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⁽¹⁾ Text with EEA relevance

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I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COMMISSION REGULATION (EC) No 122/2009**of 10 February 2009****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector ⁽²⁾, and in particular Article 138(1) thereof,

Whereas:

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 11 February 2009.

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

Done at Brussels, 10 February 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

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

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	IL	195,3
	JO	68,6
	MA	43,0
	TN	134,4
	TR	98,0
	ZZ	107,9
0707 00 05	JO	170,1
	MA	134,2
	TR	169,4
	ZZ	157,9
0709 90 70	MA	113,5
	TR	148,2
	ZZ	130,9
0709 90 80	EG	103,6
	ZZ	103,6
0805 10 20	EG	50,9
	IL	53,0
	MA	64,2
	TN	47,6
	TR	63,1
	ZA	44,9
	ZZ	54,0
0805 20 10	IL	162,7
	MA	100,1
	TR	52,0
	ZZ	104,9
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	72,2
	IL	86,9
	JM	101,6
	MA	153,9
	PK	50,9
	TR	65,7
	ZZ	88,5
0805 50 10	EG	64,1
	MA	67,1
	TR	56,7
	ZZ	62,6
0808 10 80	AR	91,9
	CA	90,4
	CL	67,8
	CN	89,1
	MK	32,6
	US	112,1
	ZZ	80,7
0808 20 50	AR	95,8
	CL	57,1
	CN	59,1
	US	125,0
	ZA	113,1
	ZZ	90,0

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

COMMISSION REGULATION (EC) No 123/2009**of 10 February 2009****amending Regulation (EC) No 1266/2007 as regards conditions for movements of animals within the same restricted zone and the conditions for exempting animals from the exit ban provided for in Council Directive 2000/75/EC****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

suitable tool for the control of bluetongue and for avoiding clinical outbreaks and therefore to limit the losses of farmers.

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/75/EC of 20 November 2000 laying down specific provisions for the control and eradication of bluetongue ⁽¹⁾, and in particular Articles 9(1)(c), 11 and 12 and the third paragraph of Article 19 thereof,

Whereas:

(1) Directive 2000/75/EC lays down control rules and measures to combat and eradicate bluetongue, including rules on the establishment of protection and surveillance zones, the implementation of vaccination programmes, and an exit ban on animals leaving those zones.

(2) Commission Regulation (EC) No 1266/2007 ⁽²⁾ lays down rules for the control, monitoring, surveillance and restrictions on movements of animals, in relation to bluetongue, in and from a protection and surveillance zone (restricted zone).

(3) Annex III to that Regulation establishes the conditions for exemptions from the exit ban applicable to movements of susceptible animals, their semen, ova and embryos provided for in Directive 2000/75/EC.

(4) According to the opinion of the Scientific Panel on animal health and welfare of the EFSA on vectors and vaccines ⁽³⁾, adopted on 27 April 2007, vaccination is a

(5) The vaccination of animals against bluetongue represents a major change of the immune status of the susceptible population. The proof of the absence of general or specific bluetongue virus serotype or serotypes circulation in a part of the restricted zone should be made by the Member States by means of the results of the bluetongue monitoring programmes in place pursuant to Regulation (EC) No 1266/2007. Such monitoring programmes should include passive clinical surveillance and active laboratory-based surveillance by means of at least monitoring with sentinel animals.

(6) Laboratory-based surveillance by means sentinel animals should not be restricted only to serological test but it may also be carried out by other diagnostic methods, namely agent identification tests.

(7) Vaccination in the absence of virus circulation should not be discouraged and preventive vaccination in restricted zones without virus circulation should not be impeded. However, pursuant to Directive 2000/75/EC, vaccination against bluetongue is only permitted within the protection zone. Article 7(1) of Regulation (EC) No 1266/2007 provides that movements of animals within the same restricted zone where the same bluetongue virus serotype or serotypes are circulating are to be allowed by the competent authority provided that the animals to be moved do not show any clinical signs of bluetongue on the day of transport, assuming that these animals do not pose an additional risk to animal health.

(8) Areas where vaccination has been applied and where there is no circulation of specific bluetongue virus serotype or serotypes present a lower risk than the other areas which are part of the restricted zone where there is virus circulation. Therefore, Member States should be permitted to demarcate, within the protection zone areas where vaccination has been applied and where there is no circulation of specific bluetongue virus serotype or serotypes. The intention to demarcate these areas should be notified to the Commission, together with all information demonstrating that it is justified. The other Member States should be also informed of such demarcation.

⁽¹⁾ OJ L 327, 22.12.2000, p. 74.

⁽²⁾ OJ L 283, 27.10.2007, p. 37.

⁽³⁾ The EFSA Journal (2007) 479, 1-29.

- (9) Article 7(2) of that Regulation permits movements of animals from a protection zone to a surveillance zone, subject to certain conditions. Movements of animals within the same restricted zone, from a part of that zone with virus circulation to a part with vaccination and without virus circulation should be permitted under conditions similar to those required for movements of animals from a protection zone to a surveillance zone within the same restricted zone to limit the risk of virus spread into the part of the restricted zone with vaccination and without virus circulation. Therefore, the current rules for movements of animals within the same restricted zone where the same bluetongue virus serotype or serotypes are circulating should be amended.
- (10) Movements of animals from a part of a restricted zone with vaccination and without virus circulation to an area outside the restricted zone are currently permitted subject to the same conditions as those applied when animals are moved from a restricted zone with virus circulation to an area outside the restricted zone. However, taking into account the relative low level of risk of movements of animals from a part of a restricted zone with vaccination and without virus circulation, it is appropriate to permit such movements under less strict conditions as regards the virus identification test that is required for certain categories of vaccinated animals. Annex III to Regulation (EC) No 1266/2007 should therefore be amended accordingly.
- (11) Regulation (EC) No 1266/2007 should therefore be amended accordingly.
- (12) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1266/2007 is amended as follows:

1. Article 7 is amended as follows:

- (a) the following paragraph 2a is inserted:

‘2a. Member States may, on the basis of the outcome of a risk assessment which must take into account sufficient epidemiological data obtained following the implementation of monitoring with sentinel animals in accordance with point 1.1.2.1 of Annex I, demarcate a part of a protection zone as a “restricted zone with vaccination and without circulation of bluetongue virus of a specific serotype or serotypes” (lower-risk area), subject to the following conditions:

- (i) vaccination is applied in that part of the protection zone for a specific bluetongue virus serotype or serotypes;
- (ii) there is no bluetongue virus circulating in that part of the protection zone for that specific bluetongue serotype or serotypes.

A Member State which intends to demarcate a part of a protection zone as a “lower-risk area” shall notify its intention to the Commission. That notification shall be accompanied by all the necessary information and data to justify the demarcation in view of the epidemiological situation of the zone concerned, in particular with regard to the bluetongue monitoring programme in place. It shall also inform the other Member States without delay.

Movements of animals within the same restricted zone from an area where the same bluetongue virus serotype or serotypes are circulating to a part of the same restricted zone demarcated as a “lower-risk area” may only be permitted if:

- (a) the animals comply with the conditions set out in Annex III; or
- (b) the animals comply with any other appropriate animal health guarantees based on a positive outcome of a risk assessment of measures against the spread of the bluetongue virus and protection against attacks by vectors, required by the competent authority of the place of origin and approved by the competent authority of the place of destination, prior to the movement of such animals; or
- (c) the animals are destined for immediate slaughter.’;

(b) paragraphs 3 and 4 are replaced by the following:

‘3. The Member State of origin shall immediately inform the Commission and the other Member States of the animal health guarantees referred to in paragraph 2(b) or 2a(b).

4. For the animals referred to in paragraphs 1, 2 and 2a of this Article, the following additional wording shall be added to the corresponding health certificates laid down in Directives 64/432/EEC, 91/68/EEC and 92/65/EEC, or referred to in Decision 93/444/EEC:

“Animals in compliance with (Article 7(1), or 7(2)(a), or 7(2)(b), or 7(2)(c), or 7(2a)(a) or 7(2a)(b), or 7(2a)(c), indicate as appropriate) of Regulation (EC) No 1266/2007”;

detect a monthly incidence (*) of 2 % with 95 % confidence in each geographical unit of reference,

— laboratory testing shall be designed in such a way that positive screening tests are followed by the specific serotype serological/virological tests targeted to the appropriate bluetongue serotype or serotypes necessary to ascertain the specific serotype circulation in each epidemiologically relevant geographical area.;

(*) It has been estimated that 20 % is the normal annual rate of seroconversion in an infected zone. However, in the Community, virus circulation mainly takes place in a period of around six months (end of spring/mid-autumn). Therefore 2 % is a conservative estimation of the expected monthly rate of seroconversion.’

2. in Annex I, point 1.1.2.1. is replaced by the following:

‘1.1.2.1. Monitoring with sentinel animals:

— monitoring with sentinel animals shall consist of an active annual programme of testing sentinel animals aimed at assessing the circulation of the bluetongue virus within the restricted zone. Where possible, sentinel animals must be bovine animals. They must be located in areas of the restricted zone where, following a risk analysis considering entomological and ecological evaluations, the presence of the vector has been confirmed or habitats suitable for the vector's breeding are present,

— sentinel animals shall be tested at least once a month during the period of activity of the vector involved, if known. In the absence of such information the sentinel animals shall be tested at least once a month throughout the year,

— the minimum number of sentinel animals per geographical unit of reference for the purposes of bluetongue monitoring and surveillance must be representative and sufficient in order to

3. in Annex III, Section A is amended as follows:

(a) point 5(b) is replaced by the following:

‘(b) they have been vaccinated with an inactivated vaccine before at least the number of days necessary for the onset of the immunity protection set in the specifications of the vaccine approved in the vaccination programme and were subjected to an agent identification test according to the OIE Terrestrial Manual, with negative results, carried out at least 14 days after the onset of the immunity protection set in the specifications of the vaccine approved in the vaccination programme; however, that agent identification test is not necessary for movements of animals from a part of a restricted zone demarcated as a “lower-risk area” in accordance with Article 7(2a) of this Regulation.’;

(b) the third paragraph is replaced by the following:

‘For pregnant animals, at least one of the conditions set out in points 5, 6 and 7 must be complied with before insemination or mating, or the condition set out in point 3 must be complied with. In case a serological test, as set out in point 3, is carried out, that test shall be carried out not earlier than seven days before the date of movement.’.

Article 2

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

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

Done at Brussels, 10 February 2009.

For the Commission
Androulla VASSILIOU
Member of the Commission

COMMISSION REGULATION (EC) No 124/2009

of 10 February 2009

setting maximum levels for the presence of coccidiostats or histomonostats in food resulting from the unavoidable carry-over of these substances in non-target feed

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 315/93 of 8 February 1993 laying down Community procedures for contaminants in food ⁽¹⁾, and in particular Article 2(3) thereof,

Whereas:

(1) Coccidiostats and histomonostats are substances intended to kill or inhibit protozoa, which may, *inter alia*, be authorised for use as feed additives in accordance with Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition ⁽²⁾. Authorisations of coccidiostats and histomonostats as feed additives lay down specific conditions for use such as the target animal species or categories for which the additives are intended.

(2) Feed business operators may produce within one establishment a broad range of feeds and different types of products may have to be manufactured after each other in the same production line. It may happen that unavoidable traces of a product remain in the production line and end up in the beginning of the production of another feed product. This transfer from one production lot to another is called 'carry-over' or 'cross-contamination' and may occur for instance when coccidiostats or histomonostats are used as authorised feed additives. This may result in the contamination of feed produced subsequently by the presence of technically unavoidable traces of those substances in 'non-target feed', i.e. in feed for which the use of coccidiostats or histomonostats are not authorised, such as feed intended for animal species or categories not provided for in the additive authorisation. This unavoidable cross-contamination may occur at all stages of production and processing of feed but also during storage and transport of feed.

(3) In order to prevent the adoption by Member States of national rules addressing the issue of unavoidable carry-

over of authorised coccidiostats or histomonostats in non-target feed and their resulting presence in derived foodstuffs, which would hinder the functioning of the internal market, it is necessary to adopt harmonised Community rules in this matter.

(4) The unavoidable carry-over in non-target feed of active substances contained in authorised coccidiostats and histomonostats are considered as undesirable substances in animal feed within the meaning of Directive 2002/32/EC of the European Parliament and of the Council ⁽³⁾ and their presence should not endanger animal health, human health or the environment. Therefore, maximum levels for these substances in animal feed are established by Commission Directive 2009/8/EC ⁽⁴⁾ amending Annex I to Directive 2002/32/EC.

(5) The occurrence of unavoidable carry-over of coccidiostats and histomonostats in non-target feed, even below maximum levels set under Directive 2002/32/EC, may result in the presence of residues of these substances in food products of animal origin. Therefore, in order to protect public health, and insofar there is no maximum residue limit (MRL) yet fixed for the specific food concerned in the frame of Council Regulation (EEC) No 2377/90 of 26 June 1990 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin ⁽⁵⁾ or in the frame of Regulation (EC) No 1831/2003, maximum tolerances for the presence of active substances contained in coccidiostats and histomonostats should be established in food of animal origin originating from the non-target feed concerned, in the context of Regulation (EEC) No 315/93 laying down Community procedures for contaminants in food.

(6) On a request from the Commission, the European Food Safety Authority ('the Authority') adopted several opinions ⁽⁶⁾ on the risks involved for animal health and public health as the consequence of unavoidable carry-over of coccidiostats or histomonostats authorised as feed additives into non-target feed. For each coccidiostat or histomonostat authorised as feed additive, the Authority's assessment took into account hypothetical carry-over rates of 2 %, 5 % and 10 % from feed produced with the highest authorised dose of the coccidiostats or histomonostats into the afterwards produced non-target feed.

- (7) Considering the conclusions of the individual scientific opinions, it can be stated that generally the Authority concluded that the presence of the coccidiostats or histomonostats authorised as feed additives, in non-target feed at levels resulting from an unavoidable carry-over, and taking into account all prevention measures, is unlikely to result in adverse animal health effects and that the risk to consumers' health from the ingestion of residues in products from animals exposed to cross-contaminated feed is negligible.
- (8) Taking into account the Authority's opinions and the currently different approaches applied in the Member States to address the unavoidable cross-contamination, it is proposed to set maximum levels for food as laid down in the Annexes to this Regulation, in order to ensure a proper functioning of the internal market and to protect public health. The provisions provided in Annex should be reviewed by 1 July 2011 at the latest to take account of developments in scientific and technical knowledge.
- (9) The maximum levels set in the Annex to this Regulation should be continuously adapted to changes of maximum residue levels (MRL) established for the specific food concerned in the frame of Regulation (EEC) No 2377/90 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin or in the frame of Regulation (EC) No 1831/2003. In view of the occurrence of a possible time gap between these amendments and the consequent adaptation to the maximum levels laid down in the Annex to this Regulation, the latter should be considered as without prejudice to the maximum residue levels of coccidiostats or histomonostats established in the frame of Regulation (EEC) No 2377/90 or in the frame of Regulation (EC) No 1831/2003.
- (10) Due to the fact that the unavoidable carry-over of coccidiostats or histomonostats into non-target feed may result in the presence of these substances as contaminants in derived food, it is appropriate to take a comprehensive and integrated approach to address the issue through the simultaneous adoption and application

of this Regulation and the Directive 2009/8/EC setting maximum levels for the unavoidable carry-over of coccidiostats or histomonostats into non-target feed.

- (11) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

1. The foodstuffs listed in Annex to this Regulation shall not be placed on the market where they contain a contaminant listed in this Annex at a level exceeding the maximum levels set in the Annex.

In case of a finding of a significant residue below the maximum level set out in the Annex, it is appropriate for the competent authority to carry out investigations to confirm that the residue is present as a consequence of unavoidable carry over in the feed and not as the consequence of illegal administration of the coccidiostat or histomonostat.

Foodstuffs complying with the maximum levels set out in the Annex shall not be mixed with foodstuffs which exceed these maximum levels.

2. When applying the maximum levels set out in the Annex to this Regulation to foodstuffs which are dried, diluted, processed or composed of more than one ingredient, changes of the concentration of the contaminant caused by drying, diluting or processing, as well as the relative proportion of the ingredients in the product, shall be taken into account.
3. The maximum levels established in Annex to this Regulation are without prejudice to the provisions and the MRLs established by Regulation (EEC) No 2377/90 and the MRLs established by Regulation (EC) No 1831/2003.

Article 2

This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 July 2009.

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

Done at Brussels, 10 February 2009.

For the Commission

Androulla VASSILIOU

Member of the Commission

- (¹) OJ L 37, 13.2.1993, p. 1.
- (²) OJ L 268, 18.10.2003, p. 29.
- (³) OJ L 140, 30.5.2002, p. 10.
- (⁴) See page 19 of this Official Journal.
- (⁵) OJ L 224, 18.8.1990, p. 1.
- (⁶) Opinion of the Scientific Panel on Contaminants in the Food Chain on a request from the European Commission on cross-contamination of non-target feedingstuffs by lasalocid authorised for use as a feed additive, *The EFSA Journal* (2007) 553, 1-46.
http://www.efsa.europa.eu/cs/BlobServer/Scientific_Opinion/CONTAM_ej553_lasalocid_en.pdf?ssbinary=true
- Opinion of the Scientific Panel on Contaminants in the Food Chain on a request from the European Commission on cross-contamination of non-target feedingstuffs by narasin authorised for use as a feed additive, *The EFSA Journal* (2007) 552, 1-35.
http://www.efsa.europa.eu/cs/BlobServer/Scientific_Opinion/CONTAM_ej552_narasin_en.pdf?ssbinary=true
- Opinion of the Scientific Panel on Contaminants in the Food Chain on a request from the European Commission on cross-contamination of non-target feedingstuffs by maduramicin authorised for use as a feed additive, *The EFSA Journal* (2008) 594, 1-30.
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- Opinion of the Scientific Panel on Contaminants in the Food Chain on a request from the European Commission on cross-contamination of non-target feedingstuffs by nicarbazin authorised for use as a feed additive, *The EFSA Journal* (2008) 690, 1-34.
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ANNEX

Maximum levels in foodstuffs

Substance	Foodstuffs	Maximum content in µg/kg (ppb) wet weight
1. Lasalocid sodium	Food of animal origin from animal species other than poultry: — milk; — liver and kidney; — other food,	1 50 5
2. Narasin	Food of animal origin from animal species other than chickens for fattening: — eggs; — milk; — liver; — other food.	2 1 50 5
3. Salinomycin sodium	Food of animal origin from animal species other than chickens for fattening and rabbits for fattening: — eggs; — liver; — other food.	3 5 2
4. Monensin sodium	Food of animal origin from animal species other than chickens for fattening, turkeys and bovine (including dairy cattle): — liver; — other food.	8 2
5. Semduramicin	Food of animal origin from animal species other than chickens for fattening.	2
6. Maduramicin	Food of animal origin from animal species other than chickens for fattening and turkeys.	2
7. Robenidine	Food of animal origin from animal species other than chickens for fattening, turkey and rabbits for fattening and breeding: — eggs; — liver, kidney, skin and fat; — other food.	25 50 5
8. Decoquate	Food of animal origin from animal species other than chickens for fattening, bovine and ovine except dairy animals.	20
9. Halofuginone	Food of animal origin from animal species other than chickens for fattening, turkeys and bovine except dairy cattle: — eggs; — liver and kidney; — milk; — other food.	6 30 1 3

Substance	Foodstuffs	Maximum content in µg/kg (ppb) wet weight
10. Nicarbazin	Food of animal origin from animal species other than chickens for fattening:	
	— eggs;	100
	— milk;	5
	— liver and kidney;	100
	— other food.	25
11. Diclazuril	Food of animal origin from animal species other than chickens for fattening, turkeys for fattening, rabbits for fattening and breeding, ruminants and porcine:	
	— eggs;	2
	— liver and kidney;	40
	— other food.	5

DIRECTIVES

COMMISSION DIRECTIVE 2009/7/EC

of 10 February 2009

amending Annexes I, II, IV and V to Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community⁽¹⁾, and in particular points (c) and (d) of the second paragraph of Article 14 thereof,

After consulting the Member States concerned,

Whereas:

- (1) Directive 2000/29/EC lists organisms which are harmful to plants or plant products and provides for certain measures against their introduction into Member States from other Member States or third countries.
- (2) On the basis of information supplied by Member States and an examination of Annexes I, II, IV and V to Directive 2000/29/EC by experts, it is appropriate to amend the lists of harmful organisms in Annexes I and II to improve protection against the introduction of such organisms into the Community. All changes are based on technical and scientific evidence.
- (3) Taking into account increased international trade in plants and plant products, a phytosanitary protection of the Community is needed against the introduction of the following harmful organisms which are so far not known to be present in the Community: *Dendrolimus sibiricus* Tschetverikov; *Rhynchophorus palmarum* (L.); *Agrilus planipennis* Fairmaire on plants of *Fraxinus* L., *Juglans mandshurica* Maxim., *Ulmus davidiana* Planch., *Ulmus parvifolia* Jacq., and *Pterocarya rhoifolia* Siebold & Zucc., and only known to be present in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan and the United States; Chrysanthemum stem necrosis virus on

plants of *Dendranthema* (DC.) Des Moul. and *Lycopersicon lycopersicum* (L.) Karsten ex Farw.; *Scrobipalopsis solanivora* (Povolny) on tubers of *Solanum tuberosum* L. and *Stegophora ulmea* (Schweinitz : Fries) Sydow & Sydow on plants of *Ulmus* L. and *Zelkova* L., intended for planting, other than seeds. In addition, the further spread of *Paysandisia archon* (Burmeister), found in some areas in the Community on 11 genera of Palmae and under official control, needs to be limited for the same reasons.

- (4) The names of *Saissetia nigra* (Nietm.) and *Diabrotica virgifera* Le Conte should be amended in line with the revised scientific denominations of those organisms. *Saissetia nigra* (Nietm.) has become *Parasaissetia nigra* (Nietner). *Diabrotica virgifera* Le Conte has been split into two subspecies, namely *Diabrotica virgifera virgifera* Le Conte, regionally present in the Community, and *Diabrotica virgifera zea* Krysan & Smith, not present in the Community.
- (5) The listing of those organisms in Annexes I and II to Directive 2000/29/EC needs therefore to be amended.
- (6) Consequently, the relevant requirements in Annexes IV and V to Directive 2000/29/EC for the import or movement of host plants of harmful organisms referred to in Annexes I and II need to be amended to take account of the amended listing in Annexes I and II.
- (7) The CN code for wood of *Acer saccharum* Marsh. needs to be updated in Annex V, Part B to complete the list of CN codes for wood subject to import control.
- (8) Annexes I, II, IV and V to Directive 2000/29/EC should therefore be amended accordingly.
- (9) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Plant Health,

⁽¹⁾ OJ L 169, 10.7.2000, p. 1.

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annexes I, II, IV and V to Directive 2000/29/EC are amended in accordance with the text in the Annex to this Directive.

Article 2

1. Member States shall adopt and publish, by 31 March 2009 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 1 April 2009.

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

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

Article 3

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 10 February 2009.

For the Commission

Androulla VASSILIOU

Member of the Commission

ANNEX

Annexes I, II, IV and V to Directive 2000/29/EC are amended as follows:

1. In Annex I, Part A is amended as follows:

(a) in heading (a) of Section I:

(i) the following point 10.0 is inserted after point 10:

‘10.0. *Dendrolimus sibiricus* Tschetverikov’;

(ii) point 10.4 is replaced by the following:

‘10.4. *Diabrotica virgifera zae* Krysan & Smith’;

(iii) the following point 19.1 is inserted after point 19:

‘19.1. *Rhynchophorus palmarum* (L.)’

(b) in heading (a) of Section II, the following point 0.1. is inserted before point 1:

‘0.1. *Diabrotica virgifera virgifera* Le Conte’.

2. In Annex II, Part A is amended as follows:

(a) in heading (a) of Section I:

(i) the following point 1.1 is inserted after point 1:

‘1.1. *Agrilus planipennis* Fairmaire

Plants intended for planting, other than plants in tissue culture and seeds, wood and bark of *Fraxinus* L., *Juglans mandshurica* Maxim., *Ulmus davidiana* Planch., *Ulmus parvifolia* Jacq. and *Pterocarya rhoifolia* Siebold & Zucc., originating in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan and USA’

(ii) point 24 is deleted;

(iii) the following point 28.1 is inserted after point 28:

‘28.1. *Scrobipalopsis solanivora* Povolny

| Tubers of *Solanum tuberosum* L.’

(b) in heading (c) of Section I, the following point 14.1 is inserted after point 14:

‘14.1. *Stegophora ulmea* (Schweinitz: Fries) Sydow & Sydow

| Plants of *Ulmus* L. and *Zelkova* L., intended for planting, other than seeds’

(c) in heading (d) of Section I, the following point 5.1 is inserted after point 5:

‘5.1. Chrysanthemum stem necrosis virus

| Plants of *Dendranthema* (DC.) Des Moul. and *Lycopersicon lycopersicum* (L.) Karsten ex Farw., intended for planting, other than seeds’

(d) in heading (a) of Section II:

(i) the following point 6.3 is inserted after point 6.2:

‘6.3. *Parasaissetia nigra* (Nietner)

Plants of *Citrus* L., *Fortunella* Swingle, *Poncirus* Raf., and their hybrids, other than fruit and seeds’

(ii) the following point 10 is inserted after point 9:

‘10. *Paysandisia archon* (Burmeister)

Plants of Palmae, intended for planting, having a diameter of the stem at the base of over 5 cm and belonging to the following genera: *Brahea* Mart., *Butia* Becc., *Chamaerops* L., *Jubaea* Kunth, *Livistona* R. Br., *Phoenix* L., *Sabal* Adans., *Syagrus* Mart., *Trachycarpus* H. Wendl., *Trithrinax* Mart., *Washingtonia* Raf.’

3. In Annex IV, Part A, Section I is amended as follows:

(a) the following points 2.3, 2.4 and 2.5 are inserted after point 2.2:

‘2.3. Whether or not listed among CN codes in Annex V, Part B, wood of *Fraxinus* L., *Juglans mandshurica* Maxim., *Ulmus davidiana* Planch., *Ulmus parvifolia* Jacq. and *Pterocarya rhoifolia* Siebold & Zucc., other than in the form of

- chips, obtained in whole or part from these trees,
- wood packaging material, in the form of packing cases, boxes, crates, drums and similar packings, pallets, box pallets and other load boards, pallet collars, actually in use in the transport of objects of all kinds,
- wood used to wedge or support non-wood cargo,

but including wood which has not kept its natural round surface,

originating in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan and USA

2.4. Whether or not listed among CN codes in Annex V, Part B, wood in the form of chips obtained in whole or part from *Fraxinus* L., *Juglans mandshurica* Maxim., *Ulmus davidiana* Planch., *Ulmus parvifolia* Jacq. and *Pterocarya rhoifolia* Siebold & Zucc. originating in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan and USA

2.5. Isolated bark of *Fraxinus* L., *Juglans mandshurica* Maxim., *Ulmus davidiana* Planch., *Ulmus parvifolia* Jacq. and *Pterocarya rhoifolia* Siebold & Zucc. originating in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan and USA

Official statement that the wood:

- (a) originates in an area established by the national plant protection organisation in the country of export as being free from *Agrilus planipennis* Fairmaire in accordance with the relevant International Standards for Phytosanitary Measures; or
- (b) is squared so as to remove entirely the round surface.

Official statement that the wood:

- (a) originates in an area established by the national plant protection organisation in the country of export as being free from *Agrilus planipennis* Fairmaire in accordance with the relevant International Standards for Phytosanitary Measures; or
- (b) has been processed into pieces of not more than 2,5 cm thickness and width.

Official statement that the isolated bark:

- (a) originates in an area established by the national plant protection organisation in the country of export as being free from *Agrilus planipennis* Fairmaire in accordance with the relevant International Standards for Phytosanitary Measures; or
- (b) has been processed into pieces of not more than 2,5 cm thickness and width.’

(b) the following point 11.4 is inserted after point 11.3:

‘11.4. Plants of <i>Fraxinus</i> L., <i>Juglans mandshurica</i> Maxim., <i>Ulmus davidiana</i> Planch., <i>Ulmus parvifolia</i> Jacq. and <i>Pterocarya rhoifolia</i> Siebold & Zucc., intended for planting, other than seeds and plants in tissue culture originating in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan and USA	Official statement that the plants: (a) have been grown throughout their life in an area free from <i>Agrilus planipennis</i> Fairmaire, established by the national plant protection organisation in accordance with relevant International Standards for Phytosanitary Measures; or (b) have, for a period of at least two years prior to export, been grown in a place of production where no signs of <i>Agrilus planipennis</i> Fairmaire have been observed during two official inspections per year carried out at appropriate times, including immediately prior to export.’
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(c) the text in the right hand column of point 14 is amended as follows: ‘Without prejudice to the provisions applicable to the plants in Annex IV (A)(I)(11.4), official statement that no symptoms of Elm phloem necrosis mycoplasma have been observed at the place of production or in its immediate vicinity since the beginning of the last complete cycle of vegetation.’

(d) the following points 25.4.1 and 25.4.2 are inserted after point 25.4:

‘25.4.1. Tubers of <i>Solanum tuberosum</i> L., other than those intended for planting	Without prejudice to the provisions applicable to tubers listed in Annex III(A)(12) and Annex IV(A)(I)(25.1), (25.2) and (25.3), official statement that the tubers originate in areas in which <i>Pseudomonas solanacearum</i> (Smith) Smith is not known to occur.
25.4.2. Tubers of <i>Solanum tuberosum</i> L.	Without prejudice to the provisions applicable to tubers listed in Annex III(A)(10), (11) and (12) and Annex IV(A)(I)(25.1), (25.2), (25.3), (25.4) and (25.4.1), official statement that: (a) the tubers originate in a country where <i>Scrobipalopsis solanivora</i> Povolny is not known to occur; or (b) the tubers originate in an area free from <i>Scrobipalopsis solanivora</i> Povolny, established by the national plant protection organisation in accordance with relevant International Standards for Phytosanitary Measures.’

(e) point 25.8 is deleted;

(f) the following point 28.1 is inserted after point 28:

‘28.1. Plants of <i>Dendranthema</i> (DC.) Des Moul. and <i>Lycopersicon lycopersicum</i> (L.) Karsten ex Farw., intended for planting, other than seeds	Without prejudice to the requirements applicable to the plants listed in Annex III(A)(13), Annex IV(A)(I) (25.5), (25.6), (25.7), (27.1), (27.2) and (28), official statement that: (a) the plants have been grown throughout their life in a country free from Chrysanthemum stem necrosis virus; or (b) the plants have been grown throughout their life in an area established by the national plant protection organisation in the country of export as being free from Chrysanthemum stem necrosis virus in accordance with the relevant International Standards for Phytosanitary Measures; or (c) the plants have been grown throughout their life in a place of production, established as being free from Chrysanthemum stem necrosis virus and verified through official inspections and, where appropriate, testing.’
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(g) the following point 37.1 is inserted after point 37:

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| <p>‘37.1. Plants of Palmae, intended for planting, having a diameter of the stem at the base of over 5 cm and belonging to the following genera: <i>Brahea</i> Mart., <i>Butia</i> Becc., <i>Chamaerops</i> L., <i>Jubaea</i> Kunth, <i>Livistona</i> R. Br., <i>Phoenix</i> L., <i>Sabal</i> Adans., <i>Syagrus</i> Mart., <i>Trachycarpus</i> H. Wendl., <i>Trithrinax</i> Mart., <i>Washingtonia</i> Raf.</p> | <p>Without prejudice to the prohibitions applicable to the plants listed in Annex III(A)(17) and the requirements listed in Annex IV(A)(I)(37) official statement that the plants:</p> <ul style="list-style-type: none"> (a) have been grown throughout their life in a country where <i>Paysandisia archon</i> (Burmeister) is not known to occur; or (b) have been grown throughout their life in an area free from <i>Paysandisia archon</i> (Burmeister), established by the national plant protection organisation in accordance with relevant International Standards for Phytosanitary Measures; or (c) have, during a period of at least two years prior to export, been grown in a place of production: <ul style="list-style-type: none"> — which is registered and supervised by the national plant protection organisation in the country of origin, and — where the plants were placed in a site with complete physical protection against the introduction of <i>Paysandisia archon</i> (Burmeister) or with application of appropriate preventive treatments, and — where, during three official inspections per year carried out at appropriate times, including immediately prior to export, no signs of <i>Paysandisia archon</i> (Burmeister) have been observed.’ |
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4. In Annex IV, Part A, Section II, the following point 19.1 is inserted after point 19:

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| <p>‘19.1. Plants of Palmae, intended for planting, having a diameter of the stem at the base of over 5 cm and belonging to the following genera: <i>Brahea</i> Mart., <i>Butia</i> Becc., <i>Chamaerops</i> L., <i>Jubaea</i> Kunth, <i>Livistona</i> R. Br., <i>Phoenix</i> L., <i>Sabal</i> Adans., <i>Syagrus</i> Mart., <i>Trachycarpus</i> H. Wendl., <i>Trithrinax</i> Mart., <i>Washingtonia</i> Raf.</p> | <p>Official statement that the plants:</p> <ul style="list-style-type: none"> (a) have been grown throughout their life in an area free from <i>Paysandisia archon</i> (Burmeister), established by the national plant protection organisation in accordance with relevant International Standards for Phytosanitary Measures; or (b) have, during a period of at least two years prior to movement, been grown in a place of production: <ul style="list-style-type: none"> — which is registered and supervised by the responsible official body in the Member State of origin, and — where the plants were placed in a site with complete physical protection against the introduction of <i>Paysandisia archon</i> (Burmeister) or with application of appropriate preventive treatments, and — where, during three official inspections per year carried out at appropriate times, no signs of <i>Paysandisia archon</i> (Burmeister) have been observed.’ |
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5. Annex V is amended as follows:

(a) In Section I of Part A, the following point 2.3.1 is inserted after point 2.3:

‘2.3.1. Plants of Palmae, intended for planting, having a diameter of the stem at the base of over 5 cm and belonging to the following genera: *Brahea* Mart., *Butia* Becc., *Chamaerops* L., *Jubaea* Kunth, *Livistona* R. Br., *Phoenix* L., *Sabal* Adans., *Syagrus* Mart., *Trachycarpus* H. Wendl., *Trithrinax* Mart., *Washingtonia* Raf.’

(b) Section I of Part B is amended as follows:

(i) the following third indent is added to point 5:

‘— *Fraxinus* L., *Juglans mandshurica* Maxim., *Ulmus davidiana* Planch., *Ulmus parvifolia* Jacq. and *Pterocarya rhoifolia* Siebold & Zucc., originating in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan and USA.’

(ii) the following sixth indent is added to point 6(a):

‘— *Fraxinus* L., *Juglans mandshurica* Maxim., *Ulmus davidiana* Planch., *Ulmus parvifolia* Jacq. and *Pterocarya rhoifolia* Siebold & Zucc., including wood which has not kept its natural round surface, originating in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan and USA.’

(iii) in point 6(b), section

‘ex 4407 99	Non-coniferous wood (other than tropical wood specified in subheading note 1 to Chapter 44 or other tropical wood, oak (<i>Quercus</i> spp.) or beech (<i>Fagus</i> spp.)), sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm’
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is deleted and replaced by:

‘ex 4407 93	Wood of <i>Acer saccharum</i> Marsh, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm
4407 95	Wood of ash (<i>Fraxinus</i> spp.) sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm
ex 4407 99	Non-coniferous wood (other than tropical wood specified in subheading note 1 to Chapter 44 or other tropical wood, oak (<i>Quercus</i> spp.), beech (<i>Fagus</i> spp.), maple (<i>Acer</i> spp.), cherry (<i>Prunus</i> spp.) or ash (<i>Fraxinus</i> spp.)), sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm’

COMMISSION DIRECTIVE 2009/8/EC**of 10 February 2009****amending Annex I to Directive 2002/32/EC of the European Parliament and of the Council as regards maximum levels of unavoidable carry-over of coccidiostats or histomonostats in non-target feed****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2002/32/EC of the European Parliament and of the Council of 7 May 2002 on undesirable substances in animal feed⁽¹⁾, and in particular Article 8(1) thereof,

Whereas:

- (1) Coccidiostats and histomonostats are substances intended to kill or inhibit protozoa, which may, *inter alia*, be authorised for use as feed additives in accordance with Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition⁽²⁾. Authorisations of coccidiostats and histomonostats as feed additives lay down specific conditions for use such as the target animal species or categories for which the additives are intended.
- (2) Feed business operators may produce within one establishment a broad range of feeds and different types of products may have to be manufactured after each other in the same production line. It may happen that unavoidable traces of a product remain in the production line and end up in the beginning of the production of another feed product. This transfer from one production lot to another is called 'carry-over' or 'cross-contamination' and may occur for instance when coccidiostats or histomonostats are used as authorised feed additives. This may result in the contamination of feed produced subsequently by the presence of technically unavoidable traces of those substances in 'non-target feed', i.e. in feed for which the use of coccidiostats or histomonostats are not authorised, such as feed intended for animal species or categories not provided for in the additive authorisation. This unavoidable cross-contamination may occur at all stages of production and processing of feed but also during storage and transport of feed.
- (3) Regulation (EC) No 1831/2005 of the European Parliament and of the Council of 12 January 2005 laying down requirements for feed hygiene⁽³⁾ provides for specific requirements for feed businesses using coccidiostats and histomonostats in the production of feed. In particular, the operators concerned have to take all appropriate measures concerning facilities and equipment, production, storage and transport in order to avoid any cross-contamination, and this in accordance with the obligations provided for in Articles 4 and 5 of the above mentioned Regulation. The establishment of maximum levels of unavoidable carry-over of coccidiostats and histomonostats in non-target feed in accordance with Directive 2002/32/EC should not interfere with the primary obligation of operators to apply good manufacturing practices aiming at avoiding this cross-contamination. Continued effort is therefore still needed by the operators concerned in order to avoid the presence of such undesirable substances in animal feed.
- (4) Taking into account the application of good manufacturing practices, the maximum levels of unavoidable carry-over of coccidiostats or histomonostats in non-target feed should be established following the ALARA (As Low As Reasonably Achievable) principle. For the purpose of enabling the feed manufacturer to manage the above mentioned unavoidable carry-over, a carry-over rate of approximately 3 % compared to the authorised maximum content should be considered as regards feed for less sensitive non-target animal species, while a carry-over rate of approximately 1 % compared to the authorised maximum content should be retained for feed intended to sensitive non-target animal species and 'withdrawal feed', i.e. feed used for the period before slaughter. The carry-over rate of 1 % should also be considered for cross-contamination of other feed for target species to which no coccidiostats or histomonostats are added, and as regards non-target feed for 'continuous food-producing animals', such as dairy cows or laying hens, where there is evidence of transfer from feed to food of animal origin. If feed materials are fed directly to the animals or if complementary feeding-stuffs are used, their use in a daily ration should not lead to the animal being exposed to a higher levels of a coccidiostat or histomonostat than the corresponding maximum levels of exposure where only complete feedingstuffs are used in a daily ration.

- (5) In order to prevent the adoption by Member States of national rules addressing the issue of unavoidable carry-over of authorised coccidiostats or histomonostats in non-target feed and their resulting presence in derived foodstuffs, which would hinder the functioning of the internal market, it is necessary to adopt harmonised Community rules in this matter.
- (6) The unavoidable carry-over in non-target feed of active substances contained in authorised coccidiostats and histomonostats should be considered as undesirable substances in animal feed within the meaning of Directive 2002/32/EC and their presence should not endanger animal health, human health or the environment. Therefore, maximum levels for these substances in animal feed should be established within Annex I of the said Directive in order to prevent undesirable and harmful effects.
- (7) Where MRLs have been laid down in the frame of Council Regulation (EEC) No 2377/90 of 26 June 1990 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin⁽⁴⁾ or in the frame of Regulation (EC) No 1831/2003, compliance with those provisions should be ensured when establishing maximum levels of unavoidable carry-over of coccidiostats or histomonostats in non-target feed.
- (8) The occurrence of unavoidable carry-over of coccidiostats and histomonostats in non-target feed, even below maximum levels that should be set under Directive 2002/32/EC, may result in the presence of residues of these substances in food products of animal origin. Therefore, in order to protect public health, and insofar there is no maximum residue limit (MRL) yet fixed for the specific food concerned, maximum tolerances for the presence of active substances contained in coccidiostats and histomonostats have been established by Commission Regulation (EC) No 124/2009 of 10 February 2009 setting maximum levels for the presence of coccidiostats or histomonostats in food resulting from the unavoidable carry-over of these substances in non-target feed⁽⁵⁾, in the context of Council Regulation (EEC) No 315/93 of 8 February 1993 laying down Community procedures for contaminants in food⁽⁶⁾.
- (9) On a request from the Commission, the European Food Safety Authority (the Authority) adopted several opinions⁽⁷⁾ on the risks involved for animal health and public health as the consequence of unavoidable carry-over of coccidiostats or histomonostats authorised as feed additives into non-target feed. For each coccidiostat or histomonostat authorised as feed additive, the Authority's assessment took into account hypothetical carry-over rates of 2 %, 5 % and 10 % from feed produced with the highest authorised dose of the coccidiostats or histomonostats into the afterwards produced non-target feed.
- (10) Considering the conclusions of the individual scientific opinions, it can be stated that generally the Authority concluded that the presence of the coccidiostats or histomonostats authorised as feed additives, in non-target feed at levels resulting from an unavoidable carry-over, and taking into account all prevention measures, is unlikely to result in adverse animal health effects and that the risk to consumers, health from the ingestion of residues in products from animals exposed to cross-contaminated feed is negligible.
- (11) Taking into account the Authority's opinions and the currently different approaches applied in the Member States to address the unavoidable cross-contamination, it is proposed to set maximum levels for feed as laid down in the Annexes to this Directive, in order to ensure a proper functioning of the internal market and to protect animal and public health.
- (12) The establishment of maximum levels of undesirable substances in animal feed should take place through an adaptation of Annex I of Directive 2002/32/EC, as provided for in Article 8(1) of that Directive. When adapting the technical provisions in Annex I of Directive 2002/32/EC, developments in scientific and technical knowledge have been taken into account through the consideration of scientific opinions of the Authority and of the development of analytical methods in feed. The provisions provided in Annex should be reviewed by 1 July 2011 at the latest to take account of developments in scientific and technical knowledge.
- (13) The maximum levels set in the Annex to this Directive should be continuously adapted to the conditions of use provided for in the authorisations of coccidiostats and histomonostats as feed additives. In view of the occurrence of a possible time gap between the authorisation – or modification, suspension or revocation of the authorisation – of a coccidiostat or histomonostat as feed additive and the consequent amendment to the maximum levels laid down in the Annexes to this Directive, the latter should be considered as without prejudice to the levels of coccidiostats or histomonostats authorised as feed additives in the frame of Regulation (EC) No 1831/2003.

- (14) Due to the fact that the unavoidable carry-over of coccidiostats or histomonostats into non-target feed may result in the presence of these substances as contaminants in derived food, it is appropriate to take a comprehensive and integrated approach to address the issue through the simultaneous adoption and application of this Directive setting maximum levels for the unavoidable carry-over of coccidiostats or histomonostats into non-target feed and the Commission Regulation setting maximum levels for the resulting presence of these substances in food.
- (15) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 2002/32/EC is amended in accordance with the Annex to this Directive.

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this

Directive by 1 July 2009 at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive. When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Article 3

This Directive shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 10 February 2009.

For the Commission

Androulla VASSILIOU

Member of the Commission

⁽¹⁾ OJ L 140, 30.5.2002, p. 10.

⁽²⁾ OJ L 268, 18.10.2003, p. 29.

⁽³⁾ OJ L 35, 8.2.2005, p. 1.

⁽⁴⁾ OJ L 224, 18.8.1990, p. 1.

⁽⁵⁾ See page 7 of this Official Journal.

⁽⁶⁾ OJ L 37, 13.2.1993, p. 1.

⁽⁷⁾ Opinion of the Scientific Panel on Contaminants in the Food chain on a request from the European Commission on cross-contamination of non-target feedingstuffs by lasalocid authorised for use as a feed additive, *The EFSA Journal* (2007) 553, 1-46.

http://www.efsa.europa.eu/cs/BlobServer/Scientific_Opinion/CONTAM_ej553_lasalocid_en.pdf?ssbinary=true

Opinion of the Scientific Panel on Contaminants in the Food chain on a request from the European Commission on cross-contamination of non-target feedingstuffs by narasin authorised for use as a feed additive, *The EFSA Journal* (2007) 552, 1-35.

http://www.efsa.europa.eu/cs/BlobServer/Scientific_Opinion/CONTAM_ej552_narasin_en.pdf?ssbinary=true

Opinion of the Scientific Panel on Contaminants in the Food Chain on a request from the European Commission on cross-contamination of non-target feedingstuffs by maduramicin authorised for use as a feed additive, *The EFSA Journal* (2008) 594, 1-30.

http://www.efsa.europa.eu/cs/BlobServer/Scientific_Opinion/contam_op_ej594_maduramicin_en.pdf?ssbinary=true

Opinion of the Scientific Panel on Contaminants in the Food Chain on a request from the European Commission on cross-contamination of non-target feedingstuffs by semduramicin authorised for use as a feed additive, *The EFSA Journal* (2008) 593, 1-27.

http://www.efsa.europa.eu/cs/BlobServer/Scientific_Opinion/contam_op_ej593_semduramicin_en.pdf?ssbinary=true

Opinion of the Scientific Panel on Contaminants in the Food chain on a request from the European Commission on cross-contamination of non-target feedingstuffs by salinomycin authorised for use as a feed additive, *The EFSA Journal* (2008) 591, 1-38.

http://www.efsa.europa.eu/cs/BlobServer/Scientific_Opinion/contam_op_ej591_salinomycin_en.pdf?ssbinary=true

Opinion of the Scientific Panel on Contaminants in the Food chain on a request from the European Commission on cross-contamination of non-target feedingstuffs by monensin authorised for use as a feed additive, *The EFSA Journal* (2008) 592, 1-40.

http://www.efsa.europa.eu/cs/BlobServer/Scientific_Opinion/contam_op_ej592_monensin_en.pdf?ssbinary=true

Opinion of the Scientific Panel on Contaminants in the Food chain on a request from the European Commission on cross-contamination of non-target feedingstuffs by halofuginone hydrobromide authorised for use as a feed additive, *The EFSA Journal* (2008) 657, 1-31.

http://www.efsa.europa.eu/cs/BlobServer/Scientific_Opinion/contam_op_ej657_halofuginone_en.pdf?ssbinary=true

Opinion of the Scientific Panel on Contaminants in the Food chain on a request from the European Commission on cross-contamination of non-target feedingstuffs by decoquinate authorised for use as a feed additive, *The EFSA Journal* (2008) 656, 1-26.

http://www.efsa.europa.eu/cs/BlobServer/Scientific_Opinion/contam_op_ej656_decoquinate_en.pdf?ssbinary=true

Opinion of the Scientific Panel on Contaminants in the Food chain on a request from the European Commission on cross-contamination of non-target feedingstuffs by robenidine authorised for use as a feed additive, *The EFSA Journal* (2008) 655, 1-29.

http://www.efsa.europa.eu/cs/BlobServer/Scientific_Opinion/contam_op_ej655_robenidine_en.0.pdf?ssbinary=true

Opinion of the Scientific Panel on Contaminants in the Food Chain on a request from the European Commission on cross-contamination of non-target feedingstuffs by nicarbazin authorised for use as a feed additive, *The EFSA Journal* (2008) 690, 1-34.

http://www.efsa.europa.eu/cs/BlobServer/Scientific_Opinion/contam_op_ej690_nicarbazin_en.pdf?ssbinary=true

Opinion of the Scientific Panel on Contaminants in the Food Chain on a request from the European Commission on cross-contamination of non-target feedingstuffs by diclazuril authorised for use as a feed additive, *The EFSA Journal* (2008) 716, 1-31.

http://www.efsa.europa.eu/cs/BlobServer/Scientific_Opinion/contam_op_ej716_diclazuril_en.pdf?ssbinary=true

ANNEX

The following points are added in Annex I to Directive 2002/32/EC:

'Undesirable substances	Products intended for animal feed (*)	Maximum content in mg/kg (ppm) relative to a feedingstuff with a moisture content of 12 %
1. Lasalocid sodium	Feed materials	1,25
	Compound feed for	
	— dogs, calves, rabbits, equine species, dairy animals, laying birds, turkeys (> 12 weeks) and chickens reared for laying (> 16 weeks);	1,25
	— chickens for fattening, chickens reared for laying (< 16 weeks) and turkeys (< 12 weeks) for the period before slaughter in which the use of lasalocid sodium is prohibited (withdrawal feed);	1,25
	— other animal species.	3,75
	Premixtures for use in feed in which the use of lasalocid sodium is not authorised.	(**)
2. Narasin	Feed materials	0,7
	Compound feed for	
	— turkeys, rabbits, equine species, laying birds and chickens reared for laying (> 16 weeks);	0,7
	— chickens for fattening for the period before slaughter in which the use of narasin is prohibited (withdrawal feed);	0,7
	— other animal species.	2,1
	Premixtures for use in feed in which the use of narasin is not authorised.	(**)
3. Salinomycin sodium	Feed materials	0,7
	Compound feed for	
	— equine species, turkeys, laying birds and chickens reared for laying (> 12 weeks);	0,7
	— chickens for fattening, chickens reared for laying (< 12 weeks) and rabbits for fattening for the period before slaughter in which the use of salinomycin sodium is prohibited (withdrawal feed);	0,7
	— other animal species.	2,1
	Premixtures for use in feed in which the use of salinomycin sodium is not authorised.	(**)
4. Monensin sodium	Feed materials	1,25
	Compound feed for	
	— equine species, dogs, small ruminants (sheep and goat), ducks, bovine, dairy cattle, laying birds, chickens reared for laying (> 16 weeks) and turkeys (> 16 weeks);	1,25
	— chickens for fattening, chickens reared for laying (< 16 weeks) and turkeys (< 16 weeks) for the period before slaughter in which the use of monensin sodium is prohibited (withdrawal feed);	1,25
	— other animal species.	3,75
	Premixtures for use in feed in which the use of monensin sodium is not authorised.	(**)

Undesirable substances	Products intended for animal feed (*)	Maximum content in mg/kg (ppm) relative to a feedingstuff with a moisture content of 12 %
5. Semduramicin sodium	Feed materials	0,25
	Compound feed for	
	— laying birds and chickens reared for laying (> 16 weeks);	0,25
	— chickens for fattening for the period before slaughter in which the use of semduramicin sodium is prohibited (withdrawal feed);	0,25
	— other animal species.	0,75
	Premixtures for use in feed in which the use of semduramicin sodium is not authorised.	(**)
6. Maduramicin ammonium alpha	Feed materials	0,05
	Compound feed for	
	— equine species, rabbits, turkeys (> 16 weeks), laying birds and chickens reared for laying (> 16 weeks);	0,05
	— chickens for fattening and turkeys (< 16 weeks) for the period before slaughter in which the use of maduramicin ammonium alpha is prohibited (withdrawal feed);	0,05
	— other animal species.	0,15
	Premixtures for use in feed in which the use of maduramicin ammonium alpha is not authorised.	(**)
7. Robenidine hydrochloride	Feed materials	0,7
	Compound feed for	
	— laying birds and chickens reared for laying (> 16 weeks);	0,7
	— chickens for fattening, rabbits for fattening and breeding and turkeys for the period before slaughter in which the use of robenidine hydrochloride is prohibited (withdrawal feed);	0,7
	— other animal species.	2,1
	Premixtures for use in feed in which the use of robenidine hydrochloride is not authorised.	(**)
8. Decoquinat	Feed materials	0,4
	Compound feed for	
	— laying birds and chickens reared for laying (> 16 weeks);	0,4
	— chickens for fattening for the period before slaughter in which the use of decoquinat is prohibited (withdrawal feed);	0,4
	— other animal species.	1,2
	Premixtures for use in feed in which the use of decoquinat is not authorised.	(**)
9. Halofuginone hydrobromide	Feed materials	0,03
	Compound feed for	
	— laying birds, chickens reared for laying (> 16 weeks) and turkeys (> 12 weeks);	0,03
	— chickens for fattening and turkeys (< 12 weeks) for the period before slaughter in which the use of halofuginone hydrobromide is prohibited (withdrawal feed);	0,03
	— other animal species other than chickens reared for laying (< 16 weeks).	0,09
	Premixtures for use in feed in which the use of halofuginone hydrobromide is not authorised.	(**)

Undesirable substances	Products intended for animal feed (*)	Maximum content in mg/kg (ppm) relative to a feedingstuff with a moisture content of 12 %
10. Nicarbazin	Feed materials	0,5
	Compound feed for	
	— equine species, laying birds and chickens reared for laying (> 16 weeks);	0,5
	— chickens for fattening for the period before slaughter in which the use of nicarbazin (in combination with narasin) is prohibited (withdrawal feed);	0,5
	— other animal species.	1,5
	Premixtures for use in feed in which the use of nicarbazin (in combination with narasin) is not authorised.	(**)
11. Diclazuril	Feed materials	0,01
	Compound feed for	
	— laying birds, chickens reared for laying (> 16 weeks) and turkeys for fattening (> 12 weeks);	0,01
	— rabbits for fattening and breeding for the period before slaughter in which the use of diclazuril is prohibited (withdrawal feed);	0,01
	— other animal species other than chickens reared for laying (< 16 weeks), chickens for fattening and turkeys for fattening (< 12 weeks).	0,03
	Premixtures for use in feed in which the use of diclazuril is not authorised.	(**)

(*) Without prejudice to the authorised levels in the frame of Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition.

(**) The maximum level of the substance in the premixture is the concentration which shall not result in a level of the substance higher than 50 % of the maximum levels established in the feed when the instructions for use of the premixture are followed.'

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COMMISSION

COMMISSION DECISION

of 9 February 2009

on the organisation of a temporary experiment providing for certain derogations for the marketing of seed mixtures intended for use as fodder plants pursuant to Council Directive 66/401/EEC to determine whether certain species not listed in Council Directives 66/401/EEC, 66/402/EEC, 2002/55/EC or 2002/57/EC fulfil the requirements for being included in Article 2(1)(A) of Directive 66/401/EEC

(notified under document number C(2009) 724)

(Text with EEA relevance)

(2009/109/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed⁽¹⁾, and in particular Article 13a thereof,

Whereas:

- (1) Traditional knowledge of farmers combined with recent results from research indicate that some species of *Leguminosae* and *Plantago lanceolata* not listed in Council Directives 66/401/EEC, 66/402/EEC⁽²⁾, 2002/55/EC⁽³⁾ or 2002/57/EC⁽⁴⁾ (hereinafter the existing legislation), in particular when used in mixtures with species covered by the existing legislation, are interesting for fodder production permitting a balanced feeding of animals throughout the year while at the same time contributing to the rehabilitation of soils in non-arable or marginal cropping lands. It is the case for *Biserrula pelecinus*, *Lotus glaber*, *Lotus uliginosus*, *Medicago italica*, *Medicago littoralis*, *Medicago murex*, *Medicago polymorpha*, *Medicago rugosa*, *Medicago scutellata*, *Medicago truncatula*, *Ornithopus compressus*, *Ornithopus sativus*, *Plantago*

lanceolata, *Trifolium fragiferum*, *Trifolium glanduliferum*, *Trifolium hirtum*, *Trifolium michelianum*, *Trifolium squarrosum*, *Trifolium subterraneum*, *Trifolium vesiculosum*, and *Vicia benghalensis* (hereinafter species referred to in recital 1).

- (2) In accordance with the second indent of Article 13(1) of Directive 66/401/EEC only seeds of plant species listed in the existing legislation, with the exception of the varieties mentioned in Article 4(2) of Council Directive 2002/53/EC⁽⁵⁾, may be marketed throughout the Community in seed mixtures intended for use as fodder plants. In the absence of the possibility to market mixtures containing seed of the species referred to in recital 1, farmers wishing to make use of those species, have to transport and sow them as individual species, or in certain cases, prepare mixtures themselves at the farm, involving additional cost and work. In addition, there is an increased risk that the different species included in the mixture will be unevenly distributed on the field since the mixtures are not prepared by professionals.
- (3) To allow the species referred to in recital 1 to be marketed in such mixtures it would be necessary to amend Article 2(1)(A) of Directive 66/401/EEC by including those species in that provision.

⁽¹⁾ OJ L 125, 11.7.1966, p. 2298/66.

⁽²⁾ OJ L 125, 11.7.1966, p. 2309/66.

⁽³⁾ OJ L 193, 20.7.2002, p. 33.

⁽⁴⁾ OJ L 193, 20.7.2002, p. 74.

⁽⁵⁾ OJ L 193, 20.7.2002, p. 1.

- (4) In order to decide about such an amendment to Article 2(1)(A) of Directive 66/401/EEC, it is necessary to gather information on the marketing of mixtures containing the species referred to in recital 1. In particular it needs to be verified, whether, where those species are used in mixtures, it is possible to confirm by official post-control that the percentage of seed of each component indicated on the label of the package corresponds to the composition of the mixture and whether mixtures of the same lot are homogeneous in all packages marketed. In the absence of that information, it would be impossible to guarantee to users that the seed of mixtures containing species referred to in recital 1 will provide high-quality results.
- (5) It is therefore appropriate to organise a temporary experiment to verify whether the species referred to in recital 1 fulfil the requirements for being included in Article 2(1)(A) of Directive 66/401/EEC.
- (6) Member States participating in the experiment should be released from the obligations set out in the second indent of Article 13(1) of Directive 66/401/EEC with respect to the species referred to in recital 1. They should allow the placing on the market of mixtures containing those species under certain conditions.
- (7) It is appropriate to provide for specific requirements for the certification of the species referred to in recital 1 in order to ensure that the seed of these species fulfils the same requirements in all participating Member States. These requirements should be based on the conditions set out in OECD Certification Schemes for the Varietal Certification or the Control of Seed Moving in International Trade (hereinafter: OECD Schemes) or in the national standards of the Member State in which the seed is produced.
- (8) In addition to the general conditions provided for in Commission Decision 2004/371/EC of 20 April 2004 on conditions for the placing on the market of seed mixtures intended for use as fodder plants ⁽¹⁾, specific conditions should be set out for the marketing of mixtures under the experiment. Those conditions should ensure the collection of sufficient information for the assessment of the experiment. It is, therefore, necessary to provide for rules on labelling, monitoring and reporting.
- (9) Given the experimental nature of the measure provided for by this Decision, a maximum quantity for the marketing of seed mixtures should be fixed, taking into account the need to test different mixtures using existing facilities.
- (10) To allow Member States to verify that the maximum quantity is not exceeded, firms intending to produce such seed mixtures should communicate to the Member States concerned the quantities they intend to produce. Member States should have the possibility to prohibit the marketing of seed mixtures where they consider this necessary in view of the need to test different mixtures without exceeding the maximum quantity.
- (11) In order to allow suppliers to produce and market a sufficient quantity of seed and to permit the competent authorities to inspect that material and collect sufficient and comparable information to be used for the preparation of the report, the experiment should take place over a period of at least five marketing seasons.
- (12) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DECISION:

Article 1

Subject matter

A temporary experiment is organised at Community level to assess whether the following species: *Biserrula pelecinus*, *Lotus glaber*, *Lotus uliginosus*, *Medicago italica*, *Medicago littoralis*, *Medicago murex*, *Medicago polymorpha*, *Medicago rugosa*, *Medicago scutellata*, *Medicago truncatula*, *Ornithopus compressus*, *Ornithopus sativus*, *Plantago lanceolata*, *Trifolium fragiferum*, *Trifolium glanduliferum*, *Trifolium hirtum*, *Trifolium michelianum*, *Trifolium squarrosum*, *Trifolium subterraneum*, *Trifolium vesiculosum*, and *Vicia benghalensis* (hereinafter the species referred to in Article 1), can be marketed as or in seed mixtures, for the purpose of deciding whether some or all of those species should be included in the list of fodder plants in Article 2(1)(A) of Directive 66/401/EEC.

Article 2

Participation of Member States

Any Member State may participate in the experiment.

Member States which decide to participate in the experiment (hereinafter: participating Member States) shall inform the Commission accordingly.

They may terminate their participation at any time by informing the Commission accordingly.

⁽¹⁾ OJ L 116, 22.4.2004, p. 39.

*Article 3***Release**

1. For the purposes of the experiment, mixtures of seed containing the species referred to in Article 1, with or without seed of species listed in Directives 66/401/EEC, 66/402/EEC, 2002/55/EC or 2002/57/EC, may be placed on the market under the conditions provided for in Articles 4 and 5.

2. Participating Member States are released from the obligations provided for in the second indent of Article 13(1) of Directive 66/401/EEC.

*Article 4***Conditions concerning seed of the species referred to in Article 1**

Seed of the species referred to in Article 1 shall satisfy the following conditions:

- (a) it belongs to a variety listed in a national catalogue of a Member State or in the OECD List of Varieties Eligible for the Seed Certification;
- (b) it is certified in accordance with Annex I;
- (c) it fulfils the conditions set out in point 1 of Annex II.

*Article 5***Conditions concerning mixtures under the experiment**

In addition to the conditions provided for in Decision 2004/371/EC, mixtures under the experiment shall fulfil the conditions set out in point 2 of Annex II.

*Article 6***Quantitative restrictions**

1. Participating Member States shall ensure that the total quantity of seed to be used in mixtures under the experiment does not exceed 1 000 tonnes per year.

2. Participating Member States shall ensure that firms declare to the authority referred to in point (A)(I)(c)(2) of Annex IV to Directive 66/401/EEC the quantity of seed mixtures they intend to produce.

A Member State may prohibit the placing on the market of a seed mixture, if it considers that, in view of the purpose of the experiment, it is not appropriate that additional quantities of the seed mixture concerned are placed on the market. It shall immediately inform the firm or firms concerned.

*Article 7***Monitoring**

The Authority referred to in point (A)(I)(c)(2) of Annex IV to Directive 66/401/EC of the participating Member States shall monitor the experiment.

*Article 8***Reporting obligations**

1. Participating Member States shall, for each year, present to the Commission and the other Member States a report including a list of species used in mixtures under the experiment and the quantity marketed for each of these mixtures by 31 March of the following year. The Member States may decide to include in the report any other relevant information.

2. At the end of the experiment and in any case at the end of their participation, participating Member States shall by 31 March of the following year, present to the Commission and the other Member States a report including the information referred to in point 3 of Annex II. The report may include other information they consider relevant in view of the purpose of the experiment.

*Article 9***Time period**

The experiment shall start on 1 June 2009 and end on 31 May 2014.

*Article 10***Addressees**

This Decision is addressed to the Member States.

Done at Brussels, 9 February 2009.

For the Commission

Androulla VASSILIOU

Member of the Commission

ANNEX I

SPECIES REFERRED TO IN ARTICLE 1 AND CONDITIONS FOR THEIR CERTIFICATION

Species	Minimum germination (% of pure seeds ^(a))	Minimum analytical purity (% by weight)	Maximum content of seeds of other plant species (% by weight)	Maximum content of seeds of other plant species in a sample of the weight specified in column 7	Maximum weight of a lot (tonnes)	Minimum weight of a sample to be drawn from a lot (grams)
1	2	3	4	5	6	7
<i>Biserrula pelecinus</i>	70 (including hard seeds)	98	0,5	(^c) (^d) (^e)	10	30
<i>Lotus uliginosus</i>	75 (40)	97	0,5	(^c) (^d) (^e)	10	25
<i>Lotus glaber</i>	75 (40)	97	0,5	(^c) (^d) (^e)	10	30
<i>Medicago murex</i>	70 (30)	98	2,0	(^c) (^d) (^e)	10	50
<i>Medicago polymorpha</i>	70 (30)	98	2,0	(^c) (^d) (^e)	10	70
<i>Medicago rugosa</i>	70 (20)	98	2,0	(^c) (^d) (^e)	10	180
<i>Medicago scutellata</i>	70	98	2,0	(^c) (^d) (^e)	10	400
<i>Medicago italica</i>	70 (20)	98	2,0	(^c) (^d) (^e)	10	100
<i>Medicago littoralis</i>	70	98	2,0	(^c) (^d) (^e)	10	70
<i>Medicago truncatula</i>	70 (20)	98	2,0	(^c) (^d) (^e)	10	100
<i>Ornithopus compressus</i>	75 (including hard seeds)	90	1,0	(^c) (^d) (^e)	10	120
<i>Ornithopus sativus</i>	75 (including hard seeds)	90	1,0	(^c) (^d) (^e)	10	90
<i>Plantago lanceolata</i>	75	85	1,5	(^c) (^d) (^e)	5	20
<i>Trifolium fragiferum</i>	70	98	1,0	(^c) (^d) (^e)	10	40
<i>Trifolium glanduliferum</i>	70 (30)	98	1,0	(^c) (^d) (^e)	10	20
<i>Trifolium hirtum</i>	70	98	1,0	(^c) (^d) (^e)	10	70
<i>Trifolium. michelianum</i>	75 (30)	98	1,0	(^c) (^d) (^e)	10	25
<i>Trifolium squarrosum</i>	75 (20)	97	1,5	(^c) (^d) (^e)	10	150
<i>Trifolium subterraneum</i>	80 (40)	97	0,5	(^c) (^d) (^e)	10	250
<i>Trifolium vesiculosum</i>	70 (including hard seeds)	98	1,0	(^c) (^d) (^e)	10	100
<i>Vicia benghalensis</i>	80 (20)	97 ^(b)	1,0	(^c) (^d) (^e)	20	1 000

(^a) Up to the maximum quantity indicated, hard seed present shall be regarded as seed capable of germination.

(^b) A maximum total of 6 % by weight of seeds of *Vicia pannonica*, *Vicia villosa* or related cultivated species in another relevant species shall not be regarded as an impurity.

(^c) Seeds of *Avena fatua* and *Avena sterilis* shall not be present in a sample of the prescribed weight.

(^d) The presence of one seed of *Cuscuta* spp. in a sample twice the prescribed weight shall not be regarded as an impurity where a second sample of twice the prescribed weight is free of any seeds of *Cuscuta* spp.

(^e) The presence of seeds of *Rumex* spp. other than *Rumex acetosella* and *Rumex maritimus* shall not exceed 10 in a sample with the prescribed weight.

ANNEX II

CONDITIONS OF THE EXPERIMENT

1. Conditions for seed of species referred to in Article 1.

- (a) Field inspection shall be carried out in accordance with the OECD Schemes, where the species are covered by those Schemes or, if this is not the case, in accordance with the national standards of the Member State in which the seed is produced.
- (b) Member States shall ensure that all seed lots are subject to field inspection, sampling and seed analysis in accordance with Directive 66/401/EEC before their mixture, whether officially or under official supervision.

2. Conditions for mixtures under the experiment.

- (a) Seed samples shall be taken at random from the lots of seed mixtures under the experiment by official seed samplers. These samples shall be used as control samples for checking the composition of the mixtures under the experiment in accordance with Article 4 of Decision 2004/371/EC.

The level and the intensity of the sampling and inspections carried out in accordance with Article 4 of Decision 2004/371/EC shall be suitable for the purposes of the experiment.

- (b) In addition to the information required in accordance with Directive 66/401/EEC and Decision 2004/371/EC, the official label shall include the following information:
 - (i) the botanical names of all species referred to in Article 1 (including varieties, where appropriate) included in the mixture under the experiment;
 - (ii) the percentage composition by weight of the various components shown by species referred to in Article 1 and, where appropriate, by variety;
 - (iii) a reference to this Decision.

Where the information referred to in points (i) and (ii) is not legible on the official label, the mixture under the experiment may be placed on the market with the name of the mixture provided that the information referred to in points (i) and (ii) has been notified in writing to the purchaser and officially recorded.

3. Information to be recorded.

- (a) name of the species (including varieties, where relevant) used in mixtures under the experiment;
 - (b) quantity of each seed mixture under the experiment placed on the market during the authorised period and the Member State for which the seed mixture was intended;
 - (c) composition of mixtures under the experiment marketed;
 - (d) procedures (standards) followed for certification of species referred to in Article 1 (OECD Schemes or national standards);
 - (e) results of the field inspection and laboratory tests for certification of species referred to in Article 1, where they are carried out in Member States;
 - (f) information about imports under OECD Schemes as regards, in particular, quantity, composition of seed mixtures under the experiment, country of origin and labelling;
 - (g) results of the tests carried out in accordance to points (a) and (b) of paragraph 2 on control samples;
 - (h) a cost benefits analysis to be used to support or not the aim of the experiment.
-

COMMISSION DECISION

of 10 February 2009

on a financial contribution from the Community towards emergency measures to combat Newcastle disease in Germany in 2008

*(notified under document number C(2009) 712)***(Only the German text is authentic)**

(2009/110/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

emergency measures. Pursuant to Article 4(2) of that Decision, Member States shall obtain a financial contribution towards the costs of certain measures to eradicate Newcastle disease.

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾, and in particular Articles 3(3) and 4(2) thereof,

(6) Articles 3(5) and 4(2) of Decision 90/424/EEC lay down rules on the percentage of the costs incurred by the Member State that may be covered by the Community's financial contribution.

Whereas:

(1) Newcastle disease is an infectious viral disease which causes high mortality in poultry.

(7) The payment of a Community financial contribution towards emergency measures to eradicate Newcastle disease is subject to the rules laid down in Commission Regulation (EC) No 349/2005 of 28 February 2005 laying down rules on the Community financing of emergency measures and of the campaign to combat certain animal diseases under Council Decision 90/424/EEC ⁽³⁾.

(2) In the event of an outbreak of Newcastle disease, there is a risk that the disease agent might spread to other poultry holdings within that Member State, but also to other Member States and to third countries through trade in live poultry or their products.

(8) Outbreaks of Newcastle disease occurred in Germany in 2008. Germany took measures, in accordance with Directive 92/66/EEC and Article 3(2) of Decision 90/424/EEC, to combat those outbreaks.

(3) An outbreak of that disease can therefore quickly take on epidemic proportions liable to reduce sharply the profitability of poultry farming.

(9) Germany has fully complied with its technical and administrative obligations as set out in Article 3(3) of Decision 90/424/EEC and Article 6 of Regulation (EC) No 349/2005.

(4) Council Directive 92/66/EEC of 14 July 1992 introducing Community measures for the control of Newcastle disease ⁽²⁾ sets out measures which in the event of an outbreak have to be immediately implemented by Member States as a matter of urgency to prevent further spread of the virus.

(10) On 18 June 2008 and 17 July 2008, Germany submitted an estimate of the costs incurred in taking measures to eradicate Newcastle disease.

(5) Decision 90/424/EEC lays down the procedures governing the Community's financial contribution towards specific veterinary measures, including

(11) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

⁽¹⁾ OJ L 224, 18.8.1990, p. 19.

⁽²⁾ OJ L 260, 5.9.1992, p. 1.

⁽³⁾ OJ L 55, 1.3.2005, p. 12.

HAS ADOPTED THIS DECISION:

Article 1

Financial contribution from the Community to Germany

A financial contribution from the Community may be granted to Germany towards the costs incurred by that Member State in taking measures pursuant to Articles 3(2) and 4(2) of Decision 90/424/EEC, to combat Newcastle disease in 2008.

Article 2

Addressee

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 10 February 2009.

For the Commission
Androulla VASSILIOU
Member of the Commission

COMMISSION DECISION

of 10 February 2009

on the publication of the reference of standard EN 3-8:2006 'Portable fire extinguishers — Part 8: Additional requirements to EN 3-7 for the construction, resistance to pressure and mechanical tests for extinguishers with a maximum allowable pressure equal to or lower than 30 bar' in accordance with Directive 97/23/EC concerning pressure equipment

(notified under document number C(2009) 739)

(Text with EEA relevance)

(2009/111/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 97/23/EC of the European Parliament and of the Council of 29 May 1997 on the approximation of the laws of the Member States concerning pressure equipment ⁽¹⁾, and in particular Article 6 thereof,

Having regard to the opinion of the Standing Committee set up in accordance with Article 5 of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on information Society Services ⁽²⁾,

Whereas:

(1) Directive 97/23/EC provides that pressure equipment and assemblies may be placed on the market and put into service only if, when properly installed and maintained and used for their intended purpose, they do not endanger the health and safety of persons and, where appropriate, domestic animals and property.

(2) Pressure equipment and assemblies are presumed to meet the essential requirements referred to in Article 3 of Directive 97/23/EC if they conform to the national standards transposing the harmonised standards the reference numbers of which have been published in the *Official Journal of the European Union*.

(3) Pursuant to Article 6 of Directive 97/23/EC, Sweden lodged a formal objection in respect of standard EN 3-8:2006 adopted by the European Committee for Standardisation (CEN) on 2 November 2006 the references of which have not yet been published in the *Official Journal of the European Union*.

(4) In its formal objection Sweden notes that Section 5 of standard EN 3-8:2006 does not specify the types of materials to be used and does therefore not satisfy the essential requirements of point 4 of Annex I to Directive 97/23/EC.

(5) Since Section 5 of standard EN 3-8:2006 provides for a case by case material appraisal by the notified body (particular material appraisal approach), the specification of the types of materials to be used is not necessarily required. Furthermore, in the absence of concrete technical specifications, Section 5 of standard EN 3-8:2006 cannot confer the presumption of conformity to the requirements of point 4 of Annex I to Directive 97/23/EC.

(6) In addition Sweden considers that in Section 6 of standard EN 3-8:2006, important information necessary to meet the requirements of point 2.2.4 of Annex I to Directive 97/23/EC is missing, due to the lack of specification of materials in Section 5 of that standard.

(7) Directive 97/23/EC describes in Section 2.2 of Annex I the methods to ensure adequate strength of the pressure equipment, including a calculation method or experimental design method without calculation. The experimental design method is based on a test programme as defined in point 2.2.4 (a) and (b), that includes a pressure strength test.

⁽¹⁾ OJ L 181, 9.7.1997, p. 1.

⁽²⁾ OJ L 204, 21.7.1998, p. 37.

- (8) Section 6 of standard EN 3-8:2006 provides for the experimental design method without calculation. As required by point 2.2.4 of Annex I to Directive 97/23/EC, it provides for a test programme with several tests. Directive 97/23/EC does not exclude the particular material appraisal approach as a method to prove compliance of the materials used with the material specifications in point 4 of Annex I, when the manufacturer applies the experimental design method. As Section 5 of EN 3-8:2006 does not contain specific material requirements, the equipment manufacturer must ensure that the materials used comply with the requirements of point 4 of Annex I to the Directive. On the basis of this, the material characteristics would be used as a parameter of the pressure test in the framework of the experimental design method test program, under the control of the notified body responsible for the conformity assessment of the equipment.
- (9) Sweden further notes that Section 7.2.2 on welding procedures of EN 3-8:2006 does not comply with point 3.1.2 of Annex I to Directive 97/23/EC, as, in addition to the standards listed, it contains an open reference to other recognised welding EN standards.
- (10) Directive 97/23/EC stipulates in point 3.1.2 of Annex I the requirements on permanent joining. The reference in Section 7.2.2 of standard EN 3-8:2006 that 'other standards are acceptable' is not an adequate and sufficiently concrete wording of a standard intended to confer the presumption of conformity to the requirements of Directive 97/23/EC. A harmonised standard conferring the presumption of conformity to the requirements of the Directive must provide concrete technical specifications on the design, manufacture and testing, in order to help manufacturers and enable pressure equipment to be presumed to meet the relevant essential requirements. However, Section 7.2.2 of EN 3-8:2006 contains a series of concrete references to standards which contain welding specifications. Therefore, although section 7.2.2 should be improved, it would not be proportionate to refrain from publishing the references of the standard on this ground.
- (11) Finally, Sweden considers that Section 7.3.1 of standard EN 3-8:2006, on the traceability of materials used in the various parts of pressure equipment is imprecise, does not provide for specific technical solutions and therefore, it can not confer the presumption of conformity to the requirements of point 3.1.5 of Annex I to Directive 97/23/EC.
- (12) Directive 97/23/EC requires in point 3.1.5 of Annex I (traceability) the application of suitable procedures in order to identify, by suitable means, the material making up of the components which contribute to the pressure resistance of the equipment, from their receipt and production, up to the final test of the manufactured pressure equipment. The objective of this requirement is to avoid any doubt about the material specifications used for the equipment. Manufacturers may apply different procedures, according to the characteristics and methods of manufacture. The notified body that performs the conformity assessment procedure of the equipment must assess, on a case by case basis, whether these procedures meet the requirement of point 3.1.5 of Annex I to the Directive. However, although Section 7.3.1 should be improved, it would not be proportionate not to publish the reference numbers of the standard on this ground.
- (13) For this purpose, the Commission will request CEN to present within three years a revised version of standard EN 3-8:2006 in order to better reflect compliance with the essential requirements of Directive 97/23/EC. Following the implementation of this mandate and depending on its results, possible further decisions concerning the current version of the standard could be envisaged.
- (14) The references of standard EN 3-8:2006 should therefore be published in the *Official Journal of the European Union*,
- HAS ADOPTED THIS DECISION:
- Article 1*
- The reference of standard EN 3-8:2006 'Portable fire extinguishers – Part 8: Additional requirements to EN 3-7 for the construction, resistance to pressure and mechanical tests for extinguishers with a maximum allowable pressure equal to or lower than 30 bar' shall be published in the *Official Journal of the European Union*.
- Article 2*
- This Decision is addressed to the Member States.
- Done at Brussels, 10 February 2009.
- For the Commission*
Günter VERHEUGEN
Vice-President

RECOMMENDATIONS

COUNCIL

COUNCIL RECOMMENDATION

of 10 February 2009

concerning the discharge to be given to the Commission in respect of the implementation of the operations of the European Development Fund (Seventh EDF) for the financial year 2007

(2009/112/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Whereas:

Having regard to the Treaty establishing the European Community,

Having regard to the Fourth ACP-EEC Convention, signed at Lomé on 15 December 1989 ⁽¹⁾ and amended by the Agreement signed in Mauritius on 4 November 1995 ⁽²⁾,

Having regard to Internal Agreement 91/401/EEC on the financing and administration of Community aid under the fourth ACP-EEC Convention ⁽³⁾, hereinafter referred to as the Internal Agreement, setting up, amongst others, the Seventh European Development Fund (Seventh EDF) and in particular Article 32(3) thereof,

Having regard to the Financial Regulation 91/491/EEC of 29 July 1991 applicable to development finance cooperation under the Fourth ACP-EEC Convention ⁽⁴⁾, and in particular Articles 69 to 77 thereof,

Having examined the revenue and expenditure account and the balance sheet relating to the operations of the Seventh EDF as at 31 December 2007 and the Court of Auditors' report concerning the financial year 2007 together with the Commission's replies ⁽⁵⁾,

(1) Pursuant to Article 32(3) of the Internal Agreement, the discharge for the financial management of the Seventh EDF is to be given to the Commission by the European Parliament on the recommendation of the Council.

(2) The overall implementation by the Commission of the operations of the Seventh EDF during the financial year 2007 has been satisfactory,

HEREBY RECOMMENDS that the European Parliament give the Commission a discharge in respect of the implementation of the operations of the Seventh EDF for the financial year 2007.

Done at Brussels, 10 February 2009.

For the Council

The President

M. KALOUSEK

⁽¹⁾ OJ L 229, 17.8.1991, p. 3.

⁽²⁾ OJ L 156, 29.5.1998, p. 3.

⁽³⁾ OJ L 229, 17.8.1991, p. 288.

⁽⁴⁾ OJ L 266, 21.9.1991, p. 1.

⁽⁵⁾ OJ C 286, 10.11.2008, p. 273.

COUNCIL RECOMMENDATION**of 10 February 2009****concerning the discharge to be given to the Commission in respect of the implementation of the operations of the European Development Fund (Eighth EDF) for the financial year 2007**

(2009/113/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Fourth ACP-EEC Convention, signed at Lomé on 15 December 1989 ⁽¹⁾ and amended by the Agreement signed in Mauritius on 4 November 1995 ⁽²⁾,

Having regard to the Internal Agreement between the Representatives of the Governments of the Member States, meeting within the Council, on the financing and administration of the Community aid under the Second Financial Protocol to the Fourth ACP-EC Convention ⁽³⁾, hereinafter referred to as the Internal Agreement, setting up, amongst others, the Eighth European Development Fund (Eighth EDF), and in particular Article 33(3) thereof,

Having regard to the Financial Regulation 98/430/EC of 16 June 1998 applicable to development finance cooperation under the Fourth ACP-EC Convention ⁽⁴⁾, and in particular Articles 66 to 74 thereof,

Having examined the revenue and expenditure account and the balance sheet relating to the operations of the Eighth EDF as at

31 December 2007, and the Court of Auditors' report concerning the financial year 2007 together with the Commission's replies ⁽⁵⁾,

Whereas:

- (1) Pursuant to Article 33(3) of the Internal Agreement, the discharge for the financial management of the Eighth EDF is to be given to the Commission by the European Parliament on the recommendation of the Council.
- (2) The overall implementation by the Commission of the operations of the Eighth EDF during the financial year 2007 has been satisfactory,

HEREBY RECOMMENDS that the European Parliament give the Commission a discharge in respect of the implementation of the operations of the Eighth EDF for the financial year 2007.

Done at Brussels, 10 February 2009.

For the Council
The President
M. KALOUSEK

⁽¹⁾ OJ L 229, 17.8.1991, p. 3.

⁽²⁾ OJ L 156, 29.5.1998, p. 3.

⁽³⁾ OJ L 156, 29.5.1998, p. 108.

⁽⁴⁾ OJ L 191, 7.7.1998, p. 53.

⁽⁵⁾ OJ C 286, 10.11.2008, p. 273.

COUNCIL RECOMMENDATION**of 10 February 2009****concerning the discharge to be given to the Commission in respect of the implementation of the operations of the European Development Fund (Ninth EDF) for the financial year 2007**

(2009/114/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the ACP-EC Partnership Agreement, signed in Cotonou on 23 June 2000 ⁽¹⁾ and amended by the Agreement signed in Luxembourg on 25 June 2005 ⁽²⁾,

Having regard to the Internal Agreement on the financing and administration of Community aid under the Financial Protocol to ACP-EC Partnership Agreement ⁽³⁾, hereinafter referred to as the 'Internal Agreement', setting up, amongst others, the Ninth European Development Fund (Ninth EDF), and in particular Article 32(3) thereof,

Having regard to the Financial Regulation of 27 March 2003 applicable to the Ninth European Development Fund ⁽⁴⁾, and in particular Articles 96 to 103 thereof,

Having examined the revenue and expenditure account and the balance sheet relating to the operations of the Ninth EDF as at 31 December 2007 and the Court of Auditors' report concerning the financial year 2007 together with the Commission's replies ⁽⁵⁾,

Whereas:

- (1) Pursuant to Article 32(3) of the Internal Agreement, the discharge for the financial management of the Ninth EDF is to be given to the Commission by the European Parliament on the recommendation of the Council.
- (2) The overall implementation by the Commission of the operations of the Ninth EDF during the financial year 2007 has been satisfactory,

HEREBY RECOMMENDS that the European Parliament give the Commission a discharge in respect of the implementation of the operations of the Ninth EDF for the financial year 2007.

Done at Brussels, 10 February 2009.

For the Council
The President
M. KALOUSEK

⁽¹⁾ OJ L 317, 15.12.2000, p. 3.

⁽²⁾ OJ L 287, 28.10.2005, p. 4.

⁽³⁾ OJ L 317, 15.12.2000, p. 355.

⁽⁴⁾ OJ L 83, 1.4.2003, p. 1.

⁽⁵⁾ OJ C 286, 10.11.2008, p. 273.

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

COMMISSION

**DECISION No 1/2008 OF THE JOINT COMMUNITY/SWITZERLAND AIR TRANSPORT
COMMITTEE SET UP UNDER THE AGREEMENT BETWEEN THE EUROPEAN COMMUNITY
AND THE SWISS CONFEDERATION ON AIR TRANSPORT****of 16 December 2008****replacing the Annex to the Agreement between the European Community and the Swiss
Confederation on Air Transport**

(2009/115/EC)

THE COMMUNITY/SWITZERLAND AIR TRANSPORT COMMITTEE,

Having regard to the Agreement between the European Community and the Swiss Confederation on Air Transport, hereinafter referred to as 'the Agreement', and in particular Article 23(4) thereof,

HAS DECIDED AS FOLLOWS:

Sole Article

The Annex to this Decision replaces the Annex to the Agreement.

Done at Brussels, 16 December 2008.

*For the Joint Committee**The Head of the Community Delegation*

Daniel CALLEJA

The Head of the Swiss Delegation

Matthias SUHR

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ANNEX

For the purposes of this Agreement:

- wherever acts specified in this Annex contain references to Member States of the European Community, or a requirement for a link with the latter, the references shall, for the purpose of the Agreement, be understood to apply equally to Switzerland or to the requirement of a link with Switzerland,
- without prejudice to Article 15 of this Agreement, the term ‘Community air carrier’ referred to in the following Community directives and regulations shall include an air carrier which is licensed and has its principal place of business and, if any, its registered office in Switzerland in accordance with the provisions of Council Regulation (EEC) No 2407/92,
- The Community-Switzerland Air transport Agreement concluded between the European Community and the Swiss Confederation on Air transport is extended to the territory of Bulgaria and to the territory of Romania.

1. Third aviation liberalisation package and other civil aviation rules

No 2407/92

Council Regulation of 23 July 1992 on licensing of air carriers

(Articles 1 to 18)

As regards the application of Article 13(3), the reference to Article 226 of the EC Treaty shall be understood to mean a reference to the applicable procedures of this Agreement.

No 2408/92

Council Regulation of 23 July 1992 on access for Community air carriers to intra-Community air routes

(Articles 1 to 10, 12 to 15)

(The Annexes will be amended in order to include Swiss airports).

(The amendments to Annex I, arising from Annex II, Chapter 8 (Transport policy), Section G (Air transport), point 1 of the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, shall apply).

No 2409/92

Council Regulation of 23 July 1992 on fares and rates for air services

(Articles 1 to 11)

No 2000/79

Council Directive of 27 November 2000 concerning the implementation of the European Agreement on the Organisation of Working Time of Mobile Workers in Civil Aviation concluded by the Association of European Airlines (AEA), the European Transport Workers' Federation (ETF), the European Cockpit Association (ECA), the European Regions Airline Association (ERA) and the International Air Carrier Association (IACA).

No 93/104

Council Directive of 23 November 1993 concerning certain aspects of the organisation of working time, as amended by:

- Directive 2000/34/EC of 22 June 2000.

No 437/2003

Regulation of the European Parliament and of the Council of 27 February 2003 on statistical returns in respect of the carriage of passengers, freight and mail by air

No 1358/2003

Commission Regulation of 31 July 2003 implementing Regulation (EC) No 437/2003 of the European Parliament and of the Council on statistical returns in respect of the carriage of passengers, freight and mail by air and amending Annexes I and II thereto

No 785/2004

Regulation of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators

No 91/670

Council Directive of 16 December 1991 on mutual acceptance of personnel licences for the exercise of functions in civil aviation

(Articles 1 to 8)

No 95/93

Council Regulation of 18 January 1993 on common rules for the allocation of slots at Community airports (Articles 1 to 12), as amended by:

— Regulation No 793/2004 of the European Parliament and of the Council of 21 April 2004 (Articles 1 and 2).

No 96/67

Council Directive of 15 October 1996 on access to the groundhandling market at Community airports

(Articles 1 to 9, 11 to 23, and 25)

No 2027/97

Council Regulation of 9 October 1997 on air carrier liability in the event of accidents (Articles 1 to 8), as amended by:

— Regulation 889/2002 of the European Parliament and of the Council of 13 May 2002 (Articles 1 to 2).

2. Competition rules

Any reference in the following texts to Articles 81 and 82 of the Treaty shall be understood to mean Articles 8 and 9 of this Agreement.

No 17/62

Council Regulation of 6 February 1962 implementing Article 81 and 82 of the Treaty (Article 8(3)), as last amended by:

— Regulation No 59/62,

— Regulation No 118/63,

— Regulation No 2822/71,

— Regulation No 1216/99,

— Regulation (EC) No 1/2003 of 16 December 2002 (Articles 1 to 13, 15 to 45).

No 2988/74

Council Regulation of 26 November 1974 concerning limitation periods in proceedings and the enforcement of sanctions under the rules of the EEC relating to transport and competition (Articles 1 to 7)

— Regulation (EC) No 1/2003 of 16 December 2002 (Articles 1 to 13 and 15 to 45).

No 3975/87

Council Regulation of 14 December 1987 laying down the procedures for the application of the rules on competition to undertakings in the air transport sector (Articles 1 to 7, 8(1), 8(2), 9 to 11, 12(1), 12(2), 12(4), 12(5), 13(1), 13(2) and 14 to 19), as last amended by:

— Council Regulation No 1284/91 of 14 May 1991 (Article 1),

— Council Regulation No 2410/92 of 23 July 1992 (Article 1),

— Council Regulation (EC) No 1/2003 of 16 December 2002 (Articles 1 to 13 and 15 to 45).

No 3976/87

Council Regulation of 14 December 1987 on the application of Article 81(3) of the Treaty to certain categories of agreement and concerted practices in the air transport sector (Articles 1 to 5), as last amended by:

- Council Regulation (EEC) No 2344/90 of 24 July 1990 (Article 1),
- Council Regulation (EEC) No 2411/92 of 23 July 1992 (Article 1),
- Council Regulation (EC) No 1/2003 of 16 December 2002 (Articles 1 to 13, 15 to 45).

No 1617/93

Commission Regulation of 25 June 1993 on the application of Article 81(3) of the Treaty to certain categories of agreements and concerted practices concerning joint planning and coordination of schedules, joint operations, consultations on passenger and cargo tariffs on scheduled air services and slot allocation at airports (Articles 1 to 7), as last amended by:

- Commission Regulation (EC) No 1523/96 of 24 July 1996 (Articles 1 and 2),
- Commission Regulation (EC) No 1083/1999 of 26 May 1999,
- Commission Regulation (EC) No 1324/2001 of 29 June 2001.

No 4261/88

Commission Regulation of 16 December 1988 on the complaints, applications and hearings provided for in Council Regulation (EEC) No 3975/87

(Articles 1 to 14)

No 80/723

Commission Directive of 25 June 1980 on the transparency of financial relations between Member States and public undertakings (Articles 1 to 9), as last amended by:

- Commission Directive 85/413/EEC of 24 July 1985 (Articles 1 to 3).

No 1/2003

Council Regulation of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (Articles 1 to 13, 15 to 45)

(To the extent that this Regulation is relevant for the application of this agreement. The insertion of this Regulation does not affect the division of tasks according to this agreement).

No 773/2004

Commission Regulation of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty

No 139/2004

Council Regulation of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation)

(Article 1-18, 19(1)-(2), and 20-23)

With respect to Article 4(5) of the Merger Regulation the following shall apply between the European Community and Switzerland:

- (1) With regard to a concentration as defined in Article 3 of Regulation (EC) No 139/2004 which does not have a Community dimension within the meaning of Article 1 of that Regulation and which is capable of being reviewed under the national competition laws of at least three EC Member States and the Swiss Confederation, the persons or undertakings referred to in Article 4(2) of that Regulation may, before any notification to the competent authorities, inform the EC Commission by means of a reasoned submission that the concentration should be examined by the Commission.
- (2) The EC Commission shall transmit all submissions pursuant to Article 4(5) of Regulation (EC) No 139/2004 and the previous paragraph to the Swiss Confederation without delay.

- (3) Where the Swiss Confederation has expressed its disagreement as regards the request to refer the case, the competent Swiss competition authority shall retain its competence, and the case shall not be referred from the Swiss Confederation pursuant to this paragraph.

With respect to time limits referred to in Articles 4(4) and (5), Articles 9(2) and (6), and Article 22(2) of the Merger Regulation:

- (1) The EC Commission shall transmit all the relevant documents pursuant to Articles 4(4) and (5), Articles 9(2) and (6) and Article 22(2) to the competent Swiss competition authority without delay.
- (2) The calculation of the time limits referred to in Articles 4(4) and (5), Articles 9(2) and (6), and Article 22(2) of Regulation (EC) No 139/2004 shall start, for the Swiss Confederation, upon receipt of the relevant documents by the competent Swiss competition authority.

No 802/2004

Commission Regulation of 7 April 2004 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings

(Articles 1 to 24)

3. Aviation safety

No 3922/91

Council Regulation of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation (Articles 1 to 3, 4(2), (5) to 11, and 13)), as last amended by:

- Regulation (EC) No 1899/2006 of the European Parliament and of the Council of 12 December 2006,
- Regulation (EC) No 1900/2006 of the European Parliament and of the Council of 20 December 2006,
- Commission Regulation (EC) No 8/2008 of 11 December 2007.

No 94/56/EC

Council Directive of 21 November 1994 establishing the fundamental principles governing the investigation of civil aviation accidents and incidents

(Articles 1 to 13)

No 2004/36

Directive of the Parliament and of the Council of 21 April 2004 on the safety of third-country aircraft using Community airports (Articles 1 to 9, and 11 to 14)

No 768/2006

Commission Regulation of 19 May 2006 implementing Directive 2004/36/EC of the European Parliament and of the Council as regards the collection and exchange of information on the safety of aircraft using Community airports and the management of the information system

No 2003/42

Directive of the European Parliament and of the Council of 13 June 2003 on occurrence reporting in civil aviation

(Articles 1 to 12)

No 1592/2002

Regulation of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (hereinafter referred to as 'the Regulation'), as amended by:

- Regulation (EC) No 1643/2003 of the European Parliament and of the Council of 22 July 2003,
- Commission Regulation (EC) No 1701/2003 of 24 September 2003,
- Commission Regulation (EC) No 334/2007 of 28 March 2007,
- Commission Regulation (EC) No 103/2007 of 2 February 2007 on the extension of the transitional period referred to in Article 53(4).

The Agency shall enjoy also in Switzerland the powers granted to it under the provisions of the Regulation.

The Commission shall enjoy also in Switzerland the powers granted to it for decisions pursuant to Article 10(2), (4), (6), Article 16(4), Article 29(3)(i), Article 31(3), Article 32(5) and Article 53(4).

Notwithstanding the horizontal adaptation provided for in the first indent of the Annex to the Agreement between the European Community and the Swiss Confederation on Air Transport, the references to the 'Member States' made in Article 54 of the Regulation or in the provisions of Decision 1999/468/EC mentioned in that provision shall not be understood to apply to Switzerland.

Nothing in this Regulation shall be construed so as to transfer to the EASA authority to act on behalf of Switzerland under international agreements for other purposes than to assist in the performance of its obligations pursuant to such agreements.

The text of the Regulation shall, for the purposes of the Agreement, be read with the following adaptations

(a) Article 9 is amended as follows:

- (i) in paragraph 1, the words 'or Switzerland' shall be inserted after the words 'the Community';
- (ii) in paragraph 2(a), the words 'or Switzerland' shall be inserted after the words 'the Community';
- (iii) in paragraphs 2 points (b) and (c) are deleted;
- (iv) the following paragraph is added:

'3. Whenever the Community negotiates with a third country in order to conclude an agreement providing that a Member State or the Agency may issue certificates on the basis of certificates issued by the aeronautical authorities of that third country, it shall endeavour to obtain for Switzerland an offer of a similar agreement with the third country in question.

Switzerland shall, in turn, endeavour to conclude with third countries agreements corresponding to those of the Community'.

(b) In Article 20, the following paragraph shall be added:

'4. By way of derogation from Article 12(2)(a) of the Conditions of Employment of Other Servants of the European Communities, Swiss nationals enjoying their full rights as citizens may be engaged under contract by the Executive Director of the Agency.'

(c) In Article 21, the following paragraph is added:

'Switzerland shall apply to the Agency the Protocol on the Privileges and Immunities of the European Communities, which is set out as Annex A to the present Annex, in accordance with the Appendix to Annex A.'

(d) In Article 28, the following paragraph is added:

'Switzerland shall participate fully in the Management Board and shall within it have the same rights and obligations as European Union Member States, except for the right to vote'.

(e) In Article 48, the following paragraph shall be added:

'8. Switzerland shall participate in the financial contribution referred to in paragraph 1(a), according to the following formula:

$$S (0,2/100) + S [1 - (a + b) 0,2/100] c/C$$

where:

S = the part of the budget of the Agency not covered by the fees and charges mentioned in paragraph 1(b) and (c)

a = the number of Associated States

b = the number of EU Member States

c = the contribution of Switzerland to the ICAO budget

C = the total contribution of the EU Member States and of the Associated States to the ICAO budget.'

(f) In Article 50, the following paragraph is added:

'The provisions relating to financial control by the Community in Switzerland concerning the participants in the activities of the Agency are set out in Annex B to the present Annex.'

(g) Annex II to the Regulation shall be extended to include the following aircraft as products covered by Article 2(3)(a)(ii) of Commission Regulation (EC) No 1702/2003 of 24 September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations ⁽¹⁾:

A/c — [HB IDJ] — type CL600-2B19

A/c — [HB-IGM] — type Gulfstream G-V-SP

A/c — [HB-IIS, HB-IYY, HB-IMJ, HB-IVL, HB-IVZ, HB-JES] — type Gulfstream G-V

A/c — [HB-IBX, HB-IKR, HB-IMY, HB-ITF, HB-IWY] — type Gulfstream G-IV

A/c — [HB-XJF, HB-ZCW, HB-ZDF, HB-ZDO] — type MD 900

No 736/2006

Commission Regulation of 16 May 2006 on working methods of the European Aviation Safety Agency for conducting standardisation inspections

No 1702/2003

Regulation of 24 September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations, as amended by:

— Commission Regulation (EC) No 381/2005 of 7 March 2005,

— Commission Regulation (EC) No 706/2006 of 8 May 2006,

— Commission Regulation (EC) No 335/2007 of 28 March 2007,

— Commission Regulation (EC) No 375/2007 of 30 March 2007.

For the purposes of the Agreement, the provisions of the Regulation No 1702/2003 shall be read subject to the following adjustment:

Article 2 is amended as follows:

In paragraphs 3, 4, 6, 8, 10, 11, 13 and 14, the date '28 September 2003' shall be replaced by 'the date of entry into force of the Decision of the Community/Switzerland Air Transport Committee which incorporates Regulation 1592/2002 into the Annex to the Regulation'.

No 2042/2003

Commission Regulation of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks, as last amended by:

— Commission Regulation (EC) No 707/2006 of 8 May 2006,

— Commission Regulation (EC) No 376/2007 of 30 March 2007.

No 104/2004

Commission Regulation of 22 January 2004 laying down rules on the organisation and composition of the Board of Appeal of the European Aviation Safety Agency

No 593/2007

Commission Regulation of 31 May 2007 on the fees and charges levied by the European Aviation Safety Agency

No 2111/2005

Regulation of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC

⁽¹⁾ OJ L 243, 27.9.2003, p. 6.

No 473/2006

Commission Regulation of 22 March 2006 laying down implementing rules for the Community list of air carriers which are subject to an operating ban within the Community referred to in Chapter II of Regulation (EC) No 2111/2005 of the European Parliament and of the Council

No 474/2006

Commission Regulation of 22 March 2006 establishing the Community list of air carriers which are subject to an operating ban within the Community referred to in Chapter II of Regulation (EC) No 2111/2005 of the European Parliament and of the Council, as last amended by:

— Commission Regulation (EC) No 715/2008 of 24 July 2008.

This Regulation shall apply in Switzerland as long as it is in force in the EU.

4. Aviation Security

No 2320/2002

Regulation of the European Parliament and of the Council of 16 December 2002 establishing common rules in the field of civil aviation security (Articles 1 to 8, and 10 to 13), as amended by:

— Regulation (EC) No 849/2004 of the European Parliament and of the Council of 29 April 2004.

No 622/2003

Commission Regulation of 4 April 2003 laying down measures for the implementation of the common basic standards on aviation security, as amended by:

— Commission Regulation (EC) No 68/2004 of 15 January 2004,

— Commission Regulation (EC) No 781/2005 of 24 May 2005,

— Commission Regulation (EC) No 857/2005 of 6 June 2005,

— Commission Regulation (EC) No 65/2006 of 13 January 2006,

— Commission Regulation (EC) No 240/2006 of 10 February 2006,

— Commission Regulation (EC) No 831/2006 of 2 June 2006,

— Commission Regulation (EC) No 1448/2006 of 29 September 2006,

— Commission Regulation (EC) No 1546/2006 of 4 October 2006,

— Commission Regulation (EC) No 1862/2006 of 15 December 2006,

— Commission Regulation (EC) No 437/2007 of 20 April 2007,

— Commission Regulation (EC) No 358/2008 of 22 April 2008.

No 1217/2003

Commission Regulation of 4 July 2003 laying down common specifications for national civil aviation security quality control programmes

No 1486/2003

Commission Regulation of 22 August 2003 laying down procedures for conducting Commission inspections in the field of civil aviation security

(Articles 1 to 13, and 15 to 18)

No 1138/2004

Commission Regulation of 21 June 2004 establishing a common definition of critical parts of security restricted areas of airports

5. Air traffic management

No 549/2004

Regulation of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the Single European Sky (the Framework Regulation)

The Commission shall enjoy in Switzerland the powers granted to it pursuant to Articles 6, 8(1), 10, 11 and 12.

Notwithstanding the horizontal adjustment referred to in the first indent of the Annex to the Agreement between the European Community and the Swiss Confederation on Air Transport, the references to the 'Member States' made in 'Article 5 of Regulation 549/2004 or in the provisions of Decision 1999/468/EC mentioned in that provision shall not be understood to apply to Switzerland.'

No 550/2004

Regulation of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the Single European Sky (the Service Provision Regulation)

The Commission shall enjoy towards Switzerland the powers granted to it pursuant to Article 16, as amended below.

The provisions of the Regulation shall, for the purposes of the Agreement, be amended as follows:

(a) Article 3 shall be amended as follows:

In paragraph 2, the words 'and Switzerland' shall be inserted after the words 'the Community'.

(b) Article 7 is amended as follows:

In paragraph 1 and paragraph 6, the words 'and Switzerland' shall be inserted after the words 'the Community'.

(c) Article 8 is amended as follows:

In paragraph 1, the words 'and Switzerland' shall be inserted after the words 'the Community'.

(d) Article 10 is amended as follows:

In paragraph 1, the words 'and Switzerland' shall be inserted after the words 'the Community'.

(e) Article 16(3) is replaced by the following:

'3. The Commission shall address its decision to the Member States and inform the service provider thereof, in so far as it is legally concerned.'

No 551/2004

Regulation of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the Single European Sky (the Airspace Regulation)

The Commission shall enjoy in Switzerland the powers granted to it pursuant to Articles 2, 3(5) and 10.

No 552/2004

Regulation of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management network (the Interoperability Regulation)

The Commission shall enjoy in Switzerland the powers granted to it pursuant to Articles 4, 7 and 10(3).

The provisions of the Regulation shall, for the purposes of the Agreement, be amended as follows:

(a) Article 5 is amended as follows:

In paragraph 2, the words 'or Switzerland' shall be inserted after the words 'the Community'.

(b) Article 7 is amended as follows:

In paragraph 4, the words 'or Switzerland' shall be inserted after the words 'the Community'.

(c) Annex III shall be amended as follows:

In section 3, second and last indents, the words 'or Switzerland' shall be inserted after the words 'the Community'.

No 2096/2005

Commission Regulation of 20 December 2005 laying down common requirements for the provision of air navigation services

The Commission shall enjoy in Switzerland the powers granted to it pursuant to Article 9.

No 2150/2005

Commission Regulation of 23 December 2005 laying down common rules for the flexible use of airspace

No 1033/2006

Commission Regulation of 4 July 2006 laying down the requirements on procedures for flight plans in the pre-flight phase for the Single European Sky

No 1032/2006

Commission Regulation of 6 July 2006 laying down requirements for automatic systems for the exchange of flight data for the purpose of notification, coordination and transfer of flights between air traffic control units

No 2006/23

Directive of the European Parliament and of the Council of 5 April 2006 on a Community air traffic controller licence

No 730/2006

Commission Regulation of 11 May 2006 on airspace classification and access of flights operated under visual flight rules above flight level 195

No 219/2007

Council Regulation of 27 February 2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR)

No 633/2007

Commission Regulation of 7 June 2007 laying down requirements for the application of a flight message transfer protocol used for the purpose of notification, coordination and transfer of flights between air traffic control units

6. Environment and noise

No 2002/30

Directive of the European Parliament and of the Council of 26 March 2002 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports (Articles 1 to 12, and 14 to 18)

(The amendments to Annex I, arising from Annex II, Chapter 8 (Transport policy), Section G (Air transport), point 2 of the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, shall apply).

No 80/51

Council Directive of 20 December 1979 on the limitation of noise emissions from subsonic aircraft (Articles 1 to 9), as amended by:

— Directive 83/206/EEC.

No 89/629

Council Directive of 4 December 1989 on the limitation of noise emissions from civil subsonic jet aeroplanes

(Articles 1 to 8)

No 92/14

Council Directive of 2 March 1992 on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Volume I of Annex 16 to the Convention of International Civil Aviation, second edition (1988)

(Articles 1 to 11)

7. Consumer protection

No 90/314

Council Directive of 13 June 1990 on package travel, package holidays and package tours

(Articles 1 to 10)

No 93/13

Council Directive of 5 April 1993 on unfair terms in consumer contracts

(Articles 1 to 11)

No 2299/89

Council Regulation of 24 July 1989 on a code of conduct for computerised reservation systems (Articles 1 to 22), as amended by:

— Council Regulation No 3089/93,

— Council Regulation No 323/1999 of 8 February 1999.

No 261/2004

Regulation of the Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation No 295/91

(Articles 1 to 18)

8. Miscellaneous

No 2003/96

Council Directive of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity

(Article 14(1)(b), and Article 14(2))

9. Annexes:

A: Protocol on the Privileges and Immunities of the European Communities

B: Provisions on financial control by the Community as regards Swiss participants in activities of the EASA

ANNEX A

PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF THE EUROPEAN COMMUNITIES

THE HIGH CONTRACTING PARTIES,

CONSIDERING that, in accordance with Article 28 of the Treaty establishing a Single Council and a Single Commission of the European Communities, these Communities and the European Investment Bank shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of their tasks,

HAVE AGREED upon the following provisions, which shall be annexed to this Treaty

CHAPTER I

PROPERTY, FUNDS, ASSETS AND OPERATIONS OF THE EUROPEAN COMMUNITIES*Article 1*

The premises and buildings of the Communities shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation.

The property and assets of the Communities shall not be the subject of any administrative or legal measure of constraint without the authorisation of the Court of Justice.

Article 2

The archives of the Communities shall be inviolable.

Article 3

The Communities, their assets, revenues and other property shall be exempt from all direct taxes.

The governments of the Member States shall, wherever possible, take the appropriate measures to remit or refund the amount of indirect taxes or sales taxes included in the price of movable or immovable property, where the Communities make, for their official use, substantial purchases the price of which includes taxes of this kind. These provisions shall not be applied, however, so as to have the effect of distorting competition within the Communities.

No exemption shall be granted in respect of taxes and dues which amount merely to charges for public utility services.

Article 4

The Communities shall be exempt from all customs duties, prohibitions and restrictions on imports and exports in respect of articles intended for their official use; articles so imported shall not be disposed of, whether or not in return for payment, in the territory of the country into which they have been imported, except under conditions approved by the government of that country.

The Communities shall also be exempt from any customs duties and any prohibitions and restrictions on import and exports in respect of their publications.

Article 5

The European Coal and Steel Community may hold currency of any kind and operate accounts in any currency.

CHAPTER II

COMMUNICATIONS AND LAISSEZ-PASSER*Article 6*

For their official communications and the transmission of all their documents, the institutions of the Communities shall enjoy in the territory of each Member State the treatment accorded by that State to diplomatic missions.

Official correspondence and other official communications of the institutions of the Communities shall not be subject to censorship.

Article 7

1. *Laissez-passer* in a form to be prescribed by the Council, which shall be recognized as valid travel documents by the authorities of the Member States, may be issued to members and servants of the institutions of the Communities by the Presidents of these institutions. These *laissez-passer* shall be issued to officials and other servants under conditions laid down in the Staff Regulations of officials and the Conditions of Employment of other servants of the Communities.

The Commission may conclude agreements for these *laissez-passer* to be recognised as valid travel documents within the territory of non-member countries.

2. The provisions of Article 6 of the Protocol on the Privileges and Immunities of the European Coal and Steel Community shall, however, remain applicable to members and servants of the institutions who are at the date of entry into force of this Treaty in possession of the *laissez-passer* provided for in that Article, until the provisions of paragraph 1 of this Article are applied.

CHAPTER III

MEMBERS OF THE EUROPEAN PARLIAMENT*Article 8*

No administrative or other restriction shall be imposed on the free movement of Members of the European Parliament travelling to or from the place of meeting of the European Parliament.

Members of the European Parliament shall, in respect of customs and exchange control, be accorded:

- (a) by their own government, the same facilities as those accorded to senior officials travelling abroad on temporary official missions;
- (b) by the governments of other Member States, the same facilities as those accorded to representatives of foreign governments on temporary official missions.

Article 9

Members of the European Parliament shall not be subject to any form of inquiry, detention or legal proceedings in respect of opinions expressed or votes cast by them in the performance of their duties.

Article 10

During the sessions of the European Parliament, its Members shall enjoy:

- (a) in the territory of their own State, the immunities accorded to members of their parliament;
- (b) in the territory of any other Member State, immunity from any measure of detention and from legal proceedings.

Immunity shall likewise apply to Members while they are travelling to and from the place of meeting of the European Parliament.

Immunity cannot be claimed when a Member is found in the act of committing an offence and shall not prevent the European Parliament from exercising its right to waive the immunity of one of its Members.

CHAPTER IV

REPRESENTATIVES OF MEMBER STATES TAKING PART IN THE WORK OF THE INSTITUTIONS OF THE EUROPEAN COMMUNITIES*Article 11*

Representatives of Member States taking part in the work of the institutions of the Communities, their advisers and technical experts shall, in the performance of their duties and during their travel to and from the place of meeting, enjoy the customary privileges, immunities and facilities.

This Article shall also apply to members of the advisory bodies of the Communities.

CHAPTER V

OFFICIALS AND OTHER SERVANTS OF THE EUROPEAN COMMUNITIES

Article 12

In the territory of each Member State and whatever their nationality, officials and other servants of the Communities shall:

- (a) subject to the provisions of the Treaties relating, on the one hand, to the rules on the liability of officials and other servants towards the Communities and, on the other hand, to the jurisdiction of the Court in disputes between the Communities and their officials and other servants, be immune from legal proceedings in respect of acts performed by them in their official capacity, including their words spoken or written. After they have ceased to hold office, they shall continue to enjoy this immunity;
- (b) together with their spouses and dependent members of their families, not be subject to immigration restrictions or to formalities for the registration of aliens;
- (c) in respect of currency or exchange regulations, be accorded the same facilities as are customarily accorded to officials of international organisations;
- (d) enjoy the right to import free of duty their furniture and effects at the time of first taking up their post in the country concerned, and the right to re-export free of duty their furniture and effects, on termination of their duties in that country, subject in either case to the conditions considered to be necessary by the government of the country in which this right is exercised;
- (e) have the right to import free of duty a motor car for their personal use, acquired either in the country of their last residence or in the country of which they are nationals on the terms ruling in the home market in that country, and to re-export it free of duty, subject in either case to the conditions considered to be necessary by the government of the country concerned.

Article 13

Officials and other servants of the Communities shall be liable to a tax for the benefit of the Communities on salaries, wages and emoluments paid to them by the Communities, in accordance with the conditions and procedure laid down by the Council, acting on a proposal from the Commission.

They shall be exempt from national taxes on salaries, wages and emoluments paid by the Communities.

Article 14

In the application of income tax, wealth tax and death duties and in the application of conventions on the avoidance of double taxation concluded between Member States of the Communities, officials and other servants of the Communities who, solely by reason of the performance of their duties in the service of the Communities, establish their residence in the territory of a Member State other than their country of domicile for tax purposes at the time of entering the service of the Communities, shall be considered, both in the country of their actual residence and in the country of domicile for tax purposes, as having maintained their domicile in the latter country provided that it is a member of the Communities. This provision shall also apply to a spouse, to the extent that the latter is not separately engaged in a gainful occupation, and to children dependent on and in the care of the persons referred to in this Article.

Movable property belonging to persons referred to in the preceding paragraph and situated in the territory of the country where they are staying shall be exempt from death duties in that country; such property shall, for the assessment of such duty, be considered as being in the country of domicile for tax purposes, subject to the rights of third countries and to the possible application of provisions of international conventions on double taxation.

Any domicile acquired solely by reason of the performance of duties in the service of other international organisations shall not be taken into consideration in applying the provisions of this Article.

Article 15

The Council shall, acting unanimously on a proposal from the Commission, lay down the scheme of social security benefits for officials and other servants of the Communities.

Article 16

The Council shall, acting on a proposal from the Commission and after consulting the other institutions concerned, determine the categories of officials and other servants of the Communities to whom the provisions of Article 12, the second paragraph of Article 13, and Article 14 shall apply, in whole or in part.

The names, grades and addresses of officials and other servants included in such categories shall be communicated periodically to the governments of the Member States.

CHAPTER VI

PRIVILEGES AND IMMUNITIES OF MISSIONS OF THIRD COUNTRIES ACCREDITED TO THE EUROPEAN COMMUNITIES

Article 17

The Member State in whose territory the Communities have their seat shall accord the customary diplomatic immunities and privileges to missions of third countries accredited to the Communities.

CHAPTER VII

GENERAL PROVISIONS

Article 18

Privileges, immunities and facilities shall be accorded to officials and other servants of the Communities solely in the interests of the Communities.

Each institution of the Communities shall be required to waive the immunity accorded to an official or other servant wherever that institution considers that the waiver of such immunity is not contrary to the interests of the Communities.

Article 19

The institutions of the Communities shall, for the purpose of applying this Protocol, cooperate with the responsible authorities of the Member States concerned.

Article 20

Articles 12 to 15 and Article 18 shall apply to Members of the Commission.

Article 21

Articles 12 to 15 and Article 18 shall apply to the Judges, the Advocates General, the Registrar and the Assistant Rapporteurs of the Court of Justice, without prejudice to the provisions of Article 3 of the Protocols on the Statute of the Court of Justice concerning immunity from legal proceedings of Judges and Advocates General.

Article 22

This Protocol shall also apply to the European Investment Bank, to the members of its organs, to its staff and to the representatives of the Member States taking part in its activities, without prejudice to the provisions of the Protocol on the Statute of the Bank.

The European Investment Bank shall in addition be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the Bank has its seat. Similarly, its dissolution or liquidation shall not give rise to any imposition. Finally, the activities of the Bank and of its organs carried on in accordance with its Statute shall not be subject to any turnover tax.

Article 23

This Protocol shall also apply to the European Central Bank, to the members of its organs and to its staff, without prejudice to the provisions of the Protocol on the Statute of the European System of Central Banks and the European Central Bank.

The European Investment Bank shall in addition be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the Bank has its seat. The activities of the Bank and of its organs carried on in accordance with the Statute of the European System of Central Banks and of the European Central Bank shall not be subject to any turnover tax.

The above provisions shall also apply to the European Monetary Institute. Similarly, its dissolution or liquidation shall not give rise to any imposition.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this Protocol.

Done at Brussels this eighth day of April in the year one thousand nine hundred and sixty-five.

*Appendix to ANNEX A***PROCEDURES FOR THE APPLICATION IN SWITZERLAND OF THE PROTOCOL ON PRIVILEGES AND IMMUNITIES OF THE EUROPEAN COMMUNITIES****1. Extension of application to Switzerland**

Wherever the Protocol on the privileges and immunities of the European Communities (hereinafter called the Protocol) contains references to Member States, the references are to be understood to apply equally to Switzerland, unless the following provisions determine otherwise.

2. Exemption of the Agency from indirect taxation (including VAT)

Goods and services exported from Switzerland are not to be subject to Swiss value added tax (VAT). In the case of goods and services provided to the Agency in Switzerland for its official use, in accordance with the second paragraph of Article 3 of the Protocol, exemption from VAT is by way of refund. Exemption from VAT shall be granted if the actual purchase price of the goods and services mentioned in the invoice or equivalent document totals at least 100 Swiss francs (inclusive of tax).

The VAT refund is to be granted on presentation to the Federal Tax Administration's VAT Main Division of the Swiss forms provided for the purpose. As a rule, refund applications must be processed within the three months following the date on which they were lodged together with the necessary supporting documents.

3. Procedures for the application of the rules relating to the Agency's staff

As regards the second paragraph of Article 13 of the Protocol, Switzerland shall exempt, according to the principles of its national law, officials and other servants of the Agency within the meaning of Article 2 of Regulation (Euratom, ECSC, EEC) No 549/69 ⁽¹⁾ from federal, cantonal and communal taxes on salaries, wages and emoluments paid to them by the Community and subject to an internal tax for its own benefit.

Switzerland shall not be considered as a Member State within the meaning of point 1 above for the application of Article 14 of the Protocol.

Officials and other servants of the Agency and members of their families who are members of the social insurance system applicable to officials and other servants of the Community are not obliged to be members of the Swiss social security system.

The Court of Justice of the European Communities shall have exclusive jurisdiction in any matters concerning relations between the Agency or the Commission and its staff with regard to the application of Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽²⁾ and the other provisions of Community law laying down working conditions.

⁽¹⁾ Regulation (Euratom, ECSC, EEC) No 549/69 of the Council of 25 March 1969 determining the categories of officials and other servants of the European Communities to whom the provisions of Article 12, the second paragraph of Article 13 and Article 14 of the Protocol on the Privileges and Immunities of the Communities apply (OJ L 74, 27.3.1969, p. 1).

⁽²⁾ Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (Conditions of Employment of Other Servants) (OJ L 56, 4.3.1968, p. 1).

ANNEX B

FINANCIAL CONTROL AS REGARDS SWISS PARTICIPANTS IN ACTIVITIES OF THE EUROPEAN AVIATION AGREEMENT*Article 1***Direct communication**

The Agency and the Commission shall communicate directly with all persons or entities established in Switzerland and participating in activities of the Agency, as contractors, participants in Agency programmes, recipients of payments from the Agency or the Community budget, or subcontractors. Such persons may send directly to the Commission and to the Agency all relevant information and documentation which they are required to submit on the basis of the instruments referred to in this Decision and of contracts or agreements concluded and any decisions taken pursuant to them.

*Article 2***Checks**

1. In accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾ and the Financial Regulation adopted by the Management Board of the Agency on 26 March 2003, with Commission Regulation (EC, Euratom) No 2343/2002 of 23 December 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽²⁾ and with the other instruments referred to in this Decision, contracts or agreements concluded and decisions taken with beneficiaries established in Switzerland may provide for scientific, financial, technological or other audits to be conducted at any time on the premises of the beneficiaries and of their subcontractors by Agency and Commission officials or by other persons mandated by the Agency and the Commission.

2. Agency and Commission officials and other persons mandated by the Agency and the Commission shall have appropriate access to sites, works and documents and to all the information required in order to carry out such audits, including in electronic form. This right of access shall be stated explicitly in the contracts or agreements concluded to implement the instruments referred to in this Decision.

3. The Court of Auditors of the European Communities is to have the same rights as the Commission.

4. The audits may take place until five years after the expiry of this Decision or under the terms of the contracts or agreements concluded and the decisions taken.

5. The Swiss Federal Audit Office is to be informed in advance of audits conducted on Swiss territory. This information will not be a legal condition for carrying out such audits.

*Article 3***On-the-spot checks**

1. Under this Agreement, the Commission (OLAF) is authorised to carry out on-the-spot checks and inspections on Swiss territory, under the terms and conditions set out in Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities ⁽³⁾.

2. On-the-spot checks and inspections shall be prepared and conducted by the Commission in close cooperation with the Swiss Federal Audit Office or with other competent Swiss authorities appointed by the Swiss Federal Audit Office, which shall be notified in good time of the object, purpose and legal basis of the checks and inspections, so that they can provide all the requisite help. To that end, the officials of the competent Swiss authorities may participate in the on-the-spot checks and inspections.

3. If the Swiss competent authorities concerned so wish, the on-the-spot checks and inspections may be carried out jointly by the Commission and the Swiss competent authorities.

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.

⁽²⁾ OJ L 357, 31.12.2002, p. 72.

⁽³⁾ OJ L 292, 15.11.1996, p. 2.

4. Where the participants in the programme resist an on-the-spot check or inspection, the Swiss authorities, acting in accordance with national rules, shall give the Commission inspectors such assistance as they need to allow them to discharge their duty in carrying out an on-the-spot check or inspection.

5. The Commission shall report as soon as possible to the Swiss Federal Audit Office any fact or suspicion relating to an irregularity which has come to its notice in the course of the on-the-spot check or inspection. In any event the Commission is required to inform the aforementioned authority of the result of such checks and inspections.

Article 4

Information and consultation

1. For the purposes of proper implementation of this Annex, the competent Swiss and Community authorities shall exchange information regularly and, at the request of one of the Parties, shall conduct consultations.

2. The competent Swiss authorities shall inform the Agency and the Commission without delay of any fact or suspicion which has come to their notice relating to an irregularity in connection with the conclusion and implementation of the contracts or agreements concluded in application of the instruments referred to in this Decision.

Article 5

Confidentiality

Information communicated or acquired in any form whatsoever pursuant to this Annex will be covered by professional confidentiality and protected in the same way as similar information is protected by the national legislation of Switzerland and by the corresponding provisions applicable to the Community institutions. Such information shall not be communicated to persons other than those within the Community institutions, in the Member States, or in Switzerland whose functions require them to know it, nor may it be used for purposes other than to ensure effective protection of the financial interests of the Contracting Parties.

Article 6

Administrative measures and penalties

Without prejudice to application of Swiss criminal law, administrative measures and penalties may be imposed by the Agency or the Commission in accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 and Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 and with Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests⁽¹⁾.

Article 7

Recovery and enforcement

Decisions taken by the Agency or the Commission within the scope of this Decision which impose a pecuniary obligation on persons other than States shall be enforceable in Switzerland.

The enforcement order must be issued, without any further control than verification of the authenticity of the act, by the authority designated by the Swiss government, which must inform the Agency or the Commission thereof. Enforcement must take place in accordance with the Swiss rules of procedure. The legality of the enforcement decision is subject to control by the Court of Justice of the European Communities.

Judgments given by the Court of Justice of the European Communities pursuant to an arbitration clause are enforceable on the same terms.

⁽¹⁾ OJ L 312, 23.12.1995, p. 1.

III

(Acts adopted under the EU Treaty)

ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

COUNCIL COMMON POSITION 2009/116/CFSP

of 10 February 2009

extending and amending Common Position 2004/133/CFSP on restrictive measures against extremists in the former Yugoslav Republic of Macedonia (FYROM)

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS COMMON POSITION:

Article 1

Having regard to the Treaty on European Union, and in particular Article 15 thereof,

Common Position 2004/133/CFSP is hereby extended until 10 July 2009.

Article 2

Whereas:

The Annex to Common Position 2004/133/CFSP shall be replaced by the text in the Annex to this Common Position.

Article 3

(1) On 10 February 2004, the Council adopted Common Position 2004/133/CFSP on restrictive measures against extremists in the former Yugoslav Republic of Macedonia (FYROM) ⁽¹⁾.

This Common Position shall apply from 10 February 2009.

Article 4

(2) Common Position 2004/133/CFSP was extended until 10 February 2009 by Common Position 2008/104/CFSP ⁽²⁾.

This Common Position shall be published in the *Official Journal of the European Union*.

Done at Brussels, 10 February 2009.

(3) Following a review of Common Position 2004/133/CFSP, it is considered appropriate to extend its application for a further period of five months, as well as to remove certain persons from the list in the Annex thereto,

For the Council
The President
M. KALOUSEK

⁽¹⁾ OJ L 39, 11.2.2004, p. 19.

⁽²⁾ OJ L 36, 9.2.2008, p. 16.

ANNEX

'List of persons referred to in Article 1

Name:	ADILI, Gafur
Aka:	Valdet Vardari
Date of birth:	5.1.1959
Place of birth/origin:	Harandjell (Kičevo), the former Yugoslav Republic of Macedonia
Name:	AHMET, Hebib
Aka:	
Date of birth:	9.11.1981
Place of birth/origin:	Brodec, the former Yugoslav Republic of Macedonia
Name:	HALILI, Zaim
Aka:	
Date of birth:	18.9.1979
Place of birth/origin:	Vaksinice, the former Yugoslav Republic of Macedonia
Name:	HYSENI, Xhemail
Aka:	Xhimi Shea
Date of birth:	15.8.1958
Place of birth/origin:	Lojane (Lipkovo), the former Yugoslav Republic of Macedonia
Name:	JAKUPI, Avdil
Aka:	Cakalla
Date of birth:	20.4.1974
Place of birth/origin:	Tanuševci, the former Yugoslav Republic of Macedonia
Name:	KRASNIQI, Agim
Aka:	
Date of birth:	15.9.1979
Place of birth/origin:	Kondovo, the former Yugoslav Republic of Macedonia
Name:	LIMANI, Fatmir
Aka:	
Date of birth:	14.1.1973
Place of birth/origin:	Kičevo, the former Yugoslav Republic of Macedonia
Name:	MISIMI, Naser
Aka:	
Date of birth:	8.1.1959
Place of birth/origin:	Mala Rečica (Tetovo), the former Yugoslav Republic of Macedonia
Name:	REXHEPI, Daut
Aka:	Leka
Date of birth:	6.1.1966
Place of birth/origin:	Poroj, the former Yugoslav Republic of Macedonia
Name:	RUSHITI, Sait
Aka:	
Date of birth:	7.7.1966
Place of birth/origin:	Tetovo, the former Yugoslav Republic of Macedonia'

CORRIGENDA

Corrigendum to Council Regulation (EC) No 3/2008 of 17 December 2007 on information provision and promotion measures for agricultural products on the internal market and in third countries*(Official Journal of the European Union L 3 of 5 January 2008)*

On pages 8 and 9, in the Annex, Correlation table referred to in Article 19, the correlation table shall be replaced by the following tables:

'ANNEX

CORRELATION TABLE REFERRED TO IN ARTICLE 19**1. Regulation (EC) No 2702/1999**

Regulation (EC) No 2702/1999	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 3	Article 3(2)
Article 4	Article 4, last subparagraph
Article 5(1)	Article 4, first subparagraph
Article 5(2)	Article 5(2)
Article 6	Article 6(2)
Article 7(1) first subparagraph	Article 6(1)
Article 7(1), second subparagraph and (2)	Article 7(1)
Article 7(3)	Article 7(2)
Article 7(4) and (6)	Article 8
Article 7(5)	Article 11(2)
—	Article 9
Article 7(a)	Article 10
Article 8(1) and (2)	Article 11(1) and (3)
Article 8(3) and (4)	Article 12
Article 9(1) to (4)	Article 13(1) to (4)
—	Article 13(5)
Article 9(5)	Article 13(6)
Article 10	Article 14
Article 11	Article 15
Article 12	Article 16
Article 12a	Article 17
Article 13	Article 18
Article 14	Article 19
Article 15	Article 20

2. Regulation (EC) No 2826/2000

Regulation (EC) No 2826/2000	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 3	Article 3(1)
Article 4	Article 4, first subparagraph
Article 5	Article 5(1)
Article 6(1), first subparagraph	Article 6(1)
Article 6(1), second subparagraph and (2)	Article 7(1)
Article 6(3)	Article 7(2)
Article 6(4) and (6)	Article 8
Article 6(5)	Article 11(2)
Article 7	Article 9
Article 7a	Article 10
Article 8	Article 11(1)
Article 9	Article 13
Article 10(1)	Article 11(3)
Article 10(2) and (3)	Article 12
Article 11	Article 14
Article 12	Article 15
Article 13	Article 16
Article 13a	Article 17
Article 14	Article 18
Article 15	Article 19
Article 16	—
Article 17	Article 20'

NOTE TO THE READER

The institutions have decided no longer to quote in their texts the last amendment to cited acts.

Unless otherwise indicated, references to acts in the texts published here are to the version of those acts currently in force.