

Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (Text with EEA relevance)

CHAPTER XI

INTERNATIONAL ASPECTS

Article 47

Cooperation with competent authorities from third countries

[^{F1}1 Member States may allow the transfer to the competent authorities of a third country of audit working papers or other documents held by statutory auditors or audit firms approved by them, and of inspection or investigation reports relating to the audits in question, provided that:]

- [^{F1}a those audit working papers or other documents relate to audits of companies which have issued securities in that third country or which form part of a group issuing statutory consolidated financial statements in that third country;]
- b the transfer takes place via the home competent authorities to the competent authorities of that third country and at their request;
- c the competent authorities of the third country concerned meet requirements which have been declared adequate in accordance with paragraph 3;
- d there are working arrangements on the basis of reciprocity agreed between the competent authorities concerned;
- e the transfer of personal data to the third country is in accordance with Chapter IV of Directive 95/46/EC.

2 The working arrangements referred to in paragraph 1(d) shall ensure that:

- a justification as to the purpose of the request for audit working papers and other documents is provided by the competent authorities;
- b the persons employed or formerly employed by the competent authorities of the third country that receive the information are subject to obligations of professional secrecy;
- [^{F2}ba the protection of the commercial interests of the audited entity, including its industrial and intellectual property, is not undermined;]
- c the competent authorities of the third country may use audit working papers and other documents only for the exercise of their functions of public oversight, quality assurance and investigations that meet requirements equivalent to those of Articles 29, 30 and 32;
- d the request from a competent authority of a third country for audit working papers or other documents held by a statutory auditor or audit firm can be refused:
 - where the provision of those working papers or documents would adversely affect the sovereignty, security or public order of the Community or of the requested Member State, [^{F3} or]
 - [^{F1}where judicial proceedings have already been initiated in respect of the same actions and against the same persons before the authorities of the requested Member State, or

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

- where final judgment has already been passed in respect of the same actions and on the same statutory auditors or audit firms by the competent authorities of the requested Member State.]

[^{F13} In order to facilitate cooperation, the Commission shall be empowered to decide upon the adequacy referred to in point (c) of paragraph 1 of this Article by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2). Member States shall take the measures necessary to comply with the Commission's decision.

The Commission shall be empowered to adopt delegated acts in accordance with Article 48a for the purpose of establishing the general adequacy criteria in accordance with which the Commission is to assess whether the competent authorities of third countries may be recognised as adequate to cooperate with the competent authorities of Member States on the exchange of audit working papers or other documents held by statutory auditors and audit firms. The general adequacy criteria shall be based on the requirements of Article 36 or essentially equivalent functional results relating to a direct exchange of audit working papers or other documents held by statutory auditors or audit firms.]

4 In exceptional cases and by way of derogation from paragraph 1, Member States may allow statutory auditors and audit firms approved by them to transfer audit working papers and other documents directly to the competent authorities of a third country, provided that:

- a investigations have been initiated by the competent authorities in that third country;
- b the transfer does not conflict with the obligations with which statutory auditors and audit firms are required to comply in relation to the transfer of audit working papers and other documents to their home competent authority;
- c there are working arrangements with the competent authorities of that third country that allow the competent authorities in the Member State reciprocal direct access to audit working papers and other documents of that third-country's audit entities;
- d the requesting competent authority of the third country informs in advance the home competent authority of the statutory auditor or audit firm of each direct request for information, indicating the reasons therefor;
- e the conditions referred to in paragraph 2 are respected.

^{F35}

6 Member States shall communicate to the Commission the working arrangements referred to in paragraphs 1 and 4.

Textual Amendments	
F1	Substituted by Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts (Text with EEA relevance).
F2	Inserted by Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts (Text with EEA relevance).
F3	Deleted by Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts (Text with EEA relevance).