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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on groundhandling services at Union airports and repealing Council Directive 96/67/EC

(Text with EEA relevance)

{SEC(2011) 1439 final}

{SEC(2011) 1440 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

1.1. General context – Council Directive of 1996

Groundhandling services consist of all ground-based aviation-related activities carried out for individual airlines at airports and are a key function in the aviation chain. Groundhandling services cover the following 11 categories of services:

- (1) ground administration and supervision;
- (2) passenger handling;
- (3) baggage handling;
- (4) freight and mail handling;
- (5) ramp handling;
- (6) aircraft services;
- (7) fuel and oil handling;
- (8) aircraft maintenance;
- (9) flight operations and crew administration;
- (10) surface transport;
- (11) catering services.

The efficient provision of groundhandling services is important for airports, airlines and passengers, and is crucial for the efficient use of air transport infrastructure and the performance of the aviation system in general.

Some estimates on the groundhandling market: According to Commission and stakeholders' estimations, the revenues of groundhandling (all categories included) amount globally to 50 billion euros. It is estimated that the sector employs at least 60,000 persons in Europe.¹ The cost linked to groundhandling services for airlines represents 5 to 12%² of operating costs.

In 1996 the European Community adopted Council Directive 96/67/EC on access to the groundhandling market at Community airports. The Directive was a first step towards the gradual opening and harmonisation of access to the groundhandling market.

¹ Estimation by IAHA (the independent handlers' associations) for their members. Not all groundhandling providers are members of IAHA and there could be more than 110,000 groundhandling employees.

² Stakeholders' consultations and 'Air market observatory - Annual reports', available at http://ec.europa.eu/transport/air/observatory_market/annual_reports_en.htm.

Historically groundhandling activities were carried out by airport operators or airlines. Today they are in Europe more and more provided by specialised companies. Access to the groundhandling market under the Directive is based on the following principles:

- Freedom of 'self-handling', i.e. the possibility for airlines to self-handle at each commercial airport regardless of its volume of traffic. However, for four categories of services (baggage handling, ramp handling, fuel and oil handling, freight and mail handling) Member States may reserve the right to self-handle to no fewer than two airport users at airports with more than 2 million passengers or 50 000 tonnes of freight per year.
- Freedom of 'third party handling', i.e. the possibility for groundhandling providers to provide services to third parties at airports with more than 2 million passengers or 50 000 tonnes of freight per year. However, for the four categories of services that can be restricted mentioned above, Member States may limit the number of suppliers to no fewer than two for each category.

1.2. Grounds for the proposal

According to various evaluations of the Directive by the Commission, the Directive has achieved the main desired objectives of liberalising the groundhandling market at EU airports: the number of service providers has increased and groundhandling prices have generally decreased. Moreover, according to the airlines, the quality of service has increased with a greater choice of competitors.

Since the adoption of the Directive in 1996, the framework conditions for groundhandling services have changed dramatically. In a context of rapidly growing air traffic and capacity constraints, the question of the efficiency and quality of services delivered at airports, including groundhandling services, is of renewed and increased interest.

The Single European Sky initiative of the European Union, which aims to reform the architecture of European air traffic control to meet future capacity and safety needs, recognises the importance of integrating key infrastructure such as airports into a 'full system, gate-to-gate' approach. Recent statistics show that 70 per cent of delays are generated by turnarounds at airports. The gate-to-gate approach aims to optimise and integrate all phases of a flight, from airport to airport, including groundhandling services, with a view to enhancing performance in terms of delays, costs, environmental impact and safety.

Moreover, the successive crises that have badly affected air transport over the last decade show that action is needed. The economic crisis has driven both Member States and the industry to try to minimise costs. Terrorist attacks require enhanced levels of security and safety. And last but not least, severe weather conditions illustrate the need for increased coordination of ground operations at airports.

Our consultation on the current Directive and our evaluation of it (for details see below) have shown that the current legal framework is no longer fit for purpose. The problem identified is twofold: *(i) the provision of groundhandling services is not efficient enough due to barriers to entry and expansion*, and *(ii) the overall quality of groundhandling services is not keeping pace with evolving needs in terms of reliability, resilience, safety and security and the environment*.

1.3. Objective of the proposal

The impact assessment and its summary, which accompany this proposal, establish the general and specific objectives for the adoption of the regulation. The general objective is to enhance the efficiency and overall quality of groundhandling services for users (airlines) and end-users (passengers and freight forwarders) at EU airports.

The specific objectives are the following:

- (1) Ensure airlines have an increased choice of groundhandling solutions at EU airports;
- (2) Harmonise and clarify national administrative conditions for market entry (approvals);
- (3) Ensure a level playing field at airport level between groundhandling companies operating under different regulatory regimes;
- (4) Increase coordination between groundhandling providers at the airport (airport operators as ground coordinators within the EU aviation network as part of the gate-to-gate approach);
- (5) Clarify the legal framework for training of staff and transfer of staff.

1.4. Existing provisions in the area of the proposal

The proposal concerns the adoption of a regulation on groundhandling services at EU airports. The new regulation is intended to replace and repeal the existing Directive 96/67/EC. Groundhandling services are not dealt with directly by any other provisions.

1.5. Consistency with policies and objectives of the European Union

This initiative is one of the actions necessary for the Single European Transport Area as described in the Commission's *White Paper: Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system*. It is also part of the airport package identified as a strategic initiative in the 2011 Commission Work Programme³, to tapping the potential of the Single Market for growth.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

2.1. Consultation of interested parties

2.1.1. Consultation methods, main sectors targeted and general profile of respondents

At a hearing held on 6 April 2006, following a written consultation, the Commission consulted all stakeholders on the various possibilities for the revision of the Directive.

³ COM(2010)623.

On 24 January 2007, the Commission adopted a report on the application of the Directive⁴ which confirmed that the main objectives of the Directive had been achieved, but that there were negative trends.

The Commission carried out a stakeholders' consultation on the functioning of the groundhandling services at EU airports and possible options for revising the Directive from November 2009 to September 2010.

A meeting of the Groundhandling working group of the Sectoral Social Dialogue Committee (on civil aviation) was held on 16 November 2009. Following this meeting, three of the four key representatives adopted a common statement⁵ calling for improvements to the current tender system and for a social clause on transfer of staff in case of partial or total loss activity.

2.1.2. Summary of responses

A summary of the consultation as well as the individual contributions are available at:

http://ec.europa.eu/transport/air/consultations/2010_02_12_directive_96_67_ec_en.htm.

The consultations highlight the divergent interests of the various types of stakeholders.

Airlines stressed the need for a more competitive market. The airlines expressed their satisfaction with the generally increased choice of groundhandling providers following the introduction of the Directive but stressed that this trend is not observed everywhere in Europe.

In a sector where stability of employment has suffered, groundhandling workers argued for the need of addressing social concerns (notably the transfer of staff) and expressed concerns about the introduction of too much competition which could impact on working conditions.

Airport operators called for better coordination at airports and expressed the wish to be clearly recognised as ground coordinators. Some airport operators objected to any further market opening mainly as they believe this would negatively impact the quality at their airports and increase their costs.

Independent groundhandlers stressed the need for fairer competition between the different groundhandling providers. In particular, they advocated stronger requirements for groundhandling activities performed by airport operators and airlines operators.

Nearly all stakeholders call for improved quality of services.

2.2. Collection and use of expertise

Continuous monitoring by the Commission on the application of the Directive on groundhandling services has been accompanied by several external studies, the results of which are available on the Commission website. In particular, following the request of the

⁴ COM(2006)821 final.

⁵ Statement dated 7 April 2011 of the EU trade associations representing the airports (ACI-Europe), the independent handlers (IAHA) and the trade unions (European Transport Federation ETF). Available at: <https://www.itfglobal.org/files/seealsodocs/28646/Statement%20GH%20ACI%20IAHA%20ETF%2070411.pdf>.

European Parliament in its resolution of 11 October 2007⁶ the Commission carried out a comprehensive study in 2008-2009⁷ on the implementation and impact of the Directive focusing on employment, safety and security issues. The Commission carried out a further study on its possible revision in 2010.⁸

2.3. Impact assessment

The impact assessment provides an overview of the different options considered. Four policy packages (in addition to the option to keep the existing framework) were considered to assess how Directive 96/67/EC could be revised.

Policy package PP1 would improve the system via minimal Directive amendments and by providing guidance where possible. It comprises: full opening of the market for self-handling, guidance on approval requirements, clearer definitions and more detailed requirements for accounts separation, centralised infrastructure, subcontracting, and the Airport Users' Committee (AUC)⁹. As for coordination at airport level, the package contains guidance on subcontracting and harmonised tender criteria. The package also ensures minimum training as well as consultation of employees' representatives on tenders.

Policy package PP2 seeks to improve the current system through a more ambitious set of measures. It opens fully the self-handling market and increases to a minimum of 3 the number of restricted service providers for third-party handling at large airports. Further measures include mutual recognition of approvals and harmonised tender criteria, better management of centralised infrastructure, legal separation of airport operators and longer tender duration. The package contains new subcontracting requirements, definition of airport operators' role in overall operations (and possible minimum requirements), as well as performance reporting obligations. Minimum training and authorisation for Member States to implement the transfer of staff under the same conditions for services to which access is restricted are also included.

Policy package PP2' is similar to policy package PP2 but comprises different measures for the less contentious problem areas identified. The difference lies in the approval being set at EU-level and the minimum quality requirements being set at EU level.

Policy package PP3 seeks to improve the current system with high intensity policy measures, providing full harmonisation of the groundhandling market legal framework: full opening of the groundhandling market and uniform market access via better management of centralised infrastructure, introduction of an EU approval, removal of airport operators' right to provide groundhandling at its airport. As for airport operational coordination, subcontracting requirements, definition of airport operators' role in overall operations (and possible minimum

⁶ European Parliament resolution of 11 October 2007 on airport capacity and ground handling: towards a more efficient policy. (2007/2092(INI)) available at: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P6-TA-2007-0433>

⁷ 'Study on the impact of Directive 96/67/EC on groundhandling services 1996-2007', Airport Research Center, February 2009. Available at: http://ec.europa.eu/transport/air/studies/doc/airports/2009_02_ground_handling.pdf.

⁸ 'Possible revision of Directive 96/67/EC on access to the groundhandling market at Community airports', Steer Davies Gleave, June 2010. Available at: http://ec.europa.eu/transport/air/studies/airports_en.htm.

⁹ The Airport Users' Committee is a committee of representatives of airport users (i.e. airlines) set at each airport.

requirements), as well as performance reporting obligations are included. This package foresees the complete transfer of staff in tender procedures and the licensing of key staff.

The recommendations of the impact assessment board (IAB) were taken into account, with the main modifications concerning the need for a clearer problem definition, clarification of the provisions for social protection in case of transfer of employees, the introduction of a wider range of feasible policy options and strengthened comparison of the policy options.

Only the policy package PP2 fully satisfies the identified objectives as demonstrated in the impact assessment. A proper balance between social and economic effects needs to be ensured. This policy package constitutes the basis for this proposal.

3. LEGAL ELEMENTS OF THE PROPOSAL

3.1. Summary of the proposal

Full opening of the self-handling market and increase in the minimum number of service providers to three at large airports

Directive 96/67/EC allows Member States to restrict self-handling or third-party handling to minimum two suppliers for four categories of services. As a consequence, at some airports airlines are faced with a limited choice between two suppliers for each of these services, and are not always authorised to self-handle.

Every airport user should be allowed to self-handle. Moreover, the number of authorised third-party suppliers of groundhandling services should not be less than three suppliers at large airports with not less than 5 million passengers annually or 100 000 tonnes of freight .

Mutual recognition of approvals with harmonised requirements

Three-quarters of the Member States have an approval system in place resulting in a numerous different administrative requirements that the suppliers of groundhandling services or self-handling airport users have to meet in the EU. The mutual recognition of national approvals with harmonised requirements will reduce administrative costs for operators and reduce barriers to entry.

Better management of centralised infrastructures¹⁰

Centralised infrastructures are essential for the performance of groundhandling services. In the absence of a clear legal framework, distortions of competition on the groundhandling market may arise. The proposal includes a clear legal framework for the definition of centralised infrastructure and for the fees to be charged to suppliers of groundhandling services and self-handling airlines for the centralised infrastructure.

Legal separation of airports and their groundhandling activities

If an airport is itself a provider of groundhandling services, it should be ensured that the groundhandling services provided by the airport do not unduly benefit from the airport management activities of the airport.

¹⁰ Centralised infrastructures are infrastructures 'used for the supply of groundhandling services whose complexity, cost or environmental impact does not allow of division or duplication'.

The current system of separation of accounts for groundhandling airports is very difficult to monitor and is felt to be insufficient to ensure fair competition. The proposal calls for airports to keep their groundhandling activities in a legal entity separate from their airport management activities.

Improved tender procedure

The current maximum period of 7 years for which a supplier of restricted groundhandling services is selected is perceived to be insufficient notably to write off the cost of ground equipments. The proposal provides for an increase of the maximum duration to ten years.

The proposal contains further specifications on the details of the selection procedure for the suppliers of restricted services to ensure a harmonious application and ensure that selected companies are indeed those best suited to operate groundhandling services.

In the selection of the supplier for restricted groundhandling services the AUC needs to be consulted. The proposal contains provisions for rules of procedure for the Airport Users' Committee to avoid any conflict of interest for airlines also providing groundhandling services.

Clarified rules for subcontracting

While subcontracting increases the sometimes necessary flexibility for suppliers of groundhandling services, subcontracting and cascade subcontracting may also result in capacity constraints and have negative effects on safety.

The proposal therefore contains clear rules for subcontracting allowing suppliers of groundhandling services to subcontract but limiting subcontracting by airports and self-handling airlines to situations of *force majeure* and prohibiting cascade subcontracting.

Role of the managing body of the airport in the coordination of ground services

The crisis faced by air transport in the last year due to severe weather conditions underlines the need for increased coordination of ground operations at airports. Indeed, a low level of resilience to the crisis was observed at some airports, also where the provision of groundhandling services was concerned. Problems at one airport have powerful 'knock on' effects on the overall network, making it all the more important to improve the level of resilience in crisis situations.

The managing body of the airport should be responsible for the proper coordination of groundhandling activities at its airport. Moreover, at large airports, which are particularly important for the European air transport network, the managing body of the airport needs to ensure that these operations are coordinated through an airport CDM and through a proper contingency plan.

Responsibility of airport operators for minimum quality requirements for groundhandling operations to be defined in delegated act

The sub-standard quality of one supplier of groundhandling services can disturb the airport system to the detriment of all stakeholders in the air transport industry. The absence of common minimum quality standards for all groundhandling providers at an airport was reported by stakeholders as a shortcoming of the current Directive.

The proposal provides the setting of minimum quality standards for the performance of groundhandling services to be met by all suppliers of groundhandling service and self-handling airport users.

Reporting obligations on performance of groundhandling services to be defined in delegated act

Sufficient, independent and centralised data on the performance of groundhandling services will help to identify appropriate future policy measures. Suppliers of groundhandling services and self-handling airport users should be required to report on the performance of their groundhandling services.

Compulsory minimum training for staff

In a labour-intensive sector such as groundhandling, continuous staff development and training have a strong impact on service quality. Conversely, poorly trained staff increases the risk of low quality services and notably can affect safety and security of groundhandling services. The proposal introduces minimum training requirements for all suppliers of groundhandling services and self-handling airlines to ensure the safety and security of operations and to create a level playing field among operators.

Possibility for Member States to impose a requirement to take over staff with same conditions where there is a tender procedure

Following the case law of the Court of Justice of the European Union¹¹, there is currently ambiguity as regards the measures that Member States are authorised to take upon a change of the provider for groundhandling services to which access is restricted.

Turnover of staff in the groundhandling industry is high and appears to be partly driven by the Directive. Suppliers selected under a tender procedure to provide services to which access is restricted are authorised to operate only for a limited maximum period of time. The tender system therefore appears to encourage turnover of staff. Discontinuity of staff can have a detrimental effect on the quality of groundhandling services. It is therefore appropriate to clarify the rules on the takeover of staff beyond the application of Directive 2001/23/EC on transfers of undertakings and to enable Member States to ensure adequate employment and working conditions.

3.2. Legal basis

The proposal is based on Article 100 TFEU.

3.3. Subsidiarity principle

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the EU.

The objectives of the proposal cannot be sufficiently achieved by the Member States because airlines operate in a single aviation market and groundhandling providers also operate on a European or international market. The framework for groundhandling services cannot be addressed at a lower level of regulation. Any individual action at Member State level would potentially prejudice the functioning of the internal market.

EU action is better able to achieve the objectives of the proposal. European rules on groundhandling services are an essential accompaniment to the European legislation

¹¹ Case C-460/02, Commission vs. Italy, judgement of 9 December 2004. Case C-386/03, Commission vs. Germany, 14 July 2005.

underpinning the internal market in aviation, since a fair, transparent and non-discriminatory system for the supply of groundhandling services is essential for achieving efficient, high-quality groundhandling services, which have a key function in the aviation chain.

The proposal therefore complies with the subsidiarity principle.

3.4. Proportionality principle

The proposal complies with the proportionality principle. The additional burdens for economic operators and national authorities are limited to those necessary to enhance the efficiency and overall quality of groundhandling services. While the proposal involves substantial costs mainly for the improved management of centralised infrastructures, the legal separation of airports, and reporting obligations, these are expected to be offset by the substantial economic and quality benefits obtained.

3.5. Choice of instrument

The proposed instrument is a Regulation. Other means would not be adequate. Considering the new need for minimum, harmonised quality standards at airports to implement the gate-to-gate approach and for further harmonisation of market access conditions to ensure a fairer competition on the groundhandling market, the flexibility offered in 1996 by the choice of a Directive is no longer appropriate.

The legal instrument has to be of general application.

A Regulation meets the need for harmonisation of groundhandling markets at EU level, an issue that was identified as a problem. Most of the difficulties identified with the current legal framework are linked to divergent implementation among Member States.

Therefore the most appropriate legal instrument is a Regulation, since alternative options would not be sufficient to achieve the proposed objectives.

4. BUDGETARY IMPLICATION

The proposal has no implications for the EU budget.

5. OPTIONAL ELEMENTS

5.1. Repeal of existing legislation

Adoption of the proposal will lead to the repeal of the existing Council Directive 96/67/EC of 15 October 1996 on access to the groundhandling market at Community airports.

5.2. European Economic Area

The proposed act concerns an EEA matter and should therefore extend to the European Economic Area.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on groundhandling services at Union airports and repealing Council Directive 96/67/EC

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100 (2) thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee¹²,

Having regard to the opinion of the Committee of the Regions¹³,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Directive 96/67/EC of 15 October 1996 on access to the groundhandling market at Community airports¹⁴ provides for a gradual opening of the groundhandling market.
- (2) Airports and groundhandling services are essential to the proper functioning of air transport and are a key function in the aviation chain. Groundhandling services cover all ground-based aviation-related activities carried out for individual airlines at airports.
- (3) The Declaration adopted at the Bruges Aviation Summit in October 2010 recognised the need to reform Union rules to foster the competitiveness of each link in the aviation transport chain (such as. airports, carriers, other service providers).
- (4) The White Paper Roadmap to a Single European Transport Area¹⁵ identifies the improvement of market access and the provision of quality services at airports as vital

¹² OJ C , , p. .

¹³ OJ C , , p. .

¹⁴ OJ L 272, 25.10.1996, p. 36.

¹⁵ COM(2011) 144final.

for the quality of life of citizens and as an essential action to achieve the Single European Transport Area.

- (5) Further gradual opening of the groundhandling market and the introduction of harmonised requirements for the provision of groundhandling services are likely to enhance the efficiency and overall quality of groundhandling services for airlines as well as for passengers and freights forwarders. This should improve the quality of overall airport operations.
- (6) Considering the new need for minimum, harmonised quality standards at airports to implement the gate-to-gate approach for the realisation of the Single European Sky and the need for further harmonisation to fully exploit the benefits of the gradual opening of the groundhandling market in terms of increased quality and efficiency of groundhandling services, Directive 96/67/EC should therefore be replaced by a Regulation.
- (7) Free access to the groundhandling market is consistent with the efficient operation of Union airports, provided relevant safeguards are put in place. Free access to the groundhandling market should be introduced gradually and be adapted to the requirements of the sector.
- (8) Gradual opening of the market under Directive 96/67/EC has already produced positive results in terms of improved efficiency and quality. It is therefore appropriate to proceed with further gradual opening.
- (9) Every airport user should be allowed to self-handle. At the same time it is necessary to maintain a clear and restrictive definition of self-handling in order to avoid abuse and negative impacts on the third-party handling market.
- (10) For certain categories of groundhandling services, access to the market may come up against safety, security, capacity and space availability constraints. It should therefore be possible to limit the number of authorised suppliers of such groundhandling services.
- (11) In certain cases the safety, security, capacity and space availability constraints can be such that they may justify further restrictions on market access or on self-handling, provided that these restrictions are relevant, objective, transparent and non-discriminatory. In such cases Member States should be entitled to request exemptions from the provisions of this Regulation.
- (12) The purpose of these exemptions should be to enable airport authorities to overcome or at least reduce these constraints. Such exemptions should be approved by the Commission.
- (13) If effective and fair competition is to be maintained where the number of suppliers of groundhandling services is limited, those suppliers need to be chosen according to an open, transparent and non-discriminatory tender procedure. The details of such a procedure should be further specified.
- (14) Airport users should be consulted in the selection of suppliers of groundhandling services, since they have a major interest in the quality and price of groundhandling services.

- (15) It is therefore necessary to arrange for the representation of airport users and their consultation, in particular when authorised suppliers of groundhandling services are selected.
- (16) In the context of the selection of suppliers of groundhandling services at an airport, it should be possible in certain circumstances and under specific conditions to extend a public service obligation to other airports in the same geographical region of the Member State concerned.
- (17) Ambiguity exists as to whether Member States may require the takeover of staff upon a change of provider for groundhandling services to which access is limited. Discontinuity of staff can have a detrimental effect on the quality of groundhandling services. It is therefore appropriate to clarify the rules on the takeover of staff beyond the application of Directive 2001/23/EC on transfers of undertakings enabling Member States to ensure adequate employment and working conditions.
- (18) In order to ensure the proper and smooth functioning of air transport operations at airports, guarantee safety and security on airport premises as well as protect the environment and ensure compliance with the applicable social provisions and rules, the provision of groundhandling services should be subject to an appropriate approval. Given that systems for approving the provision of groundhandling services currently exist in the majority of Member States but differ widely, a harmonised approval system should be introduced.
- (19) To make sure that all service suppliers and self-handling airport users possess sufficient economic solidity, good repute, sufficient insurance coverage, and proper knowledge of groundhandling operations and the airport environment, and in order to establish a level playing field, the granting of approval should be subject to minimum requirements.
- (20) Open access to the centralised infrastructure of the airport and a clear legal framework for the definition of the centralised infrastructure is essential for the efficient provision of groundhandling services. It should be possible, however, to collect a fee for the centralised infrastructure.
- (21) The fees should be non-discriminatory and the calculation should be transparent. The fees should not exceed what is necessary to cover the costs of the provision of the centralised infrastructure including a reasonable return on assets.
- (22) The managing body of the airport and/or any other managing body of the centralised infrastructure of that airport should regularly consult airport users on the definition of the infrastructure and the level of fees.
- (23) The managing body of the airport may also supply groundhandling services itself. As at the same time, through its decision, the managing body of the airport may exercise considerable influence on competition between suppliers of groundhandling services, airports should be required to keep their groundhandling services in a legal entity separate from the legal entity for infrastructure management.
- (24) In order to enable airports to fulfil their infrastructure management functions, to guarantee safety and security on airport premises and to ensure the resilience of

groundhandling services also in crisis situations the managing body of the airport should be responsible for the proper coordination of groundhandling activities at the airport. The managing body of the airport should report on the coordination of airport groundhandling activities to the Performance Review Body of Eurocontrol in view of a consolidated optimisation.

- (25) The managing body of the airport, a public authority or any other body controlling the airport should also have the power to lay down the necessary rules for the proper functioning of the airport infrastructure.
- (26) It is necessary to define obligatory minimum quality standards to be met by suppliers of groundhandling services and self-handling airport users in order to ensure the overall quality of service and establish a level playing field among suppliers.
- (27) With a view of enhancing performance across the whole aviation chain and implementing the 'gate-to-gate' approach, the suppliers of groundhandling services and self-handling airport users should report to the Commission about their performance.
- (28) In a labour-intensive sector such as groundhandling, continuous staff development and training have a strong impact on service quality. Minimum training requirements should therefore be set to ensure the quality of operations in terms of reliability, resilience, safety and security, and to create a level playing field among operators.
- (29) Subcontracting increases flexibility for suppliers of groundhandling services. Nevertheless, subcontracting and cascade subcontracting may also result in capacity constraints and have negative effects on safety and security. Subcontracting should therefore be limited and the rules governing subcontracting should be clarified.
- (30) The rights recognised by this Regulation should only apply to third-country suppliers of groundhandling services and third-country self-handling airport users subject to strict reciprocity. Where there is not such reciprocity, the Commission should be enabled to decide that a Member State or Member States should suspend these rights with regard to such suppliers or users.
- (31) Member States should retain the power to ensure an adequate level of social protection for the staff of undertaking providing groundhandling services.
- (32) In order to ensure that harmonised insurance requirements apply for suppliers of groundhandling services and self-handling airport users, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of insurance requirements for suppliers of groundhandling services and self-handling airport users. In order to ensure that harmonised and properly updated obligations apply concerning the minimum quality standards for groundhandling services and concerning the reporting obligations for suppliers of groundhandling services and self-handling airport users, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of specifications for minimum quality standards for groundhandling services and in respect of specifications for the content and dissemination of reporting obligations for suppliers of groundhandling services and self-handling airport users. It is of particular importance that the Commission carries out appropriate consultations during its

preparatory work, including at expert level and involving the specific Sectoral Social Dialogue Committee set up under Decision 98/500/EC.

- (33) The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.
- (34) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers¹⁶.
- (35) The advisory procedure should be used for adopting implementing decisions on exemptions to the degree of opening of the market for groundhandling services for third parties and for self-handling airlines given that those acts are only of limited scope.
- (36) The advisory procedure should also be used for adopting implementing decisions on the extension by Member States of a public service obligation to an island airport given that those acts are only of limited scope.
- (37) The examination procedure should be used for adopting implementing decisions on the whole or partial suspension of the right of access to the groundhandling market within a Member States' territory for suppliers of groundhandling services and airport users from a third country.
- (38) Since the objective of this Regulation, namely more homogenous application of Union legislation with regard to groundhandling services cannot be sufficiently achieved by the Member States due to the international character of air transport, and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (39) The Ministerial Statement on Gibraltar Airport, agreed in Cordoba on 18 September 2006, during the first Ministerial meeting of the Forum of Dialogue on Gibraltar, will replace the Joint Declaration on Gibraltar Airport made in London on 2 December 1987, and the full compliance with it will be deemed to constitute compliance with the 1987 declaration.
- (40) Directive 96/67/EC should therefore be repealed.

¹⁶ OJ L 55, 28.2.2011, p. 13.

HAVE ADOPTED THIS REGULATION:

Chapter I — Scope and definitions

Article 1

Scope

The Regulation shall apply to any airport located in the territory of a Member State subject to the Treaty and open to commercial traffic.

The application of this Regulation to the airport of Gibraltar is without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom of Great Britain and Northern Ireland with regard to the dispute over sovereignty over the territory in which the airport is situated.

Article 2

Definitions

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

- (a) 'airport' means any area of land especially adapted for the landing, taking-off and manoeuvres of aircraft, including the ancillary installations which these operations may involve for the requirements of aircraft traffic and services including the installations needed to assist commercial air services;
- (b) 'managing body of the airport' means a body which, in conjunction with other activities or not as the case may be, has as its objective under national law or regulation the administration and management of the airport infrastructures, and the coordination and control of the activities of the different operators present in the airport concerned;
- (c) 'airport user' means any natural or legal person responsible for the carriage of passengers, mail and/or freight by air to or from the airport concerned;
- (d) 'groundhandling' means the services provided to airport users at airports as set out in the Annex;
- (e) 'self-handling' means a situation where an airport user directly provides for itself one or more categories of groundhandling services and concludes no contract of any description with a third party for the provision of such services; for the purpose of this regulation, among themselves airport users are not be deemed to be third parties where:
 - one holds a majority holding in the other; or
 - a single body has a majority holding in each;
- (f) 'supplier of groundhandling services' means any natural or legal person supplying third parties with one or more categories of groundhandling services;

- (g) 'centralised infrastructure' means specific installations and/or facilities at an airport which cannot, for technical, environmental, cost or capacity reasons, be divided or duplicated and whose availability is essential and necessary for the performance of subsequent groundhandling services;
- (h) 'subcontracting' means the conclusion of a contract by a supplier of groundhandling services, in its capacity as the main contractor, or exceptionally by a self-handling airport user, with a third party termed 'subcontractor', under which the subcontractor is required to perform one or more categories (or subcategories) of groundhandling services;
- (i) 'approval': means an approval granted by the competent authority to an undertaking to provide groundhandling services as stated in the approval;
- (j) 'independent supervisory authority' means the authority referred to in Article 11 of Directive 2009/12/EC.

Chapter II — General preliminary requirements

Article 3

Managing body of the airport

1. Where an airport is managed and operated not by a single body but by several separate bodies, each of these bodies shall be considered part of the managing body of the airport for the purposes of this Regulation.
2. Where only a single managing body of the airport is set up for several airports, each of those airports shall be considered separately for the purposes of this Regulation.

Article 4

Airport Users' Committee

1. Each of the airports concerned shall establish a committee of representatives of airport users or of organisations representing airport users ('Airport Users' Committee').
2. All airport users shall have the right to participate in the work of the Airport Users' Committee, or, if they so wish, to be represented on it by an organisation designated to that effect. However, if they are represented by such an organisation, this organisation shall not provide groundhandling services at the concerned airport.
3. The Airport Users' Committee shall establish in writing its own rules of procedures, including its own voting rules.

The voting rules shall include specific provisions on how to avoid any conflict of interests in the Airport Users' Committee resulting from the presence of airport users that provide groundhandling services at the airport concerned. In particular, where the Airport Users' Committee is consulted in the course of the selection procedure in accordance with in Articles 8 and 9, airport users applying for an authorisation to

provide one or more groundhandling services to third parties shall not be entitled to vote.

4. The weighting of votes within the Airport Users' Committee shall be such that:
 - (a) irrespective of the annual traffic volume carried by a single airport user at an airport, its voting power shall not exceed 49 % of the totality of the votes;
 - (b) the voting power of self-handling airport users shall not exceed one third of the totality of the votes.
5. The managing body of the airport shall provide the secretariat of the Airport Users' Committee.

If the managing body of the airport refuses to do so or if the Airport Users' Committee does not accept this, the managing body of the airport shall designate another entity which has to be accepted by the Airport Users' Committee. The secretariat of the Airport Users' Committee shall keep and maintain the list of airport users or their representatives that are part of the Airport Users' Committee.

6. The secretariat of the Airport Users' Committee shall keep minutes of each meeting of the Airport Users' Committee. These minutes shall faithfully reflect the views and votes results during the meeting.

Chapter III — Opening of the groundhandling market

SECTION 1 SELF-HANDLING

Article 5 Self-handling

All airport users shall be free to self-handle.

SECTION 2 GROUNDHANDLING FOR THIRD PARTIES

Article 6 Groundhandling for third parties

1. Suppliers of groundhandling services shall have free access to the market for the provision of groundhandling services to third parties on any airport whose annual traffic has been not less than 2 million passenger movements or 50 000 tonnes of freight for at least the previous three years.
2. For airports as referred to in paragraph (1) Member States may limit the number of suppliers authorised to provide the following categories of groundhandling services :
 - (a) baggage handling;

- (b) ramp handling;
- (c) fuel and oil handling;
- (d) freight and mail handling as regards the physical handling of freight and mail, whether incoming, outgoing or being transferred, between the air terminal and the aircraft.

However, Member States shall not limit this number to fewer than two suppliers for each category of groundhandling services or, for airports whose annual traffic has been not less than 5 million passengers or 100 000 tonnes of freight for at least the previous three years, to fewer than three suppliers for each category of groundhandling services.

3. At airports where the number of suppliers is limited to two or more suppliers in accordance with paragraph (2) of this Article, or Article 14 (1) (a) and (c), at least one of the authorised suppliers shall not be directly or indirectly controlled by:

- (a) the managing body of the airport,
- (b) any airport user who has carried more than 25 % of the passengers or freight recorded at the airport during the year preceding that in which those suppliers were selected,
- (c) a body directly or indirectly controlling, or controlled by the managing body of the airport as referred to in point (a) or any such user referred to in point (b).

Control shall be constituted by rights, contracts or any other means, which either separately or in combination and having regard to the considerations of fact or law involved, confer the possibility of exercising decisive influence on the supplier as interpreted by the Court of Justice of the European Union.

4. Where the number of authorised suppliers is restricted pursuant to paragraph (2), Member States may not prevent an airport user, whatever part of the airport is allocated to him, from having, in respect of each category of groundhandling service subject to limitation, an effective choice, under the conditions laid down in paragraphs (2) and (3), between at least:

- two suppliers of groundhandling services, or
- three suppliers of groundhandling services for airports whose annual traffic has been not less than 5 million passengers or 100 000 tonnes of freight for at least the previous three years.

5. Where an airport reaches one of the freight traffic thresholds laid down in this Article without reaching the corresponding passenger movement threshold, this Regulation shall not apply to categories of groundhandling services reserved exclusively for passengers.

6. Any airport whose annual traffic has been not less than 2 million passenger movements or 50 000 tonnes of freight for at least three consecutive years and whose annual traffic subsequently passes under the threshold of 2 million passenger

movements or 50 000 tonnes of freight shall maintain its market open to third-party handling suppliers during at least the first three years following the year it passed under the threshold.

7. Any airport whose annual traffic has been for three consecutive years not less than 5 million passenger movements or 100 000 tonnes of freight and whose annual traffic passes under the threshold of 5 million passenger movements or 100 000 tonnes of freight shall maintain its market open to third-party handling suppliers during at least the first three years following the year it passed under the threshold.

Article 7
Selection of suppliers

1. Suppliers authorised to provide groundhandling services at an airport where their number is limited under Article 6 or Article 14 shall be selected according to a transparent, open and non-discriminatory tender procedure.
2. The tendering authority shall be
 - (a) the managing body of the airport, provided it:
 - does not provide similar groundhandling services; and
 - has no direct or indirect control over any undertaking which provides such services; and
 - has no involvement in any such undertaking;
 - (b) in all other cases, a competent authority independent of the managing body of the airport.
3. The Airport Users' Committee shall not have access to the applicants' submissions at any stage of the selection procedure. The managing body of the airport shall not have access to the applicants' submissions at any stage of the selection procedure, if it is not the tendering authority.
4. After having notified the Commission, the Member State concerned may include among the tender specifications a public service obligation to be met by suppliers of groundhandling services in respect of airports serving peripheral or developing regions which are part of its territory, where suppliers are not willing to provide groundhandling services without public support (i.e. exclusive rights or compensation payments), but where such airports are of vital importance as regards accessibility for the Member State concerned. This provision is without prejudice to the EU State Aid rules.
5. The invitation to tender shall be launched and published in the *Official Journal of the European Union*.
6. The selection of the suppliers by the tendering authority shall be done in two stages:
 - (a) a qualification procedure to examine the suitability of the applicants; and

- (b) an award procedure to select the authorised supplier(s).

Article 8
Qualification procedure

1. In the qualification procedure the tendering authority shall verify that the applicants meet a number of minimum criteria. The tendering authority shall establish these minimum criteria after consulting the Airport Users' Committee and the managing body of the airport, if the latter is different from the tendering authority.
2. The minimum criteria shall include the following:
 - (a) the applicant has a valid approval issued in accordance with chapter IV on Approval Procedures;
 - (b) the applicant demonstrates its ability and commits in writing to apply the relevant provisions and rules including applicable labour laws, applicable collective agreements, rules of conduct at the airport and quality requirements at the airport.
3. The tendering authority shall short-list the applicants meeting the criteria of the qualification procedure.

Article 9
Award procedure

1. In the award procedure the tendering authority shall select a supplier among the short-listed applicants and award the authorisation to this supplier after consulting the Airport Users' Committee and the managing body of the airport, if the latter is different from the tendering authority.
2. The selection of the supplier for the award of the authorisation shall be based on comparison of the applicants' submissions against a list of award criteria. The award criteria shall be relevant, objective, transparent and non-discriminatory. The tendering authority shall establish the award criteria after consulting the Airport Users' Committee and the managing body of the airport, if the latter is different from the tendering authority.
3. The award criteria shall include the following:
 - (a) consistency and plausibility of the business plan as assessed on the basis of model costs calculations;
 - (b) level of quality of operations as assessed on the basis of a representative flight schedule including, where relevant, efficient use of staff and equipment, last acceptance of baggage and cargo, delivery times for baggage and cargo and maximum turnaround times;
 - (c) adequateness of material resources in terms of availability of equipment and environmental friendliness of equipment;

- (d) adequateness of human resources in terms of workers' experience and adequateness of training/qualification programme;
 - (e) quality of information and communication technology;
 - (f) quality of organisational planning;
 - (g) environmental performance.
4. The relative weighting of the award criteria shall appear in the invitation to tender and the relevant documents. A range of points with an appropriate maximum spread shall be applied to each award criterion. The tendering authority may set a minimum number of points that a successful applicant has to reach for certain specific award criteria. The setting of a minimum number of points shall be non-discriminatory and shall be clearly stated in the invitation to tender and the relevant documents. The tendering authority may not eliminate any of the award criteria, add others or subdivide those initially laid down in the invitation to tender.
 5. The authorisation to provide groundhandling services at the respective airport shall be awarded to the applicant achieving the highest number of points while also meeting any minimum number of points required for certain award criteria.
 6. Airport users that apply to provide third-party handling or which operate their own self-handling shall not be consulted in the award procedure.
 7. The tendering authority shall ensure that the award decision and the reasons for this decision are made public.

Article 10

Selection period and termination of activity

1. Suppliers of groundhandling services shall be authorised for a minimum period of seven years and a maximum period of ten years except in the case of exemptions for the opening of self-handling and third-party groundhandling as provided for in Article 14 (1). The exact period for which the suppliers are authorised and the date to start operations shall be clearly indicated in the invitation to tender.
2. A supplier of groundhandling services shall begin to provide services within one month from the start date indicated in the invitation to tender. The tendering authority may, in duly justified cases, at the request of the supplier of groundhandling services and after consulting the Airport Users' Committee, prolong this period for a maximum of six months. After expiry of this period, the authorisation will cease to be valid.
3. The tendering authority shall anticipate the end of the authorisation period and shall ensure that any supplier selected after a new invitation to tender is authorised to start its operations the day following the last day of the authorisation period of the previously selected supplier(s).
4. Where a supplier of groundhandling services ceases its activity before the end of the period for which it was authorised, the supplier shall be replaced on the basis of the

selection procedure described in Articles 7, 8, 9 and this Article. Any supplier ceasing its activity shall inform the relevant tendering authority of its intention to cease activity sufficiently in advance and at least six months in advance before it leaves the airport. Financial penalties may be imposed on the supplier if it does not inform the tendering authority sufficiently in advance unless the supplier can demonstrate force majeure.

5. Where a supplier ceases its activity before the end of the period for which it was authorised and does not leave sufficient time to the tendering authority to select a new supplier before it leaves the airport, with the result that there is a temporary monopoly for certain groundhandling services at this airport, the Member State shall authorise for a limited period of time not exceeding ten months a supplier of groundhandling services to provide groundhandling services at that airport without having recourse to the selection procedure laid down in Articles 7, 8, 9 and this Article.

If the Member State does not succeed in finding a supplier of groundhandling services for this limited period of time, the Member State shall regulate the prices of those groundhandling services for which a temporary monopoly exists until a further supplier starts providing these groundhandling services at the airport.

6. The tendering authority shall inform the Airport Users' Committee and, if applicable, the managing body of the airport of decisions taken under Articles 7, 8 and 9 as well as under this Article.
7. The Articles 7, 8 and 9 as well as the provisions of this Article shall not apply to the award of public contracts and concessions which are governed by different provisions of the Union law.

Article 11

Managing body of the airport as supplier of groundhandling services

1. Where the number of suppliers of groundhandling services is limited in accordance with Article 6, the managing body of the airport may itself provide groundhandling services without being subject to the selection procedure laid down in Articles 7 to 10. Similarly, it may, without following this procedure, authorise an undertaking to provide groundhandling services at the airport concerned:
 - (a) if it controls that undertaking directly or indirectly;
 - (b) if the undertaking controls it directly or indirectly.
2. Where a managing body of the airport supplying groundhandling services in accordance with paragraph (1) no longer meets the conditions of paragraph (1), this supplier may continue to provide groundhandling services for a period of five years without being subject to the selection procedure laid down in Articles 7 to 10. At the end of this five-year period, the supplier shall inform the relevant tendering authority sufficiently in advance and at least six months before the expiry of the five-year period. Financial penalties may be imposed on the supplier if it does not inform the tendering authority sufficiently in advance unless the supplier can demonstrate force

majeure. If the supplier ceases its activity before the end of the five-year period, Articles 10 (4) and 10 (5) shall apply.

Article 12

Safeguarding of employees' rights in the event of transfer of staff for services subject to market access restrictions

1. This Article applies only to groundhandling services for which the Member State concerned has limited the number of suppliers in accordance with Article 6 or 14.
2. Where, following the selection procedure laid down in Articles 7 to 10, a supplier of groundhandling services mentioned in paragraph 1 loses its authorisation to provide these services, Member States may require supplier(s) of groundhandling services which subsequently provide these services to grant staff previously hired to provide these services the rights to which they would have been entitled if there had been a transfer within the meaning of Council Directive 2001/23/EC¹⁷.
3. Member States shall limit the requirement in paragraph (2) to the employees of the previous supplier who are involved in the provision of services for which the previous supplier lost authorisation, and who voluntarily accept to be taken on by the new supplier(s).
4. Member States shall limit the requirement in paragraph (2) so that it is to be proportionate to the volume of activity effectively transferred to the other supplier(s).
5. Where a Member State imposes a requirement as referred to in paragraph (2), tender documents for the selection procedure laid down in Articles 7 to 10 shall list the staff concerned and give the relevant details of employees' contractual rights and the conditions under which employees are deemed to be linked to the services in question.
6. Where a supplier of groundhandling services stops providing to an airport user groundhandling services which constitute a significant part of the groundhandling activities of this supplier in cases not covered by paragraph (2), or where a self-handling airport user decides to stop self-handling, Member States may require the supplier(s) of groundhandling services or self-handling airport user which subsequently provide these groundhandling services to grant staff previously hired to provide these services the rights to which they would have been entitled if there had been a transfer within the meaning of Council Directive 2001/23/EC.
7. Member States shall limit the requirement in paragraph (6) to the employees of the previous supplier who are involved in the provision of groundhandling services that the previous supplier stops providing, and who voluntarily accept to be taken on by the new supplier(s) or self-handling airport user.

¹⁷ Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, OJ L 82, 22.3.2001, p. 16.

8. Member States shall limit the requirement in paragraph (6) to the employees of the self-handling airport user who are involved in the provision of groundhandling services for which the self-handling airport user decides to stop self-handling, and who voluntarily accept to be taken on by the new supplier(s) or self-handling airport user.
9. Member States shall limit the requirement in paragraph (6) so that it is to be proportionate to the volume of activity effectively transferred to the other supplier or self-handling airport user.
10. Member States may entrust management and labour at the appropriate level with defining through negotiated agreement the practical arrangements implementing this Article.
11. Member States shall inform the Commission on any measures taken in accordance with this Article.

Article 13
Island airports

For the selection of suppliers of groundhandling services at an airport as provided for in Articles 7 to 10, a Member State may extend a public service obligation to other airports in that Member State provided that:

- (a) those airports are located on islands in the same geographical region; and
- (b) such airports each have a traffic volume of no less than 100 000 passenger movements per year;
- (c) and such an extension is approved by the Commission.

The decision on approving the extension constitutes an implementing act which shall be adopted in accordance with the advisory procedure referred to in Article 43 (2). This provision is without prejudice to the EU State Aid rules.

**SECTION 3 EXEMPTIONS FOR SELF-HANDLING AND THIRD-PARTY
GROUNDHANDLING**

Article 14
Exemptions

1. Where specific constraints of available space or capacity at an airport, arising in particular from congestion and area utilisation rate, make it impossible to open up the market and/or implement self-handling to the degree provided for in this Regulation, the Member State concerned may decide:
 - (a) to limit to not fewer than two suppliers the number of suppliers for one or more categories of groundhandling services other than those referred to in Article 6 (2) in all or part of the airport, whereby Article 6 (3) shall apply;

- (b) to reserve to a single supplier one or more of the categories of groundhandling services referred to in Article 6 (2) for airports whose annual traffic is not less than 2 million passengers annually or 50 000 tonnes of freight;
 - (c) to limit to one or two suppliers one or more of the categories of groundhandling services referred to in Article 6 (2) for airports whose annual traffic is not less than 5 million passengers or 100 000 tonnes of freight, whereby in the case of a limitation to two suppliers Article 6 (3) shall apply;
 - (d) to reserve self-handling as referred to in Article (5) to a limited number of airport users, provided that those users are chosen on the basis of relevant, objective, transparent and non-discriminatory criteria.
2. All exemptions under paragraph 1 shall:
- (a) specify the category or categories of groundhandling services for which the exemption is granted and the specific constraints of available space or capacity which justify it;
 - (b) be accompanied by a plan of appropriate measures to overcome the constraints.
3. Exemptions shall not:
- (a) give rise to distortions of competition between suppliers of groundhandling services and/or self-handling airport users;
 - (b) extend further than necessary.
4. Member States shall notify the Commission, at least six months before they enter into force, of any exemptions they intend to grant pursuant to paragraph (1) and of the grounds which justify them.
5. Upon receipt, the Commission shall publish a summary of the notified exemption decisions in the *Official Journal of the European Union* and shall invite interested parties to submit comments.
6. The Commission shall closely examine exemption decisions notified by Member States. To that end the Commission shall make a detailed analysis of the situation and a study of the appropriate measures notified by the Member State to check that the alleged constraints exist and that it is impossible to open up the market and/or implement self-handling to the degree provided for in this Regulation.
7. Further to that examination and after consulting the Member State concerned, the Commission may approve the Member State's decision or oppose it if it deems that the alleged constraints have not been proven to exist or that they are not severe enough to justify the exemption. After consulting the Member State concerned the Commission may also require the Member State to amend the extent of the exemption or restrict it to those parts of an airport where the alleged constraints have been proved to exist.

8. The decision of the Commission shall be taken no later than six months after complete notification by the Member State and shall be published in the *Official Journal of the European Union*.
9. The implementing decisions referred to in paragraphs (7) and (8) of this Article shall be adopted in accordance with the advisory procedure referred to in Article 43 (2).
10. Exemptions granted by Member States pursuant to paragraph (1) may not exceed a duration of three years except for exemptions granted under paragraph 1 (b) and (c). Not later than six months before the end of that period the Member State shall take a new decision on each request for exemption, which shall also be subject to the provisions of this Article.
11. Exemptions granted by Member States under paragraphs (1) (b) and (c) may not exceed a duration of two years. However, a Member State may in accordance with the considerations referred to in paragraph (1), request that this period be extended by a single period of two years. The Commission shall decide on such a request. The implementing decision shall be adopted in accordance with the advisory procedure referred to in Article 43 (2).

Article 15

Consultations of the suppliers of groundhandling services and of airport users

The managing body of the airport shall organise a procedure for consultation on the application of this Regulation between itself, the Airport Users' Committee and the undertakings providing groundhandling services. This consultation shall cover, inter alia, the price of those groundhandling services for which an exemption has been granted pursuant to Article 14 (1) (b) and (c) and the organisation of the provision of those services. A consultation meeting shall be held at least once a year. The managing body of the airport shall make a record of that meeting which shall be sent to the Commission at its request.

Chapter IV — Approval procedures

Article 16

Requirement to obtain appropriate approval recognised in all EU Member States

1. At airports whose annual traffic has been not less than 2 million passenger movements or 50 000 tonnes of freight for at least three consecutive years, no undertaking shall be permitted to provide groundhandling services whether as a supplier of groundhandling services or as a self-handling user unless it has been granted the appropriate approval. An undertaking meeting the requirements of this Chapter shall be entitled to receive an approval.
2. Each Member State shall designate a competent authority ('approving authority') independent of any managing body of the airport to be in charge of issuing approvals to provide groundhandling services.
3. The approving authority shall not grant approvals or maintain them in force where any of the requirements of this Chapter are not complied with.

Article 17
Conditions for granting an approval

1. An undertaking shall be granted an approval by the approving authority of a Member State provided that:
 - (a) it is established and registered in a Member State;
 - (b) its company structure allows the approving authority to implement the provisions of this Chapter;
 - (c) it complies with the financial conditions specified in Article 18;
 - (d) it complies with the proof of good repute specified in Article 19;
 - (e) it complies with the qualification of staff requirement specified in Article 20;
 - (f) it complies with the requirements as regards an operations manual specified in Article 21;
 - (g) it complies with the insurance requirements specified in Article 22.
2. Paragraph (1) (a), (c), and (d) shall not apply to self-handling airport users which do not provide groundhandling services to third parties. Airport users that have been issued an approval for self-handling shall not be authorised to provide third-party handling on the basis of this approval.
3. An undertaking applying for an approval or having obtained an approval shall respect the national provisions concerning social protection, environmental protection and airport security of all Member States in which it operates.

Article 18
Financial conditions for granting an approval

1. An undertaking applying for an approval shall not be in insolvency or in similar proceedings or bankruptcy.
2. The approving authority shall closely assess whether an undertaking applying for an approval can demonstrate that:
 - (a) it can meet at any time its actual and potential obligations established under realistic assumptions, for a period of 24 months from the start of operations; and
 - (b) it can meet its fixed and operational costs incurred by operations according to its business plan and established under realistic assumptions, for a period of three months from the start of operations, without taking into account any income from its operations.
3. For the purposes of the assessment referred to in paragraph (1), each applicant shall submit its audited accounts for the two previous financial years.

4. For the purposes of the assessment laid down in paragraph (2), each applicant shall submit a business plan for, at least, the first three years of operation. The business plan shall also detail the applicant's financial links with any other commercial activities in which the applicant is engaged either directly or through related undertakings. The applicant shall also provide all relevant information, in particular the following data:
 - (a) a projected balance sheet, including profit-and-loss account, for the following three years;
 - (b) projected cash-flow statements and liquidity plans for the first three years of operation;
 - (c) details of the financing of equipment purchase/leasing including, in the case of leasing, the terms and conditions of each contract, if relevant.

Article 19

Proof of good repute

1. An undertaking applying for an approval shall provide a proof of having paid its taxes and social security contributions in the most recent year, for the Member States where it carries out an activity or, in the case where it carries out no activity in the Union, for its country of origin.
2. The undertaking shall also provide proof that the persons who will continuously and effectively manage the operations of the undertaking are of good repute or that they have not been declared bankrupt. The approving authority shall accept as sufficient evidence in respect of nationals of Member States the production of documents issued by the competent authorities in the Member State where the undertaking is established and registered or the Member State where the person has his/her permanent residence, and showing that those requirements are met.
3. Where the Member State where the undertaking is established and registered or the Member State where the person has his/her permanent residence does not issue the documents referred to in paragraph (2), such documents shall be replaced by a declaration on oath or — in Member States where there is no provision for declaration on oath — by a solemn declaration made by the person concerned before a competent judicial or administrative authority or, where appropriate, a notary or qualified professional body of the Member State where the undertaking is established and registered or the Member State where the person has his/her permanent residence. Such authority, notary or qualified professional body shall issue a certificate attesting the authenticity of the declaration on oath or solemn declaration.

Article 20

Qualification of staff

An undertaking applying for an approval shall demonstrate that its employees have the qualification, professional experience and length of service necessary for the performance of the activity it applies for.

Article 21
Manual of operations

An undertaking applying for an approval shall provide a manual of operations for the relevant activities which shall contain the following information:

- (a) organization chart, management personnel, description of responsibilities and duties, accountability;
- (b) capacity to operate safely in an airport context;
- (c) equipment policy;
- (d) qualification requirements for personnel as well as corresponding training requirements and training plan;
- (e) safety and quality management procedures;
- (f) standard handling procedures, including coordination with airport users and airport managing bodies, coordination of activities and specific handling procedures related to specific customers;
- (g) emergency response policy;
- (h) security management procedures.

Article 22
Insurance requirements

1. Suppliers of groundhandling services and self-handling airport users in the Union shall be insured in respect of their groundhandling-specific liability for damage caused on the territory of a Member State and for which a right to compensation exists.
2. The Commission shall be empowered to specify further details on the insurance requirements and minimum amounts by means of a delegated act in accordance with Article 42.

Article 23
Validity of an approval

1. An approval shall be valid for a period of five years.
2. An approval shall be valid for the categories and/or subcategories specified in the approval.
3. The supplier of groundhandling services shall at all times be able upon request to demonstrate to the competent approving authority that it meets all the requirements of this Chapter.

4. The approving authority shall monitor compliance with the requirements of this Chapter. It shall in any case review compliance with these requirements in the following cases:
 - (a) when a potential problem is suspected; or
 - (b) at the request of an approving authority of another Member State; or
 - (c) at the request of the Commission.
5. The approval shall be resubmitted for a new approval when a groundhandling undertaking:
 - (a) has not started operations within twelve months of the granting of an approval; or
 - (b) has ceased its operations for more than twelve months.
6. A groundhandling undertaking shall notify the approving authority:
 - (a) in advance of any substantial change in the scale of its activities;
 - (b) In case an insolvency procedure is initiated for the undertaking.

Article 24
Revocation of approval

1. The approving authority may at any time revoke the approval if the supplier of groundhandling services or the self-handling airport user does not meet, for reasons of its own doing, the criteria laid down in this Chapter. The grounds for revocation shall be communicated to the supplier or the self-handling airport user concerned and to the approving authorities in the other Member States.
2. The approving authority shall revoke the approval if the supplier of groundhandling services knowingly or recklessly furnishes the approving authority with false information on an important point.

Article 25
Decisions on approvals

1. The approving authority shall take a decision on an application as soon as possible, and not later than two months after all the necessary information has been submitted, taking into account all available evidence. The decision shall be communicated to the applicant and to the approving authorities in the other Member States. A refusal shall indicate the reasons therefore.
2. The approval may be withheld only if the supplier of groundhandling services or self-handling airport user does not meet, for reasons of his own doing, the criteria referred to in this Chapter.

3. The procedures for granting and revoking approvals shall be made public by the approving authority, which shall inform the Commission thereof.

Article 26
Mutual recognition of approvals

An approval issued in a Member State in accordance with this Chapter shall permit to an operator to provide groundhandling services, whether as a supplier of groundhandling services or as a self-handling airport user, in all Member States subject to the conditions set in the approval and without prejudice to limitations on market access in accordance with Articles 6 and 14.

Chapter V — Obligation for managing bodies of the airport and of the centralised infrastructure

Article 27
Access to centralised infrastructures and installations

1. This Article shall apply only to airports whose annual traffic has been not less than 2 million passenger movements or 50 000 tonnes of freight for at least the previous three years.
2. The managing body of the airport shall publish a list of the centralised infrastructures at the airport.
3. The management of the centralised infrastructures may be reserved for the managing body of the airport or to another body, which may make it compulsory for suppliers of groundhandling services and self-handling airport users to use those infrastructures. The management of such infrastructures shall be carried out in a transparent, objective and non-discriminatory manner.
4. The managing body of the airport, or where appropriate the public authority or any other body which controls the managing body of the airport, shall decide on an objective basis and after consulting the Airport Users' Committee and the undertakings providing groundhandling services at the airport, on infrastructures to be centralised. The managing body of the airport, or where appropriate the public authority or any other body which controls the managing body of the airport, shall ensure that any infrastructure or installation falling under the definition of 'centralised infrastructure' shall be designated as such and that the requirements set out in this Chapter are complied with for this infrastructure or installation.
5. Where the Airport Users' Committee disagrees with the decision of the managing body of the airport to centralise, or not to centralise, an infrastructure or with the scope of centralisation, it may ask the independent supervisory authority of the Member State concerned to decide whether the infrastructure concerned is to be centralised or not and to what extent.

6. Suppliers of groundhandling services and self-handling airport users shall have open access to airport infrastructures, centralised infrastructures and airport installations to the extent necessary to enable them to carry out their activities. The managing body of the airport or, where relevant, the managing body of the centralised infrastructure or, where appropriate, the public authority or any other body which controls the managing body of the airport or, where relevant, the managing body of the centralised infrastructure may make this access subject to conditions that are relevant, objective, transparent and non-discriminatory.
7. The space available for groundhandling at an airport shall be divided among the various suppliers of groundhandling services and self-handling airport users, including new entrants, to the extent necessary for the exercise of their rights and to allow effective and fair competition, on the basis of relevant, objective, transparent and non-discriminatory rules and criteria.
8. If a decision on the scope of the centralised infrastructure is brought before the independent supervisory authority in line with paragraph (5) of this Article, the procedure laid down in Article 6 of Directive 2009/12/EC shall apply.

Article 28

Fees for centralised infrastructures and installations

1. This Article shall apply only to airports whose annual traffic has been not less than 2 million passenger movements or 50 000 tonnes of freight at least the previous three years.
2. Where the use of the centralised infrastructures or airport installations is subject to a fee, the managing body of the airport or, where relevant, the managing body of the centralised infrastructure shall ensure that the level of fee is set out on the basis of relevant, objective, transparent and non-discriminatory criteria.
3. The managing body of the airport or, where relevant, the managing body of the centralised infrastructure shall be entitled to recover its costs and to make a reasonable return on assets from the fees charged. The fees shall constitute consideration for a service.
4. Any fees as referred to in paragraph (1) shall be set at the level of the individual airport after consulting the Airport Users' Committee and with the undertakings providing groundhandling services at the airport. The managing body of the airport or, where relevant, the managing body of the centralised infrastructure, shall annually provide the Airport Users' Committee and the undertakings providing groundhandling services at the airport with information on the components serving as the basis for determining the fees. The information shall include at least the following:
 - (a) a list of the various services and infrastructure provided in return for the fees;
 - (b) the methodology used for setting the fees;
 - (c) the overall cost structure with regard to the facilities and services to which the fees relate;

- (d) the revenue from the different fees, the total cost of the services covered by them and the return on assets;
 - (e) any financing from public authorities for the facilities and services to which the fee relates;
 - (f) the predicted outcome of any major proposed investments in terms of their effects on airport capacity.
5. The managing body of the airport shall publish the levels of fees, including a detailed list of the services provided, so as to demonstrate that any fees collected for the provision of centralised infrastructures, space for groundhandling and essential services related to the provision of groundhandling services are exclusively used to recover all or part of the related costs. Where relevant, the managing body of the centralised infrastructure shall communicate the levels of fees, including a detailed list of the services provided, to the managing body of the airport.
 6. Where the Airport Users' Committee disagrees with a fee set by the managing body of the airport or, where relevant, the managing body of the centralised infrastructure, it may ask the independent supervisory authority of the Member State concerned to decide on the level of the fee.
 7. If a decision on the levels of fees is brought before the independent supervisory authority in line with paragraph (6) of this Article, the procedure laid down in Article 6 of Directive 2009/12/EC shall apply.

Article 29
Legal separation

1. At airports whose annual traffic volume has been not less than 2 million passenger movements or 50 000 tonnes of freight for at least the previous three years, the managing body of the airport or the managing body of the centralised infrastructure shall, if it provides groundhandling services for third parties, establish a separate legal entity for the provision of these groundhandling activities.

This entity shall be independent in terms of its legal form, its organisation and its decision-making from any entity concerned with the management of airport infrastructure where the managing body of the airport provides groundhandling services to third parties, and from any entity concerned with centralised infrastructure where the managing body of the centralised infrastructure provides groundhandling services to third parties.

2. At airports whose annual traffic volume has been not less than 2 million passenger movements or 50 000 tonnes of freight for at least the previous three years, the persons responsible for the management of the airport infrastructure or the management of the centralised infrastructure may not participate directly or indirectly in the company structures of the independent entity providing groundhandling services.
3. The legal entity providing groundhandling services as referred to in paragraph (1) may not receive any financial cross-subsidisation from aeronautical activities related to

the management of airport infrastructure in cases where the managing body of the airport provides groundhandling services, or from aeronautical activities related to the management of centralised infrastructure in cases where the managing body of the centralised infrastructure provides groundhandling services which would allow the legal entity providing groundhandling services to reduce the prices it charges for its groundhandling services to third parties.

4. For the purpose of this Article 'aeronautical activities' of a managing body of the airport means any activity that the managing body of the airport carries at its respective airport out which is related to the provision of services or infrastructures to airport users, suppliers of groundhandling services in their activity of air transport, or air passengers using the airport, such as levying of airport charges, allocation of infrastructures and installations, security and safety measures at the airport. Non-aeronautical activities include real estate activities or any activities in another sector than air transport.
5. At the close of each financial year an independent auditor shall verify the situation and publicly declare that such financial cross-subsidisation has not occurred. Where the legal entity providing groundhandling services receives cross-subsidisation from non-aeronautical activities, the entity managing the airport infrastructure or the entity managing the centralised infrastructure shall demonstrate that this is compliant with paragraph (3).

Chapter VI — Coordination of activities and quality

Article 30

Role of the managing body of the airport for the coordination of groundhandling services

1. The managing body of the airport shall be in charge of the proper coordination of groundhandling activities at its airport. As ground coordinator, the managing body of the airport shall in particular ensure that the operations of suppliers of groundhandling services and self-handling airport users comply with the airport rules of conduct as defined in Article 31.
2. In addition, at airports whose annual traffic has been not less than 5 million passengers or 100 000 tonnes of freight for at least three consecutive years:
 - (a) the operations of suppliers of groundhandling services and self-handling airport users shall comply with minimum quality standards, as specified in Article 32;
 - (b) the managing body of the airport shall ensure that the operations of suppliers of groundhandling services and self-handling airport users are coordinated through an airport Collaborative Decision Making (CDM) and through a proper contingency plan.
3. The provisions of this Article are without prejudice to the EU competition rules.
4. The managing body of the airport shall provide an annual report on the application of the measures presented in paragraph (2) to the Performance Review Body of

Eurocontrol. The Performance Review Body shall provide a consolidated report to the Commission.

5. The managing body of the airport shall report to the national approving authority any problem with the suppliers of groundhandling services or self-handling airport users at its airport.

Article 31
Rules of conduct

1. For the purposes of this Article, 'rules of conduct' comprises any rules defined by the managing body of the airport, a public authority or any other body which controls the airport for the proper functioning of the airport.
2. The managing body of the airport, a public authority or any other body which controls the airport may lay down rules of conduct.
3. The rules of conduct shall comply with the following principles:
 - (a) they shall be applied in a non-discriminatory manner to the various suppliers of groundhandling services and airport users;
 - (b) they shall relate to the intended objective;
 - (c) they may not, in practice, reduce market access or the freedom to self-handle to a degree below that provided for in this Regulation.
4. A Member State may, where appropriate on a proposal from the managing body of the airport:
 - (a) prohibit a supplier of groundhandling services or a self-handling airport user from supplying groundhandling services or self-handling if that supplier or user fails to comply with the rules of conduct;
 - (b) require suppliers of groundhandling services at an airport to participate in a fair and non-discriminatory manner in carrying out the public service obligations laid down in national laws or rules, including the obligation to ensure continuous service.

Article 32
Minimum quality standards

1. For the purposes of this Article, 'minimum quality standards' means minimum quality level requirements for groundhandling services.
2. At airports whose annual traffic has been not less than 5 million passenger movements or 100 000 tonnes of freight for at least the previous three years, the managing body of the airport or, where appropriate, the public authority or any other body which controls the airport shall set minimum quality standards for the performance of groundhandling services.

3. Suppliers of groundhandling services and self-handling airport users shall respect these minimum quality standards. In addition, airport users and suppliers of groundhandling services shall respect the minimum quality standards in their contractual relations.
4. The minimum quality standards shall cover in particular the following fields: operational performance, training, information and assistance to passengers, in particular as referred to in Regulations (EC) No 261/2004 of the European Parliament and of the Council¹⁸ and EC (No) 1107/2006 of the European Parliament and of the Council¹⁹, CDM, safety, security, contingency measures, and the environment.
5. The minimum quality standards shall be fair, transparent, non-discriminatory and without prejudice to applicable Union legislation, including Regulations (EC) No 261/2004 and (EC) No 1107/2006. They shall be consistent, proportionate and relevant in relation to the quality of airport operations. In this regard due account shall be taken of the quality of customs, airport security and immigrations procedure.
6. The minimum quality standards shall comply with specifications set by the Commission. The Commission shall be empowered to adopt those specifications by means of delegated acts in accordance with Article 42.
7. Prior to establishing these standards the airport managing body shall consult the Airport Users' Committee and the suppliers of groundhandling services.

Article 33

Reporting obligations on the performance of groundhandling services

1. At airports whose annual traffic has been not less than 5 million passenger movements or 100 000 tonnes of freight for at least three consecutive years, suppliers of groundhandling services and self-handling airport users shall report on their operational performance to the Commission.
2. The Commission shall be empowered to adopt detailed specifications regarding the content and dissemination of reporting obligations by means of a delegated act in accordance with Article 42.

Article 34

Training

1. Suppliers of groundhandling services and self-handling airport users shall ensure that all their employees involved in the provision of groundhandling services, including managing staff and supervisors, regularly attend specific and recurrent training to enable them to perform the tasks assigned to them.

¹⁸ OJ L 46, 17.2.2004, p.1.

¹⁹ OJ L 204, 26.7.2006, p. 1.

2. Every employee involved in the provision of groundhandling services shall attend at least two days of training relevant for the tasks assigned to the employee. Every employee shall attend the relevant training when taking up a new job or when a new task is assigned to the employee.
3. Where relevant for the activity of groundhandling services in question, training shall cover at least:
 - (a) security, including security control, security of operations, security equipment, and security threat management;
 - (b) dangerous goods;
 - (c) airside safety, including safety philosophy, safety regulations, hazards, human factors, airside markings and signage, emergency situations, FOD prevention, personal protection, accidents-incidents-near misses, and airside safety supervision;
 - (d) airside driver training, including general responsibilities and procedures (reduced visibility procedures), vehicle equipment, airports rules, and layout of traffic and manoeuvring areas;
 - (e) ground support equipment (GSE) operations and management, including GSE maintenance and GSE operations;
 - (f) load control, including general weight and balance proficiency and awareness, aircraft structural load limitations, unit load devices, bulk hold loading, load sheet, balances tables/charts, loading instructions report (LIR), loading messages, and load control of dangerous goods;
 - (g) functional training for passenger handling, including training on passenger boarding bridge training and passenger information and assistance in accordance with Regulations (EC) No 261/2004 and (EC) No 1107/2006;
 - (h) functional training for baggage handling;
 - (i) aircraft handling and loading training;
 - (j) aircraft ground movement, including aircraft ground movement operations, operation of equipment, equipment-aircraft connect and disconnect procedures, aircraft ground movement hand signals, aircraft marshalling, and aircraft ground movement assistance;
 - (k) cargo and mail handling, including applicable prohibitions and restrictions on trade of goods;
 - (l) aircraft turnaround coordination training;
 - (m) environment, including control of spillages, discharge management and waste disposal;
 - (n) emergency measures and contingency management;

- (o) reporting systems;
 - (p) outsourcing quality control.
4. Every supplier of groundhandling services and self-handling airport user shall report annually on the compliance with its training obligation to the managing body of the airport.

Article 35
Subcontracting

1. Without prejudice to paragraphs (2), (3) and (4), suppliers of groundhandling services may engage in subcontracting.
2. Self-handling airport users may subcontract groundhandling services only where they are temporarily unable to perform self-handling due to force majeure.
3. Subcontractors may not subcontract groundhandling services.
4. A supplier of groundhandling services as referred to in Article 11 (1) may not subcontract groundhandling services except if it is temporarily unable to provide these groundhandling services due to force majeure.
5. Any supplier of groundhandling services and self-handling airport user using one or more subcontractors shall ensure that the subcontractors comply with the obligations on suppliers of groundhandling services under this Regulation.
6. Any supplier of groundhandling services and self-handling airport user using one or more subcontractors shall inform the managing body of the airport of the name and activities of the subcontractors concerned.
7. Where a supplier of groundhandling services applies for an authorisation to provide groundhandling services under the selection procedure laid down in Article 7, it shall indicate the number, activities and names of the subcontractors it intends to use.

Chapter VII — International relations

Article 36
Relations with third countries

1. Without prejudice to the international commitments of the Union, the Commission may, in accordance with the examination procedure referred to in Article 43 (3), decide that a Member State or Member States shall take measures, including the complete or partial suspension of the right of access to the groundhandling market within its territory in respect of suppliers of groundhandling services and self-handling airport users from that third country, with a view to remedying the discriminatory behaviour of the third country concerned, whenever it appears that a third country, with respect to access to the groundhandling or self-handling market:

- (a) does not, de jure or de facto, grant suppliers of groundhandling services and self-handling airport users from a Member State treatment comparable to that granted by the Member State to suppliers of groundhandling services and self-handling airport users from that third country at its airports; or
 - (b) de jure or de facto, grants suppliers of groundhandling services and self-handling airport users from a Member State less favourable treatment than that it accords to its own suppliers of groundhandling services and self-handling airport users; or
 - (c) grants suppliers of groundhandling services and self-handling airport users from other third countries more favourable treatment than suppliers of groundhandling services and self-handling airport users from a Member State.
2. A supplier of groundhandling services and self-handling airport user from a third country shall be deemed to be a legal or natural person set up in accordance with the laws of that third country and having its registered office, central administration or principal place of business in the territory of that third country.
3. The Union and/or the Member States shall ensure that, regarding market access rights in third countries, there shall be no discrimination between Union airport users providing third-party groundhandling services and other Union suppliers of groundhandling services.

Chapter VIII — Reporting and monitoring obligations

Article 37

Reporting obligations for the Member States

1. Member States shall, before 1 July of each year, forward to the Commission the list of airports subject to at least one of the limitations on access to the groundhandling market laid down in Article 6 (2) or Article 14.
2. Member States shall, before 1 July of each year, provide the Commission with the list of suppliers of groundhandling services and self-handling airport users approved by the Member State in accordance with Chapter IV on Approval Procedures.

Article 38

Publication of lists of airports

By the end of each year, the Commission shall publish in the Official Journal of the European Union the following information:

- (a) list of Union airports whose annual traffic has been not less than 5 million passenger movements or 100 000 tonnes of freight for at least the previous three years;
- (b) list of Union airports whose annual traffic has been not less than 2 million passenger movements or 50 000 tonnes of freight for at least the previous three years;

- (c) list of Union airports open to commercial traffic;
- (d) list of airports subject to limitations in accordance with Articles 6 (2) or 14;
- (e) list of suppliers of groundhandling services and self-handling airport users approved in accordance with Chapter IV on approval procedures.

Article 39
Evaluation and information report

1. The Commission shall submit a report to the European Parliament and the Council on the implementation of this Regulation not later than 5 years after the date of application of this Regulation. The report shall in particular assess any significant impact on the quality of groundhandling services, employment and working conditions. The report shall include the following set of indicators and criteria for a sample of airports:
 - (a) average number of suppliers of groundhandling services at Union airports, for the 11 categories of services;
 - (b) number of self-handling airport users at each Union airport, for the 11 categories of services;
 - (c) number of airports where the number of suppliers of groundhandling services is limited, and value of the limitation(s);
 - (d) number of companies having an approval from a Member State and operating in another Member State;
 - (e) opinion of stakeholders on the approval system (approval criteria, implementation issues, price etc.);
 - (f) number of suppliers of groundhandling services and self-handling airport users operating in the Union (total);
 - (g) price and management system for centralised infrastructures at each airport;
 - (h) market share of the managing body of the airport in the groundhandling business at each airport, for the 11 categories of services;
 - (i) market share of airport users providing third-party handling at each airport, for all categories of services;
 - (j) safety accidents involving groundhandling services;
 - (k) opinion of stakeholders on the quality of groundhandling services at airports in terms of staff competence, environment, security, and coordination of activities (CDM, contingency measures, training in the airport context, subcontracting);
 - (l) minimum quality standards for groundhandling undertakings;
 - (m) training features;

- (n) transfer of staff and its impact on the protection of employees;
 - (o) employment and working conditions in the groundhandling sector.
2. The Commission and the Member States shall cooperate in the collection of information for the report referred to in paragraph (1).
 3. On the basis of this report the Commission may decide if a revision of this Regulation is necessary.

Chapter IX – Social protection

Article 40 *Social protection*

Without prejudice to the application of this Regulation, and subject to the other provisions of Union law, Member States may take the necessary measures to ensure protection of rights of workers.

Chapter X — Appeal against decisions or individual measures

Article 41 *Rights of appeal*

1. Member States or, where appropriate, managing bodies of airports shall ensure that any party with a legitimate interest has the right to appeal against the decisions or individual measures taken pursuant to Article 6 (2) (groundhandling for third parties), Articles 7 to 10 (selection procedure), Article 13 (island airports), Articles 23 and 24 (approval decisions), Article 27 (access to centralised infrastructures and installations), Article 28 (fees for centralised infrastructures and installations) Article 31 (rules of conduct) and Article 32 (minimum quality standards).
2. An appeal may be brought before a national court or a public authority other than the managing body of the airport and, where appropriate, independent of the public authority controlling the managing body of the airport. Where specified in this Regulation, the appeal shall be brought before the independent supervisory authority.

Chapter XI – Provisions on implementing and delegated powers

Article 42 *Exercise of delegation*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Articles 22, 32, and 33 shall be conferred for an indeterminate period of time from the date of entry into force of this Regulation.

3. The delegation of powers referred to in Articles 22, 32, and 33 may be revoked at any time by the European Parliament or by the Council. A revocation decision shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Articles 22, 32, and 33 shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Article 43
Committee procedure

1. The Commission shall be assisted by a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply. Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request.

Chapter XII — Final provisions

Article 44
Repeal

Directive 96/67/EC is repealed with effect from the date of application of this Regulation.

References to the repealed Directive shall be construed as references to this Regulation.

Article 45
Transitional provisions

1. Suppliers selected in accordance with Article 11 of Directive 96/67/EC before the date of application of this Regulation shall continue to be authorised under the conditions laid down in Directive 96/67/EC until the initially planned selection period has expired.
2. At airports where only two suppliers were selected per category of services pursuant to Article 6 (2) of Directive 96/67/EC and where a minimum number of three suppliers are to be selected pursuant to Article 6 (2) of this Regulation, a selection procedure in accordance with Articles 7 to 13 of this Regulation shall be organised so that the third supplier is selected and able to start operations not later than one year after the date of application of this Regulation.
3. Approvals issued in accordance with Article 14 of Directive 96/67/EC shall continue to be valid until their expiry, and in any event not longer than two years after the date of application of this Regulation.
4. Where an undertaking is issued an approval in accordance with this Regulation, it shall request within two months the cancellation of any of its approval(s) issued in accordance with Article 14 of Directive 96/67/EC. However, if an approval issued in accordance with Article 14 of Directive 96/67/EC is due to expire within two months following the issuance of the new approval in accordance with this Regulation, the undertaking shall not be obliged to request the cancellation.
5. Article 26 of this Regulation does not apply to approvals issued in accordance with Article 14 of Directive 96/67/EC.

Article 46
Entry into force and application

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

This Regulation shall apply for XX.XX.20XX [18 months after the date of adoption].

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX

LIST OF GROUNDHANDLING SERVICES CATEGORIES

1. Ground administration and supervision comprise the following subcategories:
 - 1.1. representation and liaison services with local authorities or any other entity, disbursements on behalf of the airport user and provision of office space for its representatives;
 - 1.2. load control, messaging and telecommunications;
 - 1.3. handling, storage and administration of unit load devices;
 - 1.4. any other supervision services before, during or after the flight and any other administrative service requested by the airport user.
2. Passenger handling comprises any kind of information and assistance -including those provided in the framework of the relevant EU legislation on passenger rights- to arriving, departing, transfer or transit passengers, including checking tickets and travel documents, registering baggage and carrying it to the sorting area.
3. Baggage handling comprises handling baggage in the sorting area, sorting it, preparing it for departure, loading it on to and unloading it from the devices designed to move it from the aircraft to the sorting area and vice versa, as well as transporting baggage from the sorting area to the reclaim area.
4. Freight and mail handling comprises the following subcategories:
 - 4.1. for freight: physical handling of export, transfer and import freight, handling of related documents, customs procedures and implementation of any security procedure agreed between the parties or required by the circumstances;
 - 4.2. for mail: physical handling of incoming and outgoing mail, handling of related documents and implementation of any security procedure agreed between the parties or required by the circumstances.
5. Ramp handling comprises the following subcategories:
 - 5.1. marshalling the aircraft on the ground at arrival and departure;
 - 5.2. assistance to aircraft packing and provision of suitable devices;
 - 5.3. communication between the aircraft and the air-side supplier of services;
 - 5.4. the loading and unloading of the aircraft, including the provision and operation of suitable means, as well as the transport of crew and passengers between the aircraft and the terminal, and baggage transport between the aircraft and the terminal;
 - 5.5. the provision and operation of appropriate units for engine starting;

- 5.6. the moving of the aircraft at arrival and departure, as well as the provision and operation of suitable devices;
- 5.7. the transport, loading on to and unloading from the aircraft of food and beverages.
6. Aircraft services comprise the following subcategories:
 - 6.1. the external and internal cleaning of the aircraft, and the toilet and water services;
 - 6.2. the cooling and heating of the cabin, the removal of snow and ice, the de-icing of the aircraft;
 - 6.3. the rearrangement of the cabin with suitable cabin equipment, the storage of this equipment.
7. Fuel and oil handling comprises the following subcategories:
 - 7.1. the organization and execution of fuelling and defuelling operations, including the storage of fuel, also if adjacent to the airport, and the control of the quality and quantity of fuel deliveries;
 - 7.2. the replenishing of oil and other fluids.
8. Aircraft maintenance comprises the following subcategories:
 - 8.1. routine services performed before flight;
 - 8.2. non-routine services requested by the airport user;
 - 8.3. the provision and administration of spare parts and suitable equipment;
 - 8.4. the request for or reservation of a suitable parking and/or hangar space.
9. Flight operations and crew administration comprise the following subcategories:
 - 9.1. preparation of the flight at the departure airport or at any other point;
 - 9.2. in-flight assistance, including re-dispatching if needed;
 - 9.3. post-flight activities;
 - 9.4. crew administration.
10. Surface transport comprises the following subcategories:
 - 10.1. the organization and execution of crew, passenger, baggage, freight and mail transport between different terminals of the same airport, but excluding the same transport between the aircraft and any other point within the perimeter of the same airport;
 - 10.2. any special transport requested by the airport user.
11. Catering services comprise the following subcategories:

- 11.1. liaison with suppliers and administrative management;
- 11.2. storage of food and beverages and of the equipment needed for their preparation;
- 11.3. cleaning of this equipment;
- 11.4. preparation and delivery of equipment as well as of bar and food supplies.