s parami způsobuje poleptání kůže a očí a při styku s kapalinou způsobuje omrzliny.
- DA: Kontakt med dampe giver ætsninger på hud og øjne, og kontakt med væske giver forfrysninger.
- DE: Kontakt mit Dämpfen verursacht Verätzungen an Haut und Augen und Kontakt mit der Flüssigkeit verursacht Erfrierungen.
- ET: Kokkupuude auruga põhjustab põletushaavu nahale ja silmadele ning kokkupuude vedelikuga põhjustab külmumist.
- EL: Οι ατμοί μπορεί να προκαλέσουν εγκαύματα στο δέρμα και στα μάτια·η επαφή με το υγρό μπορεί να προκαλέσει κρυοπαγήματα.
- EN: Contact with vapour causes burns to skin and eyes and contact with liquid causes freezing.
- FR: Le contact avec les vapeurs peut provoquer des brûlures de la peau et des yeux; le contact avec le gaz liquide peut causer des engelures.
- IT: Il contatto con il vapore può causare ustioni della pelle e bruciori agli occhi; il contatto con il liquido può causare congelamento.

- LV: **Saskare ar tvaikiem izraisa ādas un acu apdegumus un saskare ar šķidrumu izraisa apsaldējumus.**
- LT: **Garai sukelia odos ir akių nudegimą, skystis- nušalimą.**
- HU: **Az anyag gőzével való érintkezés a bőr és a szem égési sérülését okozhatja, illetve a folyadékkal való érintkezés fagyást okozhat.**
- MT: **Kuntatt mal-fwar jikkawża hruq fil-ġilda u fl-ġhajnejn filwaqt li kuntatt mal-likwidu jikkawża iffriżar.**
- NL: **Contact met de damp veroorzaakt brandwonden aan huid en ogen; contact met de vloeistof veroorzaakt bevriezing.**
- PL: **Kontakt z oparami powoduje poparzenia skóry i oczu, kontakt z cieczą powoduje zamarzanie.**
- PT: **O contacto com vapores do produto provoca queimaduras na pele e nos olhos; o contacto com o produto líquido provoca congelação.**
- SK: **Pri kontakte s parou spôsobuje popáleniny pokožky a očí a kontakt s kvapalinou spôsobuje omrzliny.**
- SL: **Stik s hlapi povzroča opekline kože in oči, stik s tekočino povzroča ozeblino.**
- FI: **Kosketus höyryyn voi aiheuttaa palovammoja iholle ja silmiin ja kosketus nesteeseen paleltumavammoja.**
- SV: **Kontakt med ångor orsakar frätskador på hud och ögon, kontakt med vätska orsakar förfrysningsskador.’.**

(b) Point 1 in Annex V is replaced by the following:

‘1. General provisions

All plant-protection products should be labelled with the following phrase, which should be supplemented by the text in parentheses, as appropriate:

SP 1

- ES: **No contaminar el agua con el producto ni con su envase. [No limpiar el equipo de aplicación del producto cerca de aguas superficiales/Evítase la contaminación a través de los sistemas de evacuación de aguas de las explotaciones o de los caminos.]**
- CS: **Neznečisťujte vody přípravkem nebo jeho obalem. (Nečistěte aplikační zařízení v blízkosti povrchových vod/Zabraňte kontaminaci vod splachem z farem a z cest).**
- DA: **Undgå forurening af vandmiljøet med produktet eller med beholdere, der har indeholdt produktet. [Rens ikke sprøjteudstyr nær overfladevand/Undgå forurening via dræn fra gårdspladser og veje].**
- DE: **Mittel und/oder dessen Behälter nicht in Gewässer gelangen lassen. (Ausbringungsgeräte nicht in unmittelbarer Nähe von Oberflächengewässern reinigen/Indirekte Einträge über Hof- und Straßenabläufe verhindern.)**
- ET: **Vältida vahendi või selle pakendi vette sattumist (Seadmeid pinnavee lähedal mitte puhastada/Vältida saastamist läbi lauda ja teede dreenaazhide).**
- EL: **Μην μολύνετε το νερό με το προϊόν ή τη συσκευασία του. [Να μην πλένετε τον εξοπλισμό εφαρμογής κοντά σε επιφανειακά ύδατα/Να αποφευχθεί η μόλυνση μέσω των συστημάτων αποχέτευσης από τις λιθόστρωτες επιφάνειες και τους δρόμους.]**
- EN: **Do not contaminate water with the product or its container (Do not clean application equipment near surface water/Avoid contamination via drains from farmyards and roads).**

- FR: Ne pas polluer l'eau avec le produit ou son emballage. [Ne pas nettoyer le matériel d'application près des eaux de surface./Éviter la contamination via les systèmes d'évacuation des eaux à partir des cours de ferme ou des routes.]
- IT: Non contaminare l'acqua con il prodotto o il suo contenitore. [Non pulire il materiale d'applicazione in prossimità delle acque di superficie./Evitare la contaminazione attraverso i sistemi di scolo delle acque dalle aziende agricole e dalle strade.]
- LV: Nepiesārņot ūdeni ar augu aizsardzības līdzekli un tā iepakojumu/netīrīt smidzināšanas tehniku ūdenstilpju un ūdensteču tuvumā/izsargāties no piesārņošanas caur drenāžu no pagalmiem un ceļiem.
- LT: Neužteršti vandens augalų apsaugos produktą ar jo pakuote (Neplauti purškimo įrenginių šalia paviršinio vandens telkinių/vengti taršos per drenažą iš sodybų ar nuo kelių).
- HU: A termékkel vagy annak tartályával ne szennyezze a vizeket. (A berendezést vagy annak részeit ne tisztítsa felszíni vizek közelében/kerülje a gazdaságban vagy az utakon lévő vízelvezetőkön keresztül való szennyeződést).
- MT: Tikkontaminax ilma bil-prodott jew il-kontenitur tiegħu (Tnaddafx apparat li jintuża għall-applikazzjoni qrib ilma tax-xita/Ara li ma jkunx hemm kontaminazzjoni minn btiehi u toroq).
- NL: Zorg ervoor dat u met het product of zijn verpakking geen water verontreinigt. [Reinig de apparatuur niet in de buurt van oppervlaktewater/Zorg ervoor dat het water niet via de afvoer van erven of wegen kan worden verontreinigd.]
- PL: Nie zanieczyszczać wód produktem lub jego opakowaniem (Nie myć aparatury w pobliżu wód powierzchniowych/Unikać zanieczyszczania wód poprzez rowy odwadniające z gospodarstw i dróg).
- PT: Não poluir a água com este produto ou com a sua embalagem. [Não limpar o equipamento de aplicação perto de águas de superfície./Evitar contaminações pelos sistemas de evacuação de águas das explorações agrícolas e estradas.]
- SK: Neznečistujte vodu prípravkom alebo jeho obalom (Nečistite aplikačné zariadenie v blízkosti povrchových vôd/Zabráňte kontaminácii prostredníctvom odtokových kanálov z poľnohospodárskych dvorov a vozoviek).
- SL: S sredstvom ali njegovo embalažo ne onesnaževati vode. (Naprav za nanašanje ne čistiti ali izplakovati v bližini površinskih voda./Preprečiti onesnaženje preko drenažnih in odtočnih jarkov na kmetijskih zemljiščih in cestah.)
- FI: Älä saastuta vettä tuotteella tai sen pakkauksella. (Älä puhdista levityslaitteita pintaveden lähetyvillä./Vältä saastumista piha- ja maantieojien kautta.)
- SV: Förorena inte vatten med produkten eller dess behållare. (Rengör inte sprututrustning i närheten av vattendrag/Undvik förorening via avrinning från gårdsplaner och vägar.)

(c) Point 2.1 in Annex V is replaced by the following:

2.1. Safety precautions for operators (SPo)

General provisions

1. Member States may identify suitable personal protective equipment for operators and prescribe specific elements of this equipment (e.g. coveralls, apron, gloves, sturdy shoes, rubber boots, face protection, face shield, tightly fitting glasses, hat, hood or respirator of a specified type). Such supplementary safety precautions are without prejudice to the standard phrases applicable according to Directive 1999/45/EC.

2. Member States may further identify the specific tasks which require particular protective equipment, such as mixing, loading or handling the undiluted product, applying or spraying the diluted product, handling recently treated materials like plants or soil or entering recently treated areas.
3. Member States may add specifications of engineering controls, such as:
 - a closed transfer system must be used when transferring the pesticide from the product container to the spray tank,
 - the operator must work within a closed cabin (with an air conditioning/air filtration system) during spraying,
 - engineering controls may replace personal protective equipment if they provide an equal or higher standard of protection.

Specific provisions

SPo 1

- ES: **En caso de contacto con la piel, elimínese primero el producto con un paño seco y después lávese la piel con agua abundante.**
- CS: **Po zasažení kůže přípravek nejdříve odstraňte pomocí suché látky a poté kůži opláchněte velkým množstvím vody.**
- DA: **Efter kontakt med huden, fjern først produktet med en tør klud og vask derefter med rigeligt vand.**
- DE: **Nach Kontakt mit der Haut zuerst das Mittel mit einem trockenen Tuch entfernen und dann die Haut mit reichlich Wasser abspülen.**
- ET: **Nahaga kokkupuutel kõigepealt eemaldada vahend kuiva lapiga ning seejärel pesta nahka rohke veega.**
- EL: **Υστερα από επαφή με το δέρμα, αφαιρέστε πρώτα το προϊόν με ένα στεγνό πανί και στη συνέχεια ξεπλύνετε το δέρμα με άφθονο νερό.**
- EN: **After contact with skin, first remove product with a dry cloth and then wash the skin with plenty of water.**
- FR: **Après contact avec la peau, éliminer d'abord le produit avec un chiffon sec, puis laver la peau abondamment à l'eau.**
- IT: **Dopo il contatto con la pelle, rimuovere il prodotto con un panno asciutto e quindi lavare abbondantemente con acqua.**
- LV: **Pēc saskares ar ādu, vispirms notīrīt augu aizsardzības līdzekli no ādas ar sausu drānu un pēc tam mazgāt ādu ar lielu ūdens daudzumu.**
- LT: **Patekus ant odos, pirmiausia nuvalyti sausu audiniu, po to gerai nuplauti vandeniu.**
- HU: **Bőrrel való érintkezés esetén először száraz ruhával távolítsa el a terméket, majd a szennyeződött bőrt bő vízzel mossa le.**
- MT: **Wara kuntatt mal-ġilda, l-ewwel nehhi l-prodott b'xoqqa niexfa u mbgħad aħsel il-ġilda b'hafna ilma.**
- NL: **Na contact met de huid moet u eerst het gewasbeschermingsmiddel met een droge doek verwijderen en daarna de huid met veel water wassen.**

- PL: Po kontakcie ze skórą najpierw usunąć produkt suchą szmatką, a następnie przemyć skórę dużą ilością wody.
- PT: Em caso de contacto com a pele, remover primeiro o produto com um pano seco e, em seguida, lavar a pele com muita água.
- SK: Po kontakte s pokožkou najskôr odstrániť prípravok suchou tkaninou a potom opláchnite veľkým množstvom vody.
- SL: Ob stiku s kožo odstraniti sredstvo s suho krpo in sprati kožo z obilo vode.
- FI: Ihokosketuksen jälkeen tuote pyyhitään aluksi pois kuivalla kankaalla ja sitten iho pestään runsaalla vedellä.
- SV: Efter kontakt med huden, avlägsna först produkten med en torr trasa och tvätta sedan med mycket vatten.
- SPo 2
- ES: Lávese toda la ropa de protección después de usarla.
- CS: Veškerý ochranný oděv po použití vyperte.
- DA: Vask alle personlige værnemidler efter brug.
- DE: Die gesamte Schutzkleidung muss nach Gebrauch gewaschen werden.
- ET: Peale kasutamist kogu kaitseriietus pesta.
- EL: Ξεπλύνετε όλες τις προστατευτικές ενδυμασίες μετά τη χρήση.
- EN: Wash all protective clothing after use.
- FR: Laver tous les équipements de protection après utilisation.
- IT: Lavare tutto l'equipaggiamento di protezione dopo l'impiego.
- LV: Pēc lietošanas izmazgāt visu aizsargtērpu.
- LT: Po darbo išskalbti visus apsauginius drabužius.
- HU: Használat után minden védőruházatot ki kell mosni.
- MT: Aħsel l-ilbies protettiv wara li-tuża.
- NL: Was alle beschermende kleding na gebruik.
- PL: Uprać odzież ochronną po użyciu.
- PT: Depois da utilização do produto, lavar todo o vestuário de protecção.
- SK: Ochranný odev po aplikácii očistite.
- SL: Po uporabi oprati vso zaščitno obleko.
- FI: Kaikki suojavaatteet pestävä käytön jälkeen.
- SV: Tvätta alla skyddskläder efter användning.

SPo 3

- ES: Tras el inicio de la combustión del producto, abandónese inmediatamente la zona tratada sin inhalar el humo.
- CS: Po vznícení přípravku nevdechujte kouř a ihned opusťte ošetřovaný prostor.
- DA: Efter antænding af produktet, undgå at indånde røgen og forlad det behandlede område øjeblikkeligt.
- DE: Nach Anzünden des Mittels Rauch nicht einatmen und die behandelte Fläche sofort verlassen.
- ET: Peale vahendi süttimist suitsu mitte sisse hingata ning käideldud alalt otsekohe lahkuda.
- EL: Μετά την ανάφλεξη του προϊόντος μην εισπνέσετε τον καπνό και απομακρυνθείτε αμέσως από την περιοχή χρήσης.
- EN: After igniting the product, do not inhale smoke and leave the treated area immediately.
- FR: Après déclenchement de la fumigation, ne pas inhaler la fumée et quitter la zone traitée immédiatement.
- IT: Una volta iniziata la combustione, non inalare il fumo e abbandonare immediatamente la zona trattata.
- LV: Pēc augu aizsardzības līdzekļa aizdedzināšanas, neieelpot dūmus un nekavējoties atstāt apstrādāto platību.
- LT: Užsidegus neįkvėpti dūmų ir nedelsiant palikti apdorotą plotą.
- HU: A termék meggyújtása után óvakodjon a keletkező füst belélegzésétől, és azonnal hagyja el a kezelt területet.
- MT: Wara li tqabbad il-prodott, tiblax id-duhhan u warrab minnufih mill-post li jkun gie ittrattat.
- NL: Nadat u het product hebt aangestoken, mag u de rook niet inademen en moet u de behandelde ruimte onmiddellijk verlaten.
- PL: Po zapaleniu produktu nie wdychać dymu i niezwłocznie opuścić obszar poddany zabiegowi.
- PT: Depois de iniciada a fumigação do produto, não inalar os fumos e sair imediatamente da zona em tratamento.
- SK: Po zapálení přípravku, nevdychujte dym a okamžite opustite ošetrovaný priestor.
- SL: Po zažigu sredstva ne vdihavati dima in takoj zapustiti tretirano območje.
- FI: Tuotteen syttyessä vältettävä savun hengittämistä ja poistuttava käsitellyltä alueelta viipymättä.
- SV: När produkten antänts, andas inte in röken och lämna det behandlade området genast.
- SPo 4
- ES: El recipiente debe abrirse al aire libre y en tiempo seco.
- CS: Obal s přípravkem musí být otevřen ve venkovním prostředí a za sucha.
- DA: Beholderen skal åbnes udendørs og under tørre forhold.
- DE: Der Behälters muss im Freien und Trockenem geöffnet werden.

- ET: Pakend tuleb avada õues ning kuivades tingimustes.
- EL: Το δοχείο πρέπει να ανοιχθεί στο ύπαιθρο και σε συνθήκες ξηρασίας.
- EN: The container must be opened outdoors and in dry conditions.
- FR: L'emballage doit être ouvert à l'extérieur par temps sec.
- IT: L'imballaggio deve essere aperto all'esterno e in condizioni di tempo secco.
- LV: Iepakojumu atvērt ārpus telpām un sausos apstākļos.
- LT: Pakuotę atidaryti lauke, esant sausoms oro sąlygoms.
- HU: A tartályt csak a szabad levegőn, száraz időben lehet kinyitni.
- MT: Il-kontenitur għandu jinfetah f'ambjent miftuħ u xott.
- NL: De verpakking moet buiten, in droge omstandigheden, worden geopend.
- PL: Opakowanie otwierać na zewnątrz i w suchych warunkach.
- PT: Abrir a embalagem ao ar livre e com tempo seco.
- SK: Nádobu otvárajte vonku a za suchého počasia.
- SL: Embalažo odpreti na prostem in v suhih razmerah.
- FI: Pakkaus avattava ulkona kuivissa olosuhteissa.
- SV: Behållaren måste öppnas utomhus och under torra förhållanden.
- SPo 5
- ES: Ventilar las zonas/los invernaderos tratados [bien/durante un tiempo especificado/hasta que se haya secado la pulverización] antes de volver a entrar.
- CS: Před opětovným vstupem ošetřené prostory/skleníky [důkladně/uvedte dobu/do zaschnutí postřikového nánosu] vyvětrejte.
- DA: De behandlede områder/drivhuse ventileres [grundigt/eller angivelse af tid/indtil sprøjtemidlet er tørret], før man igen går ind i dem.
- DE: Vor dem Wiederbetreten ist die behandelte Fläche/das Gewächshaus (gründlich/oder Zeit angeben/bis zur Abtrocknung des Spritzbelages) zu lüften.
- ET: Õhutada käideldud alad/põhjalikult kasvuhooned/määratatud aja jooksul/enne uuesti sisenemist kuni pihustatud vahendi kuivamiseni.
- EL: Να αερίσετε τους χώρους/τα θερμοκήπια όπου χρησιμοποιήθηκαν φυτοφάρμακα [πλήρως/ή να προσδιοριστεί η χρονική περίοδος/μέχρι να στεγνώσει το προϊόν] πριν ξαναμπείτε.
- EN: Ventilate treated areas/greenhouses thoroughly/time to be specified/until spray has dried before re-entry.
- FR: Ventiler [à fond/ou durée à préciser/jusqu'au séchage de la pulvérisation] les zones/serres traitées avant d'y accéder.

- IT: **Ventilare** [a fondo/per una durata da specificare/fino all'essiccazione dello spray] le zone serre trattate prima di accedervi.
- LV: **Pirms atgriešanās rūpīgi vēdināt apstrādātās platības/siltumnīcas** (norāda laiku) **kamēr izsmidzinātais šķidrums nožuvīs.**
- LT: **Gerais išvėdinti apdorotus plotus/šiltnamius** (vėdinimo laikas turi būti nurodytas). **Ieiti į apdorotus plotus leidžiama tik visiškai jiems išdžiūvus.**
- HU: **A kezelt területet/üvegházakat** [alaposan/az előirt időn át/a permet felszáradásáig] **szellőztesse az oda való visszatérés előtt.**
- MT: **Halli l-arja tghaddi minn dawk il-postijiet/serer li ġew ittrattati sew/specifika t-tul ta' hin/sakemm jinxef il-bexx qabel ma terġa' tidhol.**
- NL: **Voordat u opnieuw in behandelde ruimten/kassen binnengaat, moet u die** [grondig ventileren/gedurende (geef de periode aan) **ventileren/ventileren tot de sproeistof is opgedroogd].**
- PL: **Dokładnie wietrzyć obszar poddany zabiegowi/szklarnie/przez określony czas/Przed ponownym wejściem poczekać do wyschnięcia cieczy.**
- PT: **Arejar** [bem] **os locais/estufas tratados** [durante (neste caso, precisar o período)/até à secagem do pulverizado] **antes de neles voltar a entrar.**
- SK: **Pred ďalším vstupom dôkladne vyvetrajte ošetrovaný priestor/skleník tak, aby rozprášený roztok prípravku zaschol/uvedte potrebný čas/.**
- SL: **Pred ponovnim vstopom temeljito zračiti tretirane površine/rastlinjake/določi se čas/dokler se nanešeno sredstvo ne posuši.**
- FI: **Käsitellyt alueet/kasvihuoneet/käsiteltystä alueita/kasvihuoneita tuuletettava** (perusteellisesti/tai täsmennetään tuuletusaika/kunnes tuote on kuivunut) **ennen sinne palaamista.**
- SV: **Vädra** (omsorgsfullt/eller ange tidsperiod/tills produkten torkat) **före vistelse i behandlade utrymmen/växthus.'**

(d) Point 2.2 in Annex V is replaced by the following:

2.2. Safety precautions related to the environment (SPe)

SPe 1

- ES: **Para proteger** [las aguas subterráneas/los organismos del suelo], **no aplicar este producto ni ningún otro que contenga** (precítese la sustancia o la familia de sustancias, según corresponda) **más de** (indíquese el tiempo o la frecuencia).
- CS: **Za účelem ochrany podzemních vod/půdních organismů neaplikujte tento ani žádný jiný přípravek obsahující** (uvedte účinnou látku nebo popřípadě skupinu účinných látek) **déle/více než** (uvedte určitou lhůtu nebo četnost aplikací).
- DA: **For at beskytte** [grundvandet/jordorganismer] **må dette produkt eller andre produkter, der indeholder** (angiv navnet på aktivstoffet eller gruppe af aktivstoffer), **kun anvendes/ikke anvendes mere end** (angiv tidsperiode eller antal behandlinger).
- DE: **Zum Schutz von** (Grundwasser/Bodenorganismen) **das Mittel "..."** oder andere ... **haltige Mittel** (Identifizierung des Wirkstoffes oder einer Wirkstoffgruppe) **nicht mehr als ...** (Angabe der Anwendungshäufigkeit in einem bestimmten Zeitraum) **anwenden.**
- ET: **Põhjavee/mullaorganismide kaitsmiseks mitte kasutada seda või ükskõik millist muud vahendit, mis sisaldab** (määratleda vastavalt toimeaine või aine klass) **rohkem kui** (periood või määratletav sagedus).

- EL: Για να προστατέψετε [τα υπόγεια νερά/τους οργανισμούς στο έδαφος] μην χρησιμοποιείτε αυτό ή οποιοδήποτε άλλο προϊόν που περιέχει (προσδιορίστε τη δραστική ουσία ή την κατηγορία των ουσιών αναλόγως) περισσότερο από (να προσδιοριστεί η χρονική περίοδος ή η συχνότητα).
- EN: To protect groundwater/soil organisms do not apply this or any other product containing (identify active substance or class of substances, as appropriate) more than (time period or frequency to be specified).
- FR: Pour protéger [les eaux souterraines/les organismes du sol], ne pas appliquer ce produit ou tout autre produit contenant (préciser la substance ou la famille de substances selon le cas) plus de (fréquence à préciser).
- IT: Per proteggere [le acque sotterranee/gli organismi del suolo] non applicare questo o altri prodotti contenenti (specificare la sostanza attiva o la classe di sostanze, secondo il caso) più di (indicare la durata o la frequenza).
- LV: Lai aizsargātu gruntsūdeni/augsnes organismus, nelietot augu aizsardzības līdzekli “...” vai citu augu aizsardzības līdzekli, kurš satur “...” (norāda darbīgo vielu vai darbīgo vielu grupu) vairāk nekā ... (norāda apstrāžu skaitu noteiktā laika periodā).
- LT: Siekiant apsaugoti požeminį vandenį/dirvos organizmus nenaudoti šio ar bet kurio kito produkto, kurio sudėtyje yra (nurodyti veikliąją medžiagą ar medžiagų grupę, kaip tinka) dažniau kaip (laikas ar dažnumas turi būti nurodytas).
- HU: A talajvíz/a talaj élő szervezetének védelme érdekében ezt vagy (a megfelelő hatóanyag vagy anyagszóport)-ot tartalmazó bármilyen más készítményt ne használja (az előírt időtartam/gyakoriság)-nál hosszabb ideig/többször.
- MT: Sabiex tipproteġi l-ilma tal-panj/organizmi fil-hamrija applikax dan il-prodott jew xi prodott ieħor li jkun fi (identifika s-sustanza jew klassi ta' sustanzi attivi kif imiss) iżjed minn (specifika ż-żmien jew il-frekwenza).
- NL: Om [het grondwater/de bodemorganismen] te beschermen mag u dit product of andere producten die (geef naar gelang van het geval de naam van de werkzame stof of van de categorie werkzame stoffen) bevatten, niet langer dan gedurende (geef de tijdsduur aan) gebruiken/ten hoogste (geef de frequentie) gebruiken.
- PL: W celu ochrony wód gruntowych/organizmów glebowych nie stosować tego lub żadnego innego produktu zawierającego (określić substancję czynną lub klasę substancji, kiedy dotyczy) nie dłużej niż (określony czas)/nie częściej niż (określona częstotliwość).
- PT: Para protecção [das águas subterrâneas/dos organismos do solo], não aplicar este produto ou qualquer outro que contenha (indicar, consoante o caso, a substância activa ou a família de substâncias activas) durante mais de (período a precisar) ou mais do que (frequência a precisar).
- SK: Z dôvodu ochrany podzemnej vody nepoužívajte tento alebo iný prípravok obsahujúci (uveďte účinnú látku alebo skupinu účinných látok) dlhšie ako (upresnite obdobie alebo frekvenciu).
- SL: Zaradi zaščite podtalnice/talnih organizmov ne uporabljati tega ali drugih sredstev, ki vsebujejo (navede se aktivno snov ali skupino aktivnih snovi) več kot (navede se časovno obdobje ali število tretiranj).
- FI: (Pohjaveden/maaperän eliöiden) suojelemiseksi vältettävä tämän tai minkä tahansa muun tuotteen, joka sisältää (tapauksen mukaan tehoaine tai aineluokka), käyttöä useammin (ajanjakso tai käyttötiheys).
- SV: För att skydda (grundvatten/marklevande organismer), använd inte denna produkt eller andra produkter innehållande (ange verksamt ämne eller grupp av ämnen) mer än (ange tidsperiod eller antal behandlingar).

SPe 2

- ES: **Para proteger [las aguas subterráneas/los organismos acuáticos], no aplicar en suelos** (precítese la situación o el tipo de suelos).
- CS: **Za účelem ochrany podzemních vod/vodních organismů neaplikujte přípravek na půdách** (uvedte druh půdy nebo situaci).
- DA: **For at beskytte [grundvandet/organismer, der lever i vand] må dette produkt ikke anvendes** (på beskrevet jordtype eller under beskrevne forhold).
- DE: **Zum Schutz von (Grundwasser/Gewässerorganismen) nicht auf** (genaue Angabe der Bodenart oder Situation) **Böden ausbringen.**
- ET: **Põhjavee/veeorganismide kaitsmiseks mitte kasutada** (määratleda pinnasetüüp või olukord).
- EL: **Για να προστατέψετε [τα υπόγεια νερά/τους υδρόβιους οργανισμούς] μην χρησιμοποιείτε το προϊόν αυτό σε εδάφη** (προσδιορίστε τον τύπο του εδάφους ή τις ιδιαίτερες συνθήκες).
- EN: **To protect groundwater/aquatic organisms do not apply to** (soil type or situation to be specified) **soils.**
- FR: **Pour protéger [les eaux souterraines/les organismes aquatiques], ne pas appliquer ce produit sur** (type de sol ou situation à préciser).
- IT: **Per proteggere [le acque sotterranee/gli organismi acquatici] non applicare sul suolo** (indicare il tipo di suolo o la situazione).
- LV: **Lai aizsargātu gruntsūdeņus/ūdens organismus, nelietot** (norāda augšnes tipu vai apstākļus) **augsnēs.**
- LT: **Siekiant apsaugoti požeminį vandenį/vandens organizmus nenaudoti** (nurodyti dirvožemio tipą ar situaciją) **dirvožemiuose.**
- HU: **A talajvíz/a vízi szerveszetek védelme érdekében** (az előírt talajtípus vagy helyzet) **talajokra ne használja.**
- MT: **Biex tipproteġi l-ilma tal-pjan/organizmi ta' l-ilma tapplikax f'hamrija** (speċifika t-tip ta' hamrija jew is-sitwazzjoni).
- NL: **Om [het grondwater/in het water levende organismen] te beschermen mag dit product niet worden gebruikt op** (benoem het soort bodem of geef een beschrijving ervan) **bodems.**
- PL: **W celu ochrony wód gruntowych/organizmów wodnych nie stosować na glebach** (określić typ gleby lub warunki glebowe).
- PT: **Para protecção [das águas subterrâneas/dos organismos aquáticos], não aplicar este produto em solos** (precisar a situação ou o tipo de solo).
- SK: **Z dôvodu ochrany podzemnej vody/vodných organizmov neaplikujte na** (upresnite typ pôdy alebo situáciu) **pôdu.**
- SL: **Zaradi zaščite podtalnice/vodnih organizmov ne uporabljati na** (navede se tip tal ali druge posebne razmere) **tleh.**
- FI: **(Pohjaveden/vesieliöiden) suojelemiseksi ei saa käyttää** (täsmennetään maaperätyyppi tai tilanne) **maaperään.**
- SV: **För att skydda (grundvatten/vattenlevande organismer), använd inte denna produkt på** (ange jordtyp eller markförhållande).

SPe 3

- ES: **Para proteger [los organismos acuáticos/las plantas no objetivo/los artrópodos no objetivo/los insectos], respetese sin tratar una banda de seguridad de** (indíquese la distancia) **hasta [la zona no cultivada/las masas de agua superficial].**

- CS: Za účelem ochrany vodních organismů/necílových rostlin/necílových členovců/hmyzu dodržujte neoseřtené ochranné pásmo (uvedte vzdálenost) vzhledem k nezemědělské půdě/povrchové vodě.
- DA: Må ikke anvendes nærmere end (angiv afstand) fra [vandmiljøet, vandløb, søer m.v./ikke dyrket område] for at beskytte [organismer, der lever i vand/landlevende ikke-målorganismer, vilde planter, insekter og leddyr].
- DE: Zum Schutz von (Gewässerorganismen/Nichtzielpflanzen/Nichtzielarthropoden/Insekten) eine unbehandelte Pufferzone von (genaue Angabe des Abstandes) zu (Nichtkulturland/Oberflächengewässer) einhalten.
- ET: Veeorganismide/mittetaimsete sihtliikide/mittesihtlüljalgsete/putukate kaitsmiseks pidada kinni mittepritsitavast puhvervööndist (määratleda kaugus) põllumajanduses mittekasutatavast maast/pinna-seveekogudest.
- EL: Για να προστατέψετε [τους υδροβίους οργανισμούς/μη στοχευόμενα φυτά/μη στοχευόμενα αρθρόποδα/ έντομα] να αφήσετε μια απέκαστη ζώνη προστασίας (προσδιορίστε την απόσταση) μέχρι [μη γεωργική γη/σώματα επιφανειακών υδάτων].
- EN: To protect aquatic organisms/non-target plants/non-target arthropods/insects respect an unsprayed buffer zone of (distance to be specified) to non-agricultural land/surface water bodies.
- FR: Pour protéger [les organismes aquatiques/les plantes non cibles/les arthropodes non cibles/les insectes], respecter une zone non traitée de (distance à préciser) par rapport à [la zone non cultivée adjacente/aux points d'eau].
- IT: Per proteggere [gli organismi acquatici/gli insetti/le piante non bersaglio/gli artropodi non bersaglio] rispettare una fascia di sicurezza non trattata di (precisare la distanza) da [zona non coltivata/corpi idrici superficiali].
- LV: Lai aizsargātu ūdens organismus/ar lietojumu nesaistītos augus/ar lietojumu nesaistītos posmkājus/kukaiņus, ievērot aizsargjoslu (norāda attālumu) līdz lauksaimniecībā neizmantojamai zemei/ūdenstilpēm un ūdenstecēm.
- LT: Siekiant apsaugoti vandens organizmus/netikslinius augalus/netikslinius nariuotakojus/vabzdžius būtina išlaikyti apsaugos zoną (nurodyti atstumą) iki ne žemės ūkio paskirties žemės/paviršinio vandens telkinių.
- HU: A vízi szervezetek/nem célzott növények/nem célzott ízeltlábúak/rovarok védelme érdekében a nem mezőgazdasági földterülettől/felszíni vizektől (az előírt távolság) távolságban tartson meg egy nem permetezett biztonsági övezetet.
- MT: Sabiex tipproteġi organiżmi ta' l-ilma/pjanti mhux immirati/artropodi/insetti mhux immirati, irrispetta zona konfini hielsa mill-bexx ta' (specifika d-distanza) minn art mhix agrikola/ghadajjar ta' l-ilma fil-wiċċ.
- NL: Om [in het water levende organismen/niet tot de doelsoorten behorende planten/niet tot de doelsoorten behorende geleedpotigen/de insecten] te beschermen mag u in een bufferzone van (geef de afstand aan) rond [niet-landbouwgrond/oppervlaktewater] niet sproeien.
- PL: W celu ochrony organizmów wodnych/roślin nie będących obiektem zwalczania/stawonogów/owadów nie będących obiektem zwalczania konieczne jest określenie strefy buforowej w odległości (określona odległość) od terenów nieużytkowanych rolniczo/zbiorników i cieków wodnych.
- PT: Para protecção [dos organismos aquáticos/das plantas não visadas/dos insectos/artrópodes não visados], respeitar uma zona não pulverizada de (distância a precisar) em relação às zonas não cultivadas/às águas de superfície].

- SK: Z dôvodu ochrany vodných organizmov/necielených rastlín/necielených článkonožcov/hmyzu udržiavajte medzi ošetrovanou plochou a neobhospodarovanou zónou/povrchovými vodnými plochami ochranný pás zeme v dĺžke (upresnite dĺžku).
- SL: Zaradi zaščite vodnih organizmov/neciljnih rastlin/neciljnih členonožcev/žuželk upoštevati netretiran varnostni pas (navede se razdaljo) do neketijske površine/vodne površine.
- FI: (Vesieliöiden/muiden kuin torjuttavien kasvien/muiden kuin torjuttavien niveljalkaisten/hyönteisten) suojelemiseksi (muun kuin maatalousmaan/pintavesialueiden) väliin on jätettävä (täsmennetään etäisyys) ruiskuttamaton suojavyöhyke.
- SV: För att skydda (vattenlevande organismer/andra växter än de man avser att bekämpa/andra leddjur än de man avser att bekämpa/insekter), lämna en sprutfri zon på (ange avstånd) till (icke-jordbruksmark/vattendrag).
- SPe 4
- ES: Para proteger [los organismos acuáticos/las plantas no objetivo], no aplicar sobre superficies impermeables como el asfalto, el cemento, los adoquines, [las vías del ferrocarril] ni en otras situaciones con elevado riesgo de escorrentía.
- CS: Za účelem ochrany vodních organismů/necílových rostlin neaplikujte přípravky na nepropustný povrch, jako je asfalt, beton, dlážděný povrch, železniční trať nebo v jiných případech, kdy hrozí vysoké riziko odplavení.
- DA: Må ikke anvendes på befæstede arealer såsom asfalterede, beton-, sten- eller grusbelagte områder og veje [jernbanespor] eller på andre områder, hvorfra der er en stor risiko for run-off til omgivelserne. [For at beskytte organismer, der lever i vand/planter, man ikke ønsker at bekæmpe].
- DE: Zum Schutz von (Gewässerorganismen/Nichtzielpflanzen) nicht auf versiegelten Oberflächen wie Asphalt, Beton, Kopfsteinpflaster (Gleisanlagen) bzw. in anderen Fällen, die ein hohes Abschwemmungsrisiko bergen, ausbringen.
- ET: Veeorganismide/mittesihtlikide kaitsmiseks mitte kasutada läbilaskmatutel pindadel nagu näiteks asfalt, betoon, munakivi, raudteerööpad ning muudes oludes, kus on kõrge lekkimisohu.
- EL: Για να προστατέψετε [υδροβίους οργανισμούς/μη στοχευόμενα φυτά] να μην χρησιμοποιείται σε αδιαπέραστες επιφάνειες όπως ασφάλτο, σκυρόδεμα, λιθόστρωτα [σιδηροτροχιές] και άλλες επιφάνειες με υψηλό κίνδυνο απορροής.
- EN: To protect aquatic organisms/non-target plants do not apply on impermeable surfaces such as asphalt, concrete, cobblestones, railway tracks and other situations with a high risk of run-off.
- FR: Pour protéger [les organismes aquatiques/les plantes non cibles], ne pas appliquer sur des surfaces imperméables telles que le bitume, le béton, les pavés, [les voies ferrées] et dans toute autre situation où le risque de ruissellement est important.
- IT: Per proteggere [gli organismi acquatici/le piante non bersaglio] non applicare su superfici impermeabili quali bitume, cemento, acciottolato, [binari ferroviari] e negli altri casi ad alto rischio di deflusso superficiale.
- LV: Lai aizsargātu ūdens organismus/ar lietojumu nesaistītos augus, nelietot augu aizsardzības līdzekli uz necaurīdīgās virsmas, piemēram, asfalta, betona, bruģa, sliekšņu ceļiem, un citās vietās ar augstu noteces risku.
- LT: Siekiant apsaugoti vandens organizmus/netikslinius augalus nenaudoti ant nepralaidžių paviršių tokių kaip asfaltas, betonas, grindinio akmenys, geležinkelio bėgių ar kitose situacijose, kuriuose didelė nuotėkio tikimybė.

- HU: A vízi szervezetek/nem célzott növények védelme érdekében a vizet nem áteresztő felületeken (pl. aszfalt, beton, utcakövezet, vasúti pályák és az elfolyás egyéb veszélye esetén) ne alkalmazza.
- MT: Biex tippoteği organizmi ta' l-ilma/pjanti mhux immirati tapplikax fuq uċuħ impermeabbli bħal l-asfalt, konkrit, ċangaturi, linji tal-ferrovija u sitwazzjonijiet oħra b'riskju kbir ta' skul.
- NL: Om [in het water levende organismen/niet tot de doelsoorten behorende planten] te beschermen mag u dit product niet gebruiken op ondoordringbare oppervlakken, zoals asfalt, beton [./en] kasseien [en spoorlijnen,] of op andere plaatsen waar het product gemakkelijk kan wegstromen.
- PL: W celu ochrony organizmów wodnych/roślin nie będących obiektem zwalczania nie stosować na nieprzepuszczalnych powierzchniach, takich jak: asfalt, beton, bruk, torowiska i innych przy-
padkach, gdy istnieje wysokie ryzyko spływania cieczy.
- PT: Para protecção [dos organismos aquáticos/das plantas não visadas], não aplicar este produto em superfícies impermeáveis, como asfalto, betão, empedrados [ou linhas de caminho-de-ferro], nem em qualquer outra situação em que o risco de escorrimentos seja elevado.
- SK: Z dôvodu ochrany vodných organizmov/necielených rastlín neaplikujte na nepriepustné povrchy, ako je asfalt, betón, dlažobné kocky, koľajnice a iné povrchy, pri ktorých je zvýšené riziko stekania vody.
- SL: Zaradi zaščite vodnih organizmov/neciljnih rastlin ne uporabljati na neprepustnih površinah kot so asfalt, beton, tlak, železniški tiri in drugih površinah, kjer je velika nevarnost odtekanja.
- FI: (Vesieliöiden/muiden kuin torjuttavien kasvien) suojelemiseksi ei saa käyttää läpäisemättömillä pinnoilla, kuten asvaltilla, betonilla, katukivillä, (rautatiekiskoilla) ja muissa tilanteissa, joissa on suuri huuhtoutumisen vaara.
- SV: För att skydda (vattenlevande organismer/andra växter än de man avser att bekämpa), använd inte denna produkt på hårdgjorda ytor såsom asfalt, betong, kullersten, (järnvägsspår) och andra ytor med hög risk för avrinning.
- SPe 5
- ES: Para proteger [las aves/los mamíferos silvestres], el producto debe incorporarse completamente al suelo; asegurarse de que se incorpora al suelo totalmente al final de los surcos.
- CS: Za účelem ochrany ptáků/volně žijících savců musí být přípravek zcela zapraven do půdy; zajistěte, aby byl přípravek zcela zapraven do půdy také na konci výsevních nebo výsadbových řádků.
- DA: For at beskytte [fugle/vilde pattedyr] skal produktet omhyggeligt graves ned i jorden. Sørg for, at produktet også er helt tildækket for enden af rækkerne.
- DE: Zum Schutz von (Vögeln/wild lebenden Säugetieren) muss das Mittel vollständig in den Boden eingearbeitet werden; es ist sicherzustellen, dass das Mittel auch am Ende der Pflanz- bzw. Saatreihen vollständig in den Boden eingearbeitet wird.
- ET: Lindude/metsloomade kaitsmiseks peab vahend täielikult mullaga ühinema; tagada vahendi täielik ühinemine ka ridade lõpus.
- EL: Για να προστατέψετε [πουλιά/άγρια θηλαστικά] το προϊόν πρέπει να καλυφθεί πλήρως από το έδαφος. Βεβαιωθείτε πως το προϊόν έχει καλυφθεί πλήρως στις άκρες των αυλακιών.
- EN: To protect birds/wild mammals the product must be entirely incorporated in the soil; ensure that the product is also fully incorporated at the end of rows.
- FR: Pour protéger [les oiseaux/mammifères sauvages], le produit doit être entièrement incorporé dans le sol; s'assurer que le produit est également incorporé en bout de sillons.

- IT: Per proteggere [gli uccelli/i mammiferi selvatici] il prodotto deve essere interamente incorporato nel terreno; assicurarsi che il prodotto sia completamente incorporato in fondo al solco.
- LV: Lai aizsargātu putnus/savvaļas zīdītājus, augu aizsardzības līdzekli pilnībā iestrādāt augsnē; nodrošināt līdzekļa pilnīgu iestrādi augsnē arī kultūraugu rindu galos.
- LT: Siekiant apsaugoti paukščius/laukinius gyvūnus būtina produktą visiškai įterpti į dirvą, užtikrinti, kad produktas būtų visiškai įterptas vagų gale.
- HU: A madarak/vadon élő emlősök védelme érdekében a terméket teljes egészében be kell dolgozni a talajba; ügyeljen arra, hogy az anyag a sorok végén is teljes egészében be legyen dolgozva.
- MT: Sabiex tipproteġi għasafar/mammiferi selvaġġi l-prodott għandu jkun inkorporat għal kollox fil-hamrija; żgura li l-prodott ikun ukoll inkorporat għal kollox f'tarf ir-raddi.
- NL: Om [de vogels/de wilde zoogdieren] te beschermen moet het product volledig in de bodem worden ondergewerkt; zorg ervoor dat het product ook aan het voorend is ondergewerkt.
- PL: W celu ochrony ptaków/dzikich ssaków produkt musi być całkowicie przykryty glebą; zapewnić że produkt jest również całkowicie przykryty na końcach rzędów.
- PT: Para protecção [das aves/dos mamíferos selvagens], incorporar totalmente o produto no solo, incluindo no final dos sulcos.
- SK: Z dôvodu ochrany vtákov/divo žijúcich cicavcov sa musí všetok prípravok zakryť pôdou. Presvedčte sa, či je prípravok dobre zakrytý pôdou aj na konci brázdy.
- SL: Zaradi zaščite ptic/divjih vrst sesalcev je treba sredstvo popolnoma vdelati v tla; zagotoviti, da je sredstvo v celoti vdelano v tla tudi na koncih vrst.
- FI: (Lintujen/luonnonvaraisten nisäkkäiden) suojelemiseksi tuote on sekoitettava maaperään; varmistettava, että tuote sekoittuu maaperään täysin myös vakojen päässä.
- SV: För att skydda (fåglar/vilda däggdjur) måste produkten nedmyllas helt och hållet i jorden; se till att produkten även nedmyllas helt i slutet av raderna.
- SPe 6
- ES: Para proteger [las aves/los mamíferos silvestres], recójase todo derrame accidental.
- CS: Za účelem ochrany ptáků/volně žijících savců odstraňte rozsypaný nebo rozlitý přípravek.
- DA: For at beskytte [fugle/vilde pattedyr] skal alt spildt produkt fjernes.
- DE: Zum Schutz von (Vögeln/wild lebenden Säugetieren) muss das verschüttete Mittel beseitigt werden.
- ET: Lindude/metsloomade kaitsmiseks kõrvaldada mahavalgunud vahend.
- EL: Για να προστατέψετε [πουλιά/άγρια ζώα] μαζέψτε όσο προϊόν έχει χυθεί κατά λάθος.
- EN: To protect birds/wild mammals remove spillages.
- FR: Pour protéger [les oiseaux/les mammifères sauvages], récupérer tout produit accidentellement répandu.
- IT: Per proteggere [gli uccelli/i mammiferi selvatici] recuperare il prodotto fuoriuscito accidentalmente.

- LV: Lai aizsargātu putnus/savvaļas zīdītājus, novērst izšļakstīšanos.
- LT: Siekiant apsaugoti paukščius/laukinius gyvūnus pašalinti pabiras ar išsilejusį produktą.
- HU: A madarak/vadon élő emlősök védelme érdekében távolítsa el a véletlenül kiömlött anyagot.
- MT: Nehhi kull tixrid biex tipproteġi l-ġhasafar/mammiferi selvaġġi.
- NL: Om [de vogels/de wilde zoogdieren] te beschermen moet u gemorst product verwijderen.
- PL: W celu ochrony ptaków/dzikich ssaków usuwać rozlany/rozsypany produkt.
- PT: Para protecção [das aves/dos mamíferos selvagens], recolher todo o produto derramado.
- SK: Z dôvodu ochrany vtákov/divo žijúcich cicavcov odstráňte náhodne rozsypaný prípravok.
- SL: Zaradi zaščite ptic/divjih vrst sesalcev odstraniti razsuto sredstvo.
- FI: Lintujen/luonnonvaraisten nisäkkäiden) suojelemiseksi ympäristöön vahingossa levinnyt tuote poistettava.
- SV: För att skydda (fåglar/vilda däggdjur), avlägsna spill.
- SPe 7
- ES: No aplicar durante el período de reproducción de las aves.
- CS: Neaplikujte v době hnízdění ptáků.
- DA: Må ikke anvendes i fuglenes yngletid.
- DE: Nicht während der Vogelbrutzeit anwenden.
- ET: Mitte kasutada lindude pesitsusperioodil.
- EL: Να μην χρησιμοποιείται κατά την περίοδο αναπαραγωγής των πουλιών.
- EN: Do not apply during the bird breeding period.
- FR: Ne pas appliquer durant la période de reproduction des oiseaux.
- IT: Non applicare durante il periodo di riproduzione degli uccelli.
- LV: Nelietot putnu vairošanās periodā.
- LT: Nenaudoti paukščių veisimosi laikotarpiu.
- HU: A madarak költési időszak alatt nem alkalmazható.
- MT: Tapplikax matul it-tberrik ta' l-ġhasafar.
- NL: Niet gebruiken tijdens de vogelbroedperiode.
- PL: Nie stosować w okresie rozrodczym ptaków.
- PT: Não aplicar este produto durante o período de reprodução das aves.

- SK: Neaplikujte v čase rozmnožovania vtákov.
- SL: Ne tretirati v času valjenja ptic.
- FI: Ei saa käyttää lintujen lisääntymisaikaan.
- SV: Använd inte denna produkt under fåglarnas häckningsperiod.
- SPe 8
- ES: Peligroso para las abejas./Para proteger las abejas y otros insectos polinizadores, no aplicar durante la floración de los cultivos./No utilizar donde haya abejas en pecoreo activo./Retírense o cúbranse las colmenas durante el tratamiento y durante *(indíquese el tiempo)* después del mismo./No aplicar cuando las malas hierbas estén en floración./Elimínense las malas hierbas antes de su floración./No aplicar antes de *(indíquese el tiempo)*.
- CS: Nebezpečný pro včely./Za účelem ochrany včel a jiných hmyzích opylovačů neaplikujte na kvetoucí plodiny./Neaplikujte na místech, na nichž jsou včely aktivní při vyhledávání potravy./Úly musí být během aplikace a po aplikaci *(uveďte dobu)* přemístěny nebo zakryty./Neaplikujte, jestliže se na pozemku vyskytují kvetoucí plevely./Plevely odstraňte před jejich kvetením./Neaplikujte před *(uveďte dobu)*.
- DA: Farligt for bier./For at beskytte bier og andre bestøvende insekter må dette produkt ikke anvendes i blomstrende afgrøder./Må ikke anvendes i biernes flyvetid./Tildæk eller flyt bikuber i behandlingsperioden og i *(nævn antal timer/dage)* efter behandlingen./Må ikke anvendes i nærheden af blomstrende ukrudt./Fjern ukrudt inden blomstring./Må ikke anvendes inden *(tidspunkt)*.
- DE: Bienengefährlich./Zum Schutz von Bienen und anderen bestäubenden Insekten nicht auf blühende Kulturen aufbringen./Nicht an Stellen anwenden, an denen Bienen aktiv auf Futtersuche sind./Bienenstöcke müssen während der Anwendung und für *(Angabe der Zeit)* nach der Behandlung entfernt oder abgedeckt werden./Nicht in Anwesenheit von blühenden Unkräutern anwenden./Unkräuter müssen vor dem Blühen entfernt werden./Nicht vor *(Angabe der Zeit)* anwenden.
- ET: Mesilastele ohtlik/Mesilaste ning muude tolmlevate putukate kaitsmiseks mitte kasutada põllumajanduskultuuride õitsemise ajal/Mitte kasutada aktiivsel korjealal/Kasutamise ajaks ning *(määratleda aeg)* peale tõotlemist tarud eemaldada või katta kinn/Õitseva umbrohu olemasolu korral mitre kasutada/Umbrohi enne õitsemist eemaldada/Mitte kasutada enne *(määratleda aeg)*.
- EL: Επικίνδυνο για τις μέλισσες. Για να προστατέψετε τις μέλισσες και άλλα έντομα επικονίασης μην χρησιμοποιείτε το προϊόν σε καλλιέργειες κατά την ανθοφορία./Μην χρησιμοποιείτε το προϊόν κατά την περίοδο που οι μέλισσες συλλέγουν γύρη./Απομακρύνετε ή καλύψτε τις κυψέλες κατά τη χρήση του προϊόντος και επί *(αναφέρατε το χρόνο)* μετά τη χρήση./Μην χρησιμοποιείτε το προϊόν κατά την περίοδο ανθοφορίας ζιζανίων./Απομακρύνετε τα ζιζάνια πριν από την ανθοφορία./Μην το χρησιμοποιείτε πριν *(αναφέρατε το χρόνο)*.
- EN: Dangerous to bees./To protect bees and other pollinating insects do not apply to crop plants when in flower./Do not use where bees are actively foraging./Remove or cover beehives during application and for *(state time)* after treatment./Do not apply when flowering weeds are present./Remove weeds before flowering./Do not apply before *(state time)*.
- FR: Dangereux pour les abeilles./Pour protéger les abeilles et autres insectes pollinisateurs, ne pas appliquer durant la floraison./Ne pas utiliser en présence d'abeilles./Retirer ou couvrir les ruches pendant l'application et *(indiquer la période)* après traitement./Ne pas appliquer lorsque des adventices en fleur sont présentes./Enlever les adventices avant leur floraison./Ne pas appliquer avant *(indiquer la date)*.
- IT: Pericoloso per le api./Per proteggere le api e altri insetti impollinatori non applicare alle colture al momento della fioritura./Non utilizzare quando le api sono in attività./Rimuovere o coprire gli alveari durante l'applicazione e per *(indicare il periodo)* dopo il trattamento./Non applicare in presenza di piante infestanti in fiore./Eliminare le piante infestanti prima della fioritura./Non applicare prima di *(indicare il periodo)*.

- LV: Bīstams bitēm. Lai aizsargātu bites un citus apputeksnētājus, nelietot kultūraugu ziedēšanas laikā. Nelietot vietās, kur bites aktīvi meklē barību. Bišu stropus pārvietot vai pārsegt augu aizsardzības līdzekļa smidzināšanas laikā un ... (norāda uz cik ilgu laiku) pēc smidzināšanas darba beigām. Nelietot platībās, kurās ir ziedošas nezāles. Apkarot nezāles pirms ziedēšanas. Nelietot pirms ... (norāda laiku).
- LT: Pavoingas bitėms/Siekiant apsaugoti bites ir kitus apdulkinančius vabzdžius nenaudoti augalų žydėjimo metu/Nenaudoti bičių aktyvaus maitinimosi metu/Pašalinti ar uždengti bičių avilius purškimo metu ar (nurodyti laiką) po purškimo./Nenaudoti kai yra žydinčių piktžolių/Sunaikinti piktžolės iki jų žydėjimo/Nenaudoti iki (nurodyti laiką).
- HU: Méhekre veszélyes/A méhek és egyéb beporzást végző rovarok védelme érdekében virágzási időszakban nem alkalmazható/Méhek aktív táplálékszerzési időszaka idején nem alkalmazható/Az alkalmazás idejére és a kezelés után (megadott időszak) ideig távolítsa el vagy fedje be a méhkap-tárakat/Virágzó gyomnövények jelenléte esetén nem alkalmazható/Virágzás előtt távolítsa el a gyomnövényeket/(megadott időpont) előtt nem alkalmazható.
- MT: Perikoluż għan-nahal/Sabiex thares in-nahal u insetti oħra tad-daktra tapplikax fuq uċuħ tar-raba' meta jkunu bil-fjur/Tużax fejn in-nahal ikun qed jirgħa sew/Nehħi jew agħtti l-għarar tan-nahal waqt l-applikazzjoni u għal (specifika l-hin) wara t-trattament/Tapplikax meta jkun hemm ħaxix hażin bil-fjur/Nehħi l-ħaxix hażin qabel ma jwarrad/Tapplikax qabel (specifika l-hin).
- NL: Gevaarlijk voor bijen./Om de bijen en andere bestuivende insecten te beschermen mag u dit product niet gebruiken op in bloei staande gewassen./Gebruik dit product niet op plaatsen waar bijen actief naar voedsel zoeken./Verwijder of bedek bijenkorven tijdens het gebruik van het product en gedurende (geef de tijdsduur aan) na de behandeling./Gebruik dit product niet in de buurt van in bloei staand onkruid./Verwijder onkruid voordat het bloeit./Gebruik dit product niet vóór (geef de datum of de periode aan).
- PL: [Niebezpieczne dla pszczoł/W celu ochrony pszczoł i innych owadów zapylających nie stosować na rośliny uprawne w czasie kwitnienia/Nie używać w miejscach gdzie pszczoły mają pożytek/Usuwać lub przykrywać ule podczas zabiegu i przez (określić czas) po zabiegu/Nie stosować kiedy występują kwitnące chwasty/Usuwać chwasty przed kwitnieniem/Nie stosować przed (określić czas).
- PT: Perigoso para as abelhas./Para protecção das abelhas e de outros insectos polinizadores, não aplicar este produto durante a floração das culturas./Não utilizar este produto durante o período de presença das abelhas nos campos./Remover ou cobrir as colmeias durante a aplicação do produto e durante (indicar o período) após o tratamento./Não aplicar este produto na presença de infestantes em floração./Remover as infestantes antes da floração./Não aplicar antes de (critério temporal a precisar).
- SK: Nebezpečný pre včely/Z dôvodu ochrany včiel a iného opeľujúceho hmyzu neaplikujte na plodiny v čase kvetu/Nepoužívajte, keď sa v okolí nachádzajú včely/Počas aplikácie a (uvedte čas) po aplikácii úle prikryte alebo presuňte na iné miesto/Neaplikujte, keď sa v okolí nachádzajú kvitnúce buriny/Odstráňte buriny pred kvitnutím/Neaplikujte pred (uvedte čas).
- SL: Nevarno za čebele./Zaradi zaščite čebel in drugih žuželk opravevalcev ne tretirati rastlin med cvetenjem./Ne tretirati v času paše čebel./Med tretiranjem in (navede se časovno obdobje) po tretiranju odstraniti ali pokriti čebelje panje./Ne tretirati v prisotnosti cvetočega plevela./Odstraniti plevel pred cvetenjem./Ne tretirati pred (navede se časovno obdobje).
- FI: Vaarallista mehiläisille./Mehiläisten ja muiden pölyttävien hyönteisten suojelemiseksi ei saa käyttää viljelykasvien kukinta-aikaan./Ei saa käyttää aikana, jolloin mehiläiset lentävät aktiivisesti./Mehiläispesät poistettava tai suojattava levittämisen ajaksi ja (aika) ajaksi käsittelyn jälkeen./Ei saa käyttää, jos alueella on kukkivia rikkakasveja./Poista rikkakasvit ennen kukinnan alkua./Ei saa käyttää ennen (aika).
- SV: Farligt för bin./För att skydda bin och andra pollinerande insekter, använd inte denna produkt på blommande gröda./Får inte användas där bin aktivt söker efter föda./Avlägsna eller täck över bikupor under behandling och under (ange tidsperiod) efter behandling./Använd inte denna produkt då det finns blommande ogräs./Avlägsna ogräs före blomning./Använd inte denna produkt före (ange tidsperiod).

(e) Point 2.3 in Annex V is replaced by the following:

‘2.3. Safety precautions related to good agricultural practice

SPa 1

- ES: **Para evitar la aparición de resistencias, no aplicar este producto ni ningún otro que contenga** (indíquese la sustancia activa o la clase de sustancias, según corresponda) **más de** (indíquese el número de aplicaciones o el plazo).
- CS: **K zabránění vzniku rezistence neaplikujte tento ani žádný jiný přípravek, který obsahuje** (uvedte účinnou látku nebo popřípadě skupinu účinných látek) **více/déle než** (uvedte četnost aplikací nebo lhůtu).
- DA: **For at undgå udviklingen af resistens må dette produkt eller andre produkter, der indeholder** (angiv aktivstof eller gruppe af aktivstoffer), **kun anvendes/ikke anvendes mere end** (i tidsperioden eller antal gange).
- DE: **Zur Vermeidung einer Resistenzbildung darf dieses oder irgendein anderes Mittel, welches** (entsprechende Benennung des Wirkstoffes oder der Wirkstoffgruppe) **enthält, nicht mehr als** (Angabe der Häufigkeit oder der Zeitspanne) **ausgebracht werden.**
- ET: **Resistentsuse tekkimise vältimiseks seda või ükskõik millist muud vahendit mitte kasutada rohkem kui** (kasutamiskordade arv või määratletav periood), **mis sisaldab** (määratleda vastavalt toimeaine või ainete liik).
- EL: **Προκειμένου να μην αναπτυχθεί αντίσταση μην χρησιμοποιείτε αυτό ή οποιοδήποτε άλλο προϊόν που περιέχει** (προσδιορίστε τη δραστική ουσία ή την κατηγορία των ουσιών αναλόγως) **περισσότερο από** (να προσδιορίσετε η συχνότητα) **φορές.**
- EN: **To avoid the build-up of resistance do not apply this or any other product containing** (identify active substance or class of substances, as appropriate) **more than** (number of applications or time period to be specified).
- FR: **Pour éviter le développement de résistances, ne pas appliquer ce produit ou tout autre contenant** (préciser la substance ou la famille de substances selon le cas) **plus de** (nombre d'applications ou durée à préciser).
- IT: **Per evitare l'insorgenza di resistenza non applicare questo o altri prodotti contenenti** (indicare la sostanza attiva o la classe di sostanze, a seconda del caso) **più di** (numero di applicazioni o durata da precisare).
- LV: **Lai izvairītos no rezistences veidošanās, nelietot šo vai jebkuru citu augu aizsardzības līdzekli, kurš satur ...** (norāda darbīgās vielas vai darbīgo vielu grupas nosaukumu) **vairāk nekā ...** (norāda apstrāžu skaitu vai laiku).
- LT: **Siekiant išvengti atsparumo išsivystymo, nenaudoti šio produkto ar kito produkto, kurio sudėtyje yra** (nurodyti veikliąją medžiagą ar medžiagų grupę) **dažniau kaip** (nurodyti apdorojimų skaičių arba laikotarpį).
- HU: **Rezisztancia kialakulásának elkerülése érdekében ezt vagy** (a megfelelő hatóanyag vagy anyagscsoport)-ot **tartalmazó bármilyen más készítményt ne használja** (az előírt kezelésszám vagy időszakok)-nál **többször/ hosszabb ideig.**
- MT: **Sabiex tevita li tinbena reżistenza tapplikax dan jew xi prodott iehor li jkun fih** (identifika s-sustanza jew klassi ta' sustanzi attivi kif imiss) **aktar minn** (l-ghadd ta' applikazzjonijiet jew il-hin li għandu jkun speċifikat).
- NL: **Om resistentieopbouw te voorkomen mag u dit product of andere producten die** (geef naar gelang van het geval de naam van de werkzame stof of van de categorie werkzame stoffen) **bevatten, niet vaker gebruiken dan** (geef het aantal toepassingen aan)/**niet langer gebruiken dan** (geef de tijdsduur aan).
- PL: **W celu uniknięcia powstawania odporności nie stosować tego lub żadnego innego produktu zawierającego** (określić substancję aktywną lub klasę substancji, kiedy dotyczy) **nie dłużej niż** (określony czas)/ **nie częściej niż** (określona częstotliwość).

- PT: **Para evitar o desenvolvimento de resistências, não aplicar este produto ou qualquer outro que contenha** (indicar, consoante o caso, a substância activa ou a família de substâncias activas) **mais de** (número ou período de aplicações a precisar).
- SK: **Na zabránenie vzniku rezistencie neaplikujte tento alebo iný prípravok obsahujúci** (uvedte účinnú látku alebo skupinu látok) **dlhšie ako** (upresnite počet aplikácií alebo časový úsek).
- SL: **Zaradi preprečevanja nastanka odpornosti ne uporabljati tega ali drugih sredstev, ki vsebujejo** (navede se aktivno snov ali skupino aktivnih snovi) **več kot** (navede se časovno obdobje ali število tretiranj).
- FI: **Resistenssin kehittymisen estämiseksi ei saa käyttää tätä tai mitä tahansa muuta tuotetta, joka sisältää** (tapauksen mukaan tehoaine tai aineluokka), **käyttöö useammin** (käyttöiheys).
- SV: **För att undvika utveckling av resistens använd inte denna produkt eller andra produkter innehållande** (ange verksamt ämne eller grupp av ämnen) **mer än** (ange antal behandlingar eller tidsperiod).

(f) Point 2.4 in Annex V is replaced by the following:

2.4. Specific safety precautions for rodenticides (SPr)

SPr 1

- ES: **Los cebos deben colocarse de forma que se evite el riesgo de ingestión por otros animales. Asegurar los cebos de manera que los roedores no puedan llevárselos.**
- CS: **Nástrahy musí být kladený tak, aby se minimalizovalo riziko požití jinými zvířaty. Zabezpečte nástrahy, aby nemohly být hlodavci rozvlékány.**
- DA: **Produktet skal anbringes på en sådan måde, at risikoen for, at andre dyr kan indtage produktet, formindskes mest muligt. F.eks. ved at produktet anbringes inde i en kasse med små indgangshuller til gnaverne eller inde i gnavernes eget gangsystem. Pas på, at produkt i blokform ikke kan flyttes væk af de gnavere, der skal bekæmpes.**
- DE: **Die Köder verdeckt und unzugänglich für andere Tiere ausbringen. Köder sichern, so dass ein Verschleppen durch Nagetiere nicht möglich ist.**
- ET: **Peibutussööt tuleb ohutult ladustada selliselt, et minimeerida teiste loomade poolt tarbimise ohtu. Peibutussöödabriketid kindlustada selliselt, et närilised neid ära vedada ei saaks.**
- EL: **Τα δολώματα θα πρέπει να τοποθετηθούν με τρόπο τέτοιο που να ελαχιστοποιηθεί η πιθανότητα να καταναλωθούν από άλλα ζώα. Ασφαλίστε τα δολώματα έτσι ώστε να μην μπορούν να τα παρασύρουν τα τρωκτικά.**
- EN: **The baits must be securely deposited in a way so as to minimise the risk of consumption by other animals. Secure bait blocks so that they cannot be dragged away by rodents.**
- FR: **Les appâts doivent être disposés de manière à minimiser le risque d'ingestion par d'autres animaux. Sécuriser les appâts afin qu'ils ne puissent pas être emmenés par les rongeurs.**
- IT: **Le esche devono essere disposte in modo da minimizzare il rischio di ingerimento da parte di altri animali. Fissare le esche in modo che non possano essere trascinate via dai roditori.**
- LV: **Ēsmu ejā ievietot tā, lai, tā nebūtu pieejama citiem dzīvniekiem. Ēsmu nostiprināt, lai graužēji to nevarētu aizvilkt.**
- LT: **Jaukas turi būti saugiai išdėstytas taip, kad sumažėtų rizika kitiems gyvūnams jų vartoti. Jauko blokai turi būti taip saugomi, kad graužikai negalėtų jų išstampti.**
- HU: **A csalétket úgy kell biztonságosan kihelyezni, hogy a lehető legkisebb legyen annak a veszélye, hogy abból más állatok is fogyasztanak. A csalétket úgy kell rögzíteni, hogy azt a rágcsálók ne hurcolhassák el.**

- MT: Il-lixki ghandhom jitqeghdu hekk li jitnaqqas ir-riskju li jkunu mittiekla minn annimali ohrajn. Orbot il-blokki tal-lixka sew fejn ikunu biex ma' jgħux mkaxkra minn fuq il-post minn rodenti.
- NL: De lokmiddelen moeten zo worden geplaatst dat het risico dat andere dieren ervan eten zoveel mogelijk wordt beperkt. Maak de blokjes stevig vast, zodat ze niet door de knaagdieren kunnen worden weggesleept.
- PL: Przynęty muszą być rozłożone w taki sposób, aby zminimalizować ryzyko zjedzenia przez inne zwierzęta. Zabezpieczyć przynętę w ten sposób, aby nie mogła zostać wywleczona przez gryzonie.
- PT: Colocar os iscos de modo a minimizar o risco de ingestão por outros animais. Fixar os iscos, para que não possam ser arrastados pelos roedores.
- SK: Návnady sa musia umiestniť tak, aby sa k nim nedostali iné zvieratá. Zabezpečiť návnady tak, aby ich hlodavce nemohli odtiahnuť.
- SL: Vabe je treba nastaviti varno, tako da je tveganje zaužitja za druge živali minimalno. Zavarovati vabe tako, da jih glodalci ne morejo raznesti.
- FI: Syötit on sijoitettava siten, että ne eivät aiheuta riskiä muille eläimille. Syötit on kiinnitettävä siten, että jyr sijät eivät saa vietyä niitä mukanaan.
- SV: Betena måste placeras så att andra djur inte kan förtära dem. Förankra betena så att de inte kan släpas iväg av gnagare.
- SPr 2
- ES: La zona tratada debe señalizarse durante el tratamiento. Debe advertirse del riesgo de intoxicación (primaria o secundaria) por el anticoagulante así como del antídoto correspondiente.
- CS: Plocha určená k ošetření musí být během ošetřování označena. Je třeba upozornit na nebezpečí otravy (primární nebo sekundární) antikoagulantem a uvést protijed.
- DA: Det behandlede område skal afmærkes i behandlingsperioden. Faren for forgiftning (primær eller sekundær) ved indtagelse af antikoaguleringsmidler, samt modgiften herfor, skal nævnes på opslag.
- DE: Die zu behandelnde Fläche muss während der Behandlungszeit markiert sein. Die Gefahr der (primären oder sekundären) Vergiftung durch das Antikoagulans und dessen Gegenmittel sollte erwähnt werden.
- ET: Käideldud ala tuleb käitlemisperioodiks märgistada. Antikoagulandi mürgituse (esmane või teisene) oht ning selle vastane antidoot peab olema ära mainitud.
- EL: Η περιοχή στην οποία έχει χρησιμοποιηθεί το προϊόν πρέπει να έχει σημαδευτεί κατά την περίοδο χρήσης. Θα πρέπει να αναφέρεται ο κίνδυνος (πρωτογενούς ή δευτερογενούς) δηλητηρίασης από το αντιπηκτικό καθώς και το αντίδοτο σε περίπτωση δηλητηρίασης.
- EN: Treatment area must be marked during the treatment period. The danger from being poisoned (primary or secondary) by the anticoagulant and the antidote against it should be mentioned.
- FR: La zone de traitement doit faire l'objet d'un marquage pendant la période de traitement. Le risque d'empoisonnement (primaire ou secondaire) par l'anticoagulant, ainsi que son antidote doivent être mentionnés.
- IT: Durante il trattamento la zona interessata deve essere chiaramente segnalata. Il pericolo di avvelenamento (primario o secondario) dovuto all'anticoagulante deve essere evidenziato assieme al relativo antidoto.
- LV: Apstrādes laikā apstrādājamo platību marķēt. Norādīt saindēšanās (primārās vai sekundārās) apdraudējumu ar antikoagulantu un tā antidotu.
- LT: Apdorojami plotai turi būti pažymėti visą apdorojimo laikotarpį. Turi būti paminėtas apsinuodijimo antikoagulantu pavojus (tiesioginis ar netiesioginis) ir nurodytas priešnuodis.

- HU: A kezelt területet a kezelés ideje alatt külön jelöléssel kell megjelölni. A jelölésben fel kell hívni a figyelmet a véralvadástól való mérgeződés veszélyére és annak ellenszerére.
- MT: Il-post ittrattat għandu jkun immarkat filwaqt li jkun qiegħed jiġi ittrattat. Għandu jissejma l-periklu ta' avvelenament (primarju jew sekondarju) bl-antikoagulant u l-antidotu tiegħu.
- NL: De behandelde zone moet tijdens de verdelingsperiode worden gemarkeerd. Het risico van een (primaire of secundaire) vergiftiging door het antistollingsmiddel moet worden vermeld, alsmede het tegengif.
- PL: Obszar poddany zabiegowi musi być oznakowany podczas zabiegu. Niebezpieczeństwo zatrucia (pierwotnego lub wtórnego) antykoagulantem i antidotum powinno być wyszczególnione.
- PT: Durante o período de tratamento, marcar a zona, com menção ao perigo de envenenamento (primário ou secundário) pelo anticoagulante e indicação do antídoto deste último.
- SK: Ošetrovaná plocha sa počas ošetrovania musí označiť. Musí sa uviesť nebezpečenstvo možnej otravy (primárnej alebo sekundárnej) antikoagulantami a protilátky.
- SL: Tretirano območje je treba v času tretiranja označiti. Navesti je treba nevarnost zastrupitve (neposredne ali posredne) z antikoagulantu in ustrezne antidote.
- FI: Käsitteltävä alue on merkittävä käsittelyaikana. Antikoagulantin aiheuttama myrkytysvaara (primaarinen tai sekundaarinen) ja vasta-aine mainittava.
- SV: Det behandlade området skall markeras under behandlingsperioden. Faran för förgiftning (primär eller sekundär) av antikoagulanten samt motgift skall anges.
- SPr 3
- ES: Durante el tratamiento, los roedores muertos deben retirarse diariamente de la zona tratada. No tirarlos en cubos de basura ni en vertederos.
- CS: Mrtvé hlodavce během doby použití přípravku denně odstraňujte. Neodkládejte je do nádob na odpadky ani na smetiště.
- DA: Døde gnavere skal fjernes fra behandlingsområdet hver dag. Anbring ikke de døde gnavere i åbne affaldsbeholdere.
- DE: Tote Nager während der Einsatzperiode täglich entfernen. Nicht in Müllbehältern oder auf Müllkippen entsorgen.
- ET: Surnud närilised tuleb eemaldada käitlemisalalt käitlemise ajal iga päev. Mitte panna prügikastidesse või prügi mahapaneku kohtadesse.
- EL: Τα νεκρά τρωκτικά πρέπει να απομακρύνονται καθημερινά από την περιοχή χρήσης σε όλη τη διάρκεια χρησιμοποίησης του προϊόντος. Να μην τοποθετούνται σε κάδους απορριμμάτων ούτε σε σακούλες σκουπιδιών.
- EN: Dead rodents must be removed from the treatment area each day during treatment. Do not place in refuse bins or on rubbish tips.
- FR: Les rongeurs morts doivent être retirés quotidiennement de la zone de traitement pendant toute la période du traitement. Ne pas les jeter dans les poubelles ni les décharges.
- IT: I roditori morti devono essere rimossi quotidianamente dalla zona del trattamento per tutta la durata dello stesso e non devono essere gettati nei rifiuti o nelle discariche.
- LV: Apstrādes laikā beigtos grauzējus no apstrādātās platības aizvākt katru dienu. Neizmest tos atkritumu tvertnēs vai kaudzēs.
- LT: Žuvę graužikai turi būti surenkami iš apdoroto ploto kiekvieną dieną viso naikinimo metu. Nemesti į šiukšlių dėžes arba sąvartynus.

- HU: Az elhullott rágcsálókát a kezelés alatt naponta el kell távolítani a kezelt területről. A tetemeiket tilos hulladéktartályban vagy hulladéklerakóban elhelyezni.
- MT: Għandhom jitnehhew kuljum ir-rodenti mejta mill-post ittrattat. Tarmihomx f'kontenituri taż-żibel jew fuq il-miżbliet.
- NL: Tijdens de verdelgingsperiode moeten de knaagdieren elke dag uit de behandelde zone worden verwijderd. Gooi ze niet in vuilnisbakken of op storten.
- PL: Martwe gryzonie usuwać z obszaru poddanego zabiegowi każdego dnia. Nie wyrzucać do pojemników na śmieci i nie wywozić na wysypiska śmieci.
- PT: Durante o período de tratamento, remover diariamente os roedores mortos da zona de tratamento, mas sem os deitar ao lixo ou depositar em lixeiras.
- SK: Mŕtve hlodavce treba z ošetrovanej plochy každý deň odstrániť. Nehádzte ich do odpadových nádob alebo na smetisko.
- SL: Poginule glodalce je treba odstraniti s tretiranega območja sproti, vsek dan v času tretiranja, vendar ne v zabojnike za odpadke ali odlagališča smeti.
- FI: Kuolleet jyrsijät on kerättävä käsittelyaikana alueelta päivittäin. Niitä ei saa heittää jätesäiliöihin tai kaatopaikoille.
- SV: Döda gnagare skall tas bort från behandlingsområdet varje dag under behandlingen. Får inte läggas i soptunnor eller på soptipp.'.

IV. TRANSPORT POLICY

ROAD TRANSPORT

1. Council Directive 96/26/EC of 29 April 1996 on admission to the occupation of road haulage operator and road passenger transport operator and mutual recognition of diplomas, certificates and other evidence of formal qualifications intended to facilitate for these operators the right to freedom of establishment in national and international transport operations.

In Annex Ia, footnote 1 is replaced by the following:

'⁽¹⁾ Distinctive symbol of the State: (B) Belgium, (CZ) Czech Republic, (DK) Denmark, (D) Germany, (EST) Estonia, (GR) Greece, (E) Spain, (F) France, (IRL) Ireland, (I) Italy, (CY) Cyprus, (LV) Latvia, (LT) Lithuania, (L) Luxembourg, (H) Hungary, (M) Malta, (NL) Netherlands, (A) Austria, (PL) Poland, (P) Portugal, (SLO) Slovenia, (SK) Slovakia, (FIN) Finland, (S) Sweden, (UK) United Kingdom.'.

2. Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers, amending Council Regulation (EEC) No 3820/85 and Council Directive 91/439/EEC and repealing Council Directive 76/914/EEC.

(a) In Annex II, point 2, below the words 'side 1 contains', point (c) is replaced by the following:

'the distinguishing sign of the Member State issuing the card, printed in negative in a blue rectangle and encircled by 12 yellow stars; the distinguishing signs are as follows:

B: Belgium

CZ: Czech Republic

DK:	Denmark
D:	Germany
EST:	Estonia
GR:	Greece
E:	Spain
F:	France
IRL:	Ireland
I:	Italy
CY:	Cyprus
LV:	Latvia
LT:	Lithuania
L:	Luxembourg
H:	Hungary
M:	Malta
NL:	Netherlands
A:	Austria
PL:	Poland
P:	Portugal
SLO:	Slovenia
SK:	Slovakia
FIN:	Finland
S:	Sweden
UK:	United Kingdom'.

- (b) In Annex II, point 2, below the words 'side 1 contains', point (e) is replaced by the following:

'the title "European Communities model" in the language or languages of the Member State issuing the card and the heading "driver qualification card" in the other official languages of the Community, printed in blue so as to form the background to the card:

tarjeta de cualificación del conductor

Osvědčení profesní způsobilosti řidiče

chaufføruddannelsesbevis

Fahrerqualifizierungsnachweis

juhi ametipädevuse kaart

δελτίο επιμόρφωσης οδηγού

driver qualification card

carte de qualification de conducteur

cárta cáilíochta tiomána

carta di qualificazione del conducente

vadītāja kvalifikācijas apliecība

vairuotojo kvalifikacinė kortelė

gépjárművezetői képesítési igazolvány

karta ta' kwalifikazzjoni tas-sewwieq

kwalificatiekaart bestuurder

karta kwalifikacji kierowcy

carta de qualificação do motorista

preukaz o kvalifikácii vodiča

kartica o usposobljenosti voznika

kuljettajan ammattipätevyyskortti

yrkeskompetensbevis för förare.

- (c) In Annex II, point 2, below the words 'side 2 contains', the second sentence of point (b) is replaced by the following:

'If a Member State wishes to word these entries in a national language other than one of the following languages: Spanish, Czech, Danish, German, Estonian, Greek, English, French, Italian, Latvian, Lithuanian, Hungarian, Maltese, Dutch, Polish, Portuguese, Slovak, Slovenian, Finnish and Swedish, it shall draw up a bilingual version of the card using one of the abovementioned languages, without prejudice to the other provisions of this Annex.'

V. TAXATION

1. Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment.

- (a) Article 24 bis is replaced by the following:

'Article 24a

In implementing Article 24(2) to (6), the following Member States may grant an exemption from value added tax to taxable persons whose annual turnover is less than the equivalent in national currency at the conversion rate on the date of their accession:

— in the Czech Republic: EUR 35 000;

— in Estonia: EUR 16 000;

— in Cyprus: EUR 15 600;

- in Latvia: EUR 17 200;
- in Lithuania: EUR 29 000;
- in Hungary: EUR 35 000;
- in Malta: EUR 37 000 when the economic activity consists principally in the supply of goods, EUR 24 300 when the economic activity consists principally in the supply of services with a low value added (high inputs), and EUR 14 600 in other cases, namely service providers with a high value added (low inputs);
- in Poland: EUR 10 000;
- in Slovenia: EUR 25 000;
- in Slovakia: EUR 35 000.’

(b) Article 28m is replaced by the following:

‘Article 28m

Rate of conversion

To determine the equivalents in their national currencies of amounts expressed in ecus in this Title Member States shall use the rate of exchange applicable on 16 December 1991.* However, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia shall use the rate of exchange applicable on the date of their accession.’.

(c) Article 17(3)(b), in the version set out in Article 28f(1)⁽¹⁾, is replaced by the following:

‘(b) transactions which are exempt pursuant to Article 14(1)(g) and (i), 15, 16(1) (B), (C), (D) or (E) or (2) or 28c (A) and (C).’.

2. Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments.

In the Annex, the following is inserted between the entries for Italy and Portugal:

‘Latvia	Pašvaldības (local governments)
Poland	gminy (communes)
	powiaty (districts)
	województwa (provinces)
	związki gmin (associations of communes)
	powiatów (association of districts)
	województw (association of provinces)
	miasto stołeczne Warszawa (capital city of Warsaw)
	Agencja Restrukturyzacji i Modernizacji Rolnictwa (Agency for Restructuring and Modernisation of Agriculture)
	Agencja Nieruchomości Rolnych (Agricultural Property Agency)’

and, after the entries for Portugal:

‘Slovakia	mestá a obce (municipalities)
	Železnice Slovenskej republiky (Slovak Railway Company)
	Štátny fond cestného hospodárstva (State Road Management Fund)
	Slovenské elektrárne (Slovak Power Plants)
	Vodohospodárska výstavba (Water Economy Building Company)’.

3. Council Directive 2003/49/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States.

⁽¹⁾ The Sixth VAT Directive contains two versions of Article 17(3)(b). Article 28f(1) of that Directive contains the provision which is currently applicable. This particular situation was not properly accounted for in Protocol No. 3 to the Act of Accession which in error amended the version of Article 17(3)(b) which is not currently applicable. The version currently applicable has therefore also to be amended.

(a) The following is added to Article 3(a)(iii):

- ‘— Daň z příjmů právnických osob in the Czech Republic,
- Tulumaks in Estonia,
- φόρος εισοδήματος in Cyprus,
- Uzņēmumu ienākuma nodoklis in Latvia,
- Pelnų mokestis in Lithuania,
- Társasági adó in Hungary,
- Taxxa fuq l-income in Malta,
- Podatek dochodowy od osób prawnych in Poland,
- Davek od dobička pravnih oseb in Slovenia,
- Daň z príjmov právnických osôb in Slovakia’.

(b) The following is added to the Annex:

- ‘(p) companies under Czech law known as: “akciová společnost”, “společnost s ručením omezeným”, “veřejná obchodní společnost”, “komanditní společnost”, “družstvo”;
- (q) companies under Estonian law known as: “täisühing”, “usaldusühing”, “osaühing”, “aktsiaselts”, “tulundusühistu”;
- (r) companies under Cypriot law known as: companies in accordance with the Company’s Law, Public Corporate Bodies as well as any other Body which is considered as a company in accordance with the Income tax Laws;
- (s) companies under Latvian law known as: “akciju sabiedrība”, “sabiedrība ar ierobežotu atbildību”;
- (t) companies incorporated under the law of Lithuania;
- (u) companies under Hungarian law known as: “közkereseti társaság”, “betéti társaság”, “közös vállalat”, “korlátolt felelősségű társaság”, “résztvénytársaság”, “egyesülés”, “közhasznú társaság”, “szövetkezet”;
- (v) companies under Maltese law known as: “Kumpaniji ta’ Responsabilita’ Limitata”, “Soċjetajiet in akkomandita li l-kapital tagħhom maqsum f’azzjonijiet”;
- (w) companies under Polish law known as: “spółka akcyjna”, “spółka z ograniczoną odpowiedzialnością”;
- (x) companies under Slovenian law known as: “delniška družba”, “komanditna delniška družba”, “komanditna družba”, “družba z omejeno odgovornostjo”, “družba z neomejeno odgovornostjo”;
- (y) companies under Slovak law known as: “akciová spoločnosť”, “spoločnosť s ručením obmedzeným”, “komanditná spoločnosť”, “verejná obchodná spoločnosť”, “družstvo”.

Corrigendum to Council Directive 2004/76/EC of 29 April 2004 amending Directive 2003/49/EC as regards the possibility for certain Member States to apply transitional periods for the application of a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States

(Official Journal of the European Union L 157 of 30 April 2004)

Directive 2004/76/EC should read as follows:

**COUNCIL DIRECTIVE 2004/76/EC
of 29 April 2004
amending Directive 2003/49/EC as regards the possibility for certain Member States to apply
transitional periods for the application of a common system of taxation applicable to interest and
royalty payments made between associated companies of different Member States**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 94 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Whereas:

(1) Council Directive 2003/49/EC of 3 June 2003 on the common system of taxation applicable to interest and royalty payments made between associated companies of different Member States ⁽³⁾ provides for the abolition of taxation on those payments in the Member State where they arise, but also ensures that these payments are subject to tax once in a Member State.

(2) The application of Directive 2003/49/EC is liable to cause budgetary difficulties for the Czech Republic, Latvia, Lithuania, Poland and Slovakia given the rates of withholding tax applied under national law and on the basis of tax conventions on income and capital and the revenue thus collected.

(3) Those acceding States should therefore be permitted, on a temporary basis, until the date of application referred to in Article 17(2) and (3) of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments ⁽⁴⁾ not to apply certain provisions of Directive 2003/49/EC concerning, in the case of Latvia and Lithuania, interest and royalty payments, and in the case of the Czech Republic, Poland and Slovakia, royalty payments only.

(4) The measure provided for in this Directive is not an adaptation within the meaning of Article 57 of the 2003 Act of Accession.

(5) Since the Member States are required to grant credit for tax deducted from interest and royalty payments, it is necessary to ensure that this Directive is transposed by the date of entry into force of the 2003 Act of Accession.

(6) The provisions in this Directive must apply from the date of accession of the new Member States. The urgency of the matter justifies an exception to the six-week period provided for in point I.3. of the Protocol on the role of national parliaments in the European Union,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Article 6 of Directive 2003/49/EC is hereby amended as follows:

1. The title is replaced by the following:

‘Transitional rules for the Czech Republic, Greece, Spain, Latvia, Lithuania, Poland, Portugal and Slovakia’

2. Paragraphs 1, 2 and 3 are replaced by the following:

‘1. Greece, Latvia, Poland and Portugal shall be authorised not to apply the provisions of Article 1 until the date of application referred to in Article 17(2) and (3) of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings

⁽¹⁾ Opinion of 21 April 2004 (not yet published in the Official Journal).

⁽²⁾ Opinion of 28 April 2004 (not yet published in the Official Journal).

⁽³⁾ OJ L 157, 26.6.2003, p. 49.

⁽⁴⁾ OJ L 157, 26.6.2003, p. 38.

income in the form of interest payments (*). During a transitional period of eight years starting on the aforementioned date, the rate of tax on payments of interest or royalties made to an associated company of another Member State or to a permanent establishment situated in another Member State of an associated company of a Member State must not exceed 10 % during the first four years and 5 % during the final four years.

Lithuania shall be authorised not to apply the provisions of Article 1 until the date of application referred to in Article 17(2) and (3) of Directive 2003/48/EC. During a transitional period of six years starting on the aforementioned date, the rate of tax on payments of royalties made to an associated company of another Member State or to a permanent establishment situated in another Member State of an associated company of a Member State must not exceed 10 %. During the first four years of the six-year transitional period, the rate of tax on payments of interest made to an associated company of another Member State or to a permanent establishment situated in another Member State must not exceed 10 %; and for the following two years, the rate of tax on such payments of interest must not exceed 5 %.

Spain and the Czech Republic shall be authorised, for royalty payments only, not to apply the provisions of Article 1 until the date of application referred to in Article 17(2) and (3) of Directive 2003/48/EC. During a transitional period of six years starting on the aforementioned date, the rate of tax on payments of royalties made to an associated company of another Member State or to a permanent establishment situated in another Member State of an associated company of a Member State must not exceed 10 %. Slovakia shall be authorised, for royalty payments only, not to apply the provisions of Article 1 during a transitional period of two years starting on 1 May 2004.

These transitional rules shall, however, remain subject to the continued application of any rate of tax lower than those referred to in the first, second and third subparagraphs provided by bilateral agreements concluded between the Czech Republic, Greece, Spain, Latvia, Lithuania, Poland, Portugal or Slovakia and other Member States. Before the end of any of the transitional periods mentioned in this paragraph the Council may decide unanimously, on a proposal from the Commission, on a possible extension of the said transitional periods.

2. Where a company of a Member State, or a permanent establishment situated in that Member State of a company of a Member State:

- receives interest or royalties from an associated company of Greece, Latvia, Lithuania, Poland or Portugal,

- receives royalties from an associated company of the Czech Republic, Spain or Slovakia,

- receives interest or royalties from a permanent establishment situated in Greece, Latvia, Lithuania, Poland or Portugal, of an associated company of a Member State,

or

- receives royalties from a permanent establishment situated in the Czech Republic, Spain or Slovakia, of an associated company of a Member State,

the first Member State shall allow an amount equal to the tax paid in the Czech Republic, Greece, Spain, Latvia, Lithuania, Poland, Portugal, or Slovakia in accordance with paragraph 1 on that income as a deduction from the tax on the income of the company or permanent establishment which received that income.

3. The deduction provided for in paragraph 2 need not exceed the lower of:

- (a) the tax payable in the Czech Republic, Greece, Spain, Latvia, Lithuania, Poland, Portugal or Slovakia, on such income on the basis of paragraph 1,

or

- (b) that part of the tax on the income of the company or permanent establishment which received the interest or royalties, as computed before the deduction is given, which is attributable to those payments under the domestic law of the Member State of which it is a company or in which the permanent establishment is situated.

(*) OJ L 157, 26.6.2003, p. 38.'

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive from the date of its entry into force. They shall immediately forward to the Commission the text of these measures, together with a correlation table between such measures and this Directive.

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

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

Article 3

This Directive shall enter into force subject to, and as on the date of, the entry into force of the Treaty of Accession of the Czech

Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia.

Article 4

This Directive is addressed to the Member States.

Done at Luxembourg, 29 April 2004.

For the Council
The President
M. McDOWELL

AGREEMENT**between the European Community and the Swiss Confederation providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments**

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

and

THE SWISS CONFEDERATION, hereinafter referred to as 'Switzerland',

or as the 'Contracting Parties',

HAVE AGREED TO CONCLUDE THE FOLLOWING AGREEMENT:

*Article 1***Retention by Swiss paying agents**

1. Interest payments which are made to beneficial owners within the meaning of Article 4 who are residents of a Member State of the European Union, hereinafter referred to as 'Member State', by a paying agent established on the territory of Switzerland, shall, subject to paragraph 2 and Article 2 below, be subject to a retention from the amount of the interest payment. The rate of retention shall be 15 % during the first three years from the date of application of this Agreement, 20 % for the subsequent three years and 35 % thereafter.

2. Interest payments made on debt-claims issued by debtors who are residents of Switzerland or pertaining to permanent establishments of non-residents located in Switzerland shall be excluded from the retention. For the purposes of this Agreement, the term 'permanent establishment' shall have the meaning that it has under the relevant double taxation convention between Switzerland and the State of residence of the debtor. In the absence of such a convention, the term 'permanent establishment' means a fixed place of business through which the business of a debtor is wholly or partly carried on.

3. However, in case Switzerland reduces the rate of its anticipatory tax on Swiss source interest payments to individuals resident in Member States below 35 %, it shall levy a retention on such interest payments. The rate of such retention shall be the difference between the rate of retention provided for in paragraph 1 and the new rate of anticipatory tax. However, it shall not exceed the rate provided for in paragraph 1.

If Switzerland reduces the scope of application of its anticipatory tax law on interest payments to individuals resident in Member States, any interest payments thus excluded from

anticipatory tax shall become subject to retention at the rates provided for in paragraph 1.

4. Paragraph 2 shall not apply to interest paid by Swiss investment funds which at the time of the entry into force of this Agreement or at a later date are exempted from Swiss anticipatory tax on their payments to individuals who are residents of a Member State.

5. Switzerland shall take the necessary measures to ensure that the tasks required for the implementation of this Agreement are carried out by paying agents established within the territory of Switzerland and specifically provide for provisions on procedures and penalties.

*Article 2***Voluntary disclosure**

1. Switzerland shall provide for a procedure which allows the beneficial owner as defined in Article 4 to avoid the retention specified in Article 1 by expressly authorising his or her paying agent in Switzerland to report the interest payments to the competent authority of that State. Such authorisation shall cover all interest payments made to the beneficial owner by that paying agent.

2. The minimum amount of information to be reported by the paying agent in case of express authorisation by the beneficial owner shall consist of:

- (a) the identity and residence of the beneficial owner established in accordance with Article 5;
- (b) the name and address of the paying agent;
- (c) the account number of the beneficial owner or, where there is none, identification of the debt-claim giving rise to the interest; and

(d) the amount of the interest payment calculated in accordance with Article 3.

3. The Swiss competent authority shall communicate the information referred to in paragraph 2 to the competent authority of the Member State of residence of the beneficial owner. Such communications shall be automatic and shall take place at least once a year, within six months following the end of the tax year in Switzerland, for all interest payments made during that year.

4. Where the beneficial owner opts for this voluntary disclosure procedure or otherwise declares his or her interest income obtained from a Swiss paying agent to the tax authorities in his or her Member State of residence, the interest income concerned shall be subject to taxation in that Member State at the same rates as those applied to similar income arising in that State.

Article 3

Basis of assessment for retention

1. The paying agent shall withhold the retention in accordance with Article 1(1) as follows:

(a) in the case of an interest payment within the meaning of Article 7(1)(a): on the gross amount of interest paid or credited;

(b) in the case of an interest payment within the meaning of Article 7(1)(b) or (d): on the amount of interest or revenue referred to in those subparagraphs;

(c) in the case of an interest payment within the meaning of Article 7(1)(c): on the amount of interest referred to in that subparagraph.

2. For the purposes of paragraph 1, the retention shall be deducted on a pro rata basis for the period during which the beneficial owner holds a debt-claim. If the paying agent is unable to determine the period on the basis of the information made available to him or her, the paying agent shall consider the beneficial owner to have been in possession of the debt-claim for the entire period of its existence, unless the latter provides evidence of the date of acquisition.

3. Taxes and retentions other than the retention provided for in this Agreement on the same payment of interest shall be credited against the amount of the retention calculated in accordance with this Article.

4. Paragraphs 1, 2 and 3 are without prejudice to Article 1(2).

Article 4

Definition of beneficial owner

1. For the purposes of this Agreement 'beneficial owner' shall mean any individual who receives an interest payment or any individual for whom an interest payment is secured, unless such individual provides evidence that the interest payment was not received or secured for his or her own benefit. An individual is not deemed to be the beneficial owner when he or she:

(a) acts as a paying agent within the meaning of Article 6; or

(b) acts on behalf of a legal person, an investment fund or a comparable or equivalent body for common investments in securities; or

(c) acts on behalf of another individual who is the beneficial owner and who discloses to the paying agent his or her identity and State of residence.

2. Where a paying agent has information suggesting that the individual who receives an interest payment or for whom an interest payment is secured may not be the beneficial owner, that agent shall take reasonable steps to establish the identity of the beneficial owner. If the paying agent is unable to identify the beneficial owner, that agent shall treat the individual in question as the beneficial owner.

Article 5

Identity and residence of beneficial owners

In order to establish the identity and residence of the beneficial owner as defined in Article 4, the paying agent shall keep a record of the name, first name, address and residence details in accordance with the Swiss legal provisions against money laundering. For contractual relations entered into, or transactions carried out in the absence of contractual relations, on or after 1 January 2004, for individuals presenting a passport or official identity card issued by a Member State who declare themselves to be resident in a State other than a Member State or Switzerland, residence shall be established by means of a tax residence certificate issued by the competent authority of the State in which the individual claims to be resident. Failing the presentation of such a certificate, the Member State which issued the passport or other official identity document shall be considered the State of residence.

Article 6

Definition of paying agent

For the purposes of this Agreement, 'paying agent' in Switzerland shall mean banks under Swiss banking law, securities dealers under the Federal Law on Stock Exchanges and Security Trading, natural and legal persons resident or established in Switzerland, partnerships and permanent establishments of foreign companies, which even occasionally, accept, hold, invest or transfer assets of third parties or merely pay interest or secure the payment of interest in the course of their business.

Article 7

Definition of interest payment

1. For the purposes of this Agreement 'interest payment' shall mean:

- (a) interest paid, or credited to an account, relating to debt-claims of every kind including interest paid on fiduciary deposits by Swiss paying agents for the benefit of beneficial owners as defined in Article 4, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, but excluding interest from loans between private individuals not acting in the course of their business. Penalty charges for late payment shall not be regarded as interest payments;
- (b) interest accrued or capitalised at the sale, refund or redemption of the debt-claims referred to in (a);
- (c) income deriving from interest payments either directly or through an entity referred to in Article 4(2) of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments, hereinafter referred to as the 'Directive', distributed by:
 - (i) undertakings for collective investment domiciled in a Member State,
 - (ii) entities domiciled in a Member State, which exercise the option under Article 4(3) of the Directive and which inform the paying agent of this fact,
 - (iii) undertakings for collective investment established outside the territory of the Contracting Parties,
 - (iv) Swiss investment funds which at the time of the entry into force of this Agreement or at a later date are exempted from Swiss anticipatory tax on their

payments to individuals who are residents of a Member State.

- (d) income realised upon the sale, refund or redemption of shares or units in the following undertakings and entities, if they invest directly or indirectly via other undertakings for collective investment or entities referred to below more than 40 % of their assets in debt-claims as referred to in (a):
 - (i) undertakings for collective investment domiciled in a Member State,
 - (ii) entities domiciled in a Member State, which exercise the option under Article 4(3) of the Directive and which inform the paying agent of this fact,
 - (iii) undertakings for collective investment established outside the territory of the Contracting Parties,
 - (iv) Swiss investment funds which at the time of the entry into force of this Agreement or at a later date are exempted from Swiss anticipatory tax on their payments to individuals who are residents of a Member State.

2. As regards subparagraph 1(c), when a paying agent has no information concerning the proportion of the income which derives from interest payments, the total amount of the income shall be considered an interest payment.

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

4. Income relating to undertakings or entities which have invested up to 15 % of their assets in debt-claims within the meaning of subparagraph 1(a) shall not be considered an interest payment in accordance with subparagraph 1(c) and (d).

5. The percentage referred to in subparagraph 1(d) and paragraph 3 shall, as from 1 January 2011, be 25 %.

6. The percentages referred to in subparagraph 1(d) and paragraph 4 shall be determined by reference to the investment policy as laid down in the fund rules or instruments of incorporation of the undertakings or entities concerned and, failing such rules, by reference to the actual composition of the assets of the undertakings or entities concerned.

*Article 8***Revenue sharing**

1. Switzerland shall keep 25 % of the revenue generated by the retention under this Agreement and transfer 75 % of the revenue to the Member State of residence of the beneficial owner.

2. Such transfers shall take place for each year in one instalment per Member State at the latest within a period of six months following the end of the tax year in Switzerland.

*Article 9***Elimination of double taxation**

1. If interest received by a beneficial owner has been subject to retention by a paying agent in Switzerland, the Member State of residence for tax purposes of the beneficial owner shall grant him or her a tax credit equal to the amount of the retention. Where this amount exceeds the amount of tax due on the total amount of interest subject to retention in accordance with its national law, the Member State of residence for tax purposes shall repay the excess amount of tax withheld to the beneficial owner.

2. If interest received by a beneficial owner has been subject to taxes and retentions other than as provided for in this Agreement and the Member State of residence for tax purposes grants a tax credit for such taxes and retentions in accordance with its national law or double taxation conventions, such other taxes and retentions shall be credited before the procedure in paragraph 1 is applied. The Member State of residence for tax purposes shall accept certificates issued by Swiss paying agents as proper evidence of the tax or retention on the understanding that the competent authority of the Member State of residence for tax purposes will be able to obtain from the Swiss competent authority verification of the information contained in the certificates issued by Swiss paying agents.

3. The Member State of residence for tax purposes of the beneficial owner may replace the tax credit mechanism referred to in paragraphs 1 and 2 by a refund of the retention referred to in Article 1.

*Article 10***Exchange of information**

1. The competent authorities of Switzerland and any Member State shall exchange information on conduct constituting tax fraud under the laws of the requested State, or the like for income covered by this Agreement. 'The like' includes only offences with the same level of wrongfulness as is the case for tax fraud under the laws of the requested State. In response to a duly justified request, the requested State shall provide information with respect to matters that the requesting State

is investigating, or may investigate, on an administrative, civil or criminal basis. Without prejudice to the scope of the exchange of information as defined in this paragraph, information shall be exchanged in accordance with the procedures laid down in the double taxation conventions between Switzerland and the Member States and shall be treated as confidential in the manner provided therein.

2. In determining whether information may be provided in response to a request, the requested State shall apply the statute of limitations applicable under the laws of the requesting State instead of the statute of limitations of the requested State.

3. The requested State shall provide information where the requesting State has a reasonable suspicion that the conduct would constitute tax fraud or the like. The requesting State's suspicion of tax fraud or the like may be based on:

- (a) Documents, whether authenticated or not, and including but not limited to business records, books of account, or bank account information;
- (b) Testimonial information from the taxpayer;
- (c) Information obtained from an informant or other third person that has been independently corroborated or otherwise is likely to be credible; or
- (d) Circumstantial evidence.

4. Switzerland shall enter into bilateral negotiations with each of the Member States in order to define individual categories of cases falling under 'the like' in accordance with the procedure of taxation applied by those States.

*Article 11***Competent authorities**

For the purposes of this Agreement the competent authorities shall mean those authorities listed in Annex I.

*Article 12***Consultation**

If any disagreement arises between the Swiss competent authority and one or more of the other competent authorities referred to in Article 11 as to the interpretation or application of this Agreement, they shall endeavour to resolve this by mutual agreement. They shall immediately notify the Commission of the European Communities and the competent authorities of the other Member States of the results of their consultations. In relation to issues of interpretation the Commission may take part in consultations at the request of any of the competent authorities.

Article 13

Review

1. The Contracting Parties shall consult each other at least every three years or at the request of either Contracting Party with a view to examining and – if deemed necessary by the Contracting Parties – improving the technical functioning of this Agreement and assessing international developments. The consultations shall be held within one month of the request or as soon as possible in urgent cases.

2. On the basis of such an assessment, the Contracting Parties may consult each other in order to examine whether changes to this Agreement are necessary taking into account international developments.

3. As soon as sufficient experience of the full implementation of Article 1(1) is available, the Contracting Parties shall consult each other in order to examine whether changes to this Agreement are necessary taking into account international developments.

4. For the purposes of the consultations referred to in paragraphs 1, 2 and 3, each Contracting Party shall inform the other Contracting Party of possible developments which could affect the proper functioning of this Agreement. This shall also include any relevant agreement between one of the Contracting Parties and a third State.

Article 14

Relationship to bilateral double taxation conventions

The provisions of the double taxation conventions between Switzerland and the Member States shall not prevent the levying of the retention for which this Agreement provides.

Article 15

Dividends, interest and royalty payments between companies

1. Without prejudice to the application of domestic or agreement-based provisions for the prevention of fraud or abuse in Switzerland and in Member States, dividends paid by subsidiary companies to parent companies shall not be subject to taxation in the source State where:

- the parent company has a direct minimum holding of 25 % of the capital of such a subsidiary for at least two years, and,
- one company is resident for tax purposes in a Member State and the other company is resident for tax purposes in Switzerland, and,
- under any double tax agreements with any third States neither company is resident for tax purposes in that third State, and,

- both companies are subject to corporation tax without being exempted and both adopt the form of a limited company⁽¹⁾.

However, Estonia may, for as long as it charges income tax on distributed profits without taxing undistributed profits, and at the latest until 31 December 2008, continue to apply that tax to profits distributed by Estonian subsidiary companies to their parent companies established in Switzerland.

2. Without prejudice to the application of domestic or agreement-based provisions for the prevention of fraud or abuse in Switzerland and in Member States, interest and royalty payments made between associated companies or their permanent establishments shall not be subject to taxation in the source State, where:

- such companies are affiliated by a direct minimum holding of 25 % for at least two years or are both held by a third company which has directly a minimum holding of 25 % both in the capital of the first company and in the capital of the second company for at least two years, and;
- where a company is resident for tax purposes or a permanent establishment is located in a Member State and the other company is resident for tax purposes or other permanent establishment situated in Switzerland, and;
- under any double tax agreements with any third States none of the companies is resident for tax purposes in that third State and none of the permanent establishments is situated in that third State, and;
- all companies are subject to corporation tax without being exempted in particular on interest and royalty payments and each adopts the form of a limited company⁽¹⁾.

However, where Council Directive 2003/49/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States provides for a transitional period as regards a given Member State, that State shall only ensure provision of the above arrangements on interest and royalty payments after the expiry of that period.

⁽¹⁾ With regard to Switzerland, the term 'limited company' covers:

- société anonyme/Aktiengesellschaft/società anonima;
- société à responsabilité limitée/Gesellschaft mit beschränkter Haftung/società a responsabilità limitata;
- société en commandite par actions/Kommanditaktiengesellschaft/società in accomandita per azioni.

3. Existing double taxation agreements between Switzerland and the Member States which provide for a more favourable taxation treatment of dividends, interest and royalty payments at the time of adoption of this Agreement shall remain unaffected.

Article 16

Transitional provisions for negotiable debt securities⁽¹⁾

1. From the date of application of this Agreement for as long as at least one Member State also applies similar provisions and until 31 December 2010 at the latest, domestic and international bonds and other negotiable debt securities which have been first issued before 1 March 2001 or for which the original issuing prospectuses have been approved before that date by the competent authorities of the issuing State shall not be considered as debt-claims within the meaning of Article 7(1)(a), provided that no further issues of such negotiable debt securities are made on or after 1 March 2002.

However, for as long as at least one Member State also applies similar provisions, the provisions of this Article shall continue to apply beyond 31 December 2010 in respect of such negotiable debt securities:

- which contain gross-up and early redemption clauses, and
- where the paying agent, as defined in Article 6, is established in Switzerland, and
- where that paying agent pays interest directly to, or secures the payment of interest for the immediate benefit of, a beneficial owner resident in a Member State.

If and when all Member States cease to apply similar provisions, the provisions of this Article shall continue to apply only in respect of those negotiable securities:

- which contain gross-up and early redemption clauses, and
- where the issuer's paying agent is established in Switzerland, and
- where that paying agent pays interest directly to, or secures the payment of interest for the immediate benefit of, a beneficial owner resident in a Member State.

⁽¹⁾ As in the Directive, these transitional provisions also apply to negotiable debt securities held through investment funds.

If a further issue is made on or after 1 March 2002 of an aforementioned negotiable debt security issued by a Government or a related entity acting as a public authority or whose role is recognised by an international Treaty (listed in Annex II to this Agreement), the entire issue of such a security, consisting of the original issue and any further issue shall be considered a debt-claim within the meaning of Article 7(1)(a).

If a further issue is made on or after 1 March 2002 of an aforementioned negotiable debt security issued by any other issuer not covered by the fourth subparagraph, such further issue shall be considered a debt-claim within the meaning of Article 7(1)(a).

2. This Article does not prevent Switzerland and the Member States from continuing to levy a tax on revenues deriving from the negotiable debt securities referred to in paragraph 1 in accordance with their national law.

Article 17

Signing, entry into force and duration of validity

1. This Agreement requires ratification or approval by the Contracting Parties in accordance with their own procedures. The Contracting Parties shall notify each other of the completion of these procedures. The Agreement shall enter into force on the first day of the second month following the last notification.

2. Subject to the fulfilment of the constitutional requirements of Switzerland and the requirements of Community law concerning entering into international agreements, and without prejudice to Article 18, Switzerland and where applicable the Community shall effectively implement and apply this Agreement from 1 January 2005 and notify each other thereof.

3. This Agreement shall remain in force until terminated by a Contracting Party.

4. Either Contracting Party may terminate this Agreement by giving notice to the other. In such a case, the Agreement shall cease to have effect 12 months after the serving of notice.

Article 18

Application and suspension of application

1. The application of this Agreement shall be conditional on the adoption and implementation by the dependent or associated territories of the Member States mentioned in the report of the Council (Economic and Financial Affairs) to the European Council of Santa Maria da Feira of 19 and 20 June 2000, as well as by the United States of America, Andorra, Liechtenstein, Monaco and San Marino, respectively, of measures which conform with or are equivalent to those contained in the Directive or in this Agreement, with the exception of Article 15 of this Agreement, and providing for the same dates of implementation.

2. The Contracting Parties shall decide, by common accord, at least six months before the date referred to in Article 17(2), whether the condition set out in paragraph 1 will be met having regard to the dates of entry into force of the relevant measures in the third States and dependent or associated territories concerned. If the Contracting Parties do not decide that the condition will be met, they shall, by common accord, adopt a new date for the purposes of Article 17(2).

3. Notwithstanding paragraphs 1 and 2, Article 15 shall apply in respect of Spain with effect from the entry into force of a bilateral agreement between Spain and Switzerland on the exchange of information on request in administrative, civil or criminal cases of tax fraud, as defined in the laws of the requested State, or the like, with respect to items of income not subject to this Agreement but covered by a convention or an agreement between Spain and Switzerland on the elimination of double taxation on income and capital.

4. The application of this Agreement or parts thereof may be suspended by either Contracting Party with immediate effect through notification to the other should the Directive or part of the Directive cease to be applicable either temporarily or permanently in accordance with Community law or in the event that a Member State should suspend the application of its implementing legislation.

5. Either Contracting Party may suspend the application of this Agreement through notification to the other in the event that one of the third States or territories referred to in paragraph 1 should subsequently cease to apply the measures referred to in that paragraph. Suspension of application shall take place no earlier than two months after notification. Application of this Agreement shall resume as soon as the measures are reinstated.

Article 19

Claims and final settlement

1. Should this Agreement be terminated or its application be suspended either in full or in part, the claims of individuals in accordance with Article 9 shall remain unaffected.

2. Switzerland shall, in such case, establish a final account by the end of the period of applicability of this Agreement and make a final payment to the Member States.

Article 20

Territorial scope

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

Article 21

Annexes

1. The Annexes shall form an integral part of this Agreement.

2. The list of competent authorities in Annex I may be amended simply by notification of the other Contracting Party by Switzerland for the authority referred to in (a) therein and by the Community for the other authorities.

The list of related entities in Annex II may be amended by mutual agreement.

Article 22

Languages

1. This Agreement is drawn up in duplicate in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Polish, Portuguese, Slovak, Slovenian, Spanish and Swedish languages, each of these language versions being equally authentic.

2. The Maltese language version shall be authenticated by the Contracting Parties on the basis of an exchange of letters. It shall also be authentic, in the same way as for the languages referred to in paragraph 1.

EN FE DE LO CUAL, los plenipotenciarios abajo firmantes suscriben el presente Acuerdo.

NA DŮKAZ ČEHOŽ připojili níže podepsaní zplnomocnění zástupci k této smlouvě své podpisy.

TIL BEKRÆFTELSE HERAF har undertegnede befuldmægtigede underskrevet denne aftale.

ZU URKUND DESSEN haben die unterzeichneten Bevollmächtigten ihre Unterschriften unter dieses Abkommen gesetzt.

SELLE KINNITUSEKS on täievolilised esindajad käesolevale lepingule alla kirjutanud.

ΣΕ ΠΙΣΤΩΣΗ ΤΩΝ ΑΝΩΤΕΡΩ, οι υπογράφωντες πληρεξούσιοι έδωσαν την υπογραφή τους κάτω από την παρούσα συμφωνία.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have hereunto set their hands.

EN FOI DE QUOI, les plénipotentiaires soussignés ont apposé leurs signatures au bas du présent accord.

IN FEDE DI CHE, i plenipotenziari sottoscritti hanno apposto la propria firma in calce al presente accordo.

TO APLIECINOT, attiecīgi pilnvarotas personas ir parakstījušas šo nolīgumu.

TAI PALIUDYDAMI, šį Susitarimą pasirašė toliau nurodyti įgaliotieji atstovai.

FENTIEK HITELÉÜL e megállapodást az alulírott meghatalmazottak alább kézjegyükkel látták el.

B'XIEHDA TA' DAN, il-Plenipotenzjari hawn taht iffirmati ffirmaw dan il-Ftehim.

TEN BLIJKE WAARVAN de ondergetekende gevolmachtigden hun handtekening onder deze overeenkomst hebben geplaatst.

W DOWÓD CZEGO, niżej podpisani pełnomocnicy złożyli swoje podpisy.

EM FÉ DO QUE, os plenipotenciários abaixo assinados apuserem as suas assinaturas no final do presente Acordo.

NA DÔKAZ ČOHO dolupodpisaní splnomocnení zástupcovia podpísali túto dohodu.

V POTRDITEV TEGA so spodaj podpisani pooblaščenici podpisali ta sporazum.

TÄMÄN VAKUUDEKSI allamainitut täysivaltaiset edustajat ovat allekirjoittaneet tämän sopimuksen.

TILL BEVIS HÄRPÅ har undertecknade befullmäktigade undertecknat detta avtal.

Hecho en Luxemburgo, el veintiseis de octubre del dos mil cuatro.

V Lucemburku dne dvacátého šestého října dva tisíce čtyři.

Udfærdiget i Luxembourg den seksogtyvende oktober to tusind og fire.

Geschehen zu Luxemburg am sechszwanzigsten Oktober zweitausendundvier.

Kahe tuhande neljanda aasta oktoobrikuu kahekümme kuuendal päeval Luxembourgis.

Έγινε στο Λουξεμβούργο, στις είκοσι έξι Οκτωβρίου δύο χιλιάδες τέσσερα.

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

Fait à Luxembourg, le vingt-six octobre deux mille quatre.

Fatto a Lussemburgo, addì ventisei ottobre duemilaquattro.

Luksemburgā, divi tūkstoši ceturťā gada divdesmit sestajā oktobrī.

Priimta du tūkstančiai ketvirtų metų spalio dvidešimt šeštą dieną Liuksemburge.

Kelt Luxembourgban, a kettőezer negyedik év október huszonhatodik napján.

Magħmula fil-Lussemburgu fis-sitta u għoxrin jum ta' Ottubru tas-sena elfejn u erbgha.

Gedaan te Luxemburg, de zesentwintigste oktober tweeduizendvier.

Sporządzono w Luksemburgu w dniu dwudziestym szóstym października roku dwutysięcznego czwartego.

Feito em Luxemburgo, em vinte e seis de Outubro de dois mil e quatro.

V Luxemburgu dvadsiatego šiesteho oktobra dvetisícčtyri.

V Luxembourg, dne šestindvajsetega oktobra leta dva tisoč štiri.

Tehty Luxemburgissa kahdentenäkymmenentenäkuudentena päivänä lokakuuta vuonna kaksituhattaneljä.

Som skedde i Luxemburg den tjugosjätte oktober tjugohundrafyra.

Por la Comunidad Europea
Za Evropské společenství
For Det Europæiske Fællesskab
Für die Europäische Gemeinschaft
Euroopa Ühenduse nimel
Για την Ευρωπαϊκή Κοινότητα
For the European Community
Pour la Communauté européenne
Per la Comunità europea
Eiropas Kopienas vārdā
Europos bendrijos vardu
az Európai Közösség részéről
Ghall-Komunità Ewropea
Voor de Europese Gemeenschap
W imieniu Wspólnoty Europejskiej
Pela Comunidade Europeia
Za Európske spoločenstvo
za Evropsko skupnost
Euroopan yhteisön puolesta
På Europeiska gemenskapens vägnar

Für die Schweizerische Eidgenossenschaft
Pour la Confédération suisse
Per la Confederazione svizzera

ANNEX I

LIST OF COMPETENT AUTHORITIES

The following are 'competent authorities' for the purposes of this Agreement:

- (a) in Switzerland, Le Directeur de l'Administration fédérale des contributions/Der Direktor der Eidgenössischen Steuerverwaltung/il direttore dell'Amministrazione federale delle contribuzioni or his proxy or agent,
- (b) in the Kingdom of Belgium: De Minister van Financiën/Le Ministre des Finances or an authorised representative,
- (c) in the Czech Republic: Ministr financí or an authorised representative,
- (d) in the Kingdom of Denmark: Skatteministeren or an authorised representative,
- (e) in the Federal Republic of Germany: Der Bundesminister der Finanzen or an authorised representative,
- (f) in Estonia: Rahandusminister or an authorised representative,
- (g) in the Hellenic Republic: Ο Υπουργός των Οικονομικών or an authorised representative,
- (h) in the Kingdom of Spain: El Ministro de Hacienda or an authorised representative,
- (i) in the French Republic: Le Ministre chargé du budget or an authorised representative,
- (j) in Ireland: The Revenue Commissioners or their authorised representative,
- (k) in the Italian Republic: Il Capo del Dipartimento per le Politiche Fiscali or an authorised representative,
- (l) in Cyprus: Υπουργός Οικονομικών or an authorised representative,
- (m) in Latvia: Finanšu ministrs or an authorised representative,
- (n) in Lithuania: Finansų ministras or an authorised representative,
- (o) in the Grand Duchy of Luxembourg: Le Ministre des Finances or an authorised representative; however for the purposes of Article 10 the competent authority shall be 'le Procureur Général d'État luxembourgeois',
- (p) in Hungary: A pénzügyminiszter or an authorised representative,
- (q) in Malta: Il-Ministru responsabbli għall-Finanzi or an authorised representative,
- (r) in the Kingdom of the Netherlands: De Minister van Financiën or an authorised representative,
- (s) in the Republic of Austria: Der Bundesminister für Finanzen or an authorised representative,
- (t) in Poland: Minister Finansów or an authorised representative,
- (u) in the Portuguese Republic: O Ministro das Finanças or an authorised representative,
- (v) in Slovenia: Minister za finance or an authorised representative,
- (w) in Slovakia: Minister financí or an authorised representative,
- (x) in the Republic of Finland: Valtiovarainministeriö/Finansministeriet or an authorised representative,
- (y) in the Kingdom of Sweden: Finansdepartementet or an authorised representative,
- (z) in the United Kingdom of Great Britain and Northern Ireland and in the European territories for whose external relations the United Kingdom is responsible: the Commissioners of Inland Revenue or their authorised representative and the competent authority in Gibraltar, which the United Kingdom will designate in accordance with the Agreed Arrangements relating to Gibraltar authorities in the context of EU and EC instruments and related treaties notified to the Member States and institutions of the European Union of 19 April 2000, a copy of which shall be notified to Switzerland by the Secretary General of the Council of the European Union, and which shall apply to this Agreement.

ANNEX II

LIST OF RELATED ENTITIES

For the purposes of Article 16 of this Agreement, the following entities will be considered to be a *'related entity acting as a public authority or whose role is recognised by an international treaty'*:

ENTITIES WITHIN THE EUROPEAN UNION:

Belgium

Vlaams Gewest (Flemish Region)
Région wallonne (Walloon Region)
Région bruxelloise/Brussels Gewest (Brussels Region)
Communauté française (French Community)
Vlaamse Gemeenschap (Flemish Community)
Deutschsprachige Gemeinschaft (German-speaking Community)

Spain

Xunta de Galicia (Regional Executive of Galicia)
Junta de Andalucía (Regional Executive of Andalusia)
Junta de Extremadura (Regional Executive of Extremadura)
Junta de Castilla-La Mancha (Regional Executive of Castilla-La Mancha)
Junta de Castilla-León (Regional Executive of Castilla-León)
Gobierno Foral de Navarra (Regional Government of Navarra)
Govern de les Illes Balears (Government of the Balearic Islands)
Generalitat de Catalunya (Autonomous Government of Catalonia)
Generalitat de Valencia (Autonomous Government of Valencia)
Diputación General de Aragón (Regional Council of Aragón)
Gobierno de las Islas Canarias (Government of the Canary Islands)
Gobierno de Murcia (Government of Murcia)
Gobierno de Madrid (Government of Madrid)
Gobierno de la Comunidad Autónoma del País Vasco/Euzkadi (Government of the Autonomous Community of the Basque Country)
Diputación Foral de Guipúzcoa (Regional Council of Guipúzcoa)
Diputación Foral de Vizcaya/Bizkaia (Regional Council of Vizcaya)
Diputación Foral de Alava (Regional Council of Alava)
Ayuntamiento de Madrid (City Council of Madrid)
Ayuntamiento de Barcelona (City Council of Barcelona)
Cabildo Insular de Gran Canaria (Island Council of Gran Canaria)
Cabildo Insular de Tenerife (Island Council of Tenerife)
Instituto de Crédito Oficial (Public Credit Institution)
Instituto Catalán de Finanzas (Finance Institution of Catalonia)
Instituto Valenciano de Finanzas (Finance Institution of Valencia)

Greece

Οργανισμός Τηλεπικοινωνιών Ελλάδος (National Telecommunications Organisation)
Οργανισμός Σιδηροδρόμων Ελλάδος (National Railways Organisation)
Δημόσια Επιχείρηση Ηλεκτρισμού (Public Electricity Company)

France

La Caisse d'amortissement de la dette sociale (CADES) (Social Debt Redemption Fund)

L'Agence française de développement (AFD) (French Development Agency)

Réseau Ferré de France (RFF) (French Rail Network)

Caisse Nationale des Autoroutes (CNA) (National Motorways Fund)

Assistance publique Hôpitaux de Paris (APHP) (Paris Hospitals Public Assistance)

Charbonnages de France (CDF) (French Coal Board)

Entreprise minière et chimique (EMC) (Mining and Chemicals Company)

Italy

Regions

Provinces

Municipalities

Cassa Depositi e Prestiti (Deposits and Loans Fund)

Latvia

Pašvaldības (Local governments)

Poland

gminy (communes)

powiaty (districts)

województwa (provinces)

związki gmin (associations of communes)

związki powiatów (association of districts)

związki województw (association of provinces)

miasto stołeczne Warszawa (capital city of Warsaw)

Agencja Restrukturyzacji i Modernizacji Rolnictwa (Agency for Restructuring and Modernisation of Agriculture)

Agencja Nieruchomości Rolnych (Agricultural Property Agency)

Portugal

Região Autónoma da Madeira (Autonomous Region of Madeira)

Região Autónoma dos Açores (Autonomous Region of Azores)

Municipalities

Slovakia

mestá a obce (municipalities)

Železnice Slovenskej republiky (Slovak Railway Company)

Štátny fond cestného hospodárstva (State Road Management Fund)

Slovenské elektrárne (Slovak Power Plants)

Vodohospodárska výstavba (Water Economy Building Company)

INTERNATIONAL ENTITIES:

European Bank for Reconstruction and Development

European Investment Bank

Asian Development Bank

African Development Bank

World Bank/IBRD/IMF

International Finance Corporation

Inter-American Development Bank

Council of Europe Social Development Fund

Euratom

European Community

Corporación Andina de Fomento (CAF) (Andean Development Corporation)

Eurofima

European Coal and Steel Community

Nordic Investment Bank

Caribbean Development Bank

The provisions of Article 16 are without prejudice to any international obligations that the Contracting Parties may have entered into with respect to the above mentioned international entities.

ENTITIES IN THIRD STATES:

The entities that meet the following criteria:

1. The entity is clearly considered to be a public entity according to the national criteria.
 2. Such public entity is a non market producer which administers and finances a group of activities, principally providing non market goods and services, intended for the benefit of the community and which are effectively controlled by general government.
 3. Such public entity is a large and regular issuer of debt.
 4. The State concerned is able to guarantee that such public entity will not exercise early redemption in the event of gross up clauses.
-

MEMBER STATE

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PART I. IMPLEMENTATION OF THE DIRECTIVE

1. INTRODUCTION

1.1. GENERAL INFORMATION ON THE IMPLEMENTATION OF THE DIRECTIVE

An introduction will give an overview of how the Directive (and the amendments) has been implemented: which legislation/other rules have been adopted and when. It will also include a table depicting the provisions of the Directive and the relevant corresponding sections of national law. Please, provide this information inserting relevant sections/articles of your national law into the table and use an additional column if there are any other laws, regulations, etc. transposing the provisions of the Directive.

Articles of the Directive	Relevant sections of [national law]
Art.1	
Art.2	
Art.3	
Art.4	
Art.5	
Art.7	

1.2. TAX TREATMENT OF INTEREST AND ROYALTY PAYMENTS UNDER GENERAL TAX LAW

1.2.1. Domestic rules

This section will deal very briefly with general treatment of inbound and outbound interest and royalties, both domestic and cross-border, and will cover:

- withholding/other taxes on outbound interest;
- withholding/other taxes on outbound royalties;
- are these payments deductible;
- are these payments subject to thin capitalisation/other rules and what are the consequences (re-characterisation, profit adjustment, etc.)
- treatment of interest and royalties received (subject to tax or not).

1.2.2. Treaties

Please mention briefly if tax treaties cover the tax treatment of interest and royalty payments from/to your Member State to other EU Member States:

- what is the regular withholding tax in the treaties concluded by your country;
- any other special remarks (brief) on the policies of your Member State with regard to interest and royalty payments.

2. SCOPE

2.1. PAYMENTS

2.1.1. Concept of interest

a. Definition

Give the relevant definition of interest and provide any relevant information clarifying the concept. You might provide a comment also if the definition used under the Directive appears to be identical, narrower or broader than the one in the Directive.

b. Exclusion of hybrid financial arrangements (Art. 4(1) b)-d))

Has your Member State used an option to exclude payments under financial arrangements listed in Art.4(1) b), c) d) of the Directive: participating loans, convertible loans, perpetual loans and similar?

c. Exclusion of interest reclassified as profit distribution or conflicting arm's length (Art. 4(1) a) and Art. 4(2))

Has your Member State taken an option to deny exemptions to interest reclassified as profit distribution or are there any other rules limiting exemptions under the Directive in situations of special relationship? Please provide a general statement, which rules to this effect exist in your Member State with regard to interest payments.

Describe the rules mentioned above in turn, and please deal with two aspects:

- where excess amounts are reclassified as profit distributions, does your Member State apply the Parent -Subsidiary Directive? if not, how are the excluded dividend-like payments treated?
- how has your Member State implemented the 'special relationship' clause in Art. 4(2)? How does your Member State interpret this (refer to all possible materials, including circulars, case-law and administrative practice).

2.1.2. Concept of royalties

a. Definition

Give the relevant definition of royalties and provide any relevant information clarifying the concept. You might provide a comment also if the definition used under the Directive appears to be identical, narrower or broader than the one in the Directive.

b. Classification of revenue from leasing and software

What is the scope and interpretation of payments from leasing and software? To which kinds of payments from leasing in software does your Member State apply the exemption under the Directive?

c. Exclusion of royalties reclassified as profit distribution or conflicting arm's length (Art. 4(1) a) and Art. 4(2))

Please answer the same questions posed in 2.1.1.c), but with regard to royalty payments. Make references to 2.1.1.c) if applicable to avoid unnecessary repetition of identical information, but note the differences between application of the rules to interest and to royalties, if any.

2.2. COMPANIES

2.2.1. Types of companies benefiting from implementing provisions (Art. 3(a)(i))

a. Other types of entities

Does your Member State limit the benefits under the Directive to entities listed in the Directive? If not, what other types of entities are eligible (list both domestic and foreign).

b. Hybrid entities

How does your Member State treat payments to and from hybrid entities? Discuss legal (commercial/civil law) and tax aspects of treatment of hybrid entities. If this is entirely unclear, please state that.

2.2.2. Residence requirement (Art. 3(a)(ii))

a. Implementation of the requirement

How did your Member State implement the "resident in a Member State" requirement?

b. Application of the requirement in dual residence cases

What is the treatment of payment when it is paid to a dual resident as between Member States?

What is the treatment of payment when it is paid by a dual resident as between Member States? Which Member State is considered to be the state where a payment arises within the meaning of Art. 3(a)(iii)?

[!NOTE: no discussion of any dual residency between your Member State and a third country as the Commission questionnaire explicitly excluded it]

2.2.3. Subject-to-tax requirement (Art. 3(a)(iii))

How has your Member State transposed the 'subject-to-tax' requirement? Please state relevant national provisions.

Does your Member State require a company to be subject to tax in general or should the particular income received be subject to tax?

Have there been any instances in your Member State as a source state to refuse to accept an assurance by the residence state of the 'beneficial owner' that the latter is subject to tax in its Member State? What proof is required to demonstrate compliance with this requirement?

If your state applies the benefits to hybrid entities (see 2.1. above), how is the subject-to-tax criterion applied in this situation (payments to and from such entities)?

2.2.4. Associated company (Art. 3(b))

How has your Member State implemented the ownership threshold? Does your Member State apply a lower threshold than the one in the Directive?

Does your Member State extend the benefits to situations of indirect holdings?

How did your Member State implement the 'holding of capital' requirement? Has it been replaced by the 'holding of voting rights' or do both criteria apply?

If your state applies the benefits to hybrid entities (see 2.1. above), how is the holding threshold applied?

2.2.5. Beneficial ownership (Art. 1(4))

Did your Member State implement the beneficial ownership provision in Art.1(4)? If so, how? Is it in any way linked to the subject-to-tax requirement in Art. 3(a)(iii)?

How does your Member State interpret this provision (please mention guidance, case-law and administrative practice, if available)?

2.3. PERMANENT ESTABLISHMENTS

2.3.1. Definition (Art. 3(c))

Does your Member State apply a general concept of permanent establishment under general tax law or have specific measures been introduced in the context of the implementation of the Directive?

Provide a definition of the permanent establishment concept that is applicable in situations covered by the Directive. Does the concept applied in your state e.g. also include a dependent agent or the exception for auxiliary activities?

2.3.2. Application of source rules (Art. 1(2))

Have there been any instances where the source state has interpreted Article 3(c) of the Directive more narrowly than Article 5 of the OECD MC? Has the source state as a consequence imposed withholding tax on interest or royalty payments from the 'non-permanent establishment' to an associated company in another Member State?

[!NOTE: the explanation of this question coming from the Commission: the issue here is that while the source state would normally have an interest in adopting as broad a PE definition as possible, it might, if the PE is loss making (a not uncommon scenario) be tempted to interpret the definition in Art. 3(c) narrowly and to consider that the activity of Co. A on its territory as not being covered by that definition. That would allow it to impose a withholding tax on any royalty or interest payment from the 'non-PE' to an associated company in another Member State. One might envisage a situation where Co. A is tax resident in MS1, the 'non-PE' of Co. A is located in MS2, and Co. B (the lender or holder of the intellectual/industrial property right) is located in MS3. However, the Directive assumes that the payment 'arises' somewhere: either in the MS where the company is resident, or in the MS where it has a PE. It does not envisage a scenario where the payment arises in neither. If MS1 considers a PE to exist in MS2 (it may be tempted to do so if the PE is loss-making and it applies the exemption method in its DTC with MS2) it will not see the payment as arising in MS1. Nor will it, if it applies the exemption method, be likely to grant a credit against MS1 corporation tax for WHT levied in MS2]

2.3.3. 'Tax-deductible expense' requirement (Art. 1(3))

If there have been instances where your Member State or another Member State (where your Member State is a state of head office or a recipient state) has refused to recognise the payment as a tax-deductible expense, because it considers that the expense is not attributable to the permanent establishment? Where have the source state and residence state, respectively, deemed the payment to 'arise' in those cases?

[!NOTE: the explanation of this question coming from the Commission: the issue here is that MS2 in the above example, while recognising the PE as such, might consider an item of expenditure to be attributable to the head office rather than to the PE. The fact remains, however, that the payment is made from the PE's bank account in MS2 to the bank account of Co. B in MS3. In that situation, the tax legislation of MS2 might allow the tax authorities to

impose a withholding tax on the payment, notwithstanding that it is a head office expense rather than a PE expense. The obligation under the Directive to refrain from imposing WHT applies only to the MS of the company and that of the PE. The question is therefore whether the tax authorities in MS2 would interpret the payment as 'arising' in MS2 (within the meaning of Article 1(2)), and as thus precluding the application of WHT. A second issue (but outside the scope of the study) is where MS2 would deem the payment to arise for the purposes of applying Art. 11 and 12 of the DTC with MS3]

2.3.4. Beneficial ownership (Art. 1(5))

How has your Member State implemented the requirement for beneficial ownership for the permanent establishment? State the relevant national rules.

What is the interpretation of 'effectively connected' and 'subject-to tax' requirements?

2.3.5. Permanent establishment in a third country (Art. 1(8))

How has your Member State implemented Art. 1(8) saying that the exemption does not apply to payments by/to a permanent establishment in a third state?

What is the interpretation of the requirement 'business is wholly or partly carried on through that permanent establishment' in a third state?

3. PROCEDURE

Please provide a short introduction, indicating very briefly (in a couple of sentences) the main lines of the procedure of application for the exemptions under the Directive:

- whether there is a holding period requirement;
- whether your Member State applies exemption at source and/or refund procedure;
- whether there is a decision or attestation requirement.

3.1. MINIMUM HOLDING PERIOD (ART. 1(10))

If your Member State does not require a holding period, please state so. If your Member State requires a holding period, please provide information in the sections below.

3.1.1. General

Did your Member State avail itself of the option to require a holding period? If so, is it an uninterrupted holding period of at least two years or is it different? What is the deadline for the fulfilment of the requirement (time of payment, application for refund, etc.)?

3.1.2. Relief before the holding period requirement is satisfied

Is there a possibility to apply the relief under the Directive before the holding period is satisfied? (please, note the difference in wording between this provision of the Directive and a similar provision in the Parent-Subsidiary Directive; some authors have suggested that the wording 'has not been maintained in the Directive compared to 'does not maintain' in the Parent-Subsidiary Directive was chosen to allow Member States not to apply the relief before the holding period requirement is satisfied)

3.1.3. Appeals

Is there a possibility to appeal a decision not to regard the requirement as being fulfilled? Please describe it briefly and note whether it differs in any respect from the normal appeal procedure available to domestic taxpayers.

3.2. ATTESTATION (ART. 1(11) AND 1(13))

If your Member State does not require an attestation, please state so. If your Member State requires an attestation, please provide information in the sections below.

3.2.1. General

Does your Member State require an attestation? Please describe:

- what is the procedure for submission of the attestation (when and where it should be submitted);
- what are the actions of the tax authority after it is submitted;

3.2.2. Appeals

Is there a possibility to appeal any decision of the tax authorities concerning the attestation? Please, describe the procedure (and if the procedure is similar to the one described in 3.1., please make references to avoid repetition).

3.2.3. Relief before the holding period requirement is satisfied

If your Member State applies the holding period requirement: if the requirement is not fulfilled at the time of payment and tax is deducted at source, is there a possibility to obtain a refund if the holding period requirement is subsequently satisfied? Refer to 3.1.2 if necessary

3.3. DECISION ON APPLICATION OF THE RELIEF (ART. 1(12))

If your Member State does not require a decision, please state so. If your Member State requires a decision, please provide information in the sections below.

3.3.1. General

If the exemption is conditional upon a decision, please describe:

- what is the procedure (when and where application for a decision should be submitted);
- what are the actions of the tax authority.

3.3.2. Supporting documents

What is the interpretation of a requirement to provide 'such supporting information as the source state may reasonably ask for'? Has this been used to require more or different information than itemised (exhaustively) in Art. 1 (13) for attestation?

3.3.3. Appeals

What is the procedure to appeal a refusal to issue a decision granting exemption? Please describe it briefly and state whether it differs in any respect with the normal appeal procedure available to domestic taxpayers (refer to sections 3.1.3./3.2.2 if necessary to avoid repetition).

3.4. APPLICATION FOR REFUND (ART. 1(15) AND 1(16))

Please state if your Member State generally apply the system of exemption at source and/or deduction at source and refund only? If information is available, mention the reasons for choices made by your Member State.

3.4.1. General

How has your Member State implemented Art. 1(15) and 1(16) on the refund procedure?

What is the average lapse of time between:

- deduction at source and refund;
- application and refund?

3.4.2. Appeals

What is the procedure to appeal a decision not to grant a refund (refer to sections 3.1.3./3.2.2/3.3.3 if necessary to avoid repetition)?

4. FRAUD AND ABUSE (Art. 5)

How has your Member State implemented and interpreted Art. 5 and Art. 5(2) in particular? Please provide a general statement if there are domestic and/or agreement-based anti-abuse measures falling under Art. 5(1) and if there are any specific measures covered by Art. 5(2). If no, please state so.

4.1. MEASURES UNDER ART. 5(1) OF THE DIRECTIVE

4.1.1. Domestic

Please provide a short description of anti-abuse measures that could be used in your Member State to deny the relief under the Directive under Art. 5(1) (legislation, case-law, administrative practice, guidance in circulars, manuals, etc) if these exist. Include sub-headings naming each particular set of rules, if necessary.

4.1.2. Agreement-based

Discuss briefly whether there are anti-abuse measures in the tax treaties concluded by your Member State with other Member States and indicate whether they are extensive or limited. You might discuss a couple of examples and if so, split this section into sub-headings 'General' and e.g., 'Anti-abuse measures in a treaty with UK and Slovenia'.

4.2. MEASURES UNDER ART. 5(2) OF THE DIRECTIVE

Please provide a description of particular anti-abuse measures that could be used in your Member State to deny the relief under the Directive under Art. 5(2) (legislation, case-law, administrative practice, guidance in circulars, manuals, etc) if these exist. Include sub-headings if necessary.

4.3. COMPARISON WITH SIMILAR MEASURES UNDER PARENT-SUBSIDIARY AND MERGER DIRECTIVES

Are there any differences in implementation and interpretation between Art. 5 and equivalent provisions of the Parent-Subsidiary (Art. 1(2)) and Merger (Art. 11(1)(a)) Directives?

5. SUMMARY

The final section provides a summary of the entire survey on the Directive and gives information on:

- whether your Member State generally implemented the Directive;
- whether there are any provisions which have not been transposed at all and what are they;
- are there any uncertainties or problems identified in the context of the implementation (e.g. a provision has been transposed but does not correspond to the text of the Directive or the wording/interpretation of national provisions is unclear).

PART II. THE AGREEMENT

INTRODUCTION

How is Art. 15(2) of the Agreement applied: whether additional legislative or any other measures have been introduced to apply the relief under Art. 15(2) of the Agreement?

1. SCOPE

1.1. PAYMENTS

1.1.1. Concept of interest

What definition of interest payment does your Member State apply to payments under Art.15(2) of the Agreement? Does this concept rely on the definitions provided in the Directive/tax treaty with Switzerland and/or OECD Model/definition provided in national law or case-law?

Has anything been implemented with regard to the specific features of the Interest and Royalties Directive mentioned in Part 1, Sec. 2.1.1 b. and c. above (exclusions)?

1.1.2. Concept of royalties

What definition of royalty payment does your Member State apply to payments under Art.15(2) of the Agreement? Does this concept rely on the definitions provided in the Directive/tax treaty with Switzerland and/or OECD Model/definition provided in national law or case-law?

Has anything been implemented with regard to the specific features of the Interest and Royalties Directive mentioned in Part 1, Sec. 2.1.2 c. above (exclusions)?

1.2. COMPANIES

1.2.1. Types of companies benefiting from Art. 15(2) of the Agreement

In respect of which legal forms of companies your does Member State apply Art. 15(2) of the Agreement?

1.2.2. 'Affiliated' companies

[indent 1 of Art. 15(2)]

How does your Member State interpret and apply the holding requirements listed in indent 1 of Art. 15(2)?

1.2.3. Residence requirement

[indents 2 and 3 of Art. 15(2) read in conjunction]

How does your Member State interpret and apply residence requirement?

1.2.4. Subject-to-tax requirement

[indent 4 of Art. 15(2)]

How does your Member State interpret and apply this requirement?

2. PROCEDURE

What procedures are in place in your Member State to ensure application of relief under Art. 15(2)?

Do the procedures differ significantly from the procedural provisions under the Interest and Royalties Directive?

3. SUMMARY

This section provides a general conclusion on how the Agreement is applied whether application of exemptions under the Agreement differ significantly from the application of the Directive, in terms of

- substance and
- procedure (please, list the differences).