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Contents

[1] Text with EEA relevance

(Continued overleaf)

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

II *Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory*

EN

[1] Text with EEA relevance

I

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

REGULATIONS

COUNCIL REGULATION (EC) No 260/2009

of 26 February 2009

on the common rules for imports

(Codified version)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the instruments establishing the common organisation of agricultural markets and the instruments concerning processed agricultural products adopted in pursuance of Article 308 of the Treaty, in particular in so far as they provide for derogation from the general principle that quantitative restrictions or measures having equivalent effect may be replaced solely by the measures provided for in the said instruments,

Having regard to the proposal from the Commission,

Whereas:

(1) Council Regulation (EC) No 3285/94 of 22 December 1994 on the common rules for imports and repealing Regulation (EC) No 518/94 [1] has been substantially amended several times [2]. In the interests of clarity and rationality the said Regulation should be codified.

(2) The common commercial policy should be based on uniform principles.

(3) The Community has concluded the Agreement establishing the World Trade Organisation, hereinafter referred to as the 'WTO'. Annex 1A to that Agreement contains inter alia the General Agreement on Tariffs and Trade 1994 (GATT 1994) and an Agreement on Safeguards.

(4) The Agreement on Safeguards meets the need to clarify and reinforce the disciplines of GATT 1994, and specifically those of Article XIX. That Agreement requires the elimination of safeguard measures which escape those rules, such as voluntary export restraints, orderly marketing arrangements and any other similar import or export arrangements.

(5) The Agreement on Safeguards also covers coal and steel products. The common rules for imports, especially as regards safeguard measures, therefore also apply to those products without prejudice to any possible measures to apply an agreement specifically concerning coal and steel products.

(6) The textile products covered by Council Regulation (EC) No 517/94 of 7 March 1994 on common rules for imports of textile products from certain third countries not covered by bilateral agreements, protocols or other arrangements, or by other specific Community import rules [3] are subject to special treatment at Community and international level. They should therefore be excluded from the scope of this Regulation.

(7) The Commission should be informed by the Member States of any danger created by trends in imports which might call for Community surveillance or the application of safeguard measures.

(8) In such instances the Commission should examine the terms and conditions under which imports occur, the trend in imports, the various aspects of the economic and trade situations and, where appropriate, the measures to be applied.

[1] OJ L 349, 31.12.1994, p. 53.
[2] See Annex II.
[3] OJ L 67, 10.3.1994, p. 1.

(9) If prior Community surveillance is applied, release for free circulation of the products concerned should be made subject to presentation of a surveillance document meeting uniform criteria. That document should, on simple application by the importer, be issued by the authorities of the Member States within a certain period but without the importer thereby acquiring any right to import. The surveillance document should therefore be valid only during such period as the import rules remain unchanged.

(10) The Member States and the Commission should exchange the information resulting from Community surveillance as fully as possible.

(11) It falls to the Commission and the Council to adopt the safeguard measures required by the interests of the Community. Those interests should be considered as a whole and should in particular encompass the interests of Community producers, users and consumers.

(12) Safeguard measures against a member of the WTO may be considered only if the product in question is imported into the Community in such greatly increased quantities and on such terms or conditions as to cause, or threaten to cause, serious injury to Community producers of like or directly competing products, unless international obligations permit derogation from this rule.

(13) The terms 'serious injury', 'threat of serious injury' and 'Community producers' should be defined and precise criteria for determining injury should be established.

(14) An investigation should precede the application of any safeguard measure, subject to the reservation that the Commission be allowed in urgent cases to apply provisional measures.

(15) There should be detailed provisions on the opening of investigations, the checks and inspections required, access by exporter countries and interested parties to the information gathered, hearings for the parties involved and the opportunities for those parties to submit their views.

(16) The provisions on investigations introduced by this Regulation are without prejudice to Community or national rules concerning professional secrecy.

(17) It is also necessary to set time limits for the initiation of investigations and for determinations as to whether or not measures are appropriate, with a view to ensuring that such determinations are made quickly, in order to increase legal certainty for the economic operators concerned.

(18) In cases in which safeguard measures take the form of a quota the level of the latter should be set in principle no lower than the average level of imports over a representative period of at least three years.

(19) In cases in which a quota is allocated among supplier countries each country's quota may be determined by agreement with the countries themselves or by taking as a reference the level of imports over a representative period. Derogations from these rules should nevertheless be possible where there is serious injury and a disproportionate increase in imports, provided that due consultation under the auspices of the WTO Committee on Safeguards takes place.

(20) The maximum duration of safeguard measures should be determined and specific provisions regarding extension, progressive liberalisation and reviews of such measures be laid down.

(21) The circumstances in which products originating in a developing country which is a member of the WTO are to be exempt from safeguard measures should be established.

(22) Surveillance or safeguard measures confined to one or more regions of the Community may prove more suitable than measures applying to the whole Community. However, such measures should be authorised only exceptionally and where no alternative exists. It is necessary to ensure that such measures are temporary and cause the minimum of disruption to the operation of the internal market.

(23) In the interest of uniformity in rules for imports, the formalities to be carried out by importers should be simplified and made identical regardless of the place where the goods clear customs. It is therefore desirable to provide that any formalities should be carried out using forms corresponding to the specimen annexed to the Regulation.

(24) Surveillance documents issued in connection with Community surveillance measures should be valid throughout the Community irrespective of the Member State of issue,

HAS ADOPTED THIS REGULATION:

CHAPTER I

General principles

Article 1

1. This Regulation applies to imports of products originating in third countries, except for:

(a) textile products subject to specific import rules under Regulation (EC) No 517/94;

(b) the products originating in certain third countries listed in Council Regulation (EC) No 519/94 of 7 March 1994 on common rules for imports from certain third countries [1].

2. The products referred to in paragraph 1 shall be freely imported into the Community and accordingly, without prejudice to the safeguard measures which may be taken under Chapter V, shall not be subject to any quantitative restrictions.

CHAPTER II

Community information and consultation procedure

Article 2

Member States shall inform the Commission if trends in imports appear to call for surveillance or safeguard measures. This information shall contain the evidence available, as determined on the basis of the criteria laid down in Article 10. The Commission shall immediately pass this information on to all the Member States.

Article 3

1. Consultations may be held either at the request of a Member State or on the initiative of the Commission.

2. Consultations shall take place within eight working days of the Commission receiving the information provided for in Article 2 and, in any event, before the introduction of any Community surveillance or safeguard measure.

Article 4

1. Consultations shall take place within an Advisory Committee, hereinafter called 'the Committee', made up of representatives of each Member State with a representative of the Commission as chairman.

2. The Committee shall meet when convened by its chairman. He shall provide the Member States with all relevant information as promptly as possible.

3. Consultations shall cover in particular:

(a) terms and conditions of import, import trends and the various aspects of the economic and commercial situation with regard to the product in question;

(b) the measures, if any, to be taken.

4. Consultations may be conducted in writing if necessary. The Commission shall in this event inform the Member States, which may express their opinion or request oral consultations within a period of five to eight working days, to be decided by the Commission.

CHAPTER III

Community investigation procedure

Article 5

1. Without prejudice to Article 8, the Community investigation procedure shall be implemented before any safeguard measure is applied.

2. Using as a basis the factors referred to in Article 10, the investigation shall seek to determine whether imports of the product in question are causing or threatening to cause serious injury to the Community producers concerned.

3. The following definitions shall apply:

(a) 'serious injury' means a significant overall impairment in the position of Community producers;

(b) 'threat of serious injury' means serious injury that is clearly imminent;

(c) 'Community producers' means the producers as a whole of the like or directly competing products operating within the territory of the Community, or those whose collective output of the like or directly competing products constitutes a major proportion of the total Community production of those products.

Article 6

1. Where, after the consultations referred to in Articles 3 and 4, it is apparent to the Commission that there is sufficient evidence to justify the initiation of an investigation, the Commission shall initiate an investigation within one month of receipt of information from a Member State and publish a notice in the *Official Journal of the European Union*. This notice shall:

(a) give a summary of the information received, and require that all relevant information is to be communicated to the Commission;

[1] OJ L 67, 10.3.1994, p. 89.

(b) state the period within which interested parties may make known their views in writing and submit information, if such views and information are to be taken into account during the investigation;

(c) state the period within which interested parties may apply to be heard orally by the Commission in accordance with paragraph 4.

The Commission shall commence the investigation, acting in cooperation with the Member States.

2. The Commission shall seek all information it deems to be necessary and, where it considers it appropriate, after consulting the Committee, endeavour to check this information with importers, traders, agents, producers, trade associations and organisations.

The Commission shall be assisted in this task by staff of the Member State on whose territory these checks are being carried out, provided that Member State so wishes.

3. The Member States shall supply the Commission, at its request and following procedures laid down by it, with the information at their disposal on developments in the market of the product being investigated.

4. Interested parties which have come forward pursuant to the first subparagraph of paragraph 1 and representatives of the exporting country may, upon written request, inspect all information made available to the Commission in connection with the investigation other than internal documents prepared by the authorities of the Community or its Member States, provided that that information is relevant to the presentation of their case and not confidential within the meaning of Article 9 and that it is used by the Commission in the investigation.

Interested parties which have come forward may communicate their views on the information in question to the Commission. Those views may be taken into consideration where they are backed by sufficient evidence.

5. The Commission may hear the interested parties. Such parties must be heard where they have made a written application within the period laid down in the notice published in the *Official Journal of the European Union*, showing that they are actually likely to be affected by the outcome of the investigation and that there are special reasons for them to be heard orally.

6. When information is not supplied within the time limits set by this Regulation or by the Commission pursuant to this Regulation, or the investigation is significantly impeded, findings may be made on the basis of the facts available. Where the Commission finds that any interested party or third party has supplied it with false or misleading information, it shall disregard the information and may make use of facts available.

7. Where it appears to the Commission, after the consultations referred to in Articles 3 and 4, that there is insufficient evidence to justify an investigation, it shall inform the Member States of its decision within one month of receipt of the information from the Member States.

Article 7

1. At the end of the investigation, the Commission shall submit a report on the results to the Committee.

2. Where the Commission considers, within nine months of the initiation of the investigation, that no Community surveillance or safeguard measures are necessary, the investigation shall be terminated within a month, the Committee having first been consulted.

The decision to terminate the investigation, stating the main conclusions of the investigation and a summary of the reasons therefore, shall be published in the *Official Journal of the European Union*.

3. If the Commission considers that Community surveillance or safeguard measures are necessary, it shall take the necessary decisions in accordance with Chapters IV and V, no later than nine months from the initiation of the investigation. In exceptional circumstances, this time limit may be extended by a further maximum period of two months; the Commission shall then publish a notice in the *Official Journal of the European Union* setting forth the duration of the extension and a summary of the reasons therefore.

Article 8

1. The provisions of this Chapter shall not preclude the use, at any time, of surveillance measures in accordance with Articles 11 to 15 or provisional safeguard measures in accordance with Articles 16, 17 and 18.

Provisional safeguard measures shall be applied:

(a) in critical circumstances where delay would cause damage which would be difficult to repair, making immediate action necessary; and

(b) where a preliminary determination provides clear evidence that increased imports have caused or are threatening to cause serious injury.

The duration of such measures shall not exceed 200 days.

2. Provisional safeguard measures shall take the form of an increase in the existing level of customs duty, whether the latter is zero or higher, if such action is likely to prevent or repair the serious injury.

3. The Commission shall immediately conduct whatever investigation measures are still necessary.

4. Should the provisional safeguard measures be repealed because no serious injury or threat of serious injury exists, the customs duties collected as a result of the provisional measures shall be automatically refunded as soon as possible. The procedure laid down in Article 235 et seq. of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code [1] shall apply.

Article 9

1. Information received pursuant to this Regulation shall be used only for the purpose for which it was requested.

2. Neither the Council, nor the Commission, nor the Member States, nor the officials of any of these shall reveal any information of a confidential nature received pursuant to this Regulation, or any information provided on a confidential basis without specific permission from the supplier of such information.

3. Each request for confidentiality shall state the reasons why the information is confidential.

However, if it appears that a request for confidentiality is unjustified and if the supplier of the information wishes neither to make it public nor to authorise its disclosure in general terms or in the form of a summary, the information concerned may be disregarded.

4. Information shall in any case be considered to be confidential if its disclosure is likely to have a significantly adverse effect upon the supplier or the source of such information.

5. Paragraphs 1 to 4 shall not preclude reference by the Community authorities to general information and in particular to reasons on which decisions taken pursuant to this Regulation are based. Those authorities shall, however, take into account the legitimate interest of legal and natural persons concerned that their business secrets should not be divulged.

[1] OJ L 302, 19.10.1992, p. 1.

Article 10

1. Examination of the trend in imports, of the conditions in which they take place and of serious injury or threat of serious injury to Community producers resulting from such imports shall cover in particular the following factors:

(a) the volume of imports, in particular where there has been a significant increase, either in absolute terms or relative to production or consumption in the Community;

(b) the price of imports, in particular where there has been a significant price undercutting as compared with the price of a like product in the Community;

(c) the consequent impact on Community producers as indicated by trends in certain economic factors such as:

— production,

— capacity utilisation,

— stocks,

— sales,

— market share,

— prices (i.e. depression of prices or prevention of price increases which would normally have occurred),

— profits,

— return on capital employed,

— cash flow,

— employment;

(d) factors other than trends in imports which are causing or may have caused injury to the Community producers concerned.

2. Where a threat of serious injury is alleged, the Commission shall also examine whether it is clearly foreseeable that a particular situation is likely to develop into actual injury.

In this regard account may be taken of factors such as:

(a) the rate of increase of the exports to the Community;

(b) export capacity in the country of origin or export, as it stands or is likely to be in the foreseeable future, and the likelihood that that capacity will be used to export to the Community.

CHAPTER IV

Surveillance

Article 11

1. Where the trend in imports of a product originating in a third country covered by this Regulation threatens to cause injury to Community producers, and where the interests of the Community so require, import of that product may be subject, as appropriate, to:

(a) retrospective Community surveillance carried out in accordance with the provisions laid down in the decision referred to in paragraph 2;

(b) prior Community surveillance carried out in accordance with Article 12.

2. The decision to impose surveillance shall be taken by the Commission according to the procedure laid down in the second subparagraph of Article 16(6) and Article 16(7).

3. The surveillance measures shall have a limited period of validity. Unless otherwise provided, they shall cease to be valid at the end of the second six-month period following the six months in which the measures were introduced.

Article 12

1. Products under prior Community surveillance may be put into free circulation only on production of a surveillance document. Such document shall be issued by the competent authority designated by Member States, free of charge, for any quantity requested and within a maximum of five working days of receipt by the national competent authority of an application by any Community importer, regardless of his place of business in the Community. This application shall be deemed to have been received by the national competent authority no later than three working days after submission, unless it is proved otherwise.

2. The surveillance document shall be made out on a form corresponding to the model in Annex I.

Except where the decision to impose surveillance provides otherwise, the importer's application for surveillance documents shall contain only the following:

(a) the full name and address of the applicant (including telephone and fax numbers and any number identifying the applicant to the competent national authority), plus the applicant's VAT registration number if he is liable for VAT;

(b) where appropriate, the full name and address of the declarant or of any representative appointed by the applicant (including telephone and fax numbers);

(c) a description of the goods giving:

— their trade name,

— their combined nomenclature code,

— their place of origin and place of consignment;

(d) the quantity declared, in kilograms and, where appropriate, any other additional unit (pairs, items, etc.);

(e) the value of the goods, cif at Community frontier, in euro;

(f) the following statement, dated and signed by the applicant, with the applicant's name spelt out in capital letters:

'I, the undersigned, certify that the information provided in this application is true and given in good faith, and that I am established in the Community.'

3. The surveillance document shall be valid throughout the Community, regardless of the Member State of issue.

4. A finding that the unit price at which the transaction is effected exceeds that indicated in the surveillance document by less than 5 % or that the total value or quantity of the products presented for import exceeds the value or quantity given in the surveillance document by less than 5 % shall not preclude the release for free circulation of the product in question. The Commission, having heard the opinions expressed in the Committee and taking account of the nature of the products and other special features of the transactions concerned, may fix a different percentage, which, however, should not normally exceed 10 %.

5. Surveillance documents may be used only for such time as arrangements for liberalisation of imports remain in force in respect of the transactions concerned. Such surveillance documents may not in any event be used beyond the expiry of a period which shall be laid down at the same time and by means of the same procedure as the imposition of surveillance, and shall take account of the nature of the products and other special features of the transactions.

6. Where the decision taken pursuant to Article 11 so requires, the origin of products under Community surveillance must be proved by a certificate of origin. This paragraph shall not affect other provisions concerning the production of any such certificate.

7. Where the product under prior Community surveillance is subject to regional safeguard measures in a Member State, the import authorisation granted by that Member State may replace the surveillance document.

8. Surveillance document forms and extracts thereof shall be drawn up in duplicate, one copy, marked 'Holder's copy' and bearing the number 1, to be issued to the applicant, and the other, marked 'Copy for the competent authority' and bearing the number 2, to be kept by the authority issuing the document. For administrative purposes the competent authority may add supplementary copies to form 2.

9. Forms shall be printed on white paper free of mechanical pulp, dressed for writing and weighing between 55 g and 65 g per square metre. Their size shall be 210 mm × 297 mm; the type space between the lines shall be 4,24 mm (one sixth of an inch); the layout of the forms shall be followed precisely. Both sides of copy No 1, which is the surveillance document itself, shall in addition have a yellow printed guilloche pattern background so as to reveal any falsification by mechanical or chemical means.

10. Member States shall be responsible for having the forms printed. The forms may also be printed by printers appointed by the Member State in which they are established. In the latter case, reference to the appointment by the Member State must appear on each form. Each form shall bear an indication of the printer's name and address or a mark enabling the printer to be identified.

Article 13

Where import of a product has not been made subject to prior Community surveillance within eight working days of the end of the consultations referred to in Articles 3 and 4, the Commission, in accordance with Article 18, may introduce surveillance confined to imports into one or more regions of the Community.

Article 14

1. Products under regional surveillance may be put into free circulation in the region concerned only on production of a surveillance document. Such document shall be issued by the competent authority designated by the Member State(s) concerned, free of charge, for any quantity requested and within a maximum of five working days of receipt by the national competent authority of an application by any Community importer, regardless of his place of business in the Community. This application shall be deemed to have been received by the national competent authority no later than three working days after submission, unless it is proved otherwise. Surveillance documents may be used only for such time as arrangements for imports remain liberalised in respect of the transactions concerned.

2. Article 12(2) shall apply.

Article 15

1. Member States shall communicate to the Commission within the first 10 days of each month in the case of Community or regional surveillance:

(a) in the case of prior surveillance, details of the sums of money (calculated on the basis of cif prices) and quantities of goods in respect of which surveillance documents were issued during the preceding period;

(b) in every case, details of imports during the period preceding the period referred to in point (a).

The information supplied by Member States shall be broken down by product and by country.

Different provisions may be laid down at the same time and by the same procedure as the surveillance arrangements.

2. Where the nature of the products or special circumstances so require, the Commission may, at the request of a Member State or on its own initiative, amend the timetables for submitting this information.

3. The Commission shall inform the Member States accordingly.

CHAPTER V

Safeguard measures

Article 16

1. Where a product is imported into the Community in such greatly increased quantities and/or on such terms or conditions as to cause, or threaten to cause, serious injury to Community producers, the Commission, in order to safeguard the interests of the Community, may, acting at the request of a Member State or on its own initiative:

(a) limit the period of validity of surveillance documents within the meaning of Article 12 to be issued after the entry into force of this measure;

(b) alter the import rules for the product in question by making its release for free circulation conditional on production of an import authorisation, the granting of which shall be governed by such provisions and subject to such limits as the Commission shall lay down.

The measures referred to in (a) and (b) shall take effect immediately.

2. As regards members of the WTO, the measures referred to in paragraph 1 shall be taken only when the two conditions indicated in the first subparagraph of that paragraph are met.

3. If establishing a quota, account shall be taken in particular of:

(a) the desirability of maintaining, as far as possible, traditional trade flows;

(b) the volume of goods exported under contracts concluded on normal terms and conditions before the entry into force of a safeguard measure within the meaning of this Chapter, where such contracts have been notified to the Commission by the Member State concerned;

(c) the need to avoid jeopardising achievement of the aim pursued in establishing the quota.

Any quota shall not be set lower than the average level of imports over the last three representative years for which statistics are available unless a different level is necessary to prevent or remedy serious injury.

4. In cases in which a quota is allocated among supplier countries, allocation may be agreed with those of them having a substantial interest in supplying the product concerned for import into the Community.

Failing this, the quota shall be allocated among the supplier countries in proportion to their share of imports into the Community of the product concerned during a previous representative period, due account being taken of any specific factors which may have affected or may be affecting the trade in the product.

Provided that its obligation to see that consultations are conducted under the auspices of the WTO Committee on Safeguards is not disregarded, the Community may nevertheless depart from this method of allocation in the case of serious injury if imports originating in one or more supplier countries have increased in disproportionate percentage in relation to the total increase of imports of the product concerned over a previous representative period.

5. The measures referred to in this Article shall apply to every product which is put into free circulation after their entry into force. In accordance with Article 18 they may be confined to one or more regions of the Community.

However, such measures shall not prevent the release for free circulation of products already on their way to the Community provided that the destination of such products cannot be changed and that those products which, pursuant to Articles 11 and 12, may be put into free circulation only on production of a surveillance document are in fact accompanied by such a document.

6. Where intervention by the Commission has been requested by a Member State, the Commission shall take a decision within a maximum of five working days of receipt of such a request.

Any decision taken by the Commission pursuant to this Article shall be communicated to the Council and to the Member States. Any Member State may, within one month following the day of such communication, refer the decision to the Council.

7. If a Member State refers the Commission's decision to the Council, the Council, acting by a qualified majority, may confirm, amend or revoke that decision.

If, within three months of the referral of the matter to the Council, the Council has not taken a decision, the decision taken by the Commission shall be deemed revoked.

Article 17

Where the interests of the Community so require, the Council, acting by a qualified majority on a proposal from the Commission drawn up in accordance with the terms of Chapter III, may adopt appropriate measures to prevent a product being imported into the Community in such greatly increased quantities and/or on such terms or conditions as to cause, or threaten to cause, serious injury to Community producers of like or directly competing products.

Article 16(2) to (5) shall apply.

Article 18

Where it emerges, primarily on the basis of the factors referred to in Article 10, that the conditions laid down for the adoption of measures pursuant to Articles 11 and 16 are met in one or more regions of the Community, the Commission, after having examined alternative solutions, may exceptionally authorise the application of surveillance or safeguard measures limited to the region(s) concerned if it considers that such measures applied at that level are more appropriate than measures applied throughout the Community.

These measures must be temporary and must disrupt the operation of the internal market as little as possible.

The measures shall be adopted in accordance with the provisions laid down in Articles 11 and 16.

Article 19

No safeguard measure may be applied to a product originating in a developing country member of the WTO as long as that country's share of Community imports of the product concerned does not exceed 3 %, provided that developing country members of the WTO with less than a 3 % import share collectively account for not more than 9 % of total Community imports of the product concerned.

Article 20

1. The duration of safeguard measures must be limited to the period of time necessary to prevent or remedy serious injury and to facilitate adjustment on the part of Community producers. The period must not exceed four years, including the duration of any provisional measure.

2. Such initial period may be extended, except in the case of the measures referred to in the third subparagraph of Article 16(4) provided it is determined that:

(a) the safeguard measure continues to be necessary to prevent or remedy serious injury;

(b) there is evidence that Community producers are adjusting.

3. Extensions shall be adopted in accordance with the terms of Chapter III and using the same procedures as the initial measures. A measure so extended shall not be more restrictive than it was at the end of the initial period.

4. If the duration of the measure exceeds one year, the measure must be progressively liberalised at regular intervals during the period of application, including the period of extension.

5. The total period of application of a safeguard measure, including the period of application of any provisional measures, the initial period of application and any prorogation thereof, may not exceed eight years.

Article 21

1. While any surveillance or safeguard measure applied in accordance with Chapters IV and V is in operation, consultations shall be held within the Committee, either at the request of a Member State or on the initiative of the Commission. If the duration of a safeguard measure exceeds three years, the Commission shall seek such consultations no later than the mid-point of the period of application of that measure. The purpose of such consultations shall be:

(a) to examine the effects of the measure;

(b) to determine whether and in what manner it is appropriate to accelerate the pace of liberalisation;

(c) to ascertain whether application of the measure is still necessary.

2. Where, as a result of the consultations referred to in paragraph 1, the Commission considers that any surveillance or safeguard measure referred to in Articles 11, 13, 16, 17 and 18 should be revoked or amended, it shall proceed as follows:

(a) where the measure was enacted by the Council, the Commission shall propose to the Council that it be revoked or amended. The Council shall act by a qualified majority;

(b) in all other cases, the Commission shall amend or revoke Community safeguard and surveillance measures.

Where the decision relates to regional surveillance measures, it shall apply from the sixth day following its publication in the *Official Journal of the European Union*.

Article 22

1. Where imports of a product have already been subject to a safeguard measure, no further measure shall be applied to that product until a period equal to the duration of the previous measure has elapsed. Such period shall not be less than two years.

2. Notwithstanding paragraph 1, a safeguard measure of 180 days or less may be re-imposed for a product if:

(a) at least one year has elapsed since the date of introduction of a safeguard measure on the import of that product; and

(b) such a safeguard measure has not been applied to the same product more than twice in the five-year period immediately preceding the date of introduction of the measure.

CHAPTER VI

Final provisions

Article 23

Where the interests of the Community so require, the Council, acting by a qualified majority on a proposal from the Commission, may adopt appropriate measures to allow the rights and obligations of the Community or of all its Member States, in particular those relating to trade in commodities, to be exercised and fulfilled at international level.

Article 24

1. This Regulation shall not preclude the fulfilment of obligations arising from special rules contained in agreements concluded between the Community and third countries.

2. Without prejudice to other Community provisions, this Regulation shall not preclude the adoption or application by Member States:

(a) of prohibitions, quantitative restrictions or surveillance measures on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants, the protection of national treasures possessing artistic, historic or archaeological value, or the protection of industrial and commercial property;

(b) of special formalities concerning foreign exchange;

(c) of formalities introduced pursuant to international agreements in accordance with the Treaty.

The Member States shall inform the Commission of the measures or formalities they intend to introduce or amend in accordance with the first subparagraph.

In the event of extreme urgency, the national measures or formalities in question shall be communicated to the Commission immediately upon their adoption.

Article 25

1. This Regulation shall be without prejudice to the operation of the instruments establishing the common organisation of agricultural markets or of Community or national administrative provisions derived therefrom or of the specific instruments applicable to goods resulting from the processing of agricultural products. It shall operate by way of complement to those instruments.

2. In the case of products covered by the instruments referred to in paragraph 1, Articles 11 to 15 and Article 22 shall not apply to those in respect of which the Community rules on trade with third countries require the production of a licence or other import document.

Articles 16, 18 and 21 to 24 shall not apply to those products in respect of which such rules provide for the application of quantitative import restrictions.

Article 26

Regulation (EC) No 3285/94, as amended by the acts listed in Annex II, is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex III.

Article 27

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

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

Done at Brussels, 26 February 2009.

For the Council
The President
I. LANGER

ANNEX I

EUROPEAN COMMUNITY **SURVEILLANCE DOCUMENT**

Holder's copy

1

1. **Consignee**
(name, full address, country, VAT number)

2. **Issue number**

3. **Proposed place and date of import**

4. **Authority responsible for issue**
(name, address and telephone No)

5. **Declarant/representative as applicable**
(name and full address)

6. **Country of origin**
(and geonomenclature code)

7. **Country of consignment**
(and geonomenclature code)

8. **Last day of validity**

1

9. **Description of goods**

10. **CN code and category**

11. **Quantity in kilograms (net mass) or in additional sets**

12. **Value in euro, cif at Community frontier**

13. **Additional remarks**

14. **Competent authority's endorsement**

Date: .....

Signature: ..... (Stamp)

15. **ATTRIBUTIONS** Indicate the quantity available in part 1 of column 17 and the quantity attributed in part 2 thereof			
16. **Net quantity** (net mass or other unit of measure stating the unit)		19. **Customs document** (form and number) **or extract No and date of attribution**	20. **Name, Member State, stamp and signature of the attributing authority**
17. **In figures**	18. **In words for the quantity attributed**		
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Extension pages to be attached hereto.

EUROPEAN COMMUNITY **SURVEILLANCE DOCUMENT**

2

Copy for the competent authority

1. **Consignee**
(name, full address, country, VAT number)

2. **Issue number**

3. **Proposed place and date of import**

4. **Authority responsible for issue**
(name, address and telephone No)

5. **Declarant/representative as applicable**
(name and full address)

6. **Country of origin**
(and geonomenclature code)

7. **Country of consignment**
(and geonomenclature code)

8. **Last day of validity**

2

9. **Description of goods**

10. **CN code and category**

11. **Quantity in kilograms (net mass) or in additional sets**

12. **Value in euro, cif at Community frontier**

13. **Additional remarks**

14. **Competent authority's endorsement**

Date: .....

Signature: ..... (Stamp)

15. **ATTRIBUTIONS** Indicate the quantity available in part 1 of column 17 and the quantity attributed in part 2 thereof			
16. **Net quantity** (net mass or other unit of measure stating the unit)		19. **Customs document** (form and number) **or extract No and date of attribution**	20. **Name, Member State, stamp and signature of the attributing authority**
17. **In figures**	18. **In words for the quantity attributed**		
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ANNEX II

Repealed Regulation with list of its successive amendments

(referred to in Article 26)

Council Regulation (EC) No 3285/94 (OJ L 349, 31.12.1994, p. 53)	
Council Regulation (EC) No 139/96 (OJ L 21, 27.1.1996, p. 7)	Only Article 1 and Annex I
Council Regulation (EC) No 2315/96 (OJ L 314, 4.12.1996, p. 1)	Only Article 1(3) and Annex III
Council Regulation (EC) No 2474/2000 (OJ L 286, 11.11.2000, p. 1)	Only Article 1(3) and Annex III
Council Regulation (EC) No 2200/2004 (OJ L 374, 22.12.2004, p. 1)	Only Article 2

ANNEX III

CORRELATION TABLE

Regulation (EC) No 3285/94	This Regulation
Title I	Chapter I
Article 1	Article 1
Title II	Chapter II
Articles 2, 3 and 4	Articles 2, 3 and 4
Title III	Chapter III
Article 5	Article 5
Article 6(1) introductory wording	Article 6(1), first subparagraph, introductory sentence, initial wording
Article 6(1)(a)	Article 6(1), first subparagraph, introductory sentence, final wording and points (a), (b) and (c)
Article 6(1)(b)	Article 6(1) second subparagraph
Article 6(2) first and second subparagraphs	Article 6(2) first and second subparagraphs
Article 6(2) third and fourth subparagraphs	Article 6(4) first and second subparagraphs
Article 6(3)	Article 6(3)
Article 6(4)	Article 6(5)
Article 6(5)	Article 6(6)
Article 6(6)	Article 6(7)
Article 7(1)	Article 7(1)
Article 7(2) first sentence	Article 7(2) first subparagraph
Article 7(2) second sentence	Article 7(2) second subparagraph
Article 7(3)	Article 7(3)
Article 8(1) first subparagraph	Article 8(1) first subparagraph
Article 8(1) second subparagraph, introductory words	Article 8(1) second subparagraph, introductory words
Article 8(1) second subparagraph, first and second indents	Article 8(1) second subparagraph, points (a) and (b)
Article 8(2)	Article 8(1) third subparagraph
Article 8(3)	Article 8(2)
Article 8(4)	Article 8(3)
Article 8(5)	Article 8(4)
Article 9(1)	Article 9(1)
Article 9(2)(a)	Article 9(2)
Article 9(2)(b) first subparagraph	Article 9(3) first subparagraph
Article 9(2)(b) second subparagraph	Article 9(3) second subparagraph
Article 9(3)	Article 9(4)
Article 9(4)	Article 9(5)
Article 10(1)	Article 10(1)
Article 10(2) introductory words, first phrase	Article 10(2) first subparagraph
Article 10(2) introductory words, second phrase	Article 10(2) second subparagraph, introductory words

Regulation (EC) No 3285/94	This Regulation
Article 10(2), points (a) and (b)	Article 10(2) second subparagraph, points (a) and (b)
Title IV	Chapter IV
Articles 11 to 15	Articles 11 to 15
Title V	Chapter V
Article 16(1) and (2)	Article 16(1) and (2)
Article 16(3)(a) introductory sentence	Article 16(3) first subparagraph, introductory sentence
Article 16(3)(a) first, second and third indents	Article 16(3) first subparagraph, points (a), (b) and (c)
Article 16(3)(b)	Article 16(3) second subparagraph
Article 16(4)(a) first subparagraph	Article 16(4) first subparagraph
Article 16(4)(a) second subparagraph	Article 16(4) second subparagraph
Article 16(4)(b)	Article 16(4) third subparagraph
Article 16(5)(a)	Article 16(5) first subparagraph
Article 16(5)(b)	Article 16(5) second subparagraph
Article 16(6)	Article 16(6) first subparagraph
Article 16(7)	Article 16(6) second subparagraph
Article 16(8)	Article 16(7)
Articles 17 to 19	Articles 17 to 19
Article 20(1)	Article 20(1)
Article 20(2), introductory sentence	Article 20(2), introductory sentence
Article 20(2) first and second indents	Article 20(2)(a) and (b)
Article 20(3) to (5)	Article 20(3) to (5)
Articles 21 and 22	Articles 21 and 22
Title VI	Chapter VI
Article 23	Article 23
Article 24(1)	Article 24(1)
Article 24(2)(a) introductory sentence	Article 24(2) first subparagraph, introductory sentence
Article 24(2)(a)(i) to (iii)	Article 24(2) first subparagraph, points (a) to (c)
Article 24(2)(b) first sentence	Article 24(2) second subparagraph
Article 24(2)(b) second sentence	Article 24(2) third subparagraph
Article 25	Article 25
Article 26	—
Article 27	—
—	Article 26
Article 28	Article 27
Annex I	Annex I
—	Annex II
—	Annex III

COMMISSION REGULATION (EC) No 261/2009

of 30 March 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 31 March 2009.

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

Done at Brussels, 30 March 2009.

For the Commission
Jean-Luc DEMARTY
Director-General for Agriculture and Rural Development

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[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	JO	68,6
	MA	50,1
	TN	134,4
	TR	96,3
	ZZ	87,4
0707 00 05	JO	155,5
	MA	55,7
	TR	167,4
	ZZ	126,2
0709 90 70	MA	39,1
	TR	135,0
	ZZ	87,1
0709 90 80	EG	60,4
	ZZ	60,4
0805 10 20	EG	46,5
	IL	60,4
	MA	52,6
	TN	48,5
	TR	77,1
	ZZ	57,0
0805 50 10	TR	47,9
	ZZ	47,9
0808 10 80	AR	88,1
	BR	72,6
	CA	78,6
	CL	69,5
	CN	72,5
	MK	23,7
	US	106,3
	UY	58,9
	ZA	83,6
	ZZ	72,6
0808 20 50	AR	78,2
	CL	79,6
	CN	50,9
	US	194,4
	ZA	89,3
	ZZ	98,5

(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 262/2009

of 30 March 2009

laying down requirements for the coordinated allocation and use of Mode S interrogator codes for the single European sky

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 552/2004 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) [1] and in particular Article 3(5) thereof,

Having regard to Regulation (EC) No 549/2004 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) [2], and in particular Article 8(2) thereof,

Whereas:

(1) Mode S (Select) is a cooperative surveillance technique for air traffic control. It enables the selective interrogation of aircraft and the extraction of air derived data through which new air traffic management functionalities can be developed. The design of systems supporting addressing individual aircraft through the Mode S (hereinafter Mode S interrogators) requires the use of Mode S interrogator codes for the detection and surveillance of aircraft equipped with a Mode S transponder.

(2) To secure the safety of the air traffic surveillance system, it is essential that the radar coverage areas of two Mode S interrogators using the same interrogator code do not overlap, except if they are grouped in a cluster or if other appropriate operational mitigations are in place.

(3) In order to support the deployment of an increasing number of Mode S interrogators and to resolve the problems resulting from the shortage of interrogator codes available for the interrogation of aircraft, there is a need to coordinate the allocation and use of those interrogator codes efficiently.

(4) Eurocontrol has been mandated in accordance with Article 8(1) of Regulation (EC) No 549/2004 to develop requirements for the allocation and use of Mode S interrogator codes (hereinafter interrogator codes). This Regulation is based on the resulting mandate report of 2 January 2008.

(5) Initially, for technical reasons, only interrogator identifier codes (hereinafter II codes) 0 to 15 were defined and used as interrogator codes. Due to the expected number of Mode S interrogators, measures were later taken to allow the use of additional surveillance identifier codes (hereinafter SI codes) 1 to 63.

(6) Normally, the use of SI codes requires that all Mode S targets within the coverage of Mode S interrogators are equipped for this purpose. However, specifications were developed by Eurocontrol for an II/SI code operation which would enable the early use of SI codes by Mode S interrogators even in an environment where all Mode S targets would not be equipped for the use of SI codes. Mode S operators should therefore be required to accommodate this II/SI code operation.

(7) A centralised interrogator code allocation service, provided through the interrogator code allocation system, has been established under the authority of Eurocontrol. Member States should be required to take the necessary measures to ensure that the interrogator code allocation system delivers information supporting the consistency of the key items of an interrogator code allocation. These key items should be clearly identified.

(8) Common procedures should be defined to ensure that the key elements of the interrogator code allocations are properly implemented. They should take into account relevant provisions of the International Civil Aviation Organisation (hereinafter ICAO).

(9) Mode S operators and air traffic service providers should take appropriate measures to detect and mitigate the effect of possible conflicts between interrogator codes.

(10) This Regulation should not cover military operations and training as referred to in Article 1(2) of Regulation (EC) No 549/2004.

(11) A limited number of interrogator codes is reserved for exclusive use and management by military entities, including intergovernmental organisations, in particular the North Atlantic Treaty Organisation. Mode S interrogators using these codes therefore do not need to be subject to the coordinated allocation process. Member States should however be required to take the necessary measures to ensure that the use of these interrogator codes has no detrimental impact on the safety of general air traffic.

[1] OJ L 96, 31.3.2004, p. 26.
[2] OJ L 96, 31.3.2004, p. 1.

(12) Interrogator code 0 has been reserved by ICAO for operation without an assigned code. Mode S interrogators using interrogator code 0 in accordance with the ICAO Standards and Recommended Practices do not need to be subject to the coordinated allocation process.

(13) II code 14 has been reserved for shared use by test systems. Mode S target detection cannot be guaranteed when several test systems operate concurrently. Mode S test systems operators who need to conduct temporary trials necessitating a conflict free situation should therefore ensure proper bilateral coordination with other Mode S test system operators.

(14) The centralised interrogator code allocation service should make available to Member States and Mode S operators and update as required an interrogator code allocation plan ensuring safe and efficient use of interrogator codes. The allocation plan should be approved by Member States affected by its content.

(15) A mechanism should be defined to resolve situations where approval of the interrogator code allocation plan cannot be obtained in a timely fashion.

(16) With a view to maintaining or enhancing existing safety levels of operations, Member States should be required to ensure that the parties concerned carry out a safety assessment, including hazard identification, risk assessment and mitigation processes. Harmonised implementation of these processes to the systems covered by this Regulation requires the identification of specific safety requirements for all interoperability and performance requirements.

(17) In accordance with Article 3(3)(d) of Regulation (EC) No 552/2004, implementing rules for interoperability should describe the specific conformity assessment procedures to be used to assess either the conformity or the suitability for use of constituents as well as the verification of systems.

(18) The level of maturity of the market for the constituents to which this Regulation applies is such that their conformity or suitability for use can be satisfactorily assessed through internal production control, using procedures based on Module A of Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC [1].

(19) The measures provided for in this Regulation are in accordance with the opinion of the Single Sky Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1. This Regulation lays down requirements for the coordinated allocation and use of Mode S interrogator codes (hereinafter interrogator codes) for the purposes of the safe and efficient operation of air traffic surveillance and civil-military coordination.

2. This Regulation shall apply to eligible Mode S interrogators and related surveillance systems, their constituents and associated procedures, when supporting the coordinated allocation or use of eligible interrogator codes.

Article 2

Definitions

For the purpose of this Regulation the definitions in Article 2 of Regulation (EC) No 549/2004 shall apply.

The following definitions shall also apply:

1. 'Mode S interrogator' means a system, composed of antenna and electronics, supporting addressing of individual aircraft through the Mode Select, known as Mode S;

2. 'interrogator code' means either an interrogator identifier or a surveillance identifier code used for multisite lockout and possibly communication protocols;

3. 'interrogator identifier code' (hereinafter II code) means a Mode S interrogator code with a value in the range from 0 to 15 that can be used for both multisite lockout and communications protocols;

4. 'surveillance identifier code' (hereinafter SI code) means a Mode S interrogator code with a value in the range from 1 to 63 that can be used for multisite lockout protocols, but cannot be used for multisite communications protocols;

5. 'multisite lockout' means the protocol that allows Mode S target acquisition and lockout by several Mode S interrogators that have overlapping coverage;

6. 'multisite communications protocols' means the protocols used to coordinate, in areas of overlapping Mode S interrogators coverage, the control of communications performed in more than one transaction;

7. 'Mode S target' means a platform equipped with a Mode S transponder;

[1] OJ L 218, 13.8.2008, p. 82.

8. 'lockout' means the protocol that allows the suppression of Mode S all call replies from already acquired Mode S targets;

9. 'Mode S operator' means a person, organisation or enterprise operating or offering to operate a Mode S interrogator, including:

   (a) air navigation service providers;

   (b) Mode S interrogators manufacturers;

   (c) airport operators;

   (d) research establishments;

   (e) any other entity entitled to operate a Mode S interrogator;

10. 'interrogator code allocation' means a definition of values for at least all the key items of an interrogator code allocation as listed in Annex II, Part B;

11. 'interrogator code allocation system' means a system within the European Air Traffic Management Network, and the associated procedures, through which a centralised service of interrogator code allocation (hereinafter interrogator code allocation service), dealing with the processing of interrogator code applications and the distribution of an interrogator code allocation plan proposal, is provided to Mode S operators through Member States;

12. 'interrogator code application' means an application from a Mode S operator for the allocation of an interrogator code;

13. 'interrogator code allocation plan proposal' means a proposal for a complete set of IC allocations, submitted by the interrogator code allocation service for approval by Member States;

14. 'interrogator code allocation plan' means the most recently approved complete set of interrogator code allocations;

15. 'eligible Mode S interrogator' means a Mode S interrogator for which at least one of the following conditions is satisfied:

   (a) the interrogator relies, at least partly, on Mode S all call interrogations and replies for Mode S targets acquisition; or

   (b) the interrogator locks out acquired Mode S targets in reply to Mode S all call interrogations, permanently or intermittently, in part or totality of its coverage; or

   (c) the interrogator uses multisite communications protocols for data link applications;

16. 'eligible interrogator code' means any code among the II codes and the SI codes, except:

   (a) II code 0;

   (b) the interrogator code(s) reserved for military entities, including intergovernmental organisations in particular North Atlantic Treaty Organisation management and allocation;

17. 'Mode S all call interrogations' means the messages that are normally used by Mode S interrogators to acquire Mode S targets entering their coverage area;

18. 'operational interrogator code' means any eligible interrogator code other than II code 14;

19. 'competent Member State' means:

   (a) in the case of an air navigation service provider, the Member State that has certified the provider in accordance with Commission Regulation (EC) No 2096/2005 [1];

   (b) in other cases, the Member State within the area of responsibility of which the Mode S operator operates, or intends to operate, an eligible Mode S interrogator;

20. 'interrogator code conflict' means uncoordinated coverage overlap of two or more Mode S interrogators operating on the same interrogator code, potentially resulting in aircraft remaining undetected by at least one of the Mode S interrogators;

21. 'monitoring of interrogator code conflict' means the implementation, by a Mode S operator, of technical or procedural means, for identifying the effects of interrogator code conflicts with other Mode S interrogators on the surveillance data provided by its own Mode S interrogators;

22. 'implementation sequence' means the time-bounded sequence of implementation of interrogator code allocations with which Mode S operators need to comply to avoid temporary interrogator code conflicts;

[1] OJ L 335, 21.12.2005, p. 13.

23. 'matching II code' means the II code decoded by a Mode S transponder not supporting SI codes, in a Mode S all call interrogation containing an SI code, and which is used by this transponder to encode the all call reply;

24. 'lockout map' means the Mode S interrogator configuration file defining where and how to apply lockout to Mode S targets.

Article 3

Interoperability and performance requirements

Mode S operators shall ensure that the radar head electronics constituent of their Mode S interrogators using an operational interrogator code:

1. support the use of SI codes and II codes in compliance with the International Civil Aviation Organisation provisions specified in Annex I point 1;

2. support the use of II/SI code operation in compliance with the requirements specified in Annex III.

Article 4

Associated procedures for Mode S operators

1. Mode S operators shall only operate an eligible Mode S interrogator, using an eligible interrogator code, if they have received an interrogator code allocation, for this purpose, from the competent Member State.

2. Mode S operators intending to operate, or operating, an eligible Mode S interrogator for which no interrogator code allocation has been provided, shall submit an interrogator code application to the competent Member State, in accordance with the requirements specified in Annex II, Part A.

3. Mode S operators shall comply with the key items of the interrogator code allocations they receive as listed in Annex II, Part B.

4. Mode S operators shall inform the competent Member State at least every six months of any change in the installation planning or in the operational status of the eligible Mode S interrogators regarding any of the interrogator code allocation key items listed in Annex II, Part B.

5. Mode S operators shall ensure that each of their Mode S interrogators uses exclusively its allocated interrogator code.

Article 5

Associated procedures for Member States

1. Member States shall check the validity of interrogator code applications received from Mode S operators, before making them available through the interrogator code allocation system for coordination. The validity check shall include the key items listed in Annex II, Part A.

2. Member States shall take the necessary measures to ensure that the interrogator code allocation system:

(a) checks interrogator code applications for compliance with the format and data conventions;

(b) checks interrogator code applications for completeness, accuracy and timeliness;

(c) within maximum six calendar months from application:

(i) performs interrogator code allocation plan update simulations on the basis of the pending applications;

(ii) prepares a proposed update of the interrogator code allocation plan for approval by the Member States affected by it;

(iii) ensures that the proposed update to the interrogator code allocation plan meets to the greatest extent possible, the operational requirements of the interrogator code applications, as described by key items (g), (h) and (i) listed in Annex II, Part A;

(iv) updates, and communicates to Member States the interrogator code allocation plan immediately after its approval, without prejudice to national procedures for the communication of information on Mode S interrogators operated by military.

3. Changes in the interrogator code allocation plan shall be subject to the approval of all the Member States affected by the update of the plan.

4. In case of disagreement on the changes referred to in paragraph 3 of this Article, the Member States concerned shall bring the matter to the Commission for action. The Commission shall act in accordance with the procedure referred to in Article 5(2) of Regulation (EC) No 549/2004.

5. Member States referred to in paragraph 3 shall ensure that their interrogator code allocation plan approvals are communicated to other Member States through the interrogator code allocation system.

6. Member States referred to in paragraph 3 shall ensure that interrogator code allocation changes resulting from an update to the interrogator code allocation plan are communicated to the relevant Mode S operators under their authority within 14 calendar days of the reception of the updated allocation plan.

7. Member States shall make available to other Member States at least every six months through the interrogator code allocation system an up-to-date record of the allocation and use of interrogator code by the eligible Mode S interrogators within their area of responsibility.

8. Where an overlap exists between the coverage of a Mode S interrogator located within the area of responsibility of a Member State and the coverage of a Mode S interrogator located within the area of responsibility of a third country, the Member State concerned shall:

(a) ensure that the third country is informed of the safety requirements related to the allocation and use of interrogator codes;

(b) take the necessary measures to coordinate the use of interrogator codes with the third country.

Article 6

Associated procedures for air traffic service providers

Air traffic service providers shall not use data from Mode S interrogators operating under the responsibility of a third country if the interrogator code allocation has not been coordinated.

Article 7

Contingency requirements

1. Air traffic service providers shall assess the possible impact on air traffic services of interrogator code conflicts, and the corresponding potential loss of Mode S target surveillance data from the impacted Mode S interrogators, taking into account their operational requirements and available redundancy.

2. Unless the potential loss of Mode S target surveillance data has been assessed to have no safety significance, Mode S operators shall:

(a) implement monitoring means to detect interrogator code conflicts caused by other Mode S interrogators impacting eligible Mode S interrogators they operate on any operational interrogator code;

(b) ensure that the interrogator code conflict detection provided by the implemented monitoring means is achieved in a timely manner and within a coverage that satisfy their safety requirements;

(c) identify and implement as appropriate, a fallback mode of operation to mitigate the possible interrogator code conflict hazards on any operational code, identified in the assessment referred to in paragraph 1;

(d) ensure that the implemented fallback mode of operation does not create any interrogator code conflict with other Mode S interrogators referred to by the interrogator code allocation plan.

3. Mode S operators shall report any identified interrogator conflict involving an eligible Mode S interrogator they operate on any operational interrogator code to the competent Member State and shall make available, through the IC allocation system, the related information to the other Mode S operators.

Article 8

Civil-military coordination

1. Member States shall take the necessary measures to ensure that military units operating eligible Mode S interrogators on any other interrogator code than II code 0 and other codes reserved for military management, comply with Articles 3 to 7 and Article 12.

2. Member States shall take the necessary measures to ensure that military units, operating Mode S interrogators on II code 0 or other interrogator codes reserved for military management, monitor the exclusive use of these interrogator codes, to avoid the uncoordinated use of any eligible interrogator code.

3. Member States shall take the necessary measures to ensure that the allocation and use of interrogator codes for military units has no detrimental impact on the safety of general air traffic.

Article 9

Safety requirements

1. Mode S operators shall ensure that potential interrogator code conflict hazards affecting their Mode S interrogators are properly assessed and mitigated.

2. Member States shall take the necessary measures to ensure that any changes to the existing systems and associated procedures referred to in Article 1(2) or the introduction of such new systems and procedures are preceded by a safety assessment, including hazard identification, risk assessment and mitigation, conducted by the parties concerned.

3. For the purposes of the safety assessment provided for in paragraph 2, the requirements specified in Articles 4 to 8 and Article 12 shall also be considered as minimum safety requirements.

Article 10

Conformity assessment

Before issuing an EC declaration of conformity or suitability for use as referred to in Article 5 of Regulation (EC) No 552/2004, manufacturers of constituents, or their authorised representatives established in the Community, of the systems referred to in Article 1(2) of this Regulation shall assess the conformity or suitability for use of those constituents in compliance with the requirements set out in Annex IV, Part A to this Regulation.

Article 11

Verification of systems

1. Air navigation service providers which can demonstrate or have demonstrated that they fulfil the conditions set out in Annex V shall conduct a verification of the systems referred to in Article 1(2) in compliance with the requirements set out in Annex VI, Part A.

2. Air navigation service providers which cannot demonstrate that they fulfil the conditions set out in Annex V shall subcontract to a notified body a verification of the systems referred to in Article 1(2). This verification shall be conducted in compliance with the requirements set out in Annex VI, Part B.

Article 12

Additional requirements

1. Mode S operators shall ensure that their personnel in charge of the implementation of interrogator code allocations are made duly aware of the relevant provisions in this Regulation and that they are adequately trained for their job functions.

2. Mode S operators shall:

(a) develop and maintain Mode S operations manuals, including the necessary instructions and information to enable their personnel in charge of the implementation of interrogator code allocations to apply the provisions of this Regulation;

(b) ensure that the manuals referred to in point (a) are accessible and kept up-to-date and that their update and distribution are subject to appropriate quality and documentation configuration management;

(c) ensure that the working methods and operating procedures required for the implementation of interrogator code allocations comply with the relevant provisions specified in this Regulation.

3. Member States shall take the necessary measures to ensure that the personnel providing the interrogator code allocation service are made duly aware of the relevant provisions of this Regulation and that they are adequately trained for their job functions.

4. Member States shall take the necessary measures to ensure that the centralised interrogator code allocation service:

(a) develops and maintains operations manuals containing the necessary instructions and information to enable their personnel to apply the provisions of this Regulation;

(b) ensures that the manuals referred to in point (a) are accessible and kept up-to-date and that their update and distribution are subject to appropriate quality and documentation configuration management;

(c) ensures that the working methods and operating procedures comply with the relevant provisions specified in this Regulation.

Article 13

Entry into force and application

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

Article 3 shall apply from 1 January 2011.

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

Done at Brussels, 30 March 2009.

For the Commission
Antonio TAJANI
Vice-President

ANNEX I

International Civil Aviation Organisation provisions referred to in Article 3(1) and Annex III point 2

1. Chapter 3 'Surveillance radar systems', Section 3.1.2.5.2.1.2 'IC: Interrogator code' of ICAO Annex 10 'Aeronautical Telecommunications', Volume IV 'Surveillance Radar and Collision Avoidance Systems' (Third Edition, July 2002, incorporating Amendment 77).

2. Chapter 5, 'SSR Mode S Air-Ground Data Link', Section 5.2.9 'The data link capability report format' of ICAO Annex 10 'Aeronautical Telecommunications', Volume III 'Communication Systems' (First Edition, Amendment 79).

ANNEX II

Part A: Requirements concerning the application for interrogator codes referred to in Articles 4(2), 5(1) and 5(2)

An IC application shall include the following key items, as a minimum:

(a) a unique application reference from the competent Member State;

(b) full details of the Member State representative responsible for the coordination of the Mode S IC Allocation;

(c) full details of the Mode S operator point of contact for Mode S IC Allocation matters;

(d) Mode S interrogator name;

(e) Mode S interrogator use (operational or test);

(f) Mode S interrogator location;

(g) Mode S interrogator planned date of first Mode S transmission;

(h) requested Mode S coverage;

(i) specific operational requirements;

(j) SI code capability;

(k) 'II/SI code operation' capability;

(l) coverage map capability.

Part B: Requirements concerning the allocation of interrogator codes referred to in Articles 2(10), 4(3) and 4(4)

An IC allocation shall include the following minimum items:

(a) the corresponding application reference from the competent Member State;

(b) a unique allocation reference from the IC allocation service;

(c) superseded allocation references, as required;

(d) allocated IC;

(e) surveillance and lockout coverage restrictions under the form of sectored ranges or Mode S coverage map;

(f) implementation period during which the allocation needs to be registered into the Mode S interrogator identified in the application;

(g) implementation sequence which needs to be complied with;

(h) optionally and associated with other alternatives: cluster recommendation;

(i) specific operational restrictions, as required.

ANNEX III

II/SI code operation referred to in Article 3(2)

1. Mode S interrogators, when operating with an SI code and if enabled by an appropriate operational parameter, shall also acquire targets through all call replies which are encoded using the matching II code.

2. Mode S interrogators, when operating with an SI code and if enabled by an appropriate operational parameter, shall consider transponders replying with all call replies encoded using the matching II code as non-SI equipped transponders, irrespectively of the SI capability reported in the data link capability report defined in the document referred to in Annex I point 2.

3. Mode S interrogators, when operating with an SI code and if enabled by an appropriate operational parameter, shall interrogate transponders lacking SI code capability using the Mode S multisite lockout protocol messages foreseen for II code operation. The II code to be used shall be the matching II code.

4. Mode S interrogators, when operating with an SI code and if enabled by an appropriate operational parameter, shall be configurable by the operator to either:

   — not use lockout on the matching II code for transponders lacking SI code capability, or

   — use intermittent lockout on the matching II code for transponders lacking SI code capability.

5. Mode S interrogators, when operating with an II code and if enabled by an appropriate operational parameter, shall be configurable by the operator to either:

   — not use lockout for transponders which report no SI capability in their data link capability report or cannot report their data link capability, or

   — use intermittent lockout for transponders which report no SI capability in their data link capability report or cannot report their data link capability.

6. When the II/SI code operation is activated, the lockout maps shall not be taken into account for transponders lacking SI code capability.

ANNEX IV

Part A: Requirements for the assessment of the conformity or suitability for use of constituents of the systems referred to in Article 10

1. The verification activities shall demonstrate the conformity of constituents supporting II code and SI code lockout protocols and II/SI code operation with the interoperability and performance requirements of this Regulation, or their suitability for use whilst these constituents are in operation in the test environment.

2. The application by the manufacturer, or its authorised representative established in the Community, of the module described in Part B shall be considered as an appropriate conformity assessment procedure to ensure and declare the compliance of constituents. Equivalent or more stringent procedures are also authorised.

Part B: Internal production control module

1. This module describes the procedure whereby the manufacturer or its authorised representative established in the Community who carries out the obligations laid down in point 2, ensures, and declares that the constituents concerned satisfy the requirements of this Regulation. The manufacturer or his authorised representative established within the Community must draw up a written declaration of conformity or suitability for use in accordance with Annex III point 3 of Regulation (EC) No 552/2004.

2. The manufacturer must establish the technical documentation described in point 4 and he or his authorised representative established within the Community must keep it for a period ending at least 10 years after the last constituents has been manufactured at the disposal of the relevant national supervisory authorities for inspection purposes and at the disposal of the air navigation service providers that integrate these constituents in their systems. The manufacturer or its authorised representative established within the Community shall inform the Member States on where and how the above technical documentation can be made available.

3. Where the manufacturer is not established within the Community, he shall designate the person(s) who place(s) the constituents on the Community market. These person(s) shall inform the Member States on where and how the technical documentation can be made available.

4. Technical documentation must enable the conformity of the constituents with the requirements of this Regulation to be assessed. It must, as far as relevant for such assessment, cover the design, manufacture and operation of the constituents.

5. The manufacturer or his authorised representative must keep a copy of the declaration of conformity or suitability for use with the technical documentation.

ANNEX V

Conditions referred to in Article 11

1. The air navigation service provider must have in place reporting methods within the organisation which ensure and demonstrate impartiality and independence of judgement in relation to the verification activities.

2. The air navigation service provider must ensure that the personnel involved in verification processes, carry out the checks with the greatest possible professional integrity and the greatest possible technical competence and are free of any pressure and incentive, in particular of a financial type, which could affect their judgment or the results of their checks, in particular from persons or groups of persons affected by the results of the checks.

3. The air navigation service provider must ensure that the personnel involved in verification processes, have access to the equipment that enables them to properly perform the required checks.

4. The air navigation service provider must ensure that the personnel involved in verification processes, have sound technical and vocational training, satisfactory knowledge of the requirements of the verifications they have to carry out, adequate experience of such operations, and the ability required to draw up the declarations, records and reports to demonstrate that the verifications have been carried out.

5. The air navigation service provider must ensure that the personnel involved in verification processes, are able to perform their checks with impartiality. Their remuneration shall not depend on the number of checks carried out, or on the results of such checks.

ANNEX VI

Part A: Requirements for the verification of systems referred to in Article 11(1)

1. The verification of systems shall demonstrate the conformity of these systems with the interoperability, performance, contingency and safety requirements of this Regulation in an assessment environment that reflects the operational context of these systems. In particular, the verification of Mode S interrogators shall demonstrate:

   — the correct operation on an SI code, including II/SI code operation,

   — that the combination of IC conflict monitoring systems and/or procedures, and fallback mode of operation properly mitigate the IC conflict hazards,

   — that the fallback mode of operation does not conflict with the IC allocation plan.

2. The verification of systems identified in Article 1(2) shall be conducted in accordance with appropriate and recognised testing practices.

3. Test tools used for the verification of systems identified in Article 1(2) shall have appropriate functionalities.

4. The verification of systems identified in Article 1(2) of this Regulation shall produce the elements of the technical file required by Annex IV point 3 of Regulation (EC) No 552/2004, including the following elements:

   — description of the implementation,

   — the report of inspections and tests achieved before putting the system into service.

5. The air navigation service provider shall manage the verification activities and shall in particular:

   — determine the appropriate operational and technical assessment environment reflecting the operational environment,

   — verify that the test plan describes the integration of systems identified in Article 1(2) in an operational and technical assessment environment,

   — verify that the test plan provides full coverage of the applicable interoperability, performance, contingency and safety requirements of this Regulation,

   — ensure the consistency and quality of the technical documentation and the test plan,

   — plan the test organisation, staff, installation and configuration of the test platform,

   — perform the inspections and tests as specified in the test plan,

   — write the report presenting the results of inspections and tests.

6. The air navigation service provider shall ensure that the systems identified in Article 1(2) operated in an operational assessment environment meet the interoperability, performance, contingency and safety requirements of this Regulation.

7. Upon satisfying completion of verification of compliance, air navigation service providers shall draw up the EC declaration of verification of system and submit it to the national supervisory authority together with the technical file as required by Article 6 of Regulation (EC) No 552/2004.

Part B: Requirements for the verification of systems referred to in Article 11(2)

1. The verification of systems shall demonstrate the conformity of these systems with the interoperability, performance, contingency and safety requirements of this Regulation in an assessment environment that reflects the operational context of these systems. In particular, the verification of Mode S interrogators shall demonstrate:

   — the correct operation on an SI code, including II/SI code operation,

— that the combination of IC conflict monitoring systems and fallback mode of operation properly mitigate the IC conflict hazards,

— that the fallback mode of operation does not conflict with the IC Allocation plan.

2. The verification of systems identified in Article 1(2) shall be conducted in accordance with appropriate and recognised testing practices.

3. Test tools used for the verification of systems identified in Article 1(2) shall have appropriate functionalities.

4. The verification of systems identified in Article 1(2) of this Regulation shall produce the elements of the technical file required by Annex IV point 3 of Regulation (EC) No 552/2004, including the following elements:

— description of the implementation,

— the report of inspections and tests achieved before putting the system into service.

5. The air navigation service provider shall determine the appropriate operational and technical assessment environment reflecting the operational environment and shall have verification activities performed by a notified body.

6. The notified body shall manage the verification activities and shall in particular:

— determine the appropriate operational and technical assessment environment reflecting the operational environment,

— verify that the test plan describes the integration of systems identified in Article 1(2) in an operational and technical assessment environment,

— verify that the test plan provides full coverage of the applicable interoperability, performance, contingency and safety requirements of this Regulation,

— ensure the consistency and quality of the technical documentation and the test plan,

— plan the test organisation, staff, installation and configuration of the test platform,

— perform the inspections and tests as specified in the test plan,

— write the report presenting the results of inspections and tests.

7. The notified body shall ensure that the implementation of information exchanges supporting the process of allocation and use of Mode S IC, integrated in systems operated in a simulated operational environment meets the interoperability, performance, contingency and safety requirements of this Regulation.

8. Upon satisfying completion of verification tasks, the notified body shall draw up a certificate of conformity in relation to the tasks it carried out.

9. Then, the air navigation service provider shall draw up the EC declaration of verification of system and submit it to the national supervisory authority together with the technical file as required by Article 6 of Regulation (EC) No 552/2004.

II

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

DECISIONS

COUNCIL

COUNCIL DECISION

of 21 May 2008

on the signing and provisional application of the Agreement between the European Community and the Islamic Republic of Pakistan on certain aspects of air services

(2009/302/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) in conjunction with the first sentence of the first subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The Council authorised the Commission on 5 June 2003 to open negotiations with third countries on the replacement of certain provisions in existing bilateral agreements with a Community agreement.

(2) On behalf of the Community, the Commission has negotiated an Agreement with Pakistan on certain aspects of air services in accordance with the mechanisms and directives in the Annex to the Council Decision of 5 June 2003 authorising the Commission to open negotiations with third countries on the replacement of certain provisions in existing bilateral agreements with a Community agreement.

(3) Subject to its possible conclusion at a later date, the Agreement negotiated by the Commission should be signed and provisionally applied,

HAS DECIDED AS FOLLOWS:

Article 1

The signing of the Agreement between the European Community and the Islamic Republic of Pakistan on certain aspects of air services is hereby approved on behalf of the Community, subject to the Council Decision concerning the conclusion of the said Agreement.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Community subject to its conclusion.

Article 3

Pending its entry into force, the Agreement shall be applied provisionally from the first day of the first month following the date on which the parties have notified each other of the completion of the necessary procedures for this purpose.

Article 4

The President of the Council is hereby authorised to make the notification provided for in Article 8(2) of the Agreement.

Done at Brussels, 21 May 2008.

For the Council
The President
M. ZVER

AGREEMENT

between the European Community and the Islamic Republic of Pakistan on certain aspects of air services

THE EUROPEAN COMMUNITY,

of the one part, and

THE ISLAMIC REPUBLIC OF PAKISTAN (hereinafter referred to as Pakistan),

of the other part,

(hereinafter referred to as the Parties)

NOTING that certain provisions in bilateral air service agreements between several Member States of the European Community and the Islamic Republic of Pakistan need to be brought into conformity with Community law,

NOTING that the European Community has exclusive competence with respect to several aspects that may be included in bilateral air service agreements between Member States of the European Community and third countries,

NOTING that European Community air carriers established in a Member State have been granted the right to non-discriminatory access to air routes between that Member State and third countries by the European Community under Community law,

HAVING REGARD to the agreements between the European Community and the four European countries listed in Annex III providing for the possibility for the nationals of these countries to acquire ownership in air carriers licensed in accordance with European Community law,

RECOGNISING that all matters relating to bilateral air service agreements between Member States of the European Community and the Islamic Republic of Pakistan must be in conformity with the laws of the parties in order to establish a sound legal basis for air services between the European Community and the Islamic Republic of Pakistan and to preserve the continuity of such air services,

NOTING that provisions of the bilateral air services agreements between Member States of the European Community and the Islamic Republic of Pakistan, which are not incompatible with European Community law and Pakistani law do not need to be affected by this agreement,

RECOGNISING that provisions in bilateral air service agreements concluded between Member States of the European Community and the Islamic Republic of Pakistan which (i) require or favour the adoption of agreements between undertakings, decisions by associations of undertakings or concerted practices that prevent, distort or restrict competition between air carriers on the relevant routes; or (ii) reinforce the effects of any such agreement, decision or concerted practice; or (iii) delegate to air carriers or other private economic operators the responsibility for taking measures that prevent, distort or restrict competition between air carriers on the relevant routes may render ineffective the competition rules applicable to undertakings,

NOTING that it is not a purpose of the European Community and the Islamic Republic of Pakistan in this agreement to increase the total volume of air traffic between the European Community and the Islamic Republic of Pakistan, to affect the balance between Community air carriers and air carriers of the Islamic Republic of Pakistan, or to amend the provisions of existing bilateral air service agreements concerning traffic rights,

HAVE AGREED AS FOLLOWS:

Article 1

General provisions

1. For the purposes of this Agreement, 'Member States' shall mean Member States of the European Community.

2. References in each of the agreements listed in Annex I to nationals of the Member State that is a party to that agreement shall be understood as referring to nationals of the Member States of the European Community.

3. References in each of the agreements listed in Annex I to air carriers or airlines of the Member State that is a party to that agreement shall be understood as referring to air carriers or airlines designated by that Member State.

Article 2

Designation by a Member State

1. The provisions in paragraphs 2 and 3 of this Article shall prevail over the corresponding provisions in the Articles listed in Annex II(a) and (b) respectively, in relation to the designation of an air carrier by the Member State concerned, its authorisations and permissions granted by the Islamic Republic of Pakistan, and the refusal, revocation, suspension or limitation of the authorisations or permissions of the air carrier, respectively.

2. On receipt of a designation by a Member State of the European Community, the Islamic Republic of Pakistan shall grant the appropriate authorisations and permissions with minimum procedural delay, provided that:

(i) the air carrier is established in the territory of the designating Member State under the Treaty establishing the European Community and has a valid Operating Licence from a Member State in accordance with European Community law; and

(ii) effective regulatory control of the air carrier is exercised and maintained by the Member State responsible for issuing its Air Operator's Certificate and the relevant aeronautical authority is clearly identified in the designation; and

(iii) the air carrier is owned, directly or through majority ownership, and it is effectively controlled by Member States and/or nationals of Member States, and/or by other States listed in Annex III and/or nationals of such other States; and

(iv) the air carrier has its principal place of business in the territory of the Member State which granted its valid Operating Licence.

3. The Islamic Republic of Pakistan may refuse, revoke, suspend or limit the authorisations or permissions of an air carrier designated by a Member State where:

(i) the air carrier is not established in the territory of the designating Member State under the Treaty establishing the European Community or does not have a valid Operating Licence from a Member State in accordance with European Community law; or

(ii) effective regulatory control of the air carrier is not exercised or not maintained by the Member State responsible for issuing its Air Operator's Certificate, or the relevant aeronautical authority is not clearly identified in the designation; or

(iii) the air carrier is not owned, directly or through majority ownership, or it is not effectively controlled by Member States and/or nationals of Member States, and/or by other States listed in Annex III and/or nationals of such other States; or

(iv) the air carrier does not have its principal place of business in the territory of the Member State which granted its valid Operating Licence; or

(v) the air carrier is already authorised to operate under a bilateral agreement between the Islamic Republic of Pakistan and another Member State and that, by exercising traffic rights under this Agreement on a route that includes a point in that other Member State, it would be circumventing restrictions on the traffic rights imposed by that other agreement; or

(vi) the air carrier designated holds an Air Operators Certificate and Operating Licence issued by a Member State with which the Islamic Republic of Pakistan does not have a bilateral air services agreement and that Member State has denied traffic rights or related commercial opportunities to a carrier licensed by the Islamic Republic of Pakistan.

4. In exercising its right under this paragraph, the Islamic Republic of Pakistan shall not discriminate between Community air carriers on the grounds of nationality provided that it meets the above requirements.

Article 3

Safety

1. The provisions in paragraph 2 of this Article shall complement the corresponding provisions in the Articles listed in Annex II(c).

2. Where a Member State has designated an air carrier whose regulatory control is exercised and maintained by another Member State, the rights of the Islamic Republic of Pakistan under the safety provisions of the agreement between the Member State that has designated the air carrier and the Islamic Republic of Pakistan shall apply equally in respect of the adoption, exercise or maintenance of safety standards by that other Member State and in respect of the operating authorisation of that air carrier.

Article 4

Tariffs for carriage within the European Community

1. The provisions in paragraph 2 of this Article shall complement the corresponding provisions in the Articles listed in Annex II(d).

2. The tariffs to be charged by the air carrier(s) designated by the Islamic Republic of Pakistan under an agreement listed in Annex I containing a provision listed in Annex II(d) for carriage wholly within the European Community shall be subject to European Community law. European Community law is applied on a non-discriminatory basis.

Article 5

Compatibility with competition rules

1. Notwithstanding any other provision to the contrary, nothing in each of the agreements listed in Annex I shall (i) favour the adoption of agreements between undertakings, decisions by associations of undertakings or concerted practices that prevent, distort or restrict competition; (ii) reinforce the effects of any such agreement, decision or concerted practice; or (iii) delegate to private economic operators the responsibility for taking measures that prevent, distort or restrict competition.

2. The provisions contained in the agreements listed in Annex I that are incompatible with paragraph 1 of this Article shall not be applied.

Article 6

Annexes to the Agreement

The Annexes to this Agreement shall form an integral part thereof.

Article 7

Revision or amendment

The Parties may, at any time, revise or amend this Agreement by mutual consent. Each of the Parties may, at any time, request consultations with a view to revise or amend this Agreement by mutual consent and the other party shall respond to such request not later than 60 (sixty) days after the request for consultations was made.

Article 8

Entry into force and provisional application

1. This Agreement shall enter into force when the Parties have notified each other in writing that their respective internal procedures necessary for its entry into force have been completed.

2. Notwithstanding paragraph 1, the Parties agree to provisionally apply this Agreement from the first day of the month following the date on which the Parties have notified each other of the completion of the procedures necessary for this purpose.

3. Agreements and other arrangements between Member States and the Islamic Republic of Pakistan which, at the date of signature of this Agreement, have not yet entered into force and are not being applied provisionally are listed in Annex I(b). This Agreement shall apply to all such Agreements and arrangements upon their entry into force or provisional application.

Article 9

Termination

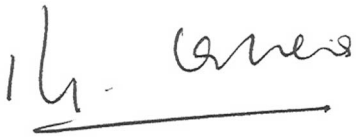
1. In the event that an agreement listed in Annex I is terminated, all provisions of this Agreement that relate to the agreement listed in Annex I concerned shall terminate at the same time.

2. In the event that all agreements listed in Annex I are terminated, this Agreement shall terminate at the same time.

IN WITNESS WHEREOF, the undersigned, being duly authorised, have signed this Agreement.

Done at Brussels in duplicate, on this twenty-fourth day of February in the year two thousand and nine in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovene, Spanish and Swedish languages.

За Европейската общност
Por la Comunidad Europea
Za Evropské společenství
For Det Europæiske Fællesskab
Für die Europäische Gemeinschaft
Euroopa Ühenduse nimel
Για την Ευρωπαϊκή Κοινότητα
For the European Community
Pour la Communauté européenne
Per la Comunità europea
Eiropas Kopienas vārdā
Europos bendrijos vardu
Az Európai Közösség részéről
Għall-Komunità Ewropea
Voor de Europese Gemeenschap
W imieniu Wspólnoty Europejskiej
Pela Comunidade Europeia
Pentru Comunitatea Europeană
Za Európske spoločenstvo
Za Evropsko skupnost
Euroopan yhteisön puolesta
För Europeiska gemenskapen



За Ислямска република Пакистан
Por la República Islámica de Pakistán
Za Pákistánskou islámskou republiku
For Den Islamiske Republik Pakistan
Für die Islamische Republik Pakistan
Pakistani Islamivabariigi nimel
Για την Ισλαμική Δημοκρατία του Πακιστάν
For the Islamic Republic of Pakistan
Pour la République islamique du Pakistan
Per la Repubblica islamica del Pakistan
Pakistānas Islāma Republikas vārdā
Pakistano Islamo Respublikos vardu
A Pakisztáni Iszlám Köztársaság részéről
Għar-Repubblika Iżlamika tal-Pakistan
Voor de Islamitische Republiek Pakistan
W imieniu Islamskiej Republiki Pakistanu
Pela República Islâmica do Paquistão
Pentru Republica Islamică Pakistan
Za Pakistanskú islamskú republiku
Za Islamsko republiko Pakistan
Pakistanin islamilaisen tasavallan puolesta
För Islamiska republiken Pakistan

ANNEX I

Provisional list of agreements referred to in Article 1 of this Agreement

(a) Air service agreements between the Islamic Republic of Pakistan and Member States of the European Community which, at the date of signature of this Agreement, have been concluded, signed and/or are being applied provisionally:

— Agreement between the Austrian Federal Government and the Government of the Islamic Republic of Pakistan relating to air services done at Rawalpindi on 28 May 1971, hereinafter referred to as 'Pakistan-Austria Agreement' in Annex II,

Last modified by the Memorandum of Understanding done at Islamabad on 27 September 2006, hereinafter referred to as 'Pakistan-Austria Memorandum of Understanding' in Annex II;

— Agreement between the Government of the People's Republic of Bulgaria and the Government of the Islamic Republic of Pakistan relating to air services done at Islamabad on 22 October 1969, hereinafter referred to as 'Pakistan-Bulgaria Agreement' in Annex II;

— Agreement between the Government of the Czechoslovak Socialist Republic and the Government of the Islamic Republic of Pakistan relating to air services done in Prague on 2 September 1969, hereinafter referred to as 'Pakistan-Czech Republic Agreement' in Annex II;

— Draft Agreement between the Government of the Kingdom of Denmark and the Government of the Islamic Republic of Pakistan relating to Air Services initialled at Oslo on 23 March 1999 hereinafter referred to as 'Draft Pakistan-Denmark Agreement' in Annex II;

Supplemented by Draft Memorandum of Understanding between the Scandinavian countries and Pakistan initialled at Oslo on 23 March 1999;

— Agreement between the Government of the Republic of France and the Government of Pakistan relating to air services done at Karachi on 31 July 1950, hereinafter referred to as 'Pakistan-France Agreement' in Annex II,

Modified by exchange of notes dated 29 August and 20 and 31 October 1960;

Modified by exchange of notes dated 2 and 9 July 1974;

— Air Transport Agreement between the Federal Republic of Germany and Pakistan done at Bonn on 20 July 1960 hereinafter referred to as 'Pakistan-Germany Agreement' in Annex II,

To be read together with the Agreed Minutes done at Bonn on 12 November 1998;

— Air Service Agreement between the Government of the Hellenic Republic and the Government of the Islamic Republic of Pakistan done at Athens on 15 November 2005, hereinafter referred to as 'Pakistan-Greece Agreement' in Annex II,

— Agreement between the Government of the Hungarian People's Republic and the Government of the Islamic Republic of Pakistan relating to air services done at Budapest on 11 May 1977, hereinafter referred to as 'Pakistan-Hungary Agreement' in Annex II,

— Agreement between the Government of the Italian Republic and the Government of the Islamic Republic of Pakistan relating to air services done at Rome on 5 October 1957, hereinafter referred to as 'Pakistan-Italy Agreement' in Annex II,

Modified by Memorandum of Understanding done at Rome on 16 January 1974;

Last modified by Memorandum of Understanding done at Rome on 24 March 2004;

— Agreement between the Government of the Republic of Malta and the Government of Islamic Republic of Pakistan relating to air services done at Valetta on 25 April 1975, hereinafter referred to as 'Pakistan-Malta Agreement' in Annex II,

— Agreement between the Government of the Kingdom of the Netherlands and the Government of Pakistan relating to air services done at Karachi on 17 July 1952,

Modified by Agreed Minutes done at The Hague on 27 April 1995;

Modified by Agreed Minutes done at The Hague on 28 June 1995;

Modified by Memorandum of Understanding done at Bhurban on 16 November 1995;

— Draft Air Services Agreement between the Government of the Kingdom of the Netherlands and the Government of Pakistan done at Bhurban on 16 November 1995; hereinafter referred to as 'Draft Pakistan-The Netherlands Agreement' in Annex II,

Modified by Agreed Minutes done at The Hague on 25 March 1997;

Last modified by Confidential Memorandum of Understanding done at Karachi on 28 November 1998;

— Agreement between the Government of the People's Republic of Poland and the Government of the Islamic Republic of Pakistan relating to air services done at Rawalpindi on 30 October 1970 hereinafter referred to as 'Pakistan-Poland Agreement' in Annex II,

— Agreement between the Government of the Islamic Republic of Pakistan and the Government of Portugal relating to air services done at Karachi on 7 June 1958 hereinafter referred to as 'Pakistan-Portugal Agreement' in Annex II,

— Air Transport Agreement between the Government of the Islamic Republic of Pakistan and the Government of the Kingdom of Spain done at Madrid on 19 June 1979 hereinafter referred to as 'Pakistan-Spain Agreement' in Annex II,

Modified by exchange of notes dated 20 July and 29 July 1988;

— Agreement between the Government of the Socialist Republic of Romania and the Government of the Islamic Republic of Pakistan relating to Air Services done at Rawalpindi on 9 January 1973 hereinafter referred to as 'Pakistan-Romania Agreement' in Annex II;

— Draft Air Services Agreement between the Government of the Kingdom of Sweden and the Government of the Islamic Republic of Pakistan initialled at Oslo on 23 March 1999, hereinafter referred to as 'Draft Pakistan-Sweden Agreement' in Annex II;

Supplemented by Draft Memorandum of Understanding between the Scandinavian countries and Pakistan initialled at Oslo on 23 March 1999;

— Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Islamic Republic of Pakistan concerning Air Services done in Karachi on 14 September 1999, hereinafter referred to as 'Pakistan-UK Agreement' in Annex II;

Modified by Memorandum of Understanding done at London on 9 February 2000.

(b) Air service agreements and other arrangements initialled or signed between the Islamic Republic of Pakistan and Member States of the European Community which, at the date of signature of this Agreement, have not yet entered into force and are not being applied provisionally:

— Agreement between the Government of the Islamic Republic of Pakistan and the Government of the Grand Duchy of Luxembourg on air services initialled at Karachi on 14 October 1997 hereinafter referred to as 'Pakistan-Luxembourg Agreement' in Annex II,

Supplemented by Memorandum of Understanding signed at Karachi on 14 October 1997.

ANNEX II

Provisional list of articles in the agreements listed in Annex I and referred to in Articles 2 to 4 of this Agreement

(a) Designation by a Member State:

— Article 3 of the Pakistan-Austria Agreement and 2a of the Pakistan-Austria Memorandum of Understanding done at Islamabad on 27 September 2006,

— Article III of the Pakistan-Bulgaria Agreement,

— Article III of the Pakistan-Czech Republic Agreement,

— Draft Article 3 of the Pakistan-Denmark Agreement,

— Article 2 of the Pakistan-France Agreement,

— Article 3 of the Pakistan-Germany Agreement,

— Article 3 of the Pakistan-Greece Agreement,

— Article 3 of the Pakistan-Hungary Agreement,

— Article II of the Pakistan-Italy Agreement,

— Article 3 of the Pakistan-Malta Agreement,

— Article 4 of the Draft Pakistan-The Netherlands Agreement,

— Article III of the Pakistan-Poland Agreement,

— Article II of the Pakistan-Portugal Agreement,

— Article III of the Pakistan-Romania Agreement,

— Article 3 of the Pakistan-Spain Agreement,

— Draft Article 3 of the Pakistan-Sweden Agreement,

— Article 4 of the Pakistan-United Kingdom Agreement,

(b) Refusal, revocation, suspension or limitation of authorisations or permissions:

— Article 4 of the Pakistan-Austria Agreement and 2b of the Pakistan-Austria Memorandum of Understanding,

— Article IV of the Pakistan-Bulgaria Agreement,

— Article IV of the Pakistan-Czech Republic Agreement,

— Draft Article 4 of the Pakistan-Denmark Agreement,

— Article 2 of the Pakistan-France Agreement,

— Article 4 of the Pakistan-Germany Agreement,

— Article 4 of the Pakistan-Greece Agreement,

— Article 4 of the Pakistan-Hungary Agreement,

— Article VIII of the Pakistan-Italy Agreement,

— Article 4 of the Pakistan-Luxembourg Agreement,

— Article 4 of the Pakistan-Malta Agreement,

— Article 5 of the Draft Pakistan-The Netherlands Agreement,

— Article IV of the Pakistan-Poland Agreement,

— Article VIII of the Pakistan-Portugal Agreement,

— Article IV of the Pakistan-Romania Agreement,

— Article 4 of the Pakistan-Spain Agreement,

— Draft Article 4 of the Pakistan-Sweden Agreement,

— Article 5 of the Pakistan-United Kingdom Agreement,

(c) Safety:

— Attachment D of the Pakistan-Austria Memorandum of Understanding,

— Article V of the Pakistan-Bulgaria Agreement,

— Article V of the Pakistan-Czech Republic Agreement,

— Draft Article 16 of the Pakistan-Denmark Agreement,

— Article 8 of the Pakistan-Greece Agreement,

— Article 5 of the Pakistan-Hungary Agreement,

— Article II of the Pakistan-Italy Agreement,

— Article 6 of the Pakistan-Luxembourg Agreement,

— Article 5 of the Pakistan-Malta Agreement,

— Appendix II to the Pakistan-The Netherlands Agreed Minutes of 25 March 1997,

— Article V of the Pakistan-Romania Agreement,

— Article 5 of the Pakistan-Spain Agreement,

— Draft Article 16 of the Pakistan-Sweden Agreement,

(d) Tariffs for Carriage within the European Community:

— Article 9 of the Pakistan-Austria Agreement,

— Article VIII of the Pakistan-Bulgaria Agreement,

— Article VIII of the Pakistan-Czech Republic Agreement,

— Draft Article 11 of the Pakistan-Denmark Agreement,

— Article 6 of the Pakistan-France Agreement,

— Annex 4 of the Agreed Minutes done at Bonn 12 November 1998 – as applied provisionally in the framework of the Pakistan-Germany Agreement,

— Article 13 of the Pakistan-Greece Agreement,

— Article 9 of the Pakistan-Hungary Agreement,

— Article VI of the Pakistan-Italy Agreement,

— Article 10 of the Pakistan-Luxembourg Agreement,

— Article 9 of the Pakistan-Malta Agreement,

— Article 6 of the Draft Pakistan-The Netherlands Agreement,

— Article VIII of the Pakistan-Poland Agreement,

— Article VI of the Pakistan-Portugal Agreement,

— Article IX of the Pakistan-Romania Agreement,

— Article 9 of the Pakistan-Spain Agreement,

— Draft Article 11 of the Pakistan-Sweden Agreement,

— Article 7 of the Pakistan-United Kingdom Agreement.

ANNEX III

List of other States referred to in Article 2 of this Agreement

(a) The Republic of Iceland (under the Agreement on the European Economic Area);

(b) The Principality of Liechtenstein (under the Agreement on the European Economic Area);

(c) The Kingdom of Norway (under the Agreement on the European Economic Area);

(d) The Swiss Confederation (under the Agreement between the European Community and the Swiss Confederation on Air Transport).

CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES

DECISION OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES

of 25 March 2009

appointing two Judges to the Court of Justice of the European Communities

(2009/303/EC, Euratom)

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

Having regard to the Treaty establishing the European Community, and in particular Article 223 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 139 thereof,

Whereas:

(1) In accordance with the provisions of the Treaties, every three years there should be a partial replacement of the Judges and Advocates-General of the Court of Justice of the European Communities.

(2) For the period from 7 October 2009 to 6 October 2015, 13 Judges and four Advocates-General had to be appointed.

(3) On 25 February 2009, the Conference of the Representatives of the Governments of the Member States appointed 11 Judges and four Advocates-General to the Court of Justice of the European Communities for the above period.

(4) To complete the partial replacement of the Judges of the Court of Justice of the European Communities, the Governments of the Member States should appoint two further Judges, whose current term of office expires on 6 October 2009,

HAVE DECIDED AS FOLLOWS:

Article 1

Mr Marko ILEŠIČ and Ms Camelia TOADER are hereby appointed Judges to the Court of Justice of the European Communities for the period from 7 October 2009 to 6 October 2015.

Article 2

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

Done at Brussels, 25 March 2009.

The President

M. VICENOVÁ

COMMISSION

COMMISSION DECISION

of 30 March 2009

appointing 12 members of the European Statistical Advisory Committee

(Text with EEA relevance)

(2009/304/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Decision No 234/2008/EC of the European Parliament and of the Council of 11 March 2008 establishing the European Statistical Advisory Committee and repealing Council Decision 91/116/EEC [1], and in particular Article 4(1)(a) thereof,

After consultation of the Council,

After consultation of the European Parliament,

Whereas:

(1) The European Statistical Advisory Committee comprises 24 members.

(2) According to Article 4(1) of Decision No 234/2008/EC, 12 members shall be appointed by the Commission, after consulting the European Parliament and the Council.

(3) Member States have provided the Commission with a list of candidates with a well-established qualification in the field of statistics.

(4) In the appointment of those 12 members, the Commission shall endeavour to ensure that they represent, in equal measure, users, respondents, and other stakeholders in Community statistics (including the scientific community, the social partners and civil society),

HAS DECIDED AS FOLLOWS:

Article 1

The persons named in the Annex are hereby appointed as members of the European Statistical Advisory Committee for a term of five years.

Article 2

This Decision shall take effect on the day of its adoption.

Done at Brussels, 30 March 2009.

For the Commission

Joaquín ALMUNIA

Member of the Commission

[1] OJ L 73, 15.3.2008, p. 13.

ANNEX

Karl Andrea FEMRELL

Ladislav KABÁT

Lea KAUPPI

Irena E. KOTOWSKA

Denise Anne LIEVESLEY

Hristina MITREVA

Luca PAOLAZZI

Robert ROCHEFORT

Julio RODRÍGUEZ LÓPEZ

Ineke STOOP

Hartmut TOFAUTE

Brendan WALSH