

Official Journal

of the European Communities

ISSN 0378-6986

C 151 E

Volume 45

25 June 2002

English edition

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⁽¹⁾ Text with EEA relevance

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⁽¹⁾ Text with EEA relevance

II

(Preparatory Acts)

COMMISSION

Proposal for a Directive of the European Parliament and of the Council on EC type-approval of agricultural and forestry tractors, their trailers and interchangeable towed equipment, together with their systems, components and separate technical units

(2002/C 151 E/01)

(Text with EEA relevance)

COM(2002) 6 final — 2002/0017(COD)

(Submitted by the Commission on 17 January 2002)

THE EUROPEAN PARLIAMENT AND THE COUNCIL
OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

(1) In connection with the harmonisation of approval procedures, it has become essential to bring the provisions of Council Directive 74/150/EEC of 4 March 1974 on the approximation of the laws of the Member States relating to the type-approval of wheeled agricultural or forestry tractors⁽¹⁾ into line with those of Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers⁽²⁾ and those of Council Directive 92/61/EEC of 30 June 1992 relating to the type-approval of two- or three-wheel motor vehicles⁽³⁾.

(2) Directive 74/150/EEC currently limits the scope of the European type-approval procedure to wheeled agricultural and forestry tractors; it is therefore also essential to extend its scope to other categories of agricultural or forestry vehicles.

(3) Account should also be taken of the fact that an exemption procedure must be introduced for certain vehicles built in

limited numbers, end-of-series vehicles, or those which take advantage of technical progress not covered by a separate directive.

(4) This Directive being based on the principle of total harmonisation, the period before European type-approval becomes compulsory must be long enough to allow the manufacturers of those vehicles to adjust to the new harmonised procedures.

(5) As a result of Council Decision 97/836/EC of 27 November 1997 with a view to accession by the European Community to the Agreement of the United Nations Economic Commission for Europe concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions ('Revised 1958 Agreement')⁽⁴⁾, the various international regulations to which the Community has acceded must be taken into consideration. Also, certain tests should be harmonised with those defined by the OECD (Organisation for Economic Co-operation and Development) codes.

(6) The measures needed to implement this Directive are measures of general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽⁵⁾. They should therefore be implemented according to the regulatory procedure set out in Article 5 of the above decision.

(7) This instrument respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union as general principles of Community law.

(8) Directive 74/150/EEC has been variously and substantially amended, and should therefore be recast in the interests of clarity and rationality,

⁽¹⁾ OJ L 84, 28.3.1974, p. 10, as last amended by Commission Directive 2001/3/EC (OJ L 28, 30.1.2001, p. 1).

⁽²⁾ OJ L 42, 23.2.1970, p. 1, as last amended by Directive 2000/40/EC of the European Parliament and of the Council (OJ L 203, 10.8.2000, p. 9).

⁽³⁾ OJ L 225, 10.8.1992, p. 72, as last amended by Directive 2000/7/EC of the European Parliament and of the Council (OJ L 106, 3.5.2000, p. 1).

⁽⁴⁾ OJ L 346, 17.12.1997, p. 78.

⁽⁵⁾ OJ L 184, 17.7.1999, p. 23.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Scope

1. This Directive applies to the EC type-approval of vehicles, whether built in one or more stages.

It also applies to the EC type-approval of the systems, components and separate technical units intended for use on such vehicles.

2. This Directive does not apply to:

(a) type-approval of single vehicles;

However, this procedure may apply to certain categories of vehicles which fall within the scope of this Directive and for which EC type-approval is obligatory, provided that the number of approvals granted under this procedure for a given type of vehicle does not exceed the quantitative limit set in Annex V, Section C;

(b) interchangeable equipment especially designed solely for forestry use, as defined in standard ISO 6814-2000;

(c) interchangeable forestry equipment based on chassis for earthmoving equipment as defined in standard ISO 6165-1997;

(d) towed ploughs as defined in standard ISO 3339;

(e) interchangeable equipment that is fully raised from the ground when the vehicle to which it is attached is in use on a road.

Article 2

Definitions

For the purposes of this Directive:

(a) 'EC type-approval' means the procedure whereby a Member State certifies that a type of vehicle, system, component or separate technical unit satisfies the relevant technical requirements of this Directive; the type-approval of systems, components and separate technical units may also be referred to as 'component type-approval';

(b) 'multi-stage EC type-approval' means the procedure whereby one or more Member States certify that, depending on the state of completion, an incomplete or completed vehicle type satisfies the relevant technical requirements of this Directive;

(c) 'type-approval of single vehicles' means the procedure whereby a Member State certifies that a vehicle approved individually satisfies the national requirements;

(d) 'vehicle' means any tractor, trailer or interchangeable equipment, whether complete, incomplete or completed, which is used in agriculture or forestry,

(i) 'vehicle category' means any set of vehicles which have identical design characteristics;

(ii) 'type of vehicle' means vehicles of a particular category which do not differ in the essential respects referred to in Annex II, Chapter A; the different variants and versions of a type of vehicle set out in Annex II, Chapter A are permissible;

(iii) 'base vehicle' means any incomplete vehicle, the vehicle identification number of which is retained during subsequent stages of the multi-stage EC type-approval process;

(iv) 'incomplete vehicle' means any vehicle which still needs completion in at least one further stage in order to meet all the relevant requirements of this Directive;

(v) 'completed vehicle' means a vehicle resulting from the process of multi-stage type-approval which meets all the relevant requirements of this Directive;

(e) 'tractor' means any motorised, wheeled or tracked agricultural or forestry tractor having at least two axles and a maximum design speed of not less than 6 km/h, the main function of which lies in its tractive power and which has been especially designed to pull, push, carry and actuate certain interchangeable equipment designed to perform agricultural or forestry work, or to tow agricultural or forestry trailers; it may be adapted to carry a load in the context of agricultural or forestry work and/or may be equipped with passenger seats;

(f) 'trailer' means any towed agricultural or forestry trailer intended mainly to carry loads and designed to be towed by a tractor for agricultural or forestry purposes; trailers of which part of the load is borne by the drawing vehicle fall within this category; any vehicle coupled to a tractor and permanently incorporating an implement shall be assimilated to an agricultural or forestry trailer if the ratio of the technically permissible gross mass to the unladen mass of that vehicle is equal to or greater than 3,0 and if the vehicle has not been designed to process materials;

(g) 'interchangeable towed equipment' means any instrument used in agriculture or forestry which is designed to be towed by a tractor and changes or adds to its functions, insofar as this equipment is neither a spare part nor an implement; it may include a load platform designed and constructed to receive any tools and appliances needed in order to accomplish those tasks, and to store temporarily any materials produced or needed during work; any vehicle intended to be towed by a tractor and permanently incorporating an implement or designed to process materials shall be considered interchangeable towed equipment if the ratio of the technically permissible gross mass to the unladen mass of that vehicle is less than 3,0;

- (h) 'system' means any vehicle system, such as brakes, exhaust gas pollution control devices, or interior fittings, which is subject to the requirements set out in Annex II;
- (i) 'component' means a device, such as a lamp, subject to the requirements set out in Annex II and intended to be part of a vehicle, which may be type-approved separately where there is express provision for doing so;
- (j) 'separate technical unit' means a device, such as a rollover protection structure, subject to the requirements set out in Annex II and intended to be part of a vehicle, which may be type-approved separately but only in relation to one or more specified types of vehicles, where there is express provision for doing so;
- (k) 'manufacturer' means any natural or legal person responsible for the design and manufacture of a system, component or separate technical unit, with the intention of placing it on the market under his own name or brand; the following are also considered to be manufacturers:
- (i) any natural or legal person who, for his own use, designs, has designed, manufactures or has manufactured a vehicle, system, component or separate technical unit;
 - (ii) any natural or legal person who is responsible for ensuring compliance with this Directive at the time a vehicle, system, component or separate technical unit is placed on the market or enters into service;
- (l) 'authorised representative' means any natural or legal person established in the Community who has received a written mandate from the manufacturer to act on his behalf with regard to some or all of the obligations and formalities related to this Directive;
- (m) 'entry into service' means the first use for its intended purpose within the Community of any vehicle which requires no installation or adjustment by the manufacturer or a third party designated by him prior to its first use; the date it is placed on the market shall be considered the date of entry into service;
- (n) 'EC type-approval authority' means the authority in a Member State which is responsible for all aspects of the approval of a type of vehicle, system, component or separate technical unit, and which issues and, where appropriate, withdraws type-approvals, serves as the contact point for the approval authorities in the other Member States and checks the measures taken by the manufacturer in order to ensure product conformity;
- (o) 'testing body' means the organisation or body that has been appointed as a testing laboratory to carry out tests or inspections on behalf of the EC type-approval authority in a Member State; this function may also be carried out by the approval authority itself;
- (p) 'separate directives' means the directives listed in Annex II;
- (q) 'EC type-approval report' means one of the forms appearing in Annex II, Chapter C, or the corresponding annex to a separate directive, setting out what information is to be supplied by the approval authority;
- (r) 'information document' means one of the forms appearing in Annex I, or the corresponding annex to a separate directive, setting out what information is to be supplied by the applicant;
- (s) 'information folder' means the complete folder or file containing, in particular, the data, drawings and photographs required as per Annex I and supplied by the applicant to the testing body or approval authority as required by the information document provided for in a separate directive or in this Directive;
- (t) 'information package' means the information folder plus any test reports or other documents that the testing body or approval authority has added to the information folder while carrying out its tasks;
- (u) 'index to the information package' means the document setting out the contents of the information package which has been suitably numbered or otherwise marked in order clearly to identify all pages.

Article 3

Application for EC type-approval

1. The manufacturer or his authorised representative shall submit an application for vehicle type-approval to the approval authority of a Member State. It shall be accompanied by an information folder containing the information required by Annex I.

With regard to the EC type-approval of systems, components and separate technical units, the information folder shall also be made available to the approval authority until type-approval is granted or refused.

2. In the case of multi-stage EC type-approval, the information to be supplied shall consist of:

- (a) at stage one: those parts of the information folder and the type-approval reports required for a complete vehicle which correspond to the state of completion of the base vehicle;

(b) at the second and subsequent stages: those parts of the information folder and the type-approval reports which are relevant to the current stage of construction and a copy of the type-approval report for the incomplete vehicle issued at the previous stage; in addition, the manufacturer shall supply a detailed list of the changes and additions which he has made to the incomplete vehicle.

3. The manufacturer shall submit an application for EC type-approval of a system, component or separate technical unit to the approval authority in a Member State. It shall be accompanied by an information folder as required by the separate directive.

4. Applications for EC type-approval of a type of vehicle, system, component or separate technical unit may be submitted to only a single Member State. A separate application shall be submitted for each type to be approved.

Article 4

The EC type-approval process

1. Each Member State shall grant:

(a) according to the procedures described in Annex IV, EC type-approval to the vehicle types which conform to the particulars in the information folder and which, according to their category, meet the technical requirements of all the separate directives set out in Annex II, Chapter B;

(b) according to the procedures described in Annex VII, multi-stage EC type-approval to incomplete or completed base vehicles which conform to the particulars in the information folder and which meet the technical requirements of all the separate directives set out in Annex II, Chapter B;

(c) system, component or separate technical unit EC type-approval to all types of systems, components or separate technical units which conform to the particulars in the information folder and which meet the technical requirements contained in the corresponding separate directive listed in Annex II, Chapter B.

Where the system, component or separate technical unit to be approved fulfils its function or offers a specific feature only in conjunction with other parts of the vehicle, and where, for this reason, compliance with one or more requirements can be verified only when the system, component or separate technical unit to be approved operates in conjunction with other vehicle parts, whether real or simulated, the scope of the EC type-approval of the system, component or separate technical unit must be restricted accordingly.

In this case, the EC type-approval report for such a system, component or separate technical unit shall indicate any

restrictions on its use and any conditions for fitting it. Observance of these restrictions and conditions shall be verified at the time of EC type-approval of the vehicle.

2. If a Member State finds that a vehicle, system, component or separate technical unit which complies with the provisions of paragraph one is nevertheless a serious risk to road safety, the environment or occupational safety, it may refuse to grant type-approval. It shall forthwith notify the other Member States and the Commission thereof, stating the reasons on which its decision is based.

3. For each vehicle type in respect of which they have granted, refused to grant or withdrawn type-approval, the approval authority in each Member State shall send a copy of the information documents and of the type-approval report to the approval authorities in the other Member States within one month.

4. Each month, the EC type-approval authority in each Member State shall send a list containing the particulars shown in Annex VI of the EC type-approvals for systems, components or separate technical units which it has granted, refused to grant or withdrawn during the month in question to the approval authorities in the other Member States.

These authorities, on receiving an application from the approval authority in another Member State, are immediately to send it a copy of the type-approval report for the system, component or separate technical unit in question and/or an information package for each type of system, component or separate technical unit in respect of which it has issued, refused to issue or withdrawn type-approval.

Article 5

Amendments to EC type-approvals

1. The Member State which has granted EC type-approval must take the necessary measures to ensure that it is informed of any change in the particulars appearing in the information package.

2. An application for amendment of an EC type-approval shall be submitted exclusively to the Member State which granted the initial type-approval.

3. If, in the case of EC type-approval, any particulars appearing in the information package have changed, the approval authority in the Member State which granted the initial type-approval shall issue revised pages of the information package as necessary, marking each revised page to show clearly the nature of the change and the date of re-issue.

A consolidated, updated version of the information package, accompanied by a detailed description of the amendment, shall also be considered to meet this requirement.

4. Each time amended pages or a consolidated, updated version are issued, the index to the information package attached to the type-approval report shall also be amended to show the most recent dates of amendment, or the date of the consolidated, updated version.

5. The amendment shall be considered to be an 'extension' and the approval authority in the Member State which granted the initial type-approval shall issue a revised type-approval report bearing an extension number that clearly states the reason for the extension and its date of re-issue in the following cases:

- (a) if further inspections are required;
- (b) if any information in the type-approval report, with the exception of its attachments, has changed;
- (c) if the requirements of a separate directive which applied on the date from which first entry into service is prohibited have changed since the date which currently appears in the vehicle EC type-approval report.

6. If the approval authority in the Member State which granted the initial type-approval finds that an amendment to an information package warrants further inspections or fresh tests or checks, it shall inform the manufacturer accordingly and shall issue the documents referred to in paragraphs 3, 4 and 5 only after carrying out tests or checks which have produced satisfactory results.

Article 6

Certificate of conformity and type-approval mark

1. In his capacity as holder of a vehicle EC type-approval report, the manufacturer or his authorised representative shall issue a certificate of conformity.

This certificate, models for which are given in Annex III, shall accompany each vehicle, whether complete or incomplete, manufactured in conformity with the approved vehicle type.

2. For purposes of vehicle taxation or registration, Member States may, after giving at least three months' notice to the Commission and the other Member States, require particulars not mentioned in Annex III to be added to the certificate of conformity, provided such particulars are explicitly stated in the information package or can be derived from it by a simple calculation.

Member States may also require the certificate of conformity shown in Annex III to be expanded so as to indicate more clearly the data that are both necessary and sufficient for the purposes of taxation and registration by the competent national authorities.

3. In his capacity as holder of an EC type-approval report for a system, component or separate technical unit, the manufacturer or his authorised representative shall affix to each component or unit manufactured in conformity with the

approved type the trade name or mark, the type and/or, if the separate directive so provides, the type-approval mark or number.

4. In his capacity as holder of a type-approval report which, in accordance with Article 4(1), third subparagraph, includes restrictions on the use of the system, component or separate technical unit in question, the manufacturer or his authorised representative shall provide with each system, component or separate technical unit detailed information on these restrictions and shall indicate any conditions for fitting it.

Article 7

Registration, sale and entry into service

1. Each Member State shall register new type-approved vehicles, permit their sale or permit their entry into service on grounds relating to their construction and functioning only if they are accompanied by a valid certificate of conformity.

Each Member State shall permit the sale of incomplete vehicles but may refuse their permanent registration and entry into service until such time as they are completed.

2. Each Member State shall permit the sale or entry into service of systems, components or separate technical units only if these systems, components or separate technical units comply with the requirements of the corresponding separate directives and the requirements referred to in Article 6(3).

Article 8

Exemptions

The requirements of Article 7(1) shall not apply to vehicles intended for use by the armed forces and the civil protection, fire-fighting and public order services and vehicles type-approved in accordance with Article 9, as well as to vehicles type-approved singly.

Article 9

Each Member State may, at the request of the manufacturer or his authorised representative, exempt the vehicles referred to in Articles 10 to 12 from one or more of the provisions of one or more of the separate directives.

Every year, the Member States shall send the Commission a list of the exemptions granted.

Article 10

Vehicles produced in small series

For vehicles produced in small series, the number of vehicle types registered, offered for sale or put into service each year in the Member State in question shall be limited to the maximum number of units indicated in Annex V, Section A.

Every year, the Member States shall send the Commission a list of the type-approvals of these vehicles. The Member State granting such a type-approval shall send a copy of the information documents and the type-approval report and all its attachments to the approval authorities in the other Member States designated by the manufacturer, stating the nature of the exemptions which have been granted. Within three months, these Member States shall decide whether they accept the type-approval for vehicles to be registered within their territory and, if so, for how many vehicles.

Article 11

End-of-series vehicles

1. For end-of-series vehicles, Member States may, at the request of the manufacturer or his authorised representative, within the quantitative limits set out in Annex V, Section B, and for the limited period specified in the third subparagraph, register and permit the sale or entry into service of new vehicles that conform to a type of vehicle the approval of which is no longer valid.

This subparagraph shall apply solely to vehicles which:

- (a) are on Community territory, and
- (b) are accompanied by a valid certificate of conformity issued when the type-approval of the vehicle in question was still valid, but which was not registered or placed in service before the said approval lost its validity.

This option shall be restricted to a period of 24 months for complete vehicles and 30 months for completed vehicles from the date of expiry of the type-approval.

2. In order to apply paragraph 1 to one or more types of vehicles in a specific category, their manufacturer or his authorised representative must submit a request to the competent authorities in each Member State concerned by the entry into service of that type of vehicle. The request must specify the technical and/or economic grounds on which it is based.

Within three months, these Member States shall decide whether or not to authorise the registration of the type of vehicle in question in their territory, and if so for how many vehicles.

Each Member State affected by the entry into service of these types of vehicles shall be responsible for ensuring that their manufacturer complies with Annex V, Section B.

Article 12

Incompatibility of vehicles, systems, components or separate technical units

For vehicles, systems, components or separate technical units designed in accordance with techniques or principles that are incompatible with one or more of the requirements of one or more of the separate directives,

- (a) a Member State may grant EC type-approval which is valid only on its own territory. In this case, it must, within one

month, send a copy of the type-approval report and its attachments to the approval authorities in the other Member States and to the Commission. At the same time, it shall send the Commission a request for authorisation to grant type-approval under this Directive.

That request must be accompanied by a file containing the following information:

- (i) the reasons for which the techniques or principles at issue make the vehicle, system, component or separate technical unit incompatible with the requirements of one or more of the relevant separate directives;
 - (ii) a description of the safety, environmental protection or occupational safety issues raised and of the action taken;
 - (iii) a description of the tests, together with their results, which show that the level of safety, environmental protection and occupational safety guaranteed is at least equivalent to that guaranteed by the requirements of one or more of the relevant separate directives;
 - (iv) proposals for the amendment of the separate directives in question or, where appropriate, for new separate directives.
- (b) within three months of receipt of the complete file, the Commission shall submit a draft decision to the committee referred to in Article 21(1). In accordance with the procedure referred to in Article 21(2), the Commission shall decide whether or not to authorise the Member State to grant an EC type-approval under this Directive.
- Only the request for an authorisation and the draft decision shall be sent to the Member States in their national language(s). However, Member States may make any decision made in accordance with the procedure provided for in Article 21(2) subject to receipt of all of the information contained in the file in the original language.
- (c) if the request is approved, the Member State may grant an EC type-approval under this Directive. In this case, the decision must also state whether restrictions are to be imposed on the validity of such type-approvals. In no case shall the period of validity of the type-approval be less than 36 months.
 - (d) where the separate directives have been adapted to technical progress in such a way that the types of vehicles, systems, components or separate technical units approved under this Article comply with the amended directives, the Member States shall convert those type-approvals into type-approvals which comply with this Directive, allowing the time needed for the necessary changes to components, in particular, the removal of any references to restrictions or exemptions.

- (e) if the action needed to adapt the specific separate directives has not been taken, the validity of the type-approvals granted under this point may be extended, at the request of the Member State having granted the type-approval, by means of another Commission decision.
- (f) an exemption granted for the first time under this point can serve as a reference for further, strictly identical requests.

Article 13

Equivalence of EC type-approvals granted on the basis of other instruments

1. The Council, acting by a qualified majority on a proposal from the Commission, may acknowledge equivalence between the conditions for or provisions relating to the EC type-approval of vehicles, systems, components and separate technical units established by this Directive and the procedures established by international regulations or regulations of non-member countries, as part of multilateral or bilateral agreements between the Community and non-member countries.
2. The equivalence of EC type-approvals issued on the basis of the separate directives on motor vehicles as defined in Directive 70/156/EEC and set out in Annex II, Chapter B, Part II-A, is acknowledged.
3. The equivalence of EC type-approvals issued on the basis of the regulations which are annexed to the revised 1958 Agreement set out in Annex II, Chapter B, Part II-B, is acknowledged.
4. The equivalence of the test bulletins issued on the basis of the standardised OECD codes set out in Annex II, Chapter B, Part II-C is acknowledged as an alternative to the test reports drawn up under the separate directives.

Article 14

Arrangements to ensure conformity of production

1. A Member State granting an EC type-approval shall take the measures referred to in Annex IV in relation to that approval to verify, where appropriate in co-operation with the approval authorities in the other Member States, that adequate arrangements have been made to ensure that the vehicles, systems, components or separate technical units produced conform to the approved type.
2. A Member State which has granted an EC type-approval shall take the measures referred to in Annex IV in relation to that approval to verify, where appropriate in co-operation with the approval authorities in the other Member States, that the arrangements referred to in paragraph 1 continue to be adequate and that the vehicles, systems, components or separate technical units produced continue to conform to the approved type.

Verification to ensure that products conform to the approved type shall be limited to the procedures set out in Sections 2 and 3 of Annex IV.

Article 15

Obligation to provide information

The competent approval authorities in the Member States shall inform each other within one month of any withdrawal of EC type-approval and of the reasons for any such measure.

Article 16

Safeguard clauses

1. If a Member State establishes that vehicles, systems, components or separate technical units of a particular type pose a serious risk to road safety or occupational safety although they are accompanied by a valid certificate of conformity or are properly marked, it may, for a maximum period of six months, refuse to register such vehicles or prohibit the sale or entry into service in its territory of such vehicles, systems, components or separate technical units.

It shall forthwith notify the other Member States and the Commission thereof, stating the reasons on which its decision is based, particularly if:

- (a) the requirements of a separate directive were not met;
- (b) there is a gap in one of the separate directives.

2. In the situations described in paragraph 1, the Commission must enter into consultation with the parties concerned as soon as possible.

Where, after such consultations, the Commission concludes:

- (a) that the measure is justified, it shall immediately inform the Member State which initiated the action and the other Member States;
- (b) that the measure is not justified, it shall immediately inform the Member State which initiated the action and the manufacturer or his authorised representative.

Where the decision described in paragraph 1 is justified due to a gap in one of the separate directives, the Commission shall refer the matter to the committee referred to in Article 21(1) if the Member State which made the decision intends to maintain it.

Article 17

Failure to conform to the approved type

1. Failure to conform to the approved type occurs where deviations from the particulars in the type-approval report and/or the information package are found and where these deviations have not been authorised under Article 5(3) by the Member State which granted the type-approval.

A vehicle is not to be considered to deviate from the approved type where the tolerances permitted by separate directives are met.

2. If a Member State which has granted EC type-approval finds that vehicles, systems, components or separate technical units accompanied by a certificate of conformity or bearing a type-approval mark do not conform to the type it has approved, it shall take the necessary measures to ensure that the vehicles, systems, components or separate technical units produced conform to the approved type.

The approval authority in that Member State shall inform those of the other Member States and the Commission of the measures taken, which may extend to withdrawal of type-approval.

3. The authority responsible for EC type-approval of the vehicle shall ask the Member State which granted type-approval of the system, component, separate technical unit or incomplete vehicle to take the necessary action to ensure that the vehicles produced conform to the approved type in the case of:

- (a) EC vehicle type-approval where non-conformity of a vehicle arises exclusively from non-conformity of a system, component or separate technical unit, or
- (b) multi-stage EC type-approval where non-conformity of a completed vehicle arises exclusively from non-conformity of a system, component or separate technical unit forming part of the incomplete vehicle, or of the incomplete vehicle itself.

It shall forthwith inform the Commission thereof, and the provisions of paragraph 2 shall apply.

Article 18

Verification of non-conformity

If a Member State finds that vehicles, systems, components or separate technical units accompanied by an EC certificate of conformity or bearing a type-approval mark do not conform to the approved type, it may ask the Member State which granted the EC type-approval to verify that the vehicles, systems, components or separate technical units produced conform to the approved type.

Such action shall be taken as soon as possible, and in any case within six months of the date of the request.

Article 19

Notification of decisions and legal remedies available

All decisions refusing or withdrawing EC type-approval, refusing registration or prohibiting entry into service or sale

taken pursuant to the provisions adopted in implementation of this Directive shall state the grounds on which they are based.

All such decisions shall be notified to the party concerned who shall, at the same time, be informed of the remedies available to him under the laws in force in the Member States and of the time limits allowed for the exercise of such remedies.

Article 20

Amendment of the Annexes to this Directive or of the separate directives

1. The procedure referred to in Article 21(2) shall not apply to:
 - (a) the changes needed to adapt the Annexes to this Directive, or
 - (b) the changes needed to adapt the provisions of the separate directives, or
 - (c) the introduction into the separate directives of provisions relating to the EC type-approval of separate technical units.
2. If, pursuant to Council Decision 97/836/EC, new regulations or amendments to existing regulations which the Community has accepted are introduced, the Commission shall, as a result, adapt the Annexes to this Directive, in accordance with the procedure set out in Article 21(2).

Article 21

Committee

1. The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.
2. Where reference is made to this paragraph, the regulatory procedure laid down in Article 5 of Decision 1999/468/EC shall apply, in compliance with Article 7 and Article 8 thereof.
3. The period referred to in Article 5(6) of Decision 1999/468/EC is set at three months.

Article 22

Notification of the approval authorities and testing bodies

1. The Member States shall notify the Commission and the other Member States of the names and addresses of:
 - (a) the approval authorities and, where appropriate, the fields for which they are responsible, and
 - (b) the testing bodies which they have appointed, specifying for which test procedures each of these bodies has been appointed.

The notified bodies must meet the harmonised standards on the operation of testing laboratories (EN-ISO/IEC 17025) subject to the following conditions:

- (i) a manufacturer may be approved as a testing body only where this is expressly provided for by separate directives or alternative regulations;
- (ii) the use of outside equipment by a testing body, with the agreement of the approval authority, is authorised.

2. A notified body shall be presumed to meet the harmonised standard.

However, where appropriate, the Commission may ask the Member States to provide supporting evidence.

3. Bodies in non-member countries may be notified as appointed testing bodies only where this is provided for in a bilateral or multilateral agreement between the Community and the non-member country in question.

Article 23

Implementation

1. The Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2004 at the latest. They shall forthwith inform the Commission thereof.

They shall apply these provisions from 1 January 2005.

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

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

Article 24

Replacement of national type-approvals

Once all the separate directives for a category of vehicle as defined in Annex II are adapted, national type-approval shall be replaced by EC type-approval:

- (a) three years after the date of entry into force of the last separate directive which must still be adopted for new types of vehicles;
- (b) six years after the date of entry into force of the last separate directive which must still be adopted for all vehicles.

Article 25

Repeal

- 1. Directive 74/150/EEC is repealed.
- 2. References to the repealed directive shall be construed as references to this Directive in accordance with the table of correspondence set out in Annex VIII.

Article 26

Entry into force

This Directive shall enter into force on the twentieth day following the date of its publication in the *Official Journal of the European Communities*.

Article 27

Addressees

This Directive is addressed to the Member States.

ANNEX

'LIST OF ANNEXES

ANNEX I:	Model information documents
ANNEX II:	Chapter A — Definition of vehicle categories and vehicle types
	Chapter B — List of requirements for the purposes of EC vehicle type-approval
	Appendix 1: Definition of special-purpose vehicles and list of requirements for the purposes of EC vehicle type-approval
	Appendix 2: Procedures to be followed during EC vehicle type-approval
	Chapter C — EC vehicle type-approval report
	Appendix 1: Numbering system for the EC type-approval report
ANNEX III:	EC Certificate of conformity
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ANNEX V:	Small series and end-of-run limits
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ANNEX VII:	Procedures to be followed during multi-stage type-approval
ANNEX VIII:	Table of correspondence

ANNEX I

MODEL INFORMATION DOCUMENTS

(All the information documents referred to in this Directive and in the separate directives shall consist solely of extracts from this exhaustive list and shall use its numbering system to the exclusion of all others.)

The following information, if applicable, must be supplied in triplicate and include a list of contents. Any drawings must be supplied in appropriate scale and in sufficient detail on size A4 or on a folder of A4 format. Photographs, if any, must show sufficient detail.

MODEL A

Exhaustive list

Model A should be used in the absence of a type-approval report granted under a separate directive on the subject.

- 0 GENERAL
 - 0.1. Make(s) (trade mark registered by the manufacturer):
 - 0.2. Type (specify any variants and versions):
 - 0.2.0. Situation in relation to finishing of the vehicle:
 - for complete/completed/incomplete vehicle ⁽¹⁾
 - In the case of a completed vehicle, specify the name and address of the previous manufacturer and the approval number of the incomplete or complete vehicle.
 - 0.2.1. Trade name(s) (where appropriate):
 - 0.3. Means of identification of type, if marked on the vehicle:
 - 0.3.1. Manufacturer's plate (location and method of affixing):
 - 0.3.2. Chassis identification number (location):
 - 0.4. Category of vehicle ⁽⁴⁾:
 - 0.5. Name and address of manufacturer:
 - 0.6. Location of and method of affixing statutory plates and inscriptions (photographs or drawings):
.....
 - 0.7. Location of the EC type-approval mark on systems, components and separate technical units, and method of affixing it:
 - 0.8. Name(s) and address(es) of assembly plant(s):
- 1 GENERAL CONSTRUCTION CHARACTERISTICS OF THE VEHICLE
 - (Attach $\frac{3}{4}$ front and $\frac{3}{4}$ rear photographs or drawings of a representative version, and a dimensioned drawing of the entire vehicle.)
 - 1.1. Number of axles and wheels:
 - 1.1.1. Number and position of axles with twinned wheels (if applicable):
 - 1.1.2. Number and position of steered axles:
 - 1.1.3. Powered axles (number, position, interconnection):
.....

- 1.1.4. Braked axles (number, position):
- 1.2. Position and arrangement of the engine:
- 1.3. Position of the steering wheel: right/left/centre ⁽¹⁾
- 1.4. Reversible driving position: yes/no ⁽¹⁾
- 1.5. Chassis: backbone/chassis with side members/articulated chassis/other ⁽¹⁾
- 1.6. Vehicle designed for on-road use on the: right/left ⁽¹⁾

2. MASSES AND DIMENSIONS ⁽⁵⁾ (in kg and mm)
(Refer to drawings where applicable)

- 2.1. Unladen mass(es):
- 2.1.1. Unladen mass(es) in running order ⁽¹⁶⁾:

(serving as a reference point for the various separate directives) (including the roll-over protection structure, excluding optional accessories, but with coolant, lubricants, fuel, tools and driver) ⁽⁶⁾:

— maximum:

— minimum:

- 2.1.1.1. Distribution of this (these) mass(es) among the axles and, in the case of a semi-trailer (or interchangeable towed equipment) or a centre-axle trailer (or interchangeable towed equipment), the load on the coupling point:

- 2.2. Maximum mass(es) as declared by the manufacturer:

- 2.2.1. Technically permissible maximum laden mass(es) of vehicle according to the tyre specification:

- 2.2.2. Distribution of this (these) mass(es) among the axles and, in the case of a semi-trailer (or interchangeable towed equipment) or a centre-axle trailer (or interchangeable towed equipment), the load on the coupling point:

- 2.2.3. Limits on the distribution of this (these) mass(es) among the axles (specify the minimum limits in percentages on the front axle and on the rear axle) and, in the case of a semi-trailer (or interchangeable towed equipment) or a centre-axle trailer (or interchangeable towed equipment), the load on the coupling point:

- 2.2.3.1. Mass(es) and tyre(s):

Axle No	Tyres (dimensions)	Load capacity	Technically permissible maximum mass per axle	Maximum permissible vertical load ⁽⁷⁾ on the coupling point
1				
2				
3				

- 2.2.4. Payload(s) ⁽¹⁶⁾:

- 2.3. Ballast masses (total weight, material, number of components):

- 2.3.1. Distribution of this (these) mass(es) among the axles:

- 2.4. Technically permissible towable mass(es) for the tractor in the case of:

- 2.4.1. Drawbar trailer (interchangeable towed equipment):

- 2.4.2. Semi-trailer (interchangeable towed equipment):
- 2.4.3. Drawbar trailer (interchangeable towed equipment):
- 2.4.4. Total technically permissible mass(es) of the tractor-trailer combination (interchangeable towed equipment) (for each braking configuration of the trailer (interchangeable towed equipment):
- 2.4.5. Maximum mass of the trailer (interchangeable towed equipment) which may be towed:
- 2.4.6. Position of coupling point:
 - 2.4.6.1. Height above ground:
 - 2.4.6.1.1. Maximum height:
 - 2.4.6.1.2. Minimum height:
 - 2.4.6.2. Distance from the vertical plane passing through the axis of the rear axle:
 - 2.4.6.3. Maximum static vertical load/technically permissible mass on the coupling point:
 - 2.4.6.3.1. of the tractor:
 - 2.4.6.3.2. of the semi-trailer (interchangeable towed equipment) or the centre-axle trailer (interchangeable towed equipment):
.....
- 2.5. Wheelbase ⁽⁸⁾:
- 2.5.1. For semi-trailers (interchangeable towed equipment):
 - 2.5.1.1. distance between the coupling pin and the first rear axle:
 - 2.5.1.2. distance between the coupling pin and the rear of the semi-trailer (interchangeable towed equipment):
- 2.6. Maximum and minimum width of track of each axle (measured between the symmetry planes of the single or twin tyres normally fitted) (to be stated by the manufacturer) ⁽⁹⁾:
- 2.7. Range of vehicle dimensions (overall and for on-road use):
 - 2.7.1. For chassis without bodywork:
 - 2.7.1.1. Length ⁽¹⁰⁾:
 - 2.7.1.1.1. Maximum permissible length for the completed vehicle:
 - 2.7.1.1.2. Minimum permissible length for the completed vehicle:
 - 2.7.1.2. Width ⁽¹¹⁾:
 - 2.7.1.2.1. Maximum permissible width for the completed vehicle:
 - 2.7.1.2.2. Minimum permissible width for the completed vehicle:
 - 2.7.1.3. Height (in running order) ⁽¹²⁾ (for suspensions, if any, which are adjustable for height, state the normal running position):
 - 2.7.1.4. Forward overhang ⁽¹³⁾:
 - 2.7.1.4.1. Approach angle: degrees
 - 2.7.1.5. Rear overhang ⁽¹⁴⁾:
 - 2.7.1.5.1. Departure angle: degrees
 - 2.7.1.5.2. Minimum and maximum permissible overhang of the coupling point ⁽¹⁴⁾:
.....
 - 2.7.1.6. Ground clearance ⁽¹⁵⁾:
 - 2.7.1.6.1. Between the axles:
 - 2.7.1.6.2. Under the front axle(s):

- 2.7.1.6.3. Under the rear axle(s):
- 2.7.1.7. Extreme permissible positions of the centre of gravity of the body and/or interior fittings and/or equipment and/or payload:
- 2.7.2. For chassis with bodywork:
- 2.7.2.1. Length ⁽¹⁰⁾:
- 2.7.2.1.1. Length of the loading area:
- 2.7.2.2. Width ⁽¹¹⁾:
- 2.7.2.3. Height (in running order) ⁽¹²⁾ (for suspensions, if any, which are adjustable for height, state the normal running position):
- 2.7.2.4. Forward overhang ⁽¹³⁾:
- 2.7.2.4.1. Approach angle: degrees
- 2.7.2.5. Rear overhang ⁽¹⁴⁾:
- 2.7.2.5.1. Departure angle: degrees
- 2.7.2.5.2. Minimum and maximum permissible overhang of the coupling point ⁽¹⁴⁾:
- 2.7.2.6. Ground clearance ⁽¹⁵⁾:
- 2.7.2.6.1. Between the axles:
- 2.7.2.6.2. Under the front axle(s):
- 2.7.2.6.3. Under the rear axle(s):
- 2.7.2.7. Ramp angle (nc): degrees
- 2.7.2.8. Extreme permissible positions of the centre of gravity of the payload (in the case of non-uniform load):
.....
3. ENGINE
- 3.1. **Part 1 — General**
- 3.1.1. **Parent engine/engine type ⁽¹⁾ ⁽²¹⁾**
Manufacturer's registered trade mark(s):
- 3.1.2. Type and commercial description of the parent engine and (where appropriate) of the family of engine(s) ⁽¹⁾:
.....
- 3.1.3. Means of identification of type, if marked on the engine(s) and method of affixing it:
.....
- 3.1.3.1. Location, means of identification and method of affixing the engine type identification characters:
- 3.1.3.2. Location and method of affixing the EC component type-approval number:
.....
- 3.1.4. Name and address of manufacturer:
- 3.1.5. Address(es) of assembly plant(s):
- 3.1.6. Operating principle:
— spark/compression ignition ⁽¹⁾
— direct/indirect injection ⁽¹⁾
— two/four-stroke ⁽¹⁾

- 3.1.7. Fuel:
diesel/petrol/LPG/other ⁽¹⁾
- 3.2. **Part 2 — Engine type**
Essential characteristics of the engine type
- 3.2.1. Description of the compression ignition engine:
- 3.2.1.1. Manufacturer:
- 3.2.1.2. Type of engine fitted by the manufacturer:
- 3.2.1.3. Two/four-stroke ⁽¹⁾
- 3.2.1.4. Bore: mm
- 3.2.1.5. Stroke: mm
- 3.2.1.6. Number and arrangement of cylinders:
- 3.2.1.7. Cylinder capacity: cm³
- 3.2.1.8. Engine rating: min⁻¹
- 3.2.1.9. Maximum torque: min⁻¹
- 3.2.1.10. Compression ratio ⁽²⁾:
- 3.2.1.11. Combustion system:
- 3.2.1.12. Drawing(s) of combustion chamber and piston crown:
- 3.2.1.13. Minimum cross-section of inlet and exhaust pipes:
- 3.2.1.14. Cooling system:
- 3.2.1.14.1. Liquid:
- 3.2.1.14.1.1. Type of liquid:
- 3.2.1.14.1.2. Circulation pump(s): with/without ⁽¹⁾
- 3.2.1.14.1.3. Characteristics or make(s) and type(s) (if applicable):
- 3.2.1.14.1.4. Drive ratio(s) (if applicable):
- 3.2.1.14.2. Air:
- 3.2.1.14.2.1. Blower: with/without ⁽¹⁾
- 3.2.1.14.2.2. Characteristics or make(s) and type(s) (if applicable):
- 3.2.1.14.2.3. Drive ratio(s) (if applicable):
- 3.2.1.15. Temperature authorised by the manufacturer:
- 3.2.1.15.1. Liquid cooling: maximum temperature at outlet: K
- 3.2.1.15.2. Air cooling: reference point
- Maximum temperature at reference point: K
- 3.2.1.15.3. Maximum air supply temperature at the egress point of the inlet intercooler (where applicable): K
- 3.2.1.15.4. Maximum temperature of exhaust gases in the exhaust pipes adjacent to the outlet flanges of the exhaust manifold: K
- 3.2.1.15.5. Temperature of the lubricant: min. K, max. K
- 3.2.1.16. Supercharger: with/without ⁽¹⁾
- 3.2.1.16.1. Make:
- 3.2.1.16.2. Type:

- 3.2.1.16.3. Description of the system (e.g. maximum pressure, discharge valve, where applicable):
- 3.2.1.16.4. Intercooler: with/without ⁽¹⁾
- 3.2.1.17. Inlet system: maximum permissible inlet depression at rated engine power under full engine load: kPa
- 3.2.1.18. Exhaust system: maximum permissible back pressure at rated engine power under full engine load: kPa
- 3.2.2. Additional anti-pollution devices (if any, and if not covered by another heading)
Description and/or diagrams:
- 3.2.3. Fuel feed:
- 3.2.3.1. Feed pump
Pressure ⁽²⁾ or characteristic diagram: kPa
- 3.2.3.2. Injection system:
- 3.2.3.2.1. Pump:
- 3.2.3.2.1.1. Make(s):
- 3.2.3.2.1.2. Type(s):
- 3.2.3.2.1.3. Delivery: mm³ ⁽²⁾ per injection or per cycle at a rated pump speed of: min⁻¹ (rated) and of: min⁻¹ (maximum torque) respectively, or diagram.
Indicate method used: on engine/on test bench ⁽¹⁾
- 3.2.3.2.1.4. Injection advance:
- 3.2.3.2.1.4.1. Injection advance curve ⁽²⁾:
- 3.2.3.2.1.4.2. Timing ⁽²⁾:
- 3.2.3.2.2. Injection piping:
- 3.2.3.2.2.1. Length(s): mm
- 3.2.3.2.2.2. Internal diameter: mm
- 3.2.3.2.3. Injector(s):
- 3.2.3.2.3.1. Make(s):
- 3.2.3.2.3.2. Type(s):
- 3.2.3.2.3.3. Starting pressure ⁽²⁾ kPa, or diagram ⁽¹⁾
- 3.2.3.2.4. Governor:
- 3.2.3.2.4.1. Make(s):
- 3.2.3.2.4.2. Type(s):
- 3.2.3.2.4.3. Cut-off initiation speed under full load ⁽²⁾: min⁻¹
- 3.2.3.2.4.4. Maximum no-load speed ⁽²⁾: min⁻¹
- 3.2.3.2.4.5. Idling speed ⁽²⁾: min⁻¹
- 3.2.3.3. Cold-start system:
- 3.2.3.3.1. Make(s):
- 3.2.3.3.2. Type(s):

- 3.2.3.3.3. Description:
- 3.2.4. Valve timing:
- 3.2.4.1. Maximum valve lift and opening and closing angles in relation to top dead centre or equivalent characteristics:
- 3.2.4.2. Reference clearances and/or setting range ⁽¹⁾:
- 3.2.5. Electronic control functions
- If the engine has electronic control functions, relevant performance data must be provided:
- 3.2.5.1. Make:
- 3.2.5.2. Type:
- 3.2.5.3. Component number:
- 3.2.5.4. Location of electronic control unit:
- 3.2.5.4.1. Components detected:
- 3.2.5.4.2. Components controlled:

3.3. **Part 3 — Compression ignition engine family**

Essential characteristics of engine family

- 3.3.1. List of engine types making up the family:
- 3.3.1.1. Name of engine family:
- 3.3.1.2. Specifications of engine types within the family:

	Parent engine				
Engine types					
Number of cylinders					
Nominal rating (min ⁻¹)					
Fuel intake per stroke (mm ³) at nominal rating					
Net rated power (kW)					
Maximum torque (min ⁻¹)					
Fuel intake per stroke (mm ³) at maximum torque					
Maximum torque (Nm)					
Idling speed (min ⁻¹)					
Cylinder capacity as a percentage of the parent engine					100

3.4. **Part 4 — Engine type within the family**

Essential characteristics of the family's parent engine ⁽²¹⁾

- 3.4.1. Description of the compression ignition engine:
- 3.4.1.1. Manufacturer:
- 3.4.1.2. Type of engine fitted by the manufacturer:
- 3.4.1.3. Two/four-stroke ⁽¹⁾
- 3.4.1.4. Bore: mm
- 3.4.1.5. Stroke: mm

- 3.4.1.6. Number and arrangement of cylinders:
- 3.4.1.7. Cylinder capacity: cm^3
- 3.4.1.8. Engine rating: min^{-1}
- 3.4.1.9. Maximum torque: min^{-1}
- 3.4.1.10. Compression ratio ⁽²⁾:
- 3.4.1.11. Combustion system:
- 3.4.1.12. Drawing(s) of combustion chamber and piston crown:
- 3.4.1.13. Minimum cross-section of inlet and exhaust pipes:
- 3.4.1.14. Cooling system:
- 3.4.1.14.1. Liquid:
- 3.4.1.14.1.1. Type of liquid:
- 3.4.1.14.1.2. Circulation pump(s): with/without ⁽¹⁾
- 3.4.1.14.1.3. Characteristics or make(s) and type(s) (if applicable):
- 3.4.1.14.1.4. Drive ratio(s) (if applicable):
- 3.4.1.14.2. Air:
- 3.4.1.14.2.1. Blower: with/without ⁽¹⁾
- 3.4.1.14.2.2. Characteristics or make(s) and type(s) (if applicable):
- 3.4.1.14.2.3. Drive ratio(s) (if applicable):
- 3.4.1.15. Temperature authorised by the manufacturer:
- 3.4.1.15.1. Liquid cooling: maximum temperature at outlet: K
- 3.4.1.15.2. Air cooling: reference point
Maximum temperature at reference point: K
- 3.4.1.15.3. Maximum air supply temperature at the egress point of the inlet intercooler (where applicable): K
- 3.4.1.15.4. Maximum temperature of exhaust gases in the exhaust pipes adjacent to the outlet flanges of the exhaust manifold: K
- 3.4.1.15.5. Temperature of the lubricant: min. K, max.: K
- 3.4.1.16. Supercharger: with/without ⁽¹⁾
- 3.4.1.16.1. Make:
- 3.4.1.16.2. Type:
- 3.4.1.16.3. Description of the system (e.g. maximum pressure, discharge valve, where applicable):
.....
- 3.4.1.16.4. Intercooler: with/without ⁽¹⁾
- 3.4.1.17. Inlet system: maximum permissible inlet depression at rated engine power under full engine load: kPa
- 3.4.1.18. Exhaust system: maximum permissible back pressure at rated engine power under full engine load: kPa
- 3.4.2. Additional anti-pollution devices (if any, and if not covered by another heading)
Description and/or ⁽¹⁾ diagram(s):
- 3.4.3. Fuel feed:
- 3.4.3.1. Feed pump
Pressure ⁽²⁾ or characteristic diagram: kPa

- 3.4.3.2. Injection system:
- 3.4.3.2.1. Pump:
- 3.4.3.2.1.1. Make(s):
- 3.4.3.2.1.2. Type(s):
- 3.4.3.2.1.3. Delivery: mm^3 (²) per injection or per cycle at a rated pump speed of: min^{-1} (rated) and of: min^{-1} (maximum torque) respectively, or diagram.
- Indicate method used: on engine/on test bench (¹)
- 3.4.3.2.1.4. Injection advance:
- 3.4.3.2.1.4.1. Injection advance curve (²):
- 3.4.3.2.1.4.2. Timing (²):
- 3.4.3.2.2. Injection piping:
- 3.4.3.2.2.1. Length(s): mm
- 3.4.3.2.2.2. Internal diameter: mm
- 3.4.3.2.3. Injector(s):
- 3.4.3.2.3.1. Make(s):
- 3.4.3.2.3.2. Type(s):
- 3.4.3.2.3.3. Starting pressure (²) or diagram:
- 3.4.3.2.4. Governor:
- 3.4.3.2.4.1. Make(s):
- 3.4.3.2.4.2. Type(s):
- 3.4.3.2.4.3. Cut-off initiation speed under full load (²): min^{-1}
- 3.4.3.2.4.4. Maximum no-load speed (²): min^{-1}
- 3.4.3.2.4.5. Idling speed (²): min^{-1}
- 3.4.3.3. Cold-start system:
- 3.4.3.3.1. Make(s):
- 3.4.3.3.2. Type(s):
- 3.4.3.3.3. Description:
- 3.4.4. Valve timing:
- 3.4.4.1. Maximum valve lift and opening and closing angles in relation to top dead centre or equivalent characteristics:
-
- 3.4.4.2. Reference clearances and/or setting range (¹):
- 3.4.5. Electronic control functions
- If the engine has electronic control functions, information concerning their performance must be supplied, and in particular:.....
- 3.4.5.1. Make:
- 3.4.5.2. Type:
- 3.4.5.3. Component number:

- 3.4.5.4. Location of electronic control unit:
- 3.4.5.4.1. Components detected:
- 3.4.5.4.2. Components controlled:
- 3.5. Fuel tank(s):
- 3.5.1. Number, capacity, materials:
- 3.5.2. Drawing, photograph or description clearly indicating the position of the tank(s):
.....
- 3.5.3. Reserve fuel tank(s):
- 3.5.3.1. Number, capacity, materials:
- 3.5.3.2. Drawing, photograph or description clearly indicating the position of the tank(s):
.....
- 3.6. Rated power: kW at rated engine power at min⁻¹ at standard setting
(in accordance with Directive 97/68/EC)
- 3.6.1. Optional: Power at the power take-off (PTO), if any, at the rated speed(s) (in accordance with OECD code 1 or 2 or ISO 789-10)
- | Rated speed PTO (min ⁻¹) | Corresponding engine speed (min ⁻¹) | Power (kW) |
|--------------------------------------|---|------------|
| 1—540 | | |
| 2—1 000 | | |
- 3.7. Maximum torque: Nm at min⁻¹
(according to Directive 97/68/EC)
- 3.8. Other traction engines or motors (spark ignition, etc.), or combinations thereof (characteristics of components):
- 3.9. Air filter:
- 3.9.1. Make(s):
- 3.9.2. Type(s):
- 3.9.3. Average depression at maximum power: kPa
- 3.10. Exhaust system:
- 3.10.1. Description and diagrams:
- 3.10.2. Make(s):
- 3.10.3. Type(s):
- 3.11. Electrical system:
- 3.11.1. Rated voltage, positive/negative earth ⁽¹⁾ V
- 3.11.2. Generator:
- 3.11.2.1. Type:
- 3.11.2.2. Rated power: VA
4. TRANSMISSION ⁽¹⁶⁾
- 4.1. Diagram of the transmission system:
- 4.2. Type (mechanical, hydraulic, electric, etc.):
- 4.2.1. Brief description of the electrical/electronic components (if any)
.....

- 4.3. Engine flywheel moment of inertia:
- 4.3.1. Additional moment of inertia if no gear is engaged:
- 4.4. Clutch (type) (if any):
- 4.4.1. Maximum torque conversion (if any):
- 4.5. Gearbox (type, direct engagement, method of control) (if any)
- 4.6. Gear ratios (if any), with or without transfer box ⁽¹⁷⁾

Gear	Gearbox ratio	Transfer-box ratio(s)	Final drive ratio	Overall gear ratio
Maximum for speed-changing mechanism ⁽¹⁾				
1				
2				
3				
Minimum for speed-changing mechanism ⁽¹⁾				
Reverse				
1				
...				

⁽¹⁾ Continuously variable transmission (CVT)

- 4.6.1. Maximum dimensions of tyres on powered axles:
- 4.7. Calculated maximum tractor design speed in top gear (show factors used in calculation) ⁽¹⁷⁾: km/h
- 4.7.1. Measured maximum speed: km/h
- 4.8. Actual forward movement of powered wheels corresponding to one complete revolution:
- 4.9. Speed governor: yes/no ⁽¹⁾
- 4.9.1. Description:
- 4.10. Speedometer, tachometer and hour meter (if fitted)
- 4.10.1. Speedometer (if fitted)
- 4.10.1.1. Method of operation and description of drive mechanism:
- 4.10.1.2. Instrument constant:
- 4.10.1.3. Measuring mechanism tolerance:
- 4.10.1.4. Overall transmission ratio:
- 4.10.1.5. Design of the instrument dial or of the other forms of read-out
- 4.10.1.6. Brief description of the electrical/electronic components:
- 4.10.2. Tachometer and hour metre (if fitted): yes/no ⁽¹⁾
- 4.11. Differential lock (if fitted): yes/no ⁽¹⁾
- 4.12. Power take-off(s) (revolutions per minute and ratio of this figure to that of the engine) (number, type and position)
- 4.12.1. — main power take-off(s):
- 4.12.2. — other(s):

- 4.12.3. Power take-off guard(s) (description, dimensions, drawings, photographs):
- 4.13. Protection of engine parts, projecting parts and wheels (descriptions, drawings, sketches, photos):
- 4.13.1. Single surface protection:
- 4.13.2. Multi-surface protection:
- 4.13.3. Protection by total encapsulation:
- 4.14. Brief description of the electrical/electronic components (if any):
5. AXLES
- 5.1. Description of each axle:
- 5.2. Make (where appropriate):
- 5.3. Type (where appropriate):
6. SUSPENSION (where appropriate)
- 6.1. Extreme (maximum-minimum) tyre/wheel combinations (if any) (dimensions, characteristics, inflation pressure for road use, maximum permissible load, wheel dimensions and front/rear combinations):
- 6.2. Type of suspension (if fitted) for each axle or wheel:
- 6.2.1. Level adjustment: yes/no/optional ⁽¹⁾
- 6.2.2. Brief description of the electrical/electronic components (if any):
- 6.3. Other devices (if any):
7. STEERING (descriptive diagram)
- 7.1. Steering category: manual/power-assisted/servo steering ⁽¹⁾
- 7.1.1. Reversible driving position (description):
- 7.2. Transmission and control
- 7.2.1. Type of steering transmission (specify for front and rear, if applicable):
- 7.2.2. Linkage to the wheels (including other than mechanical means; specify for front and rear, if applicable):
- 7.2.2.1. Brief description of the electrical/electronic components (if any):
- 7.2.3. Method of power assistance, if any:
- 7.2.3.1. Method and diagram of operation, make(s) and type(s):
- 7.2.4. Diagram of the steering equipment as a whole, showing the position on the vehicle of the various devices influencing its steering behaviour:
- 7.2.5. Schematic diagram(s) of the steering control(s):
- 7.2.6. Range and method of adjustment, if any, of the steering control:
- 7.3. Maximum turning angle of the wheels (if fitted):
- 7.3.1. to the right: degrees Number of steering wheel turns:
- 7.3.2. to the left: degrees Number of steering wheel turns:
- 7.4. Minimum turning circle (without braking) ⁽¹⁸⁾:
- 7.4.1. to the right: mm
- 7.4.2. to the left: mm

- 7.5. Method of adjustment of the steering control (where applicable):
- 7.6. Brief description of the electrical/electronic components (if any):
8. BRAKES (overall sketch and operating sketch) ⁽¹⁹⁾
- 8.1. Service braking system:
- 8.2. Secondary braking system (if fitted):
- 8.3. Parking brake:
- 8.4. Any additional braking device(s) (and especially retarders):
- 8.5. For vehicles with anti-lock brake systems, description of system operation (including any electronic parts), electric block diagram, hydraulic or pneumatic circuit plan:
- 8.6. List of braking-system components, properly identified:.....
- 8.7. Dimensions of the largest permissible tyres on the braked axles:
- 8.8. Calculation for the braking system (determination of the ratio of the total braking forces at the circumference of the wheels to the force applied to the braking control):
- 8.9. Locking of left and right braking controls:
- 8.10. External energy source(s) (if any)
(characteristics, capacity of energy reservoirs, maximum and minimum pressure, pressure gauge and minimum-pressure warning device on the dashboard, vacuum reservoirs and supply valve, supply compressors, compliance with provisions regarding pressure equipment):.....
- 8.11. Vehicles fitted with trailer braking devices
- 8.11.1. Trailer-brake actuating device (description, characteristics):
- 8.11.2. Mechanical/hydraulic/pneumatic coupling ⁽¹⁾
- 8.11.3. Connectors, couplings, safety devices (description, drawing, sketch):
- 8.11.4. Single- or two-line connections ⁽¹⁾
- 8.11.4.1. Supply overpressure (1 line): kPa
- 8.11.4.2. Supply overpressure (2 line): kPa
9. BODYWORK, FIELD OF VISION, GLAZING, WINDSCREEN WIPERS AND REAR-VIEW MIRRORS
- 9.1. Type of bodywork:
- 9.2. Materials used and methods of construction:
- 9.3. Field of vision:
- 9.3.1. Drawing(s) or photograph(s) showing the position of parts in the forward field of vision:
- 9.4. Glazing
- 9.4.1. Data for quick identification of reference point:
- 9.4.2. Windscreen(s)
- 9.4.2.1. Material(s) used:
- 9.4.2.2. Method of fitting:
- 9.4.2.3. Rake angle(s): degrees
- 9.4.2.4. Component type-approval mark(s):

- 9.4.2.5. Windscreen accessories and their location and concise description of any electrical/electronic components:
- 9.4.3. Other window(s)
 - 9.4.3.1. Position(s):
 - 9.4.3.2. Material(s) used:
 - 9.4.3.3. Component type-approval mark(s):
 - 9.4.3.4. Brief description of the electrical/electronic components (if fitted) of the side-window operating mechanism:
- 9.5. Windscreen wipers: yes/no ⁽¹⁾ (description, number, frequency of operation):
- 9.6. Rear-view mirror(s)
 - 9.6.1. Class(es):
 - 9.6.2. Component type-approval mark(s):
 - 9.6.3. Position(s) in relation to vehicle structure (drawings):
 - 9.6.4. Fixing method(s):
 - 9.6.5. Optional equipment that might restrict the field of vision to the rear:
 - 9.6.6. Brief description of the electrical/electronic components (if fitted) of the adjusting system:
- 9.7. Defrosting and demisting
 - 9.7.1. Technical description:
- 10. ROLL-OVER PROTECTIVE STRUCTURES, WEATHER PROTECTION, SEATS, LOAD PLATFORMS
 - 10.1. ROPS (dimensioned drawings, photographs (where appropriate), description)
 - 10.1.1. Frame(s):
 - 10.1.1.0. Presence: yes/no ⁽¹⁾
 - 10.1.1.1. Trade-mark(s):
 - 10.1.1.2. Component type-approval mark(s):
 - 10.1.1.3. Internal and external dimensions:
 - 10.1.1.4. Material(s) and method of construction:
 - 10.1.2. Cab(s)
 - 10.1.2.0. Presence: yes/no ⁽¹⁾
 - 10.1.2.1. Trade-mark(s):
 - 10.1.2.2. Component type-approval mark(s):
 - 10.1.2.3. Doors (number, dimensions, direction of opening, latches and hinges):
 - 10.1.2.4. Windows and emergency exit(s) (number, dimensions, positions):
 - 10.1.2.5. Other weather protection arrangements (description):
 - 10.1.2.6. Internal and external dimensions:
 - 10.1.3. Roll bar(s) mounted at front/rear ⁽¹⁾, fold-down or not ⁽¹⁾
 - 10.1.3.0. Presence: yes/no ⁽¹⁾
 - 10.1.3.1. Description (position, fixing, etc.):
 - 10.1.3.2. Trade mark(s) or name(s):

- 10.1.3.3. Component type-approval mark(s):
- 10.1.3.4. Dimensions:
- 10.1.3.5. Material(s) and method of construction:
- 10.2. Operating space and access to driving cab (description, characteristics, dimensioned drawings):
- 10.3. Seats and footrests
- 10.3.1. Driving seat(s) (drawings, photographs, description):
- 10.3.1.1. Trade mark(s) or name(s):
- 10.3.1.2. Component type-approval mark(s):
- 10.3.1.3. Seat type category: category A class I/II/III, category B ⁽¹⁾
- 10.3.1.4. Position and main characteristics:
- 10.3.1.5. Adjustment system:
- 10.3.1.6. Displacement and locking system:
- 10.3.2. Passenger seats (number, dimensions, position and characteristics):
- 10.3.3. Footrests (number, dimensions and positions):
- 10.4. Load platform
- 10.4.1. Dimensions: mm
- 10.4.2. Position:
- 10.4.3. Technically permissible load: kg
- 10.4.4. Distribution of load among the axles: kg
- 10.5. Suppression of radio interference
- 10.5.1. Description and drawings/photographs of the shapes and constituent materials of the part of the body forming the engine compartment and adjacent parts of the passenger compartment:
- 10.5.2. Drawings or photographs of the position of the metal components housed in the engine compartment (e.g. heating appliances, spare wheel, air filter, steering mechanism, etc.):
- 10.5.3. Table and drawing of radio interference control equipment:
- 10.5.4. Particulars of the nominal value of the direct current resistances, and in the case of resistive ignition cables, of their nominal resistance per metre:
11. LIGHTING AND LIGHT-SIGNALLING DEVICES
- (dimensioned sketches of the exterior of the vehicle showing the position of the illuminating surface of all devices; number, wiring, type-approval mark and colour of lights)
- 11.1. Compulsory devices
- 11.1.1. Dipped-beam headlamps:
- 11.1.2. Front position (side) lamps:
- 11.1.3. Rear position lamps:
- 11.1.4. Direction indicator lamps:
- front:
- rear:
- side:

- 11.1.5. Rear reflex reflectors:
- 11.1.6. Rear registration plate lamps:
- 11.1.7. Stop lamps:
- 11.1.8. Hazard-warning device:
- 11.2. Optional devices:
 - 11.2.1. Main-beam headlamps:
 - 11.2.2. Front fog lamps:
 - 11.2.3. Rear fog lamps:
 - 11.2.4. Reversing lamps:
 - 11.2.5. Work lamps:
 - 11.2.6. Parking lamps:
 - 11.2.7. End-outline marker lamps:
 - 11.2.8. Warning light(s) for trailer direction indicator lamps:
- 11.3. A brief description of electrical/electronic components other than lamps (if any)
.....
- 12. MISCELLANEOUS
 - 12.1. Audible warning device(s) (position):
 - 12.1.1. Component type-approval mark(s):
 - 12.2. Mechanical couplings between tractor and towed vehicles
 - 12.2.1. Type(s) of coupling:
 - 12.2.2. Trade-mark(s):
 - 12.2.3. Component type-approval mark(s):
 - 12.2.4. Device designed for a maximum horizontal load of kg; and for a maximum vertical load (if any) of kg ⁽²⁰⁾
 - 12.3. Hydraulic lift — three-point coupling: yes/no ⁽¹⁾
 - 12.4. Power connection for lighting and light-signalling devices on trailer (description):
.....
 - 12.5. Installation, location, functioning and marking of controls (description, photographs or diagrams):
.....
 - 12.6. Location of rear registration plate (shape and dimensions):
 - 12.7. Front coupling device (dimensioned drawing):
 - 12.8. Description of the on-board electronics used for the operation and control of the vehicle-mounted or towed implements:

Notes

- (¹) Delete if not applicable
- (²) Give the tolerance.
- (³) If a part has been type-approved that part need not be described if reference is made to such approval. Likewise the description is not needed for all components whose structural characteristics are clearly illustrated by the diagrams or sketches attached to the document.
- State the numbers of the corresponding annexes for each heading where photographs or drawings must be attached.
- (⁴) Classification according to the definitions set out in Annex II.
- (⁵) Standards ISO 612:1978 and 1176:1990.
- (⁶) The mass of the driver shall be assumed to be 75 kg.
- (⁷) Load transmitted to the reference centre of the coupling under static conditions.
- (⁸) Standard ISO-Norm 612-6.4:1978
- (⁹) Standard ISO-Norm 4004:1983
- (¹⁰) Standard ISO-Norm 612-6.1:1978
- (¹¹) Standard ISO-Norm 612-6.2:1978
- (¹²) Standard ISO-Norm 612-6.3:1978
- (¹³) Standard ISO-Norm 612-6.6:1978
- (¹⁴) Standard ISO-Norm 612-6.7:1978
- (¹⁵) Standard ISO-Norm 612-8:1978
- (¹⁶) The information requested should be supplied for all possible variants.
- (¹⁷) A 5 % tolerance is permitted. This provision must be based on a measured speed not exceeding 43 km/h, including the tolerance of 3 km/h (cf. Directive 98/89/EC).
- (¹⁸) Standard ISO-Norm 789-3:1993
- (¹⁹) The following particulars are to be given for each braking device:
- type and character of brakes (dimensioned sketch) (drums or discs, etc., braked wheels, transmission to those wheels, friction surfaces, their properties and effective areas, radius of drums, shoes or discs, weight of drums and adjustment devices),
 - transmission and control (attach diagram) (construction, adjustment, lever ratios, accessibility of control and its position, ratchet controls in the case of mechanical transmission, characteristics of the main parts of the transmission, control cylinders and pistons, brake cylinders).
- (²⁰) Values in respect of the mechanical strength of the coupling device.
- (²¹) In the case of applications involving more than one parent engine, a separate form should be submitted for each one.

MODEL B**Simplified information document for the purposes of EC vehicle type-approval****Part I**

Model B is to be used where one or more type-approval or component type-approval certificates issued pursuant to separate directives are available.

The numbers of the relevant type-approval or component type-approval certificates must be given in the table in Part III.

The information referred to in Annex III (certificate of conformity) must be provided for each of Chapters 1-12 below and for each type/variant/version of vehicle.

Where no type-approval or component type-approval certificate issued pursuant to a separate directive is available, the information referred to in model A of the information document must also be provided for the corresponding chapters.

0. GENERAL

0.1. Make(s) (trade mark registered by the manufacturer):

0.2. Type (specify any variants and versions):

0.2.0. Situation in relation to finishing of the vehicle:

for complete/completed/incomplete vehicle ⁽¹⁾

In the case of a completed vehicle, specify the name and address of the previous manufacturer and the approval number of the incomplete or complete vehicle.

0.2.1. Trade name(s) (where appropriate):

0.3. Means of identification of type, if marked on the vehicle:

0.3.1. Manufacturer's plate (location and method of affixing):

0.3.2. Chassis identification number (location):

0.4. Category of vehicle ⁽¹⁾:

0.5. Name and address of manufacturer:

0.7. In the case of components or separate technical units, location and method of affixing the EC approval mark:

0.8. Name(s) and address(es) of assembly plant(s):

1. GENERAL CONSTRUCTION CHARACTERISTICS OF THE VEHICLE

(Attach 3/4 front and 3/4 rear photographs or drawings of a representative version, and a dimensioned drawing of the entire vehicle.)

2. MASSES AND DIMENSIONS**3. ENGINE****4. TRANSMISSION****5. AXLES****6. SUSPENSION****7. STEERING****8. BRAKING DEVICES****9. BODYWORK, FIELD OF VISION, GLAZING, WINDSCREEN WIPERS AND REAR-VIEW MIRRORS****10. ROLL-OVER PROTECTION STRUCTURE, WEATHER PROTECTION, SEATS, LOAD PLATFORM****11. LIGHTING AND LIGHT SIGNALLING DEVICES****12. MISCELLANEOUS**

⁽¹⁾ Classification according to the definitions set out in Annex II.

Part II

Table summarising the authorised combinations in the various versions of the Part I components, for which there are multiple entries. Each entry for each of these components is to receive a letter which will identify the entry or entries in the table concerning a specific component or components that can apply to a specific version.

A separate table is to be drawn up for each variant of the type.

Multiple entries subject to no restriction as regards their combination within a variant shall be entered in the "All versions" column.

Item No	All versions	Version 1	Version 2	etc.	Version "n"

This information may be presented in an alternative format or layout so long as the original purpose is fulfilled.

Each variant and version shall be identified by a numerical or alphanumerical code, which must also be entered on the certificate of conformity (Annex III) of the vehicle concerned.

Part III

Type-approval numbers relating to the separate directives

Supply the information requested below on the aspects (*) applying to the vehicle.

For the purposes of EC type-approval, all the type-approval or component type-approval certificates concerned (together with their annexes) must be included and presented to the approval authorities.

Subject	EC type-approval or component type-approval number	Date of type-approval or component type-approval	Type(s) Variant(s) Version(s) covered
<i>Example</i>			
Braking devices	E1*76/432*97/54*0026*00 E4*76/432*97/54*0039*00	3.2.2000 1.3.2000	MF/320/U MF/320/F

Signature:

Position within organisation:

Date:

(*) Information which appears on the relevant installation approval certificate need not be repeated here.

ANNEX II

CHAPTER A

Definition of vehicle categories and vehicle types

A. THE VEHICLE CATEGORIES ARE DEFINED AS FOLLOWS:

1. *Category T: Wheeled tractors*

- Category T1: wheeled tractors with a maximum design speed of not more than 40 km/h, with the closest axle to the driver having a minimum track width of not less than 1 150 mm, with an unladen mass, in running order, of more than 600 kg, and with a ground clearance of not more than 1 000 mm
- Category T2: wheeled tractors with a maximum design speed of not more than 40 km/h, with a minimum track width of less than 1 150 mm, with an unladen mass, in running order, of more than 600 kg and with a ground clearance of not more than 600 mm. However, where the height of the centre of gravity of the tractor ⁽¹⁾ (measured in relation to the ground) divided by the average minimum track for each axle exceeds 0,90, the maximum design speed is restricted to 30 km/h.
- Category T3: wheeled tractors with a maximum design speed of not more than 40 km/h, and with an unladen mass, in running order, of not more than 600 kg.
- Category T4: other wheeled tractors with a maximum design speed of not more than 40 km/h (as defined in Appendix 1).
- Category T5: wheeled tractors with a maximum design speed of more than 40 km/h.

2. *Category C: Track-laying tractors*

Track-laying tractors that are propelled and steered by endless tracks and whose categories C1 to C5 are defined by analogy with categories T1 to T5.

3. *Category R: Trailers*

- Category R1: trailers, the sum of the technically permissible masses per axle of which does not exceed 1 500 kg.
- Category R2: trailers, the sum of the technically permissible masses per axle of which exceeds 1 500 kg but does not exceed 3 500 kg.
- Category R3: trailers, the sum of the technically permissible masses per axle of which exceeds 3 500 kg but does not exceed 21 000 kg.
- Category R4: trailers, the sum of the technically permissible masses per axle of which exceeds 21 000 kg.

Each trailer category also includes an "a" or "b" index, according to its design speed:

- "a" for trailers with a maximum design speed below or equal to 40 km/h;
- "b" for trailers with a maximum design speed above 40 km/h.

Example: Rb3 is a category of trailers for which the sum of the technically permissible masses per axle exceeds 3 500 kg but does not exceed 21 000 kg, and which are designed to be towed by a tractor in category T5.

4. *Category S: Interchangeable towed equipment*

- Category S1: Interchangeable towed equipment intended for agricultural or forestry use, the sum of the technically permissible masses per axle of which does not exceed 3 500 kg;
- Category S2: Interchangeable towed equipment intended for agricultural or forestry use, the sum of the technically permissible masses per axle of which exceeds 3 500 kg.

⁽¹⁾ In accordance with ISO standard 789-6.

Each category of interchangeable towed equipment also includes an "a" or "b" index, according to its design speed:

- "a" for interchangeable towed equipment with a maximum design speed below or equal to 40 km/h;
- "b" for interchangeable towed equipment with a maximum design speed above 40 km/h.

Example: Sb2 is a category of interchangeable towed equipment for which the sum of the technically permissible masses per axle exceeds 3 500 kg, and which is designed to be towed by a tractor in category T5.

B. DEFINITION OF VEHICLE TYPES

1. *Wheeled tractors:*

For the purposes of this Directive:

"type" means tractors of the same category that do not differ in respect of at least the following essential aspects:

- manufacturer;
- manufacturer's type designation;
- essential construction and design characteristics:
 - backbone chassis/chassis with side members/articulated chassis (obvious and fundamental differences);
 - engine (internal combustion/electric/hybrid);
 - axles (number);

"variant" means tractors of the same type which do not differ in respect of at least the following aspects:

- engine:
 - operating principle;
 - number and arrangement of cylinders;
 - power difference of no more than 30 % (the highest power being no more than 1.3 times the lowest power);
 - cylinder capacity difference of no more than 20 % (the highest figure being no more than 1.2 times the lowest figure);
- powered axles (number, position, interconnection);
- steered axles (number and position);
- maximum laden mass differing by no more than 10 %;
- transmission (type);
- rollover protection structure;
- braked axles (number);

"version" of a variant means tractors which consist of a combination of items shown in the information package in accordance with Annex I.

2. *Track-laying tractors: idem wheeled tractors*

3. Trailers

"Type" means trailers of the same category that do not differ in respect of at least the following essential aspects:

- manufacturer;
- manufacturer's type designation;
- essential construction and design characteristics;
- backbone chassis/chassis with side members/articulated chassis (obvious and fundamental differences);
- axles (number);

"variant" means trailers of the same type which do not differ in respect of at least the following aspects:

- steering axles (number, position, interconnection);
- maximum laden mass differing by no more than 10 %;
- braked axles (number).

4. Interchangeable towed equipment: *idem* trailers.

CHAPTER B

List of requirements for the purposes of EC vehicle type-approval

PART I

List of separate directives

(As appropriate, taking account of the scope and latest amendments to each of the following separate directives)

No	Subject	Base Directives and Annexes	Official Journal OJ L	Applicability (for T4 and C4 see Appendix 1)						
				T1	T2	T3	T5	C*	R	S
1.1.	Maximum laden mass	74/151/EEC I	84, 28.3.1974, p. 25	X	X	X	X	(X)	(X)	(X)
1.2.	Registration plate	74/151/EEC II	—	X	X	X	X	I	(X)	(X)
1.3.	Fuel tank	74/151/EEC III	—	X	X	X	X	I	—	—
1.4.	Ballast masses	74/151/EEC IV	—	X	X		(X)	I	—	—
1.5.	Audible warning device	74/151/EEC V	—	X	X	X	X	I	—	—
1.6.	Sound level (external)	74/151/EEC VI	—	X	X	X	(X)	I	—	—
2.1.	Maximum speed	74/152/EEC paragraph 1	84, 28.3.1974, p. 33	X	X	X	(X)	I	—	—
2.2.	Load platforms	74/152/EEC paragraph 2	—	X	X	X	(X)	I	—	—
3.1.	Rear-view mirrors	74/346/EEC	191, 15.7.1974, p. 1	X	X		(X)	I	—	—
4.1.	Field of vision and windscreen wipers	74/347/EEC	191, 15.7.1974, p. 5	X	X	X	(X)	I	—	—
5.1.	Steering	75/321/EEC	147, 9.6.1975, p. 24	X	X	X	(X)	(X)	—	—
6.1.	Electromagnetic compatibility	75/322/EEC	147, 9.6.1975, p. 28	X	X	X	X	I	—	—
7.1.	Braking devices	76/432/EEC	122, 8.5.1976, p. 1	X	X	X	—	(X)	(X)	(X)
		71/320/EEC	202, 6.9.1971, p. 37	—	—	—	X	—	—	—
8.1.	Passenger seats	76/763/EEC	262, 27.9.1976, p. 135	X	—	X	(X)	I	—	—
9.1.	Sound levels (internal)	77/311/EEC	105, 28.4.1977, p. 1	X	X	X	(X)	I	—	—

No	Subject	Base Directives and Annexes	Official Journal OJ L	Applicability (for T4 and C4 see Appendix 1)						
				T1	T2	T3	T5	C*	R	S
10.1.	ROPS	77/536/EEC	220, 29.8.1977, p. 1	X	—	—	(X)	(X)	—	—
12.1.	Driving seat	78/764/EEC	255, 18.9.1978, p. 1	X	X	X	(X)	(X)	—	—
13.1.	Lighting installation	78/933/EEC	325, 20.11.1978, p. 16	X	X	X	(X)	I	(X)	(X)
14.1.	Lighting and light-signalling devices	79/532/EEC	145, 13.6.1979, p. 16	X	X	X	X	X	(X)	(X)
15.1.	Coupling and reversing devices	79/533/EEC	145, 13.6.1979, p. 20	X	X	X	(X)	I	—	—
16.1.	ROPS (static testing)	79/622/EEC	179, 17.7.1979, p. 1	X	—	—	(X)	I	—	—
17.1.	Operating space, access to the driving position	80/720/EEC	194, 28.7.1980, p. 1	X	—	X	(X)	I	—	—
18.1.	Power take-offs	86/297/EEC	186, 8.7.1986, p. 19	X	X	X	(X)	I	—	—
19.1.	Rear-mounted ROPS (narrow-track tractors)	86/298/EEC	186, 8.7.1986, p. 26	—	X	—	(X)	I	—	—
20.1.	Installation of the controls	86/415/EEC	240, 26.8.1986, p. 1	X	X	X	(X)	I	—	—
21.1.	Front-mounted ROPS (narrow-track tractors)	87/402/EEC	220, 8.8.1987, p. 1	—	X	—	(X)	I	—	—
22.1.	Dimensions and trailer mass	89/173/EEC I	67, 10.3.1989, p. 1	X	X	X	(X)	I	(X)	(X)
22.2.	Glazing	89/173/EEC III	—	X	X	X	—	I	—	—
		92/22/EEC	129, 14.5.1992, p. 11	—	—	—	X	—	—	—
22.3.	Speed governor	89/173/EEC II,1	—	X	X	X	(X)	I	—	—
22.4.	Protection of drive components	89/173/EEC II,2	—	X	X	X	(X)	I	—	—
22.5.	Mechanical couplings	89/173/EEC IV	—	X	X	X	(X)	I	(X)	(X)
22.6.	Registration plate	89/173/EEC V	—	X	X	X	(X)	I	(X)	(X)
22.7.	Trailer-brake coupling	89/173/EEC VI	—	X	X	X	(X)	I	(X)	(X)
23.1.	Pollutant emissions	2000/25/EC	173, 12.7.2000, p. 1	X	X	X	X	X	—	—
24.1.	Tyres	[.../EC]		X	X	X	X	—	(X)	(X)
25.1.	Stability	+		—	—	—	+	—	—	—
26.1.	Seat-belt attachment points	76/115/EEC	24, 30.1.1976, p. 6	X	X	X	X	X	—	—
27.1.	Safety belts	77/541/EEC	220, 29.8.1977, p. 95	—	—	—	X	—	—	—
28.1.	Reverse and speedometer	75/443/EEC	196, 26.7.1975, p. 1	—	—	—	X	—	—	—
29.1.	Spray-suppression systems	1/226/EEC	129, 14.5.1992, p. 11	—	—	—	X	—	(X)	—
30.1.	Speed limitation devices	92/24/EEC	129, 14.5.1992, p. 154	—	—	—	X	—	—	—
31.1.	Rear protective structures	SD		—	—	—	—	—	SD	—
32.1.	Lateral protection	89/297/EEC	124, 5.5.1989	—	—	—	X	—	(X)	—

Legend:

X = applicable as is

(X) = applicable in amended form ⁽¹⁾

SD = separate directive

— = not applicable

I = same as T according to the category

⁽¹⁾ For EC type-approval to be granted, the parentheses must be removed.

PART II A

In the following table, the separate directives relating to "motor vehicles" (in the latest version in force on the date of EC type-approval) may be applied in place of the corresponding directives relating to "agricultural and forestry tractors".

Number given in the table in Part I and subject of the "agricultural tractors" Directive		Number of the base "motor vehicles" Directive	Official Journal OJ L
1.5.	Audible warning device	70/388/EEC	329, 25.11.1982, p. 31
1.6.	(External) sound levels	70/157/EEC	42, 23.2.1970, p. 16
4.1.	Field of vision and windscreen wipers	77/649/EEC	284, 10.10.1978, p. 11
5.1.	Steering	70/311/EEC	133, 18.6.1970, p. 10
6.1.	Suppression of radio interference	72/245/EWG	152, 6.7.1972, p. 15
7.1.	Braking devices	71/320/EEC	202, 6.9.1971, p. 37
14.1.	Rear reflex reflectors	76/757/EEC	262, 27.9.1976, p. 32
14.1.	Rear lamps	76/758/EEC	262, 27.9.1976, p. 54
14.1.	Direction indicator	76/759/EEC	262, 27.9.1976, p. 71
14.1.	Number plate illumination	76/760/EEC	262, 27.9.1976, p. 85
14.1.	Headlamps	76/761/EEC	262, 27.9.1976, p. 96
14.1.	Dipped-beam headlamps	76/761/EEC	—
14.1.	Front fog lamps	76/762/EEC	262, 27.9.1976, p. 122
14.1.	Rear fog lamps	77/538/EEC	220, 29.8.1977, p. 60
14.1.	Reversing lamps	77/539/EEC	220, 29.8.1977, p. 72
22.2.	Safety glazing	92/22/EEC	129, 14.5.1992, p. 11
22.5.	Mechanical couplings	94/20/ESC	195, 29.7.1994, p. 1
23.1.	Pollutant emissions	88/77/EEC	36, 9.2.1988, p. 33

PART II B

The following regulations, taken from the Annex to the revised 1958 United Nations Economic Commission for Europe (UN/ECE) Agreement and recognised in their latest versions by the European Community in its capacity as a contracting party to the said Agreement on the date of EC type-approval according to the corresponding directive, may be applied in place of the corresponding separate directives on "agricultural tractors" and those on "motor vehicles" in the table, Part II A.

Number given in the table in Part I and subject of the "agricultural tractors" Directive		Number of the UN/ECE regulation
1.5.	Audible warning device	R 28
1.6.	(External) sound levels	R 51
4.1.	Field of vision and windscreen wipers	R 71
5.1.	Steering	R 79
6.1.	Suppression of radio interference	R 10
7.1.	Braking devices	R 13
13.1.	Lighting installation	R 86 (*)
14.1.	Rear reflex reflectors	R 3
14.1.	Rear lamps	R 7
14.1.	Direction indicator	R 6
14.1.	Number plate illumination	R 4
14.1.	Headlamps	R 1 — R 8 — R 20 — R 98
14.1.	Dipped-beam headlamps	R 1 — R 8 — R 20 — R 98
14.1.	Front fog lamps	R 19
14.1.	Rear fog lamps	R 38
22.2.	Reversing lamps	R 23
22.1.	Pollutant emissions	R 96 (**)
22.2.	Safety glazing	R 43 (***)
23.1.	Pollutant emissions	R 49

(*) Only for the devices referred to in the Directive.

(**) Only with regard to the phases referred to in the Directive.

(***) Except for glazed windcreens.

PART II C

Correspondence with the OECD standardised codes

The test bulletins (complete) which conform to the OECD codes given below may be used in place of the test reports drawn up in compliance with the corresponding directives.

Number given in the table in Part I and the corresponding directive		Subject	OECD Codes (*)
10.1.	77/536/EEC	Official tests on the protection structures of agricultural or forestry tractors (dynamic testing)	Code 3
16.1.	79/622/EEC	Official tests on protective structures for agricultural or forestry tractors (static test)	Code 4
19.1.	86/298/EEC	Official tests on the rear-mounted protection structures of narrow-track wheeled agricultural or forestry tractors	Code 7
21.1.	87/402/EEC	Official tests on protection structures mounted on the front of narrow-track wheeled agricultural or forestry tractors	Code 6
	SD	Official tests on the protection structures of agricultural or forestry track-laying tractors	Code 8

(*) Decision (2059) final, amended by C 2001/5 final.

SD: to be covered by a separate directive

APPENDIX I

Part I

Definition of special-purpose vehicles and list of requirements for the purposes of EC vehicle type-approval

Owing to the need to operate in specific situations, the following special-purpose vehicles exist:

1. T4 TRACTORS

1.1. T4.1 High-clearance tractors

Tractors designed for working with high-growing crops, such as vines. They feature a raised chassis or section of chassis, enabling them to advance in parallel with the crop with left and right wheels on either side of one or more rows of the crop. They are intended for carrying or operating tools, which may be fitted at the front, between the axles, at the rear or on a platform. When the tractor is in working position the ground clearance perpendicular to the crop rows exceeds 1 000 mm. Where the height of the centre of gravity of the tractor ⁽¹⁾ (measured in relation to the ground, using the tyres normally fitted), divided by the average minimum track of all of the axles exceeds 0,90, the maximum design speed must not exceed 30 km/h.

1.2. T4.2 Extra-wide tractors

Tractors characterised by their large dimensions, primarily intended for working large areas of farmland.

1.3. T4.3 Low-clearance tractors

Four-wheel drive agricultural or forestry tractors whose interchangeable equipment is intended for agricultural or forestry use and which are characterised by a supporting frame, equipped with one or more power take-offs, having a technically permissible mass no greater than 10 tonnes, and for which the ratio of this mass to the maximum unladen mass in running order is less than 2.5. Moreover, the centre of gravity of these tractors ⁽¹⁾ (measured in relation to the ground, using the tyres normally fitted) is less than 850 mm.

2. CATEGORY C4

C4.1: Tracked high-clearance tractors: defined by analogy with category T4.1.

⁽¹⁾ In accordance with ISO standard 789 -6.

Part II

Applicability of the separate directives to special-purpose vehicles

No	Subject	Base Directives and Annexes	Applicability			
			T4.1	T4.2	T4.3	C4.1
1.1.	Maximum laden mass	74/151/EEC I	X	X e	X	X
1.2.	Registration plate	74/151/EEC II	(X)	(X)	X	(X)
1.3.	Fuel tank	74/151/EEC III	X	X	X	X
1.4.	Ballast masses	74/151/EEC IV	X	X	X	X
1.5.	Audible warning device	74/151/EEC V	X	X	X	X
1.6.	Sound level (external)	74/151/EEC VI	(X)	(X)	X	(X)
2.1.	Maximum speed	74/152/EEC paragraph 1	X	X	X	X
2.2.	Load platforms	74/152/EEC paragraph 2	(X)	X	(X)	(X)
3.1.	Rear-view mirrors	74/346/EEC	(X)	X	X	(X)
4.1.	Field of vision and windscreen wipers	74/347/EEC	(X)	(X)	X	(X)
5.1.	Steering	75/321/EEC	X	X	X	SD
6.1.	Electromagnetic interference	75/322/EEC	X	X	X	X
7.1.	Braking devices	76/432/EEC	(X)	X	X	(X)
8.1.	Passenger seats	76/763/EEC	X	X	X	X
9.1.	Sound levels (internal)	77/311/EEC	(X)	X	X	(X)
10.1.	ROPS	77/536/EEC	SD	X	X	SD
12.1.	Driving seat	78/764/EEC	(X)	X	X	(X)
13.1.	Lighting installation	78/933/EEC	(X)	(X)	X	(X)
14.1.	Lighting and light-signalling devices	79/532/EEC	X	X	X	X
15.1.	Coupling and reversing devices	79/533/EEC	(X)	X	X	(X)
16.1.	ROPS (static testing)	79/622/EEC	SD	X	X	SD
17.1.	Operating space, access to the driving position	80/720/EEC	(X)	(X)	(X)	(X)
18.1.	Power take-offs	86/297/EEC	X	X	X	X
19.1.	Rear-mounted ROPS (narrow-track tractors)	86/298/EEC	—	—	—	—
20.1.	Installation of the controls	86/415/EEC	X	X	X	X
21.1.	Front-mounted ROPS (narrow-track tractors)	87/402/EEC	—	—	—	—
22.1.	Dimensions and trailer mass	89/173/EEC I	(X)	X f	X	(X)
22.2.	Glazing	89/173/EEC III	X	X	X	X
22.3.	Speed governor	89/173/EEC II,1	X	X	X	X
22.4.	Protection of drive components	89/173/EEC II,2	(X)	X	X	(X)
22.5.	Mechanical couplings	89/173/EEC IV	X	(X)	X	X
22.6.	Registration plate	89/173/ESC V	X	X	X	X
22.7.	Trailer-brake coupling	89/173/EEC VI	X	(X)	X	X
23.1.	Pollutant emissions	2000/25/EC	X	X	X	X
23.2.	Tyres	[...]/EC	X	X	X	—
24.	Stability	SD	SD	—	—	SD

Legend:

X = applicable as is

(X) = applicable in amended form ⁽¹⁾

SD = requires separate directive

— = not applicable

⁽¹⁾ For EC type-approval to be granted, the parentheses must be removed.

APPENDIX 2

Procedures to be followed during EC vehicle type-approval

1. In the case of an application made pursuant to Article 3 (in accordance with Annex I, Model B), the approval authority shall:
 - (a) check that the component type-approvals and type-approvals issued pursuant to the separate directives are applicable, and shall arrange for any tests and checks required by any of the separate directives not covered by such approvals to be carried out;
 - (b) make sure, by reference to the documentation, that the vehicle specification(s) and data contained in Part I of the vehicle information document are included in the data in the information packages or the approval reports for the relevant separate directive approvals and, when an item number in Part I of the information document is not included in the information package for any of the separate directives, confirm that the relevant part or characteristic conforms to the particulars in the information folder;
 - (c) carry out or arrange to have carried out, on a selected sample of vehicles from the type to be approved, inspections of vehicle parts and systems to verify that the vehicle(s) is/are built in accordance with the relevant data contained in the authenticated information package in respect of all separate directive approvals;
 - (d) carry out or arrange to have carried out relevant installation checks in respect of separate technical units where applicable.
2. The number of vehicles to be inspected for the purposes of paragraph 1(c) shall be sufficient to permit the proper examination of the various combinations to be approved in accordance with the following criteria:
 - engine;
 - gearbox;
 - powered axles (number, position, interconnection);
 - steered axles (number and position);
 - braked axles (number);
 - roll-over protection structure.
3. In the case of an application made pursuant to Article 3 (in accordance with Annex I, Model A), the approval authority shall:
 - (a) arrange for the necessary tests and checks as required by each of the relevant separate directives;
 - (b) verify that the vehicle conforms to the particulars in the information folder and that it meets the technical requirements of each of the relevant separate directives;
 - (c) carry out or arrange to have carried out relevant installation checks in respect of separate technical units, where applicable.

CHAPTER C

EC vehicle type-approval report

SPECIMEN: (maximum format: A4 (210 × 297 mm) or a folder of A4 format)

PART I

Page 1

Approval authority stamp

Communication concerning:

— approval of a type of vehicle ⁽¹⁾	— Complete ⁽¹⁾
— extension of approval of a type of vehicle ⁽¹⁾	— Completed ⁽¹⁾
— refusal to grant approval of a type of vehicle ⁽¹⁾	— Incomplete ⁽¹⁾
— withdrawal of approval of a type of vehicle ⁽¹⁾	— with complete and incomplete variants ⁽¹⁾
	— with completed and incomplete variants ⁽¹⁾

pursuant to Directive 74/150/EEC, as last amended by Directive .../.../EC

Type-approval number:

Reason for extension:

0. GENERAL

0.1. Make(s) (registered by the manufacturer):

0.2. Type (specify any variants and versions):

0.2.1. Trade name(s) ⁽²⁾ (where appropriate):

0.3. Means of identification of type, if marked on the tractor:

0.3.1. Manufacturer's plate (location and method of affixing):

0.3.2 Chassis identification number (location):

0.4 Category of tractor ⁽³⁾:⁽¹⁾ Delete whichever does not apply.⁽²⁾ If this component is not known during reception, it must be completed during the last stage prior to the vehicle being placed on the market.⁽³⁾ As defined in Annex II.

Page 2

0.5. Name and address of manufacturer of complete vehicle ⁽¹⁾ ⁽⁴⁾ Name and address of manufacturer of base vehicle ⁽¹⁾ ⁽⁴⁾ Name and address of manufacturer of the last stage of the incomplete vehicle ⁽¹⁾ ⁽⁴⁾

.....

Name and address of manufacturer of completed vehicle ⁽¹⁾ ⁽⁴⁾

0.8. Name(s) and address(es) of assembly plant(s):

I the undersigned hereby certify that the manufacturer's description in the attached information document of the vehicle(s) described above (a sample of each vehicle having been selected by the approval authority and submitted by the manufacturer as prototype of the vehicle type) is accurate and that the attached test results are applicable to the vehicle type.

1. For complete and completed vehicles/variants ⁽¹⁾ The type of vehicle meets/does not meet ⁽¹⁾ the requirements of all of the relevant separate directives.2. For incomplete vehicles ⁽¹⁾ The type of vehicle meets/does not meet ⁽¹⁾ the requirements of all of the relevant separate directives listed in the table on page 3.3. Type-approval is granted/refused/withdrawn ⁽¹⁾

4. Type-approval is granted under Article 8(2)(C) and shall be valid until dd/mm/yy.

.....

(Place) (Date) (Signature)

Annexes: Information file (including Parts II and III where appropriate) of the information document Model B).

Test results

Name(s) and specimen(s) of the signature of the person(s) authorised to sign the certificates of conformity, and a statement as to his/their function within the organisation.

N.B.: If this model is used for type-approval pursuant to Article 8(2), it may not bear the heading "EC vehicle type-approval report" except in the case referred to in Article 8(2)(c) where the Commission has approved the report.

⁽⁴⁾ See page 2.

Page 3

Where incomplete or completed vehicles or variants are concerned, this type-approval is based on the type-approval(s) of incomplete vehicles referred to below:

Stage 1: Manufacturer of base vehicle:

— Type-approval number:

— Date:

— Variants concerned:

Stage 2: Manufacturer:

— Type-approval number:

— Date:

— Variants concerned:

Stage 3: Manufacturer:

— Type-approval number:

— Date:

— Variants concerned:

Where the type-approval covers one or more incomplete variants, a list of the variants which are complete or completed:

List of requirements applying to types of type-approved incomplete vehicle or variants.

(Where appropriate, account being taken of the scope and most recent amendment of each of the separate directives referred to below).

Heading	Subject	Number of the Directive	Last amended	Variant(s) concerned

Page 4

In the case of type-approval of a special-purpose vehicle, or of type-approval granted under Article 8(2)(C), a list of exemptions granted or special measures taken.

Heading	Subject	Kind of type-approval and nature of exemptions		Variant(s) concerned

PART II

Test results

(to be completed by the approval authority and attached to the tractor type-approval report)

1. *Results of the sound-level tests (external)*

Number of base directive and most recent amendment applicable for type-approval. For a directive with two or more application phases, indicate which phase:

.....

— Variant/version:
 — Moving: dB(A) dB(A) dB(A)
 — Stationary: dB(A) dB(A) dB(A)
 — Engine speed: min⁻¹ min⁻¹ min⁻¹

2. *Results of the exhaust emission tests*

Number of base directive and most recent amendment applicable for type-approval. For a directive with two or more application phases, indicate which phase:

.....

Variant/version:

1. Results

— CO: g/kWh g/kWh g/kWh
 — HC: g/kWh g/kWh g/kWh
 — NO_x: g/kWh g/kWh g/kWh
 — Particulates: g/kWh g/kWh g/kWh
 — Smoke: m⁻¹ m⁻¹ m⁻¹

2. Results ⁽¹⁾

— CO: g/kWh g/kWh g/kWh
 — NO_x: g/kWh g/kWh g/kWh
 — NMHC: g/kWh g/kWh g/kWh
 — CH₄: g/kWh g/kWh g/kWh
 — Particulates: g/kWh g/kWh g/kWh

3. *Driver-perceived sound level*

Number of base directive and most recent amendment applicable for type-approval. For a directive with two or more application phases, indicate which phase:

.....

— Variant/version: dB(A) dB(A) dB(A)

⁽¹⁾ If applicable.

APPENDIX 1

Numbering system for EC type-approval reports

Type-approval reports shall be numbered in accordance with the method described below.

1. The approval number consists of four parts where complete tractors are approved and of five parts where systems, components and separate technical units are approved, in accordance with the requirements set out below. Components and separate technical units should be marked in accordance with the relevant separate directives. In all cases the sections are to be separated by an asterisk.

Section 1: a lower-case letter "e" followed by the distinguishing number of the Member State which has granted the approval:

1 for Germany; 2 for France; 3 for Italy; 4 for the Netherlands; 5 for Sweden; 6 for Belgium; 9 for Spain; 11 for the United Kingdom; 12 for Austria; 13 for Luxembourg; 17 for Finland; 18 for Denmark; 21 for Portugal; 23 for Greece; 24 for Ireland.

Section 2: number of the base Directive:

Section 3: number of the latest amending Directive that is applicable to the approval

In the case of tractor approvals, this is the most recent directive that amends an (some) article(s) of Directive 74/150/EEC.

In the case of approvals under separate directives, this is the most recent directive containing specific provisions to which the system, component or separate technical unit is to conform.

Where a directive includes different dates of entry into force which refer to different technical standards a letter of the alphabet is to be added. This letter will identify the specific technical requirement on the basis of which approval has been granted.

Section 4: 4-digit sequential number (with leading zeros as applicable) to denote the base approval number. The sequence shall start from 0001 for each base directive.

Section 5: 2-digit sequential number (with leading zero if applicable) to denote the extension. The sequence shall start from 00 for each base approval number.

2. Where a tractor is approved, section 2 shall be omitted.
3. Section 5 is to be omitted solely from the statutory plate(s).
4. Example of a third system approval (that has so far received no extension) issued by France in respect of the directive on working clearance and access:

e 2*80/720*88/414*0003*00

in the case of a directive involving two implementation stages, namely A and B.

5. Example of a second extension to a fourth tractor approval issued by the United Kingdom:

e 11*97/54*0004*02

in which case Directive 97/54/EC is the most recent directive so far amending the Articles of Directive 74/150/EEC.

6. Example of the approval number stamped on the tractor's statutory plate(s):

e 11*97/54*0004

ANNEX III

EC CERTIFICATE OF CONFORMITY

PART I

SPECIMENS (maximum format: A4 (210 × 297 mm) or a folder of A4 format)

(The certificate must be drawn up using the manufacturer's letterhead and in such a way as to exclude any possibility of falsification. To that end it shall be printed on paper protected either by means of colour graphics or by means of a watermark corresponding to the manufacturer's identification mark.)

Complete/completed vehicles ⁽¹⁾

Page 1

I, the undersigned:
(Full name)

hereby certify that the following vehicle:

- 0.1. Make(s) (registered by the manufacturer):
- 0.2. Type (specify any variants and versions):
- 0.2.1. Trade name(s) (where appropriate):
- 0.3. Means of identification of type, if marked on the vehicle:
- 0.3.1. Manufacturer's plate (location and method of affixing):
- 0.3.2. Chassis identification number (location):
- 0.4. Category of vehicle:
- 0.5. Name and address of manufacturer:
- 0.6. Location of the statutory plates:

Stage 1: Base vehicle:

- Manufacturer:
- Type-approval number:
- Date:

Stage 2:

- Manufacturer:
- Type-approval number:
- Date:

Page 2

Vehicle identification number:

Numeric or alphanumeric identification code:

according to the type(s) of vehicle described in the approval(s) corresponds in every respect to the type described in

— Type-approval number:

— Date:

The vehicle may be registered permanently, without requiring any further approvals, for driving on the right/left ⁽¹⁾.

.....
(Place) (Date)

.....
(Signature) (Position)

Attachment: (only in the case of multi-stage vehicle types): certificates of conformity for each stage.

A — Complete/completed tractors ⁽¹⁾

1. GENERAL CONSTRUCTION CHARACTERISTICS OF THE VEHICLE

1.1. Number of axles and wheels ⁽¹⁾:

of which:

1.1.3. Powered axles:

1.1.4. Braked axles:

1.4. Reversible driving position: yes/no ⁽¹⁾1.6. Vehicle designed for driving on the: right/left ⁽¹⁾

2. MASSES AND DIMENSIONS

2.1.1. Unladen mass(es) in running order:

— maximum:

— minimum:

2.2.1. Maximum laden mass(es) of the tractor according to the tyre specification:

2.2.2. Distribution of that mass (those masses) among the axles:

2.2.3.1. Mass(es) and tyre(s):

Axle No	Tyres (dimensions)	Load capacity	Technically permissible maximum mass per axle	Maximum permissible vertical load on the coupling point
1				
2				
3				

2.3. Ballast masses: (total mass, material, number of components):

2.4. Technically permissible towable masses:

2.4.1. Drawbar trailer/interchangeable towed equipment: kg

2.4.2. Semi-trailer/interchangeable towed equipment: kg

Page 4

- 2.4.3. Drawbar trailer/interchangeable towed equipment: kg
- 2.4.4. Total technically permissible mass(es) of the tractor-trailer combination for each configuration of trailer braking: kg
- 2.4.5. Maximum mass of the trailer/interchangeable towed equipment which may be towed: kg
- 2.4.6. Position of coupling point
- 2.4.6.1. Height of the coupling point above the ground:
- 2.4.6.1.1. Maximum: mm
- 2.4.6.1.2. Minimum: mm
- 2.4.6.2. Distance from the vertical plane passing through the axis of the rear axle: mm
- 2.5. Wheelbase: mm ⁽²⁾
- 2.6. Minimum and maximum track: / mm ⁽²⁾
- 2.7.1. Length:
- 2.7.2. Width:
- 2.7.3. Height:
3. ENGINE
- 3.1.1. Make:
- 3.1.3. Means of identification of type, location and method of affixing:
- 3.1.6. Operating principle:
- spark/compression ignition ⁽¹⁾
- direct/indirect injection ⁽¹⁾
- two-/four-stroke ⁽¹⁾
- 3.1.7. Fuel:
diesel/petrol/LPG/other ⁽¹⁾
- 3.2.1.2. Type:
Type-approval number:
- 3.2.1.6. Number of cylinders:
- 3.2.1.7. Cylinder capacity: cm³
- 3.6. Rated power: kW at rated engine power at min⁻¹ ⁽³⁾
- 3.6.1. Optional: power at the power take-off kW ⁽³⁾ at min⁻¹
(rated speed PTO)

Page 5

4. TRANSMISSION

4.5. Gearbox

Number of ratios:

— front:

— rear:

4.7. Calculated maximum design speed: km/h

4.7.1. Measured maximum speed: km/h

7. STEERING

7.1. Steering category: manual/power/servo steering ⁽¹⁾

8. BRAKING (brief description of the braking system):

8.11.4.1. Overpressure at coupling: (single-line): kPa

8.11.4.2. Overpressure at coupling: (two-line): kPa

10. ROLL-OVER PROTECTIVE STRUCTURES, WEATHER PROTECTION, SEAT, LOAD PLATFORMS.

10.1. Frame/cab ⁽¹⁾

— Make(s):

.....	
.....	

— Type-approval mark(s):

10.1.3. Roll-over hoop:

— front/rear ⁽¹⁾— fold-down/fixed ⁽¹⁾

— Make(s):

.....	
.....	

— Type-approval mark(s):

10.3.2. Passenger seat(s):

Number:

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- 10.4. Load platform:
- 10.4.1. Dimensions: mm
- 10.4.3. Technically permissible load: kg
11. LIGHTING AND LIGHT-SIGNALLING DEVICES:
- 11.2. Optional devices
12. Miscellaneous
- 12.2. Mechanical coupling between the tractor and the trailer:
- 12.2.1. Type(s):
- 12.2.2. Make(s):
- 12.2.3. Type-approval mark(s):
- 12.2.4. Maximum horizontal load (kg)
Maximum vertical load (kg)
(where appropriate)
- | | |
|-------|-------|
| | |
| | |
| | |
| | |
| | |
- 12.3. Hydraulic lift — three-point coupling: yes/no ⁽¹⁾.
13. EXTERIOR SOUND LEVEL
- Number of base directive and most recent amendment applicable for type-approval. For a directive with two or more application phases, indicate which phase:
- 14.1. stationary: dB(A)
- 14.2. moving: dB(A)
14. DRIVER-PERCEIVED SOUND LEVEL
- Number of base directive and most recent amendment applicable for type-approval. For a directive with two or more application phases, indicate which phase: dB(A)
15. EXHAUST EMISSIONS ⁽²⁾
- Number of base directive and most recent amendment applicable for type-approval. For a directive with two or more application phases, indicate which phase:
- 15.1. Results of tests
- CO: g/kWh HC: g/kWh NO_x: g/kWh
- Particulates: g/kWh Smoke (°): m⁻¹

Page 7

15.2. Results of tests ⁽⁸⁾

CO: g/kWh NOx: g/kWh NMHC: g/kWh
CH₄: g/kWh Particulates: g/kWh

16. FISCAL HORSEPOWER(S) OR CLASS(ES)

— Italy:	— France:	— Spain:
— Belgium:	— Germany:	— Luxembourg:
— Denmark:	— Netherlands:	— Greece:
— United Kingdom:	— Ireland:	— Portugal:
— Austria:	— Finland:	— Sweden:

17. COMMENTS ⁽⁴⁾:

⁽¹⁾ Delete whichever does not apply.

⁽²⁾ State the minimum values.

⁽³⁾ State the test method used.

⁽⁴⁾ Inter alia, any information required with regard to the various optional areas or values and mutually dependent relationships (where appropriate, in the form of a table).

⁽⁸⁾ If applicable.

Page 3

B — Agricultural or forestry trailers — complete/completed ⁽¹⁾

1. GENERAL CONSTRUCTION CHARACTERISTICS OF THE VEHICLE

1.1. Number of axles and wheels:

of which:

1.1.4. Braked axles:

2. MASSES AND DIMENSIONS

2.1.1. Unladen mass(es) in running order:

— maximum:

— minimum:

2.2.1. Technically permissible maximum laden mass(es) of the trailer according to the tyre specification:

.....

2.2.2. Distribution of this (these) mass(es) among the axles and, in the case of a semi-trailer or a centre-axle trailer, the load on the coupling point:

2.2.3.1. Mass(es) and tyre(s):

Axle No	Tyres (dimensions)	Load capacity	Technically permissible maximum mass per axle	Maximum permissible vertical load on the coupling point
1				
2				
3				

2.4.6. Position of coupling point

2.4.6.1. Height of the coupling point above the ground:

2.4.6.1.1. Maximum: mm

2.4.6.1.2. Minimum: mm

Page 4

- 2.4.6.2. Distance from the vertical plane passing through the axis of the rear axle: mm
- 2.5. Wheelbase: mm ⁽²⁾
- 2.5.1.2. Distance between the coupling pin and the rear of the semi-trailer:
..... mm
- 2.6. Minimum and maximum track: / mm ⁽²⁾
- 2.7.2.1. Length ⁽²⁾ mm
- 2.7.2.1.1. Length of the loading area: mm
- 2.7.2.2. Width ⁽²⁾ mm ⁽²⁾
8. BRAKING (brief description of the braking system):
unbraked/separate braking system/inertia brakes/assisted braking ⁽¹⁾
- 8.11.4.1. Overpressure at coupling: (single-line): kPa
- 8.11.4.2. Overpressure at coupling: (two-line): kPa
9. BODYWORK
- 9.1. Type of bodywork:
11. LIGHTING AND LIGHT-SIGNALLING DEVICES:
- 11.2. Additional optional devices:
12. MISCELLANEOUS
- 12.2. Mechanical coupling between the tractor and the trailer:
- 12.2.1. Type(s):
- 12.2.2. Make(s):
- 12.2.3. Type-approval mark(s):
- 12.2.4. Maximum horizontal load (kg)
Maximum vertical load (kg)
(where appropriate)

.....	
.....	
.....	
.....	

Page 5

16. FISCAL HORSEPOWER(S) OR CLASS(ES) (IF APPLICABLE)

— Italy:	— France:	— Spain:
— Belgium:	— Germany:	— Luxembourg:
— Denmark:	— Netherlands:	— Greece:
— United Kingdom:	— Ireland:	— Portugal:
— Austria:	— Finland:	— Sweden:

17. COMMENTS (*):

(¹) Delete whichever does not apply.

(²) State the minimum values.

(³) State the test method used.

(⁴) Inter alia, any information required with regard to the various optional areas or values and mutually dependent relationships (where appropriate, in the form of a table).

(^(*)) If applicable.

C — Interchangeable towed equipment —complete/completed ⁽¹⁾

Page 1

I, the undersigned:
(Full name)

hereby certify that the following interchangeable equipment:

- 0.1. Make(s) (registered by the manufacturer):
- 0.2. Type (specify any variants and versions):
- 0.2.1. Trade name(s) (where appropriate):
- 0.3. Means of identification of type, if marked on the vehicle:
- 0.3.1. Manufacturer's plate (location and method of affixing):
- 0.3.2. Chassis identification number (location):
- 0.4. Category of vehicle:
- 0.5. Name and address of manufacturer:
- 0.6. Location of the statutory plates:

Stage 1: Base vehicle:

- Manufacturer:
- Type-approval number:
- Date:

Stage 2:

- Manufacturer:
- Type-approval number:
- Date:

Page 2

Vehicle identification number:

Numeric or alphanumeric identification code:

according to the type(s) of interchangeable equipment described in the approval(s) corresponds in every respect to the type described in:

— Type-approval number:

— Date:

The vehicle may be registered permanently, without requiring any further approvals, with regard to road safety.

It may nonetheless be subject to possible national authorisation according to the national criteria for “special transport”.

In addition, this vehicle has been granted “occupational safety” type-approval under the Machinery Directive.

.....
(Place) (Date)

.....
(Signature) (Position)

Attachment: (only in the case of multi-stage vehicle types): Certificates of conformity

Page 3

1. GENERAL CONSTRUCTION CHARACTERISTICS OF THE VEHICLE

1.1. Number of axles and wheels:

of which:

1.1.4. Braked axles:

2. MASSES AND DIMENSIONS

2.1.1. Unladen mass(es) in running order:

— maximum:

— minimum:

2.2.1. Maximum laden mass(es) of the interchangeable equipment according to the tyre specification:

2.2.2. Distribution of that mass (those masses) among the axles:

2.2.3.1. Mass(es) and tyre(s):

Axle No	Tyres (dimensions)	Load capacity	Technically permissible maximum mass per axle	Maximum permissible vertical load on the coupling point
1				
2				
3				

2.4.6. Position of coupling point

2.4.6.1. Height of the coupling point above the ground:

2.4.6.1.1. Maximum: mm

2.4.6.1.2. Minimum: mm

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- 2.4.6.2. Distance from the vertical plane passing through the axis of the rear axle: mm
- 2.5. Wheelbase: mm ⁽²⁾
- 2.6. Minimum and maximum track: / mm ⁽²⁾
- 2.7.1. Length: mm ⁽²⁾
- 2.7.2. Width: mm ⁽²⁾
- 2.7.3. Height: mm ⁽²⁾
8. BRAKING (brief description of the braking system):
unbraked/separate braking system/inertia brakes/assisted braking ⁽¹⁾
- 8.11.4.1. Overpressure at coupling: (single-line): kPa
- 8.11.4.2. Overpressure at coupling: (two-line): kPa
10. ROLL-OVER PROTECTIVE STRUCTURES, WEATHER PROTECTION, SEAT, LOAD PLATFORMS.
- 10.4. Load platform:
- 10.4.1. Dimensions: mm
- 10.4.3. Technically permissible load: kg
11. LIGHTING AND LIGHT-SIGNALLING DEVICES:
- 11.2. Additional optional devices:
12. MISCELLANEOUS
- 12.2. Mechanical coupling between the tractor and the interchangeable towed equipment:
- | | | |
|---|-------|-------|
| 12.2.1. Type(s): | | |
| 12.2.2. Make(s): | | |
| 12.2.3. Type-approval mark(s): | | |
| 12.2.4. Maximum horizontal load (kg) | | |
| Maximum vertical load (kg)
(where appropriate) | | |

Page 5

16. FISCAL HORSEPOWER(S) OR CLASS(ES) (IF APPLICABLE)

— Italy:	— France:	— Spain:
— Belgium:	— Germany:	— Luxembourg:
— Denmark:	— Netherlands:	— Greece:
— United Kingdom:	— Ireland:	— Portugal:
— Austria:	— Finland:	— Sweden:

17. COMMENTS (*):

(¹) Delete whichever does not apply.

(²) State the minimum values.

(³) State the test method used.

(⁴) Inter alia, any information required with regard to the various optional areas or values and mutually dependent relationships (where appropriate, in the form of a table).

(⁵) If applicable.

PART II

SPECIMENS (maximum format: A4 (210 × 297 mm) or a folder of A4 format)

(The certificate must be drawn up using the manufacturer's letterhead and in such a way as to exclude any possibility of falsification. To that end it shall be printed on paper protected either by means of colour graphics or by means of a watermark corresponding to the manufacturer's identification mark.)

EC CERTIFICATE OF CONFORMITY

for incomplete vehicles

Page 1

I, the undersigned:
(Full name)

hereby certify that the following vehicle:

0.1. Make(s) (name of manufacturer):

0.2. Type (specify any variants and versions):

0.2.1. Trade name(s) (where appropriate):

0.3. Location of and method of affixing statutory plates and inscriptions (photographs or drawings):

0.3.1. Manufacturer's plate (location and method of affixing):

0.3.2. Chassis identification number (location):

0.4. Category of vehicle:

0.5. Name and address of manufacturer of base vehicle:

Name and address of manufacturer having carried out the final stage of manufacture of the vehicle ⁽¹⁾

0.6. Location of the statutory plates:

Vehicle identification number:

Vehicle identification number:

according to the type(s) of vehicle described in the approval(s) ⁽¹⁾

Stage 1: Base vehicle:

— Manufacturer:

— Type-approval number:

— Date:

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Stage 2:

— Manufacturer:

— Type-approval number:

— Date:

corresponds in every respect to the incomplete type described in

Type-approval number:

Date:

The vehicle may not be registered permanently without obtaining further approvals for driving on the right/left ⁽¹⁾.

..... (Place) (Date)

..... (Signature) (Position)

Attachment: certificates of conformity for each stage.

Page 3

A — Agricultural or forestry trailers — Incomplete

1. GENERAL CONSTRUCTION CHARACTERISTICS OF THE VEHICLE

1.1. Number of axles and wheels:

of which:

1.1.4. Braked axles:

2. MASSES AND DIMENSIONS

2.1.1. Mass(es) of the bare chassis:

— maximum:

— minimum:

2.2.1. Technically permissible maximum laden mass(es) of the trailer according to the tyre specification:

2.2.2. Distribution of this (these) mass(es) among the axles and, in the case of a semi-trailer or a centre-axle trailer, the load on the coupling point:

2.2.3.1 Mass(es) and tyre(s):

Axle No	Tyres (dimensions)	Load capacity	Technically permissible maximum mass per axle	Maximum permissible vertical load on the coupling point
1				
2				
3				

2.4.6. Position of coupling point

2.4.6.1. Height of the coupling point above the ground:

2.4.6.1.1. Maximum: mm

2.4.6.1.2. Minimum: mm

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- 2.4.6.2. Distance from the vertical plane passing through the axis of the rear axle: mm
- 2.5. Wheelbase: mm ⁽²⁾
- 2.5.1.2. Distance between the centre of coupling device and the rear of the semi-trailer:
..... mm
- 2.6. Minimum and maximum track: / mm ⁽²⁾
- 2.7.1.1. Length ⁽²⁾: mm
- 2.7.1.1.1. Maximum permissible length for the completed trailer: mm
- 2.7.1.2. Width ⁽²⁾: mm
- 2.7.1.2.1. Maximum permissible width for the completed trailer: mm ⁽²⁾
- 2.7.1.7. Extreme permissible positions of the centre of gravity for the completed trailer: mm
8. BRAKING (brief description of the braking system):
unbraked/separate braking system/inertia brakes/assisted braking ⁽¹⁾
- 8.11.4.1. Overpressure at coupling: (single-line): kPa
- 8.11.4.2. Overpressure at coupling: (two-line): kPa
9. BODYWORK
- 9.1. Type of bodywork:
11. LIGHTING AND LIGHT-SIGNALLING DEVICES:
- 11.2. Additional optional devices:
12. MISCELLANEOUS
- 12.2. Mechanical coupling between the tractor and the trailer:
- 12.2.1. Type(s):
- 12.2.2. Make(s):
- 12.2.3. Type-approval mark(s):
- 12.2.4. Maximum horizontal load (kg)
Maximum vertical load (kg)
(where appropriate)

.....	
.....	
.....	
.....	

Page 5

16. FISCAL HORSEPOWER(S) OR CLASS(ES) (IF APPLICABLE)

— Italy:	— France:	— Spain:
— Belgium:	— Germany:	— Luxembourg:
— Denmark:	— Netherlands:	— Greece:
— United Kingdom:	— Ireland:	— Portugal:
— Austria:	— Finland:	— Sweden:

17. COMMENTS (*):

(¹) Delete whichever does not apply.

(²) State the minimum values.

(³) State the test method used.

(⁴) Inter alia, any information required with regard to the various optional areas or values and mutually dependent relationships (where appropriate, in the form of a table).

(^(*)) If applicable.

Page 1

B — Interchangeable towed equipment — Complete/Completed

I, the undersigned:
(Full name)

hereby certify that the following interchangeable towed equipment:

- 0.1. Make(s) (registered by the manufacturer):
- 0.2. Type (specify any variants and versions):
- 0.2.1. Trade name(s) (where appropriate):
- 0.3. Means of identification of type, if marked on the vehicle:
- 0.3.1. Manufacturer's plate (location and method of affixing):
- 0.3.2. Chassis identification number (location):
- 0.4. Category of vehicle:
- 0.5. Name and address of manufacturer:
- 0.6. Location of the statutory plates:

Stage 1: Base vehicle:

- Manufacturer:
- Type-approval number:
- Date:

Stage 2:

- Manufacturer:
- Type-approval number:
- Date:

Page 2

Vehicle identification number:

Numeric or alphanumeric identification code:

according to the type(s) of interchangeable towed equipment described in the approval(s)

corresponds in every respect to the type described in

— Type-approval number:

— Date:

The vehicle may be registered permanently, without requiring any further approvals, with regard to road safety.

It may nonetheless be subject to possible national authorisation according to the national criteria for 'special transport'.

In addition, this vehicle has been granted 'occupational safety' type-approval under the Machinery Directive.

.....
(Place) (Date)

.....
(Signature) (Position)

Attachment: (only in the case of multi-stage vehicle types): Certificates of conformity.

Page 3

1 GENERAL CONSTRUCTION CHARACTERISTICS OF THE VEHICLE

1.1. Number of axles and wheels:

of which:

1.1.4. Braked axles:

2. MASSES AND DIMENSIONS

2.1.1. Mass(es) of the bare chassis:

— maximum:

— minimum:

2.2.1. Technically permissible maximum laden mass(es) of vehicle according to the tyre specification:

2.2.2. Distribution of this (these) mass(es) among the axles and, in the case of a semi-trailed or centre-axle vehicle, the load on the coupling point:

2.2.3.1. Mass(es) and tyre(s):

Axle No	Tyres (dimensions)	Load capacity	Technically permissible maximum mass per axle	Maximum permissible vertical load on the coupling point
1				
2				
3				

2.4.6. Position of coupling point:

2.4.6.1. Height of the coupling point above the ground:

2.4.6.1.1. Maximum: mm

2.4.6.1.2. Minimum: mm

Page 4

- 2.4.6.2. Distance from the vertical plane passing through the axis of the rear axle: mm
- 2.5. Wheelbase: mm ⁽²⁾
- 2.5.1.2. Distance between the centre of coupling device and the rear of the semi-trailed vehicle:
- 2.6. Minimum and maximum track: / mm ⁽²⁾
- 2.7.1.1. Length ⁽²⁾: mm
- 2.7.1.1.1. Maximum permissible length for the completed vehicle: mm
- 2.7.1.2. Width ⁽²⁾: mm
- 2.7.1.2.1. Maximum permissible width for the completed vehicle: mm
- 2.7.1.7. Extreme permissible positions of the centre of gravity for the completed vehicle:..... mm
8. BRAKING (brief description of the braking system):
unbraked/separate braking system/inertia brakes/assisted braking ⁽¹⁾
- 8.11.4.1. Overpressure at coupling: (single-line): kPa
- 8.11.4.2. Overpressure at coupling: (two-line): kPa
9. BODYWORK
- 9.1. Type of bodywork:
11. LIGHTING AND LIGHT-SIGNALLING DEVICES:
- 11.2. Additional optional devices:
12. MISCELLANEOUS
- 12.2. Mechanical coupling between the tractor and the vehicle:
- 12.2.1. Type(s):
- 12.2.2. Make(s):
- 12.2.3. Type-approval mark(s):
- 12.2.4. Maximum horizontal load (kg)
Maximum vertical load (kg) (where appropriate)

.....	
.....	
.....	
.....	
.....	

Page 5

16 FISCAL HORSEPOWER(S) OR CLASS(ES) (IF APPLICABLE)

— Italy:	— France:	— Spain:
— Belgium:	— Germany:	— Luxembourg:
— Denmark:	— Netherlands:	— Greece:
— United Kingdom:	— Ireland:	— Portugal:
— Austria:	— Finland:	— Sweden:

17. COMMENTS (*):

(¹) Delete whichever does not apply.

(²) State the minimum values.

(³) State the test method used.

(⁴) Inter alia, any information required with regard to the various optional areas or values and mutually dependent relationships (where appropriate, in the form of a table).

([∞]) If applicable.

ANNEX IV

PROCEDURES TO ENSURE CONFORMITY OF PRODUCTION**1. Initial assessment**

- 1.1. Before granting type-approval, the approval authority in a Member State shall verify the existence of satisfactory arrangements and procedures for ensuring effective checking that components, systems, separate technical units or vehicles in production conform to the approved type.
- 1.2. The requirement in point 1.1 must be verified to the satisfaction of the authority granting type-approval. This verification may be carried out on behalf of the authority granting type-approval by the approval authority in another Member State. In this case, the latter authority shall prepare a statement of compliance outlining the areas and production facilities it considers to be relevant to the product(s) to be type-approved.
- 1.3. The approval authority shall accept the manufacturer's certification to harmonised standard EN 29002 (the scope of which covers the product(s) to be type-approved) or an equivalent accreditation standard as satisfying the requirements of paragraph 1.1. The manufacturer shall provide details of the registration and undertake to inform the approval authorities of any amendments to its validity or scope.
- 1.4. On receiving a request from the authority of another Member State, the approval authority shall forthwith send the statement of compliance referred to in paragraph 1.2 or advise that it is not in a position to provide such a statement.

2. Conformity of production

- 2.1. Every vehicle, system, component or separate technical unit type-approved pursuant to this Directive or a separate directive must be so manufactured as to conform to the type approved by meeting the requirements of this Directive or of a separate directive appearing in the exhaustive list set out in Annex II.
- 2.2. When granting type-approval, the approval authority in a Member State shall verify the existence of adequate arrangements and documented control plans, to be agreed with the manufacturer for each type-approval, for the carrying out at specified intervals of the tests or associated checks that are needed to verify continued conformity to the approved type, including, where applicable, tests required by the separate directives.
- 2.3. The holder of the type-approval must, in particular:
 - 2.3.1. ensure the existence of procedures for effectively monitoring that products (vehicles, systems, components or separate technical units) conform to the type-approval;
 - 2.3.2. have access to the testing equipment necessary for checking conformity to each approved type;
 - 2.3.3. ensure that test results are recorded and that the attachments remain available for a period to be determined in agreement with the approval authority; this period shall not be greater than 10 years;
 - 2.3.4. analyse the results of each type of test in order to verify and ensure the stability of the product characteristics, subject to the tolerances inherent in industrial production;
 - 2.3.5. ensure that for each type of product at least the checks prescribed in this Directive and the tests prescribed in the applicable separate directives appearing in the exhaustive list set out in Annex II are carried out;
 - 2.3.6. ensure that if any set of samples or test pieces is found not to conform at the end of the test in question, further samples are taken and the tests are repeated. All necessary steps shall be taken to restore conformity of the corresponding production.
 - 2.3.7. In the case of vehicle type-approval, the checks referred to in point 2.3.5 shall be restricted to those verifying compliance with the specifications set out in the type-approval.

- 2.4. The authority which granted type-approval may at any time verify the conformity control methods applied in each production facility. The normal frequency of these verifications shall be in line with the arrangements (if any) accepted under paragraph 1.2. or 1.3. of this annex and ensure that the relevant checks are reviewed over a period appropriate to the confidence required by the competent authority.
- 2.4.1. At every inspection, the test records and production records shall be made available to the visiting inspector.
- 2.4.2. Where the nature of the test so permits, the inspector may select samples at random to be tested in the manufacturer's laboratory (or in the laboratories of the testing body where a separate directive so provides). The minimum number of samples may be determined according to the results of the manufacturer's own verification.
- 2.4.3. Where the level of monitoring is unsatisfactory, or where it seems necessary to verify the validity of the tests carried out under point 2.4.2, the inspector shall select samples to be sent to the testing body which conducted the type-approval tests.
- 2.4.4. The approval authority may carry out any check or test required by this Directive or in the relevant separate directives appearing in the exhaustive list set out in Annex II.
- 2.4.5. Where unsatisfactory results are found during an inspection, the approval authority shall ensure that all necessary steps are taken to restore conformity of production as rapidly as possible.

ANNEX V

A — Small series limits

The number of units of a type to be registered, placed on sale or put into service per year in each Member State shall not exceed the value shown below for the vehicle category in question.

Category	Units
T	100
C	30
R	50
S	30

B — Limits for end-of-series vehicles

The maximum number of vehicles of one or several types entering service in each Member State in accordance with the procedure provided for in Article 9(2)(b) must not exceed 10 % of the number of vehicles of all the types concerned which entered service in the two preceding years in the Member State in question, however, may not be less than 20.

Vehicles entering service in accordance with this procedure shall be identified by a specific reference on the certificate of conformity.

C — Limits on type-approval of single vehicles

The number of units of new vehicles of the same type, approved singly in any one year in each Member State may be no greater than 15.

ANNEX VI

LIST OF EC TYPE-APPROVALS ISSUED UNDER SEPARATE DIRECTIVES

Approval authority stamp

List number:

Covering the period to

The following information shall be provided in respect of each type-approval granted, refused or withdrawn during the abovementioned period:

Manufacturer:

Type-approval number:

Make:

Type:

Date of issue:

First date of issue (in the case of extensions):

ANNEX VII

PROCEDURES TO BE FOLLOWED DURING MULTI-STAGE TYPE-APPROVAL

1. General

- 1.1. The satisfactory operation of the multi-stage type-approval process requires concerted action by all the manufacturers concerned. To this end, before granting an initial or subsequent stage type-approval, the approval authority shall ensure that the relevant manufacturers have made suitable arrangements for the supply and interchange of documents and information such that the completed vehicle meets the technical requirements of all the relevant separate directives as set out in Annex II.

Such information must include details of relevant system, component and separate-technical-unit type-approvals and of vehicle parts which form part of the incomplete vehicle but are not yet type-approved.

- 1.2. Type-approvals in accordance with this annex are granted on the basis of the current state of completion of the vehicle type and incorporate all type-approvals granted at the previous stage.
- 1.3. Each manufacturer in a multi-stage type-approval process shall be responsible for the type-approval and conformity of production of all systems, components and separate technical units manufactured by him or added by him to the previously built stage. He shall not be responsible for aspects which have been type-approved in an earlier stage unless he modifies vehicle parts to such an extent that the previously granted type-approval becomes invalid.

2. Procedures

In the case of an application made in accordance with Article 4(2), the competent authorities must:

- (a) verify that all relevant separate-directive approvals can be applied to the appropriate standard in the separate directive;
- (b) ensure that all the relevant data, taking account of the state of completion of the vehicle, are included in the information folder;

- (c) by reference to the documentation make sure that the vehicle specification(s) and data contained in Part I of the information folder are included in the data in the information packages or the type-approval reports issued under the relevant separate directives and, in the case of a completed vehicle, where an item number in Part I of the information folder is not included in the information package of any of the separate directives, confirm that the relevant part or characteristic conforms to the particulars in the information folder;
- (d) on a sample of vehicles from the type to be approved, carry out inspections of vehicle parts and systems to verify that the vehicle(s) is/are built in accordance with the relevant data contained in the information package that has been authenticated in respect of all relevant separate-directive approvals, or arrange for such inspections to be carried out;
- (e) where appropriate, carry out checks on the installation of the separate technical units, or arrange for such checks to be carried out.

3. Number of vehicles to be inspected

The number of vehicles to be inspected for the purposes of paragraph 2(d) shall be sufficient to permit proper monitoring of the various combinations to be type-approved on the basis of the state of completion of the vehicle and the following criteria:

- engine;
- gearbox;
- powered axles (number, position, interconnection);
- steered axles (number and position);
- braked axles (number);
- roll-over protection structure.

4. Identification of the vehicle

At the second and subsequent stages, each manufacturer shall affix to the vehicle a plate, in addition to the statutory plate required by Directive 89/173/EEC. This plate must be firmly attached, in a conspicuous and readily accessible position on a part not subject to replacement in use. It must show clearly and indelibly the following information in the order listed:

- manufacturer's name;
- sections 1, 3 and 4 of the EC type-approval number;
- stage of type-approval;
- vehicle serial number;
- maximum permitted laden mass of the vehicle;
- maximum towable mass;
- maximum permissible laden mass of the combination (where the vehicle is permitted to tow a trailer) ⁽¹⁾;
- maximum permissible mass on each axle, listed in order from front to rear ⁽¹⁾;
- maximum permissible vertical load on the coupling point ⁽¹⁾.

⁽¹⁾ Only where the value has changed during the current stage of type-approval.

ANNEX VIII

TABLE OF CORRESPONDENCE

Directive 74/150/EEC, as last amended by Directive 2001/3/EC	This Directive
Articles 1 and 2	Article 2
Article 3	Article 3
Article 4	Article 4
Article 5.1	Article 4.4
Articles 5.2 and 5.3	Article 6
Articles 6.1 to 6.3	Article 5
Article 6.4	Article 11
Articles 7.1 and 7.2	Article 7
Article 7, last paragraph	Article 11
Article 8	Article 11
Article 9	Article 12
Article 10	—
Article 11	Article 16
Articles 12 and 13	Article 17
Article 14	Article 15
Article 15	Article 19
Article 16	Article 23
Annex I	Annex I
Annex II	Annex II
Annex III	Annex III'

Proposal for a Council Decision on the accession, on behalf of the European Community to the Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-Level Ozone

(2002/C 151 E/02)

(Text with EEA relevance)

COM(2002) 44 final — 2002/0035(CNS)

(Submitted by the Commission on 30 January 2002)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular article 175 paragraph 1, in conjunction with article 300 paragraph 2, first sentence of the first subparagraph thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

- (1) Acidification, eutrophication and ground-level ozone cause unacceptable damage to the environment and human health within the Community.
- (2) On 30 November 1999 the Executive Body to the Convention on Long-Range Transboundary Air Pollution adopted the Protocol to Abate Acidification, Eutrophication and Ground-level Ozone in Gothenburg (Sweden); the Gothenburg Protocol sets maximum permitted levels of emissions (emission ceilings) for each national Party for the four main precursor pollutants responsible for acidification, eutrophication and ground-level ozone: sulphur, oxides of nitrogen, volatile organic compounds and ammonia; these ceilings are to be met by 2010.
- (3) Implementation of the Protocol will contribute to achieving Community goals for protection of the environment and human health.
- (4) Directive 2001/81/EC ⁽¹⁾ on National Emission Ceilings sets binding national emission ceilings, to be met by 2010

which are equal to or more ambitious than those required by the Gothenburg Protocol for each Member State.

- (5) Directive 2001/80/EC ⁽²⁾ on the limitation of emissions of certain pollutants into the air from large combustion plants sets new limit values for emissions from this sector which are consistent with those set under the Protocol.
- (6) The Community, in consequence, should accede to the Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-Level Ozone,

HAS DECIDED AS FOLLOWS:

Article 1

The European Community shall accede to the Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-Level Ozone.

The text of the Protocol is contained in the Annex to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person or persons empowered to deposit the instrument of accession with the Secretary General of the United Nations, in accordance with Article 16 of the Protocol.

Article 3

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

⁽¹⁾ OJ L 309, 27.11.2001, p. 22.

⁽²⁾ OJ L 309, 27.11.2001, p. 1.

PROTOCOL TO THE 1979 CONVENTION ON LONG-RANGE TRANSBOUNDARY AIR POLLUTION TO ABATE ACIDIFICATION, EUTROPHICATION AND GROUND-LEVEL OZONE

THE PARTIES,

DETERMINED to implement the Convention on Long-range Transboundary Air Pollution,

AWARE that nitrogen oxides, sulphur, volatile organic compounds and reduced nitrogen compounds have been associated with adverse effects on human health and the environment,

CONCERNED that critical loads of acidification, critical loads of nutrient nitrogen and critical levels of ozone for human health and vegetation are still exceeded in many areas of the United Nations Economic Commission for Europe's region,

CONCERNED ALSO that emitted nitrogen oxides, sulphur and volatile organic compounds, as well as secondary pollutants such as ozone and the reaction products of ammonia, are transported in the atmosphere over long distances and may have adverse transboundary effects,

RECOGNIZING that emissions from Parties within the United Nations Economic Commission for Europe's region contribute to air pollution on the hemispheric and global scales, and recognizing the potential for transport between continents and the need for further study with regard to that potential,

RECOGNIZING ALSO that Canada and the United States of America are bilaterally negotiating reductions of emissions of nitrogen oxides and volatile organic compounds to address the transboundary ozone effect,

RECOGNIZING FURTHERMORE that Canada will undertake further reductions of emissions of sulphur by 2010 through the implementation of the Canada-wide Acid Rain Strategy for Post-2000, and that the United States is committed to the implementation of a nitrogen oxides reduction programme in the eastern United States and to the reduction in emissions necessary to meet its national ambient air quality standards for particulate matter,

RESOLVED to apply a multi-effect, multi-pollutant approach to preventing or minimizing the exceedances of critical loads and levels,

TAKING INTO ACCOUNT the emissions from certain existing activities and installations responsible for present air pollution levels and the development of future activities and installations,

AWARE that techniques and management practices are available to reduce emissions of these substances,

RESOLVED to take measures to anticipate, prevent or minimize emissions of these substances, taking into account the application of the precautionary approach as set forth in principle 15 of the Rio Declaration on Environment and Development,

REAFFIRMING that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction,

CONSCIOUS of the need for a cost-effective regional approach to combating air pollution that takes account of the variations in effects and abatement costs between countries,

NOTING the important contribution of the private and non-governmental sectors to knowledge of the effects associated with these substances and available abatement techniques, and their role in assisting in the reduction of emissions to the atmosphere,

BEARING IN MIND that measures taken to reduce emissions of sulphur, nitrogen oxides, ammonia and volatile organic compounds should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international competition and trade,

TAKING INTO CONSIDERATION best available scientific and technical knowledge and data on emissions, atmospheric processes and effects on human health and the environment of these substances, as well as on abatement costs, and acknowledging the need to improve this knowledge and to continue scientific and technical cooperation to further understanding of these issues,

NOTING that under the Protocol concerning the Control of Emissions of Nitrogen Oxides or their Transboundary Fluxes, adopted at Sofia on 31 October 1988, and the Protocol concerning the Control of Emissions of Volatile Organic Compounds or their Transboundary Fluxes, adopted at Geneva on 18 November 1991, there is already provision to control emissions of nitrogen oxides and volatile organic compounds, and that the technical annexes to both those Protocols already contain technical guidance for reducing these emissions,

NOTING ALSO that under the Protocol on Further Reduction of Sulphur Emissions, adopted at Oslo on 14 June 1994, there is already provision to reduce sulphur emissions in order to contribute to the abatement of acid deposition by diminishing the exceedances of critical sulphur depositions, which have been derived from critical loads of acidity according to the contribution of oxidized sulphur compounds to the total acid deposition in 1990,

NOTING FURTHERMORE that this Protocol is the first agreement under the Convention to deal specifically with reduced nitrogen compounds,

BEARING IN MIND that reducing the emissions of these substances may provide additional benefits for the control of other pollutants, including in particular transboundary secondary particulate aerosols, which contribute to human health effects associated with exposure to airborne particulates,

BEARING IN MIND ALSO the need to avoid, in so far as possible, taking measures for the achievement of the objectives of this Protocol that aggravate other health and environment-related problems,

NOTING that measures taken to reduce the emissions of nitrogen oxides and ammonia should involve consideration of the full biogeochemical nitrogen cycle and, so far as possible, not increase emissions of reactive nitrogen including nitrous oxide which could aggravate other nitrogen-related problems,

AWARE that methane and carbon monoxide emitted by human activities contribute, in the presence of nitrogen oxides and volatile organic compounds, to the formation of tropospheric ozone, and

AWARE ALSO of the commitments that Parties have assumed under the United Nations Framework Convention on Climate Change,

HAVE AGREED AS FOLLOWS:

Article 1

Definitions

For the purposes of the present Protocol,

1. 'Convention' means the Convention on Long-range Transboundary Air Pollution, adopted at Geneva on 13 November 1979;

2. 'EMEP' means the Cooperative Programme for Monitoring and Evaluation of Long-range Transmission of Air Pollutants in Europe;
3. 'Executive Body' means the Executive Body for the Convention constituted under article 10, paragraph 1, of the Convention;
4. 'Commission' means the United Nations Economic Commission for Europe;

5. 'Parties' means, unless the context otherwise requires, the Parties to the present Protocol;
6. 'Geographical scope of EMEP' means the area defined in article 1, paragraph 4, of the Protocol to the 1979 Convention on Long-range Transboundary Air Pollution on Long-term Financing of the Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP), adopted at Geneva on 28 September 1984;
7. 'Emission' means the release of a substance from a point or diffuse source into the atmosphere;
8. 'Nitrogen oxides' means nitric oxide and nitrogen dioxide, expressed as nitrogen dioxide (NO₂);
9. 'Reduced nitrogen compounds' means ammonia and its reaction products;
10. 'Sulphur' means all sulphur compounds, expressed as sulphur dioxide (SO₂);
11. 'Volatile organic compounds', or 'VOCs', means, unless otherwise specified, all organic compounds of an anthropogenic nature, other than methane, that are capable of producing photochemical oxidants by reaction with nitrogen oxides in the presence of sunlight;
12. 'Critical load' means a quantitative estimate of an exposure to one or more pollutants below which significant harmful effects on specified sensitive elements of the environment do not occur, according to present knowledge;
13. 'Critical levels' means concentrations of pollutants in the atmosphere above which direct adverse effects on receptors, such as human beings, plants, ecosystems or materials, may occur, according to present knowledge;
14. 'Pollutant emissions management area', or 'PEMA', means an area designated in annex III under the conditions laid down in article 3, paragraph 9;
15. 'Stationary source' means any fixed building, structure, facility, installation or equipment that emits or may emit sulphur, nitrogen oxides, volatile organic compounds or ammonia directly or indirectly into the atmosphere;
16. 'New stationary source' means any stationary source of which the construction or substantial modification is commenced after the expiry of one year from the date of entry into force of the present Protocol. It shall be a matter for the competent national authorities to decide

whether a modification is substantial or not, taking into account such factors as the environmental benefits of the modification.

Article 2

Objective

The objective of the present Protocol is to control and reduce emissions of sulphur, nitrogen oxides, ammonia and volatile organic compounds that are caused by anthropogenic activities and are likely to cause adverse effects on human health, natural ecosystems, materials and crops, due to acidification, eutrophication or ground-level ozone as a result of long-range transboundary atmospheric transport, and to ensure, as far as possible, that in the long term and in a stepwise approach, taking into account advances in scientific knowledge, atmospheric depositions or concentrations do not exceed:

- (a) For Parties within the geographical scope of EMEP and Canada, the critical loads of acidity, as described in annex I;
- (b) For Parties within the geographical scope of EMEP, the critical loads of nutrient nitrogen, as described in annex I; and
- (c) For ozone:
 - (i) For Parties within the geographical scope of EMEP, the critical levels of ozone, as given in annex I;
 - (ii) For Canada, the Canada-wide Standard for ozone; and
 - (iii) For the United States of America, the National Ambient Air Quality Standard for ozone.

Article 3

Basic obligations

1. Each Party having an emission ceiling in any table in annex II shall reduce and maintain the reduction in its annual emissions in accordance with that ceiling and the time-scales specified in that annex. Each Party shall, as a minimum, control its annual emissions of polluting compounds in accordance with the obligations in annex II.
2. Each Party shall apply the limit values specified in annexes IV, V and VI to each new stationary source within a stationary source category as identified in those annexes, no later than the timescales specified in annex VII. As an alternative, a Party may apply different emission reduction strategies that achieve equivalent overall emission levels for all source categories together.

3. Each Party shall, in so far as it is technically and economically feasible and taking into consideration the costs and advantages, apply the limit values specified in annexes IV, V and VI to each existing stationary source within a stationary source category as identified in those annexes, no later than the timescales specified in annex VII. As an alternative, a Party may apply different emission reduction strategies that achieve equivalent overall emission levels for all source categories together or, for Parties outside the geographical scope of EMEP, that are necessary to achieve national or regional goals for acidification abatement and to meet national air quality standards.

4. Limit values for new and existing boilers and process heaters with a rated thermal input exceeding 50 MW_{th} and new heavy-duty vehicles shall be evaluated by the Parties at a session of the Executive Body with a view to amending annexes IV, V and VIII no later than two years after the date of entry into force of the present Protocol.

5. Each Party shall apply the limit values for the fuels and new mobile sources identified in annex VIII, no later than the timescales specified in annex VII.

6. Each Party should apply best available techniques to mobile sources and to each new or existing stationary source, taking into account guidance documents I to V adopted by the Executive Body at its seventeenth session (decision 1999/1) and any amendments thereto.

7. Each Party shall take appropriate measures based, *inter alia*, on scientific and economic criteria to reduce emissions of volatile organic compounds associated with the use of products not included in annex VI or VIII. The Parties shall, no later than at the second session of the Executive Body after the entry into force of the present Protocol, consider with a view to adopting an annex on products, including criteria for the selection of such products, limit values for the volatile organic compound content of products not included in annex VI or VIII, as well as timescales for the application of the limit values.

8. Each Party shall, subject to paragraph 10:

- (a) Apply, as a minimum, the ammonia control measures specified in annex IX; and
- (b) Apply, where it considers it appropriate, best available techniques for preventing and reducing ammonia emissions, as listed in guidance document V adopted by the Executive Body at its seventeenth session (decision 1999/1) and any amendments thereto.

9. Paragraph 10 shall apply to any Party:

- (a) Whose total land area is greater than 2 million square kilometres;
- (b) Whose annual emissions of sulphur, nitrogen oxides, ammonia and/or volatile organic compounds contributing to acidification, eutrophication or ozone formation in areas under the jurisdiction of one or more other Parties originate predominantly from within an area under its jurisdiction that is listed as a PEMA in annex III, and which has presented documentation in accordance with subparagraph (c) to this effect;
- (c) Which has submitted upon signature, ratification, acceptance or approval of, or accession to, the present Protocol a description of the geographical scope of one or more PEMAs for one or more pollutants, with supporting documentation, for inclusion in annex III; and
- (d) Which has specified upon signature, ratification, acceptance or approval of, or accession to, the present Protocol its intention to act in accordance with this paragraph.

10. A Party to which this paragraph applies shall:

- (a) If within the geographical scope of EMEP, be required to comply with the provisions of this article and annex II only within the relevant PEMA for each pollutant for which a PEMA within its jurisdiction is included in annex III; or
- (b) If not within the geographical scope of EMEP, be required to comply with the provisions of paragraphs 1, 2, 3, 5, 6 and 7 and annex II, only within the relevant PEMA for each pollutant (nitrogen oxides, sulphur and/or volatile organic compounds) for which a PEMA within its jurisdiction is included in annex III, and shall not be required to comply with paragraph 8 anywhere within its jurisdiction.

11. Canada and the United States of America shall, upon their ratification, acceptance or approval of, or accession to, the present Protocol, submit to the Executive Body their respective emission reduction commitments with respect to sulphur, nitrogen oxides and volatile organic compounds for automatic incorporation into annex II.

12. The Parties shall, subject to the outcome of the first review provided for under article 10, paragraph 2, and no later than one year after completion of that review, commence negotiations on further obligations to reduce emissions.

*Article 4***Exchange of information and technology**

1. Each Party shall, in a manner consistent with its laws, regulations and practices and in accordance with its obligations in the present Protocol, create favourable conditions to facilitate the exchange of information, technologies and techniques, with the aim of reducing emissions of sulphur, nitrogen oxides, ammonia and volatile organic compounds by promoting *inter alia*:

- (a) The development and updating of databases on best available techniques, including those that increase energy efficiency, low-emission burners and good environmental practice in agriculture;
- (b) The exchange of information and experience in the development of less polluting transport systems;
- (c) Direct industrial contacts and cooperation, including joint ventures; and
- (d) The provision of technical assistance.

2. In promoting the activities specified in paragraph 1, each Party shall create favourable conditions for the facilitation of contacts and cooperation among appropriate organizations and individuals in the private and public sectors that are capable of providing technology, design and engineering services, equipment or finance.

*Article 5***Public awareness**

1. Each Party shall, in a manner consistent with its laws, regulations and practices, promote the provision of information to the general public, including information on:

- (a) National annual emissions of sulphur, nitrogen oxides, ammonia and volatile organic compounds and progress towards compliance with the national emission ceilings or other obligations referred to in article 3;
- (b) Depositions and concentrations of the relevant pollutants and, where applicable, these depositions and concentrations in relation to critical loads and levels referred to in article 2;
- (c) Levels of tropospheric ozone; and
- (d) Strategies and measures applied or to be applied to reduce air pollution problems dealt with in the present Protocol and set out in article 6.

2. Furthermore, each Party may make information widely available to the public with a view to minimizing emissions, including information on:

- (a) Less polluting fuels, renewable energy and energy efficiency, including their use in transport;
- (b) Volatile organic compounds in products, including labelling;

- (c) Management options for wastes containing volatile organic compounds that are generated by the public;
- (d) Good agricultural practices to reduce emissions of ammonia;
- (e) Health and environmental effects associated with the pollutants covered by the present Protocol; and
- (f) Steps which individuals and industries may take to help reduce emissions of the pollutants covered by the present Protocol.

*Article 6***Strategies, policies, programmes, measures and information**

1. Each Party shall, as necessary and on the basis of sound scientific and economic criteria, in order to facilitate the implementation of its obligations under article 3:

- (a) Adopt supporting strategies, policies and programmes without undue delay after the present Protocol enters into force for it;
- (b) Apply measures to control and reduce its emissions of sulphur, nitrogen oxides, ammonia and volatile organic compounds;
- (c) Apply measures to encourage the increase of energy efficiency and the use of renewable energy;
- (d) Apply measures to decrease the use of polluting fuels;
- (e) Develop and introduce less polluting transport systems and promote traffic management systems to reduce overall emissions from road traffic;
- (f) Apply measures to encourage the development and introduction of low-polluting processes and products, taking into account guidance documents I to V adopted by the Executive Body at its seventeenth session (decision 1999/1) and any amendments thereto;
- (g) Encourage the implementation of management programmes to reduce emissions, including voluntary programmes, and the use of economic instruments, taking into account guidance document VI adopted by the Executive Body at its seventeenth session (decision 1999/1) and any amendments thereto;
- (h) Implement and further elaborate policies and measures in accordance with its national circumstances, such as the progressive reduction or phasing-out of market imperfections, fiscal incentives, tax and duty exemptions and subsidies in all sectors that emit sulphur, nitrogen oxides, ammonia and volatile organic compounds which run counter to the objective of the Protocol, and apply market instruments; and

- (i) apply measures, where cost-effective, to reduce emissions from waste products containing volatile organic compounds.
2. Each Party shall collect and maintain information on:
- (a) Actual levels of emissions of sulphur, nitrogen compounds and volatile organic compounds, and of ambient concentrations and depositions of these compounds and ozone, taking into account, for those Parties within the geographical scope of EMEP, the work plan of EMEP; and
 - (b) The effects of ambient concentrations and of the deposition of sulphur, nitrogen compounds, volatile organic compounds and ozone on human health, terrestrial and aquatic ecosystems and materials.
3. Any Party may take more stringent measures than those required by the present Protocol.

Article 7

Reporting

1. Subject to its laws and regulations and in accordance with its obligations under the present Protocol:
- (a) each Party shall report, through the Executive Secretary of the Commission, to the Executive Body, on a periodic basis as determined by the Parties at a session of the Executive Body, information on the measures that it has taken to implement the present Protocol. Moreover:
 - (i) where a Party applies different emission reduction strategies under article 3, paragraphs 2 and 3, it shall document the strategies applied and its compliance with the requirements of those paragraphs;
 - (ii) where a Party judges certain limit values, as specified in accordance with article 3, paragraph 3, not to be technically and economically feasible, taking into consideration the costs and advantages, it shall report and justify this;
 - (b) each Party within the geographical scope of EMEP shall report, through the Executive Secretary of the Commission, to EMEP, on a periodic basis to be determined by the Steering Body of EMEP and approved by the Parties at a session of the Executive Body, the following information:
 - (i) levels of emissions of sulphur, nitrogen oxides, ammonia and volatile organic compounds using, as a minimum, the methodologies and the temporal and spatial resolution specified by the Steering Body of EMEP;
 - (ii) levels of emissions of each substance in the reference year (1990) using the same methodologies and temporal and spatial resolution;
 - (iii) data on projected emissions and current reduction plans; and
 - (iv) where it deems it appropriate, any exceptional circumstances justifying emissions that are temporarily higher than the ceilings established for it for one or more pollutants; and
 - (c) parties in areas outside the geographical scope of EMEP shall make available information similar to that specified in subparagraph (b), if requested to do so by the Executive Body.
2. The information to be reported in accordance with paragraph 1 (a) shall be in conformity with a decision regarding format and content to be adopted by the Parties at a session of the Executive Body. The terms of this decision shall be reviewed as necessary to identify any additional elements regarding the format or the content of the information that is to be included in the reports.
3. In good time before each annual session of the Executive Body, EMEP shall provide information on:
- (a) Ambient concentrations and depositions of sulphur and nitrogen compounds as well as, where available, ambient concentrations of volatile organic compounds and ozone; and
 - (b) Calculations of sulphur and oxidized and reduced nitrogen budgets and relevant information on the long-range transport of ozone and its precursors.
- Parties in areas outside the geographical scope of EMEP shall make available similar information if requested to do so by the Executive Body.
4. The Executive Body shall, in accordance with article 10, paragraph 2 (b), of the Convention, arrange for the preparation of information on the effects of depositions of sulphur and nitrogen compounds and concentrations of ozone.
5. The Parties shall, at sessions of the Executive Body, arrange for the preparation, at regular intervals, of revised information on calculated and internationally optimized allocations of emission reductions for the States within the geographical scope of EMEP, using integrated assessment models, including atmospheric transport models, with a view to reducing further, for the purposes of article 3, paragraph 1, the difference between actual depositions of sulphur and nitrogen compounds and critical load values as well as the difference between actual ozone concentrations and the critical levels of ozone specified in annex I, or such alternative assessment methods as approved by the Parties at a session of the Executive Body.

*Article 8***Research, development and monitoring**

The Parties shall encourage research, development, monitoring and cooperation related to:

- (a) The international harmonization of methods for the calculation and assessment of the adverse effects associated with the substances addressed by the present Protocol for use in establishing critical loads and critical levels and, as appropriate, the elaboration of procedures for such harmonization;
- (b) The improvement of emission databases, in particular those on ammonia and volatile organic compounds;
- (c) The improvement of monitoring techniques and systems and of the modelling of transport, concentrations and depositions of sulphur, nitrogen compounds and volatile organic compounds, as well as of the formation of ozone and secondary particulate matter;
- (d) The improvement of the scientific understanding of the long-term fate of emissions and their impact on the hemispheric background concentrations of sulphur, nitrogen, volatile organic compounds, ozone and particulate matter, focusing, in particular, on the chemistry of the free troposphere and the potential for intercontinental flow of pollutants;
- (e) The further elaboration of an overall strategy to reduce the adverse effects of acidification, eutrophication and photochemical pollution, including synergisms and combined effects;
- (f) Strategies for the further reduction of emissions of sulphur, nitrogen oxides, ammonia and volatile organic compounds based on critical loads and critical levels as well as on technical developments, and the improvement of integrated assessment modelling to calculate internationally optimized allocations of emission reductions taking into account the need to avoid excessive costs for any Party. Special emphasis should be given to emissions from agriculture and transport;
- (g) The identification of trends over time and the scientific understanding of the wider effects of sulphur, nitrogen and volatile organic compounds and photochemical pollution on human health, including their contribution to concentrations of particulate matter, the environment, in particular acidification and eutrophication, and materials, especially historic and cultural monuments, taking into account the relationship between sulphur oxides, nitrogen oxides, ammonia, volatile organic compounds and tropospheric ozone;

(h) Emission abatement technologies, and technologies and techniques to improve energy efficiency, energy conservation and the use of renewable energy;

- (i) The efficacy of ammonia control techniques for farms and their impact on local and regional deposition;
- (j) The management of transport demand and the development and promotion of less-polluting modes of transport;
- (k) The quantification and, where possible, economic evaluation of benefits for the environment and human health resulting from the reduction of emissions of sulphur, nitrogen oxides, ammonia and volatile organic compounds; and
- (l) The development of tools for making the methods and results of this work widely applicable and available.

*Article 9***Compliance**

Compliance by each Party with its obligations under the present Protocol shall be reviewed regularly. The Implementation Committee established by decision 1997/2 of the Executive Body at its fifteenth session shall carry out such reviews and report to the Parties at a session of the Executive Body in accordance with the terms of the annex to that decision, including any amendments thereto.

*Article 10***Reviews by the Parties at sessions of the Executive Body**

1. The Parties shall, at sessions of the Executive Body, pursuant to article 10, paragraph 2 (a), of the Convention, review the information supplied by the Parties, EMEP and subsidiary bodies of the Executive Body, the data on the effects of concentrations and depositions of sulphur and nitrogen compounds and of photochemical pollution as well as the reports of the Implementation Committee referred to in article 9 above.

2. (a) The Parties shall, at sessions of the Executive Body, keep under review the obligations set out in the present Protocol, including:

- (i) Their obligations in relation to their calculated and internationally optimized allocations of emission reductions referred to in article 7, paragraph 5, above; and
- (ii) The adequacy of the obligations and the progress made towards the achievement of the objective of the present Protocol;

- (b) Reviews shall take into account the best available scientific information on the effects of acidification, eutrophication and photochemical pollution, including assessments of all relevant health effects, critical levels and loads, the development and refinement of integrated assessment models, technological developments, changing economic conditions, progress made on the databases on emissions and abatement techniques, especially related to ammonia and volatile organic compounds, and the fulfilment of the obligations on emission levels;
- (c) The procedures, methods and timing for such reviews shall be specified by the Parties at a session of the Executive Body. The first such review shall commence no later than one year after the present Protocol enters into force.

Article 11

Settlement of disputes

1. In the event of a dispute between any two or more Parties concerning the interpretation or application of the present Protocol, the parties concerned shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice. The parties to the dispute shall inform the Executive Body of their dispute.

2. When ratifying, accepting, approving or acceding to the present Protocol, or at any time thereafter, a Party which is not a regional economic integration organization may declare in a written instrument submitted to the Depositary that, in respect of any dispute concerning the interpretation or application of the Protocol, it recognizes one or both of the following means of dispute settlement as compulsory *ipso facto* and without special agreement, in relation to any Party accepting the same obligation:

- (a) Submission of the dispute to the International Court of Justice;
- (b) Arbitration in accordance with procedures to be adopted by the Parties at a session of the Executive Body, as soon as practicable, in an annex on arbitration.

A Party which is a regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with the procedures referred to in subparagraph (b).

3. A declaration made under paragraph 2 shall remain in force until it expires in accordance with its terms or until three months after written notice of its revocation has been deposited with the Depositary.

4. A new declaration, a notice of revocation or the expiry of a declaration shall not in any way affect proceedings pending

before the International Court of Justice or the arbitral tribunal, unless the parties to the dispute agree otherwise.

5. Except in a case where the parties to a dispute have accepted the same means of dispute settlement under paragraph 2, if after twelve months following notification by one party to another that a dispute exists between them, the parties concerned have not been able to settle their dispute through the means mentioned in paragraph 1, the dispute shall be submitted, at the request of any of the parties to the dispute, to conciliation.

6. For the purpose of paragraph 5, a conciliation commission shall be created. The commission shall be composed of an equal number of members appointed by each party concerned or, where parties in conciliation share the same interest, by the group sharing that interest, and a chairperson chosen jointly by the members so appointed. The commission shall render a recommendatory award, which the parties to the dispute shall consider in good faith.

Article 12

Annexes

The annexes to the present Protocol shall form an integral part of the Protocol.

Article 13

Amendments and adjustments

1. Any Party may propose amendments to the present Protocol. Any Party to the Convention may propose an adjustment to annex II to the present Protocol to add to it its name, together with emission levels, emission ceilings and percentage emission reductions.

2. Proposed amendments and adjustments shall be submitted in writing to the Executive Secretary of the Commission, who shall communicate them to all Parties. The Parties shall discuss the proposed amendments and adjustments at the next session of the Executive Body, provided that those proposals have been circulated by the Executive Secretary to the Parties at least ninety days in advance.

3. Amendments to the present Protocol, including amendments to annexes II to IX, shall be adopted by consensus of the Parties present at a session of the Executive Body, and shall enter into force for the Parties which have accepted them on the ninetieth day after the date on which two thirds of the Parties have deposited with the Depositary their instruments of acceptance thereof. Amendments shall enter into force for any other Party on the ninetieth day after the date on which that Party has deposited its instrument of acceptance thereof.

4. Amendments to the annexes to the present Protocol, other than to the annexes referred to in paragraph 3, shall be adopted by consensus of the Parties present at a session of the Executive Body. On the expiry of ninety days from the date of its communication to all Parties by the Executive Secretary of the Commission, an amendment to any such annex shall become effective for those Parties which have not submitted to the Depositary a notification in accordance with the provisions of paragraph 5, provided that at least sixteen Parties have not submitted such a notification.

5. Any Party that is unable to approve an amendment to an annex, other than to an annex referred to in paragraph 3, shall so notify the Depositary in writing within ninety days from the date of the communication of its adoption. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for its previous notification and, upon deposit of an instrument of acceptance with the Depositary, the amendment to such an annex shall become effective for that Party.

6. Adjustments to annex II shall be adopted by consensus of the Parties present at a session of the Executive Body and shall become effective for all Parties to the present Protocol on the ninetieth day following the date on which the Executive Secretary of the Commission notifies those Parties in writing of the adoption of the adjustment.

Article 14

Signature

1. The present Protocol shall be open for signature at Gothenburg (Sweden) on 30 November and 1 December 1999, then at United Nations Headquarters in New York until 30 May 2000, by States members of the Commission as well as States having consultative status with the Commission, pursuant to paragraph 8 of Economic and Social Council resolution 36 (IV) of 28 March 1947, and by regional economic integration organizations, constituted by sovereign States members of the Commission, which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by the Protocol, provided that the States and organizations concerned are Parties to the Convention and are listed in annex II.

2. In matters within their competence, such regional economic integration organizations shall, on their own behalf, exercise the rights and fulfil the responsibilities which the present Protocol attributes to their member States. In such cases, the member States of these organizations shall not be entitled to exercise such rights individually.

Article 15

Ratification, acceptance, approval and accession

1. The present Protocol shall be subject to ratification, acceptance or approval by Signatories.

2. The present Protocol shall be open for accession as from 31 May 2000 by the States and organizations that meet the requirements of article 14, paragraph 1.

3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

Article 16

Depositary

The Secretary-General of the United Nations shall be the Depositary.

Article 17

Entry into force

1. The present Protocol shall enter into force on the ninetieth day following the date on which the sixteenth instrument of ratification, acceptance, approval or accession has been deposited with the Depositary.

2. For each State and organization that meets the requirements of article 14, paragraph 1, which ratifies, accepts or approves the present Protocol or accedes thereto after the deposit of the sixteenth instrument of ratification, acceptance, approval or accession, the Protocol shall enter into force on the ninetieth day following the date of deposit by such Party of its instrument of ratification, acceptance, approval or accession.

Article 18

Withdrawal

At any time after five years from the date on which the present Protocol has come into force with respect to a Party, that Party may withdraw from it by giving written notification to the Depositary. Any such withdrawal shall take effect on the ninetieth day following the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.

Article 19

Authentic texts

The original of the present Protocol, of which the English, French and Russian texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

In witness whereof the undersigned, being duly authorized thereto, have signed the present Protocol.

Done at Gothenburg (Sweden), this thirtieth day of November one thousand nine hundred and ninety-nine.

ANNEX I

CRITICAL LOADS AND LEVELS**I. CRITICAL LOADS OF ACIDITY****A. For Parties within the geographical scope of EMEP**

1. Critical loads (as defined in article 1) of acidity for ecosystems are determined in accordance with the Convention's Manual on methodologies and criteria for mapping critical levels/loads and geographical areas where they are exceeded. They are the maximum amount of acidifying deposition an ecosystem can tolerate in the long term without being damaged. Critical loads of acidity in terms of nitrogen take account of within-ecosystem nitrogen removal processes (e. g. uptake by plants). Critical loads of acidity in terms of sulphur do not. A combined sulphur and nitrogen critical load of acidity considers nitrogen only when the nitrogen deposition is greater than the ecosystem nitrogen removal processes. All critical loads reported by Parties are summarized for use in the integrated assessment modelling employed to provide guidance for setting the emission ceilings in annex II.

B. For Parties in North America

2. For eastern Canada, critical sulphur plus nitrogen loads for forested ecosystems have been determined with scientific methodologies and criteria (1997 Canadian Acid Rain Assessment) similar to those in the Convention's Manual on methodologies and criteria for mapping critical levels/loads and geographical areas where they are exceeded. Eastern Canada critical load values (as defined in article 1) of acidity are for sulphate in precipitation expressed in kg/ha/year. Alberta in western Canada, where deposition levels are currently below the environmental limits, has adopted the generic critical load classification systems used for soils in Europe for potential acidity. Potential acidity is defined by subtracting the total (both wet and dry) deposition of base cations from that of sulphur and nitrogen. In addition to critical loads for potential acidity, Alberta has established target and monitoring loads for managing acidifying emissions.
3. For the United States of America, the effects of acidification are evaluated through an assessment of the sensitivity of ecosystems, the total loading within ecosystems of acidifying compounds, and the uncertainty associated with nitrogen removal processes within ecosystems.
4. These loads and effects are used in integrated assessment modelling and provide guidance for setting the emission ceilings and/or reductions for Canada and the United States of America in annex II.

II. CRITICAL LOADS OF NUTRIENT NITROGEN**For Parties within the geographical scope of EMEP**

5. Critical loads (as defined in article 1) of nutrient nitrogen (eutrophication) for ecosystems are determined in accordance with the Convention's Manual on methodologies and criteria for mapping critical levels/loads and geographical areas where they are exceeded. They are the maximum amount of eutrophying nitrogen deposition an ecosystem can tolerate in the long term without being damaged. All critical loads reported by Parties are summarized for use in the integrated assessment modelling employed to provide guidance for setting the emission ceilings in annex II.

III. CRITICAL LEVELS OF OZONE**A. For Parties within the geographical scope of EMEP**

6. Critical levels (as defined in article 1) of ozone are determined to protect plants in accordance with the Convention's Manual on methodologies and criteria for mapping critical levels/loads and geographical areas where they are exceeded. They are expressed as a cumulative exposure over a threshold ozone concentration of 40 ppb (parts per billion by volume). This exposure index is referred to as AOT40 (accumulated exposure over a threshold of 40 ppb). The AOT40 is calculated as the sum of the differences between the hourly concentration (in ppb) and 40 ppb for each hour when the concentration exceeds 40 ppb.

7. The long-term critical level of ozone for crops of an AOT40 of 3 000 ppb.hours for May-July (used as a typical growing season) and for daylight hours was used to define areas at risk where the critical level is exceeded. A specific reduction of exceedances was targeted in the integrated assessment modelling undertaken for the present Protocol to provide guidance for setting the emission ceilings in annex II. The long-term critical level of ozone for crops is considered also to protect other plants such as trees and natural vegetation. Further scientific work is under way to develop a more differentiated interpretation of exceedances of critical levels of ozone for vegetation.
8. A critical level of ozone for human health is represented by the WHO Air Quality Guideline level for ozone of 120 µg/m³ as an 8-hour average. In collaboration with the World Health Organization's Regional Office for Europe (WHO/EURO), a critical level expressed as an AOT60 (accumulated exposure over a threshold of 60 ppb), i. e. 120 µg/m³, calculated over one year, was adopted as a surrogate for the WHO Air Quality Guideline for the purpose of integrated assessment modelling. This was used to define areas at risk where the critical level is exceeded. A specific reduction of these exceedances was targeted in the integrated assessment modelling undertaken for the present Protocol to provide guidance for setting the emission ceilings in annex II.

B. For Parties in North America

9. For Canada, critical levels of ozone are determined to protect human health and the environment and are used to establish a Canada-wide Standard for ozone. The emission ceilings in annex II are defined according to the ambition level required to achieve the Canada-wide Standard for ozone.
10. For the United States of America, critical levels of ozone are determined to protect public health with an adequate margin of safety, to protect public welfare from any known or expected adverse effects, and are used to establish a national ambient air quality standard. Integrated assessment modelling and the air quality standard are used in providing guidance for setting the emission ceilings and/or reductions for the United States of America in annex II.

ANNEX II

EMISSION CEILINGS

The emission ceilings listed in the tables below relate to the provisions of article 3, paragraphs 1 and 10, of the present Protocol. The 1980 and 1990 emission levels and the percentage emission reductions listed are given for information purposes only.

Table 1: Emission ceilings for sulphur (thousands of tonnes of SO₂ per year)

Party	Emission levels		Emission ceilings for 2010	Percentage emission reductions for 2010 (base year 1990)
	1980	1990		
Armenia	141	73	73	0 %
Austria	400	91	39	- 57 %
Belarus	740	637	480	- 25 %
Belgium	828	372	106	- 72 %
Bulgaria	2 050	2 008	856	- 57 %
Canada national ^(a)	4 643	3 236		
PEMA (SOMA)	3 135	1 873		
Croatia	150	180	70	- 61 %
Czech Republic	2 257	1 876	283	- 85 %
Denmark	450	182	55	- 70 %
Finland	584	260	116	- 55 %
France	3 208	1 269	400	- 68 %
Germany	7 514	5 313	550	- 90 %
Greece	400	509	546	7 %

Party	Emission levels		Emission ceilings for 2010	Percentage emission reductions for 2010 (base year 1990)
	1980	1990		
Hungary	1 633	1 010	550	– 46 %
Ireland	222	178	42	– 76 %
Italy	3 757	1 651	500	– 70 %
Latvia	—	119	107	– 10 %
Liechtenstein	0,39	0,15	0,11	– 27 %
Lithuania	311	222	145	– 35 %
Luxembourg	24	15	4	– 73 %
Netherlands	490	202	50	– 75 %
Norway	137	53	22	– 58 %
Poland	4 100	3 210	1 397	– 56 %
Portugal	266	362	170	– 53 %
Republic of Moldova	308	265	135	– 49 %
Romania	1 055	1 311	918	– 30 %
Russian Federation ^(b)	7 161	4 460		
PEMA	1 062	1 133	635	– 44 %
Slovakia	780	543	110	– 80 %
Slovenia	235	194	27	– 86 %
Spain ^(b)	2 959	2 182	774	– 65 %
Sweden	491	119	67	– 44 %
Switzerland	116	43	26	– 40 %
Ukraine	3 849	2 782	1 457	– 48 %
United Kingdom	4 863	3 731	625	– 83 %
United States of America ^(c)				
European Community	26 456	16 436	4 059	– 75 %

^(a) Upon ratification, acceptance or approval of, or accession to, the present Protocol, Canada shall submit an emission ceiling for sulphur, either at a national level or for its PEMA, and will endeavour to provide a ceiling for 2010. The PEMA for sulphur will be the sulphur oxides management area (SOMA) that was designated pursuant to annex III to the Protocol on Further Reduction of Sulphur Emissions adopted at Oslo on 14 June 1994 as the South-east Canada SOMA. This is an area of 1 million km² which includes all the territory of the provinces of Prince Edward Island, Nova Scotia and New Brunswick, all the territory of the province of Quebec south of a straight line between Havre-St. Pierre on the north coast of the Gulf of Saint Lawrence and the point where the Quebec-Ontario boundary intersects the James Bay coastline, and all the territory of the province of Ontario south of a straight line between the point where the Ontario-Quebec boundary intersects the James Bay coastline and Nipigon River near the north shore of Lake Superior.

^(b) Figures apply to the European part within the EMEP area.

^(c) Upon ratification, acceptance or approval of, or accession to, the present Protocol, the United States of America shall provide for inclusion in this annex: (a) specific emission reduction measures applicable to mobile and stationary sources of sulphur to be applied either nationally or within a PEMA if it has submitted a PEMA for sulphur for inclusion in annex III; (b) a value for total estimated sulphur emission levels for 1990, either national or for the PEMA; (c) an indicative value for total sulphur emission levels for 2010, either national or for the PEMA; and (d) associated estimates of the percentage reduction in sulphur emissions. Item (b) will be included in the table and items (a), (c) and (d) will be included in a footnote to the table.

Table 2: Emission ceilings for nitrogen oxides (thousands of tonnes of NO₂ per year)

Party	Emission levels 1990	Emission ceilings for 2010	Percentage emission reductions for 2010 (base year 1990)
Armenia	46	46	0 %
Austria	194	107	– 45 %
Belarus	285	255	– 11 %
Belgium	339	181	– 47 %
Bulgaria	361	266	– 26 %

Party	Emission levels 1990	Emission ceilings for 2010	Percentage emission reductions for 2010 (base year 1990)
Canada ^(a)	2 104		
Croatia	87	87	0 %
Czech Republic	742	286	- 61 %
Denmark	282	127	- 55 %
Finland	300	170	- 43 %
France	1 882	860	- 54 %
Germany	2 693	1 081	- 60 %
Greece	343	344	0 %
Hungary	238	198	- 17 %
Ireland	115	65	- 43 %
Italy	1 938	1 000	- 48 %
Latvia	93	84	- 10 %
Liechtenstein	0,63	0,37	- 41 %
Lithuania	158	110	- 30 %
Luxembourg	23	11	- 52 %
Netherlands	580	266	- 54 %
Norway	218	156	- 28 %
Poland	1 280	879	- 31 %
Portugal	348	260	- 25 %
Republic of Moldova	100	90	- 10 %
Romania	546	437	- 20 %
Russian Federation ^(b)	3 600		
PEMA	360	265	- 26 %
Slovakia	225	130	- 42 %
Slovenia	62	45	- 27 %
Spain ^(b)	1 113	847	- 24 %
Sweden	338	148	- 56 %
Switzerland	166	79	- 52 %
Ukraine	1 888	1 222	- 35 %
United Kingdom	2 673	1 181	- 56 %
United States of America ^(c)			
European Community	13 161	6 671	- 49 %

^(a) Upon ratification, acceptance or approval of, or accession to, the present Protocol, Canada shall submit 1990 emission levels and 2010 emission ceilings for nitrogen oxides, either at a national level or for its PEMA for nitrogen oxides, if it has submitted one.

^(b) Figures apply to the European part within the EMEP area.

^(c) Upon ratification, acceptance or approval of, or accession to, the present Protocol, the United States of America shall provide for inclusion in this annex: (a) specific emission reduction measures applicable to mobile and stationary sources of nitrogen oxides to be applied either nationally or within a PEMA if it has submitted a PEMA for nitrogen oxides for inclusion in annex III; (b) a value for total estimated nitrogen oxide emission levels for 1990, either national or for the PEMA; (c) an indicative value for total nitrogen oxide emission levels for 2010, either national or for the PEMA; and (d) associated estimates of the percentage reduction in nitrogen oxide emissions. Item (b) will be included in the table and items (a), (c) and (d) will be included in a footnote to the table.

Table 3: Emission ceilings for ammonia (thousands of tonnes of NH₃ per year)

Party	Emission levels 1990	Emission ceilings for 2010	Percentage emission reductions for 2010 (base year 1990)
Armenia	25	25	0 %
Austria	81	66	- 19 %
Belarus	219	158	- 28 %
Belgium	107	74	- 31 %
Bulgaria	144	108	- 25 %
Croatia	37	30	- 19 %
Czech Republic	156	101	- 35 %
Denmark	122	69	- 43 %
Finland	35	31	- 11 %
France	814	780	- 4 %
Germany	764	550	- 28 %
Greece	80	73	- 9 %
Hungary	124	90	- 27 %
Ireland	126	116	- 8 %
Italy	466	419	- 10 %
Latvia	44	44	0 %
Liechtenstein	0,15	0,15	0 %
Lithuania	84	84	0 %
Luxembourg	7	7	0 %
Netherlands	226	128	- 43 %
Norway	23	23	0 %
Poland	508	468	- 8 %
Portugal	98	108	10 %
Republic of Moldova	49	42	- 14 %
Romania	300	210	- 30 %
Russian Federation ^(a)	1 191		
PEMA	61	49	- 20 %
Slovakia	62	39	- 37 %
Slovenia	24	20	- 17 %
Spain ^(a)	351	353	1 %
Sweden	61	57	- 7 %
Switzerland	72	63	- 13 %
Ukraine	729	592	- 19 %
United Kingdom	333	297	- 11 %
European Community	3 671	3 129	- 15 %

^(a) Figures apply to the European part within the EMEP area.

Table 4: Emission ceilings for volatile organic compounds (thousands of tonnes of VOC per year)

Party	Emission levels 1990	Emission ceilings for 2010	Percentage emission reductions for 2010 (base year 1990)
Armenia	81	81	0 %
Austria	351	159	- 55 %
Belarus	533	309	- 42 %
Belgium	324	144	- 56 %
Bulgaria	217	185	- 15 %
Canada ^(a)	2 880		
Croatia	105	90	- 14 %
Czech Republic	435	220	- 49 %
Denmark	178	85	- 52 %
Finland	209	130	- 38 %
France	2 957	1 100	- 63 %
Germany	3 195	995	- 69 %
Greece	373	261	- 30 %
Hungary	205	137	- 33 %
Ireland	197	55	- 72 %
Italy	2 213	1 159	- 48 %
Latvia	152	136	- 11 %
Liechtenstein	1,56	0,86	- 45 %
Lithuania	103	92	- 11 %
Luxembourg	20	9	- 55 %
Netherlands	502	191	- 62 %
Norway	310	195	- 37 %
Poland	831	800	- 4 %
Portugal	640	202	- 68 %
Republic of Moldova	157	100	- 36 %
Romania	616	523	- 15 %
Russian Federation ^(b)	3 566		
PEMA	203	165	- 19 %
Slovakia	149	140	- 6 %
Slovenia	42	40	- 5 %
Spain ^(b)	1 094	669	- 39 %
Sweden	526	241	- 54 %
Switzerland	292	144	- 51 %
Ukraine	1 369	797	- 42 %
United Kingdom	2 555	1 200	- 53 %
United States of America ^(c)			
European Community	15 353	6 600	- 57 %

^(a) Upon ratification, acceptance or approval of, or accession to, the present Protocol, Canada shall submit 1990 emission levels and 2010 emission ceilings for volatile organic compounds, either at a national level or for its PEMA for volatile organic compounds, if it has submitted one.

^(b) Figures apply to the European part within the EMEP area.

^(c) Upon ratification, acceptance or approval of, or accession to, the present Protocol, the United States of America shall provide for inclusion in this annex: (a) specific emission reduction measures applicable to mobile and stationary sources of volatile organic compounds to be applied either nationally or within a PEMA if it has submitted a PEMA for volatile organic compounds for inclusion in annex III; (b) a value for total estimated volatile organic compound emission levels for 1990, either national or for the PEMA; (c) an indicative value for total volatile organic compound emission levels for 2010, either national or for the PEMA; and (d) associated estimates of the percentage reduction in volatile organic compound emissions. Item (b) will be included in the table and items (a), (c) and (d) will be included in a footnote to the table.

ANNEX III

DESIGNATED POLLUTANT EMISSIONS MANAGEMENT AREA (PEMA)

The following PEMA is listed for the purpose of the present Protocol:

Russian Federation PEMA

This is the area of Murmansk oblast, the Republic of Karelia, Leningrad oblast (including St. Petersburg), Pskov oblast, Novgorod oblast and Kaliningrad oblast. The boundary of the PEMA coincides with the State and administrative boundaries of these constituent entities of the Russian Federation.

ANNEX IV

LIMIT VALUES FOR EMISSIONS OF SULPHUR FROM STATIONARY SOURCES

1. Section A applies to Parties other than Canada and the United States of America, section B applies to Canada and section C applies to the United States of America.

A. Parties other than Canada and the United States of America

2. For the purpose of section A, except table 2 and paragraphs 11 and 12, limit value means the quantity of a gaseous substance contained in the waste gases from an installation that is not to be exceeded. Unless otherwise specified, it shall be calculated in terms of mass of pollutant per volume of the waste gases (expressed as mg/m³), assuming standard conditions for temperature and pressure for dry gas (volume at 273,15 K, 101,3 kPa). With regard to the oxygen content of the exhaust gas, the values given in the tables below for each source category shall apply. Dilution for the purpose of lowering concentrations of pollutants in waste gases is not permitted. Start-up, shutdown and maintenance of equipment are excluded.
3. Emissions shall be monitored⁽¹⁾ in all cases. Compliance with limit values shall be verified. The methods of verification can include continuous or discontinuous measurements, type approval, or any other technically sound method.
4. Sampling and analysis of pollutants, as well as reference measurement methods to calibrate any measurement system, shall be carried out in accordance with the standards laid down by the European Committee for Standardization (CEN) or by the International Organization for Standardization (ISO). While awaiting the development of CEN or ISO standards, national standards shall apply.
5. Measurements of emissions should be carried out continuously when emissions of SO₂ exceed 75 kg/h.
6. In the case of continuous measurement for new plant, compliance with the emission standards is achieved if the calculated daily mean values do not exceed the limit value and if no hourly value exceeds the limit value by 100 %.
7. In the case of continuous measurements for existing plant, compliance with the emission standards is achieved if (a) none of the monthly mean values exceeds the limit values; and (b) 97 % of all the 48-hour mean values do not exceed 110 % of the limit values.
8. In the case of discontinuous measurements, as a minimum requirement, compliance with the emission standards is achieved if the mean value based on an appropriate number of measurements under representative conditions does not exceed the value of the emission standard.

⁽¹⁾ Monitoring is to be understood as an overall activity, comprising measuring of emissions, mass balancing, etc. It can be carried out continuously or discontinuously.

9. Boilers and process heaters with a rated thermal input exceeding 50 MW_{th}:Table 1: Limit values for SO_x emissions released from boilers ^(a)

	Thermal input (MW _{th})	Limit value (mg SO ₂ /Nm ³) ^(b)	Alternative for domestic solid fuels removal efficiency
Solid and liquid fuels, new installations	50-100	850	90 % ^(d)
	100-300	850 — 200 ^(c) (linear decrease)	92 % ^(d)
	> 300	200 ^(c)	95 % ^(d)
Solid fuels, existing installations	50-100	2 000	
	100-500	2 000 — 400 (linear decrease)	
	> 500	400	
	50-150		40 %
	150-500		40-90 % (linear increase)
	> 500		90 %
Liquid fuels, existing installations	50-300	1 700	
	300-500	1 700 — 400 (linear decrease)	
	> 500	400	
Gaseous fuels in general, new and existing installations		35	
Liquefied gas, new and existing installations		5	
Low-calorific-value gases (e. g. gasification of refinery residues or combustion of coke oven gas)		new 400 existing 800	
Blast-furnace gas		new 200 existing 800	
New combustion plant in refineries (average of all new combustion installations)	> 50 (total refinery capacity)	600	
Existing combustion plant in refineries (average of all existing combustion installations)		1 000	

^(a) In particular, the limit values shall not apply to:

- Plant in which the products of combustion are used for direct heating, drying, or any other treatment of objects or materials, e. g. reheating furnaces, furnaces for heat treatment;
- Post-combustion plant, i. e. any technical apparatus designed to purify the waste gases by combustion that is not operated as an independent combustion plant;
- Facilities for the regeneration of catalytic cracking catalysts;
- Facilities for the conversion of hydrogen sulphide into sulphur;
- Reactors used in the chemical industry;
- Coke battery furnaces;
- Cowpers;
- Waste incinerators; and
- Plant powered by diesel, petrol or gas engines or by combustion turbines, irrespective of the fuel used.

^(b) The O₂ reference content is 6 % for solid fuels and 3 % for others.

^(c) 400 with heavy fuel oil S < 0,25 %.

^(d) If an installation reaches 300 mg/Nm³ SO₂, it may be exempted from applying the removal efficiency.

10. Gas oil:

Table 2: Limit values for the sulphur content of gas oil ^(a)

	Sulphur content (per cent by weight)
Gas oil	< 0,2 after 1 July 2000
	< 0,1 after 1 January 2008

^(a) 'Gas oil' means any petroleum product within HS 2710, or any petroleum product which, by reason of its distillation limits, falls within the category of middle distillates intended for use as fuel and of which at least 85 per cent by volume, including distillation losses, distils at 350 °C. Fuels used in on-road and non-road vehicles and agricultural tractors are excluded from this definition. Gas oil intended for marine use is included in the definition if it meets the description above or it has a viscosity or density falling within the ranges of viscosity or density defined for marine distillates in table I of ISO 8217 (1996).

11. Claus plant: for plant that produces more than 50 Mg of sulphur a day:

- (a) Sulphur recovery 99,5 % for new plant;
- (b) Sulphur recovery 97 % for existing plant.

12. Titanium dioxide production: in new and existing installations, discharges arising from digestion and calcination steps in the manufacture of titanium dioxide shall be reduced to a value of not more than 10 kg of SO₂ equivalent per Mg of titanium dioxide produced.**B. Canada**

13. Limit values for controlling emissions of sulphur dioxide from new stationary sources in the following stationary source category will be determined on the basis of available information on control technology and levels including limit values applied in other countries and the following document: Canada Gazette, Part I. Department of the Environment. Thermal Power Generation Emissions — National Guidelines for New Stationary Sources. May 15, 1993. pp. 1633-1638.

C. United States of America

14. Limit values for controlling emissions of sulphur dioxide from new stationary sources in the following stationary source categories are specified in the following documents:

1. Electric Utility Steam Generating Units — 40 Code of Federal Regulations (C.F.R.) Part 60, Subpart D, and Subpart Da;
2. Industrial-Commercial-Institutional Steam Generating Units — 40 C.F.R. Part 60, Subpart Db, and Subpart Dc;
3. Sulphuric Acid Plants — 40 C.F.R. Part 60, Subpart H;
4. Petroleum Refineries — 40 C.F.R. Part 60, Subpart J;
5. Primary Copper Smelters — 40 C.F.R. Part 60, Subpart P;
6. Primary Zinc Smelters — 40 C.F.R. Part 60, Subpart Q;
7. Primary Lead Smelters — 40 C.F.R. Part 60, Subpart R;
8. Stationary Gas Turbines — 40 C.F.R. Part 60, Subpart GG;
9. Onshore Natural Gas Processing — 40 C.F.R. Part 60, Subpart LLL;
10. Municipal Waste Combustors — 40 C.F.R. Part 60, Subpart Ea, and Subpart Eb; and
11. Hospital/Medical/Infectious Waste Incinerators — 40 C.F.R. Part 60, Subpart Ec.

ANNEX V

LIMIT VALUES FOR EMISSIONS OF NITROGEN OXIDES FROM STATIONARY SOURCES

1. Section A applies to Parties other than Canada and the United States of America, section B applies to Canada and section C applies to the United States of America.

A. Parties other than Canada and the United States of America

2. For the purpose of section A, limit value means the quantity of a gaseous substance contained in the waste gases from an installation that is not to be exceeded. Unless otherwise specified, it shall be calculated in terms of mass of pollutant per volume of the waste gases (expressed as mg/m^3), assuming standard conditions for temperature and pressure for dry gas (volume at 273,15 K, 101,3 kPa). With regard to the oxygen content of exhaust gas, the values given in the tables below for each source category shall apply. Dilution for the purpose of lowering concentrations of pollutants in waste gases is not permitted. Limit values generally address NO together with NO_2 , commonly named NO_x , expressed as NO_2 . Start-up, shutdown and maintenance of equipment are excluded.
3. Emissions shall be monitored⁽¹⁾ in all cases. Compliance with limit values shall be verified. The methods of verification can include continuous or discontinuous measurements, type approval, or any other technically sound method.
4. Sampling and analysis of pollutants, as well as reference measurement methods to calibrate any measurement system, shall be carried out in accordance with the standards laid down by the European Committee for Standardization (CEN) or by the International Organization for Standardization (ISO). While awaiting the development of CEN or ISO standards, national standards shall apply.
5. Measurements of emissions should be carried out continuously when emissions of NO_x exceed 75 kg/h.
6. In the case of continuous measurements, except for existing combustion plant covered in table 1, compliance with the emission standards is achieved if the calculated daily mean values do not exceed the limit value and if no hourly value exceeds the limit value by 100 %.
7. In the case of continuous measurements for existing combustion plant covered in table 1, compliance with the emission standards is achieved if (a) none of the monthly mean values exceeds the emission limit values; and (b) 95 % of all the 48-hour mean values do not exceed 110 % of the emission limit values.
8. In the case of discontinuous measurements, as a minimum requirement, compliance with the emission standards is achieved if the mean value based on an appropriate number of measurements under representative conditions does not exceed the value of the emission standard.
9. Boilers and process heaters with a rated thermal input exceeding 50 MW_{th} :

Table 1: Limit values for NO_x emissions released from boilers ^(a)

	Limit value (mg/Nm^3) ^(b)
Solid fuels, new installations:	
— Boilers 50-100 MW_{th}	400
— Boilers 100-300 MW_{th}	300
— Boilers > 300 MW_{th}	200
Solid fuels, existing installations:	
— Solid in general	650
— Solid with less than 10 % volatile compounds	1 300
Liquid fuels, new installations:	
— Boilers 50-100 MW_{th}	400
— Boilers 100-300 MW_{th}	300
— Boilers > 300 MW_{th}	200

⁽¹⁾ Monitoring is to be understood as an overall activity, comprising measuring of emissions, mass balancing, etc. It can be carried out continuously or discontinuously.

	Limit value (mg/Nm ³) ^(b)
Liquid fuels, existing installations	450
Gaseous fuels, new installations:	
Fuel: natural gas	
— Boilers 50-300 MW _{th}	150
— Boilers > 300 MW _{th}	100
Fuel: all other gases	200
Gaseous fuels, existing installations	350

^(a) In particular, the limit values shall not apply to:

- Plant in which the products of combustion are used for direct heating, drying, or any other treatment of objects or materials, e. g. reheating furnaces, furnaces for heat treatment;
- Post-combustion plant, i. e. any technical apparatus designed to purify the waste gases by combustion that is not operated as an independent combustion plant;
- Facilities for the regeneration of catalytic cracking catalysts;
- Facilities for the conversion of hydrogen sulphide into sulphur;
- Reactors used in the chemical industry;
- Coke battery furnaces;
- Cowpers;
- Waste incinerators; and
- Plant powered by diesel, petrol or gas engines or by combustion turbines, irrespective of the fuel used.

^(b) These values do not apply to boilers running less than 500 hours a year. The O₂ reference content is 6 % for solid fuels and 3 % for others.

10. Onshore combustion turbines with a rated thermal input exceeding 50 MW_{th}; the NO_x limit values expressed in mg/Nm³ (with an O₂ content of 15 %) are to be applied to a single turbine. The limit values in table 2 apply only above 70 % load.

Table 2: Limit values for NO_x emissions released from onshore combustion turbines

> 50 MW _{th} (Thermal input at ISO conditions)	Limit value (mg/Nm ³)
New installations, natural gas ^(a)	50 ^(b)
New installations, liquid fuels ^(c)	120
Existing installations, all fuels ^(d)	
— Natural gas	150
— Liquid	200

^(a) Natural gas is naturally occurring methane with not more than 20 % (by volume) of inerts and other constituents.

^(b) 75 mg/Nm³ if:

- Combustion turbine used in a combined heat and power system; or
- Combustion turbine driving compressor for public gas grid supply.

For combustion turbines not falling into either of the above categories, but having an efficiency greater than 35 %, determined at ISO base load conditions, the limit value shall be $50 \cdot n / 35$ where n is the combustion turbine efficiency expressed as a percentage (and determined at ISO base load conditions).

^(c) This limit value applies only to combustion turbines firing light and medium distillates.

^(d) The limit values do not apply to combustion turbines running less than 150 hours a year.

11. Cement production:

Table 3: Limit values for NO_x emissions released from cement production ^(a)

	Limit value (mg/Nm ³)
New installations (10 % O ₂)	
— Dry kilns	500
— Other kilns	800
Existing installations (10 % O ₂)	1 200

^(a) Installations for the production of cement clinker in rotary kilns with a capacity > 500 Mg/day or in other furnaces with a capacity > 50 Mg/day.

12. Stationary engines:

Table 4: Limit values for NO_x emissions released from new stationary engines

Capacity, technique, fuel specification	Limit value ^(a) (mg/Nm ³)
Spark ignition (= Otto) engines, 4-stroke, > 1 MW _{th}	
— Lean-burn engines	250
— All other engines	500
Compression ignition (= Diesel) engines, > 5 MW _{th}	
— Fuel: natural gas (jet ignition engines)	500
— Fuel: heavy fuel oil	600
— Fuel: diesel oil or gas oil	500

^(a) These values do not apply to engines running less than 500 hours a year. The O₂ reference content is 5 %.

13. Production and processing of metals:

Table 5: Limit values for NO_x emissions released from primary iron and steel ^(a) production

Capacity, technique, fuel specification	Limit value (mg/Nm ³)
New and existing sinter plant	400

^(a) Production and processing of metals: metal ore roasting or sintering installations, installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting with a capacity exceeding 2,5 Mg/hour, installations for the processing of ferrous metals (hot rolling mills > 20 Mg/hour of crude steel).

14. Nitric acid production:

Table 6: Limit values for NO_x emissions released from nitric acid production excluding acid concentration units

Capacity, technique, fuel specification	Limit value (mg/Nm ³)
— New installations	350
— Existing installations	450

B. Canada15. Limit values for controlling emissions of nitrogen oxides (NO_x) from new stationary sources in the following stationary source categories will be determined on the basis of available information on control technology and levels including limit values applied in other countries and the following documents:

1. Canadian Council of Ministers of the Environment (CCME). National Emission Guidelines for Stationary Combustion Turbines. December 1992. PN1072;
2. Canada Gazette, Part I. Department of the Environment. Thermal Power Generation Emissions — National Guidelines for New Stationary Sources. May 15, 1993. pp. 1633-1638; and
3. CME. National Emission Guidelines for Cement Kilns. March 1998. PN1284.

C. United States of America16. Limit values for controlling emissions of NO_x from new stationary sources in the following stationary source categories are specified in the following documents:

1. Coal-fired Utility Units — 40 Code of Federal Regulations (C.F.R.) Part 76;
2. Electric Utility Steam Generating Units — 40 C.F.R. Part 60, Subpart D, and Subpart Da;

3. Industrial-Commercial-Institutional Steam Generating Units — 40 C.F.R. Part 60,
4. Subpart Db;
5. Nitric Acid Plants — 40 C.F.R. Part 60, Subpart G;
6. Stationary Gas Turbines — 40 C.F.R. Part 60, Subpart GG;
7. Municipal Waste Combustors — 40 C.F.R. Part 60, Subpart Ea, and Subpart Eb; and
8. Hospital/Medical/Infectious Waste Incinerators — 40 C.F.R. Part 60, Subpart Ec.

ANNEX VI

LIMIT VALUES FOR EMISSIONS OF VOLATILE ORGANIC COMPOUNDS FROM STATIONARY SOURCES

1. Section A applies to Parties other than Canada and the United States of America, section B applies to Canada and section C applies to the United States of America.

A. Parties other than Canada and the United States of America

2. This section of the present annex covers the stationary sources of non-methane volatile organic compound (NMVOC) emissions listed in paragraphs 8 to 21 below. Installations or parts of installations for research, development and testing of new products and processes are not covered. Threshold values are given in the sector-specific tables below. They generally refer to solvent consumption or emission mass flow. Where one operator carries out several activities falling under the same subheading at the same installation on the same site, the solvent consumption or emission mass flow of such activities are added together. If no threshold value is indicated, the given limit value applies to all the installations concerned.
3. For the purpose of section A of the present annex:
 1. 'Storage and distribution of petrol' means the loading of trucks, railway wagons, barges and seagoing ships at depots and mineral oil refinery dispatch stations, excluding vehicle refuelling at service stations covered by relevant documents on mobile sources;
 2. 'Adhesive coating' means any process in which an adhesive is applied to a surface, with the exception of adhesive coating and laminating associated with printing processes and wood and plastic lamination;
 3. 'Wood and plastic lamination' means any process to adhere together wood and/or plastic to produce laminated products;
 4. 'Coating processes' means the application of metal and plastic surfaces to: passenger cars, truck cabins, trucks, buses or wooden surfaces and covers any process in which a single or multiple application of a continuous film of coating is laid onto:
 - (i) New vehicles defined (see below) as vehicles of category M1 and of category N1 insofar as they are coated at the same installation as M1 vehicles;
 - (ii) Truck cabins, defined as the housing for the driver, and all integrated housing for the technical equipment of category N2 and N3 vehicles;
 - (iii) Vans and trucks defined as category N1, N2 and N3 vehicles, but excluding truck cabins;
 - (iv) Buses defined as category M2 and M3 vehicles; and
 - (v) Other metallic and plastic surfaces including those of aeroplanes, ships, trains, etc., wooden surfaces, textile, fabric, film and paper surfaces.

This source category does not include the coating of substrates with metals by electrophoretic or chemical spraying techniques. If the coating process includes a step in which the same article is printed, that printing step is considered part of the coating process. However, printing processes operated as a separate activity are not included. In this definition:

- M1 vehicles are those used for the carriage of passengers and comprising not more than eight seats in addition to the driver's seat;

- M2 vehicles are those used for the carriage of passengers and comprising more than eight seats in addition to the driver's seat, and having a maximum mass not exceeding 5 Mg;
 - M3 vehicles are those used for the carriage of passengers and comprising more than eight seats in addition to the driver's seat, and having a maximum mass exceeding 5 Mg;
 - N1 vehicles are those used for the carriage of goods and having a maximum mass not exceeding 3,5 Mg;
 - N2 vehicles are those used for the carriage of goods and having a maximum mass exceeding 3,5 Mg but not exceeding 12 Mg;
 - N3 vehicles are those used for the carriage of goods and having a maximum mass exceeding 12 Mg.
5. 'Coil coating' means any processes where coiled steel, stainless steel, coated steel, copper alloys or aluminium strip is coated with either a film-forming or laminate coating in a continuous process;
6. 'Dry cleaning' means any industrial or commercial process using VOCs in an installation to clean garments, furnishings and similar consumer goods with the exception of the manual removal of stains and spots in the textile and clothing industry;
7. 'Manufacturing of coatings, varnishes, inks and adhesives' means the manufacture of coating preparations, varnishes, inks and adhesives, and of intermediates as far as they are produced in the same installation by mixing pigments, resins and adhesive materials with organic solvents or other carriers. This category also includes dispersion, predispersion, realization of a certain viscosity or colour and packing the final products in containers;
8. 'Printing' means any process of reproduction of text and/or images in which, with the use of an image carrier, ink is transferred onto a surface and applies to the following subprocesses:
- (i) Flexography: a printing process using an image carrier of rubber or elastic photopolymers on which the printing inks are above the non-printing areas, using liquid inks that dry through evaporation;
 - (ii) Heat set web offset: a web-fed printing process using an image carrier in which the printing and non-printing areas are in the same plane, where web-fed means that the material to be printed is fed to the machine from a reel as distinct from separate sheets. The non-printing area is treated to attract water and thus reject ink. The printing area is treated to receive and transmit ink to the surface to be printed. Evaporation takes place in an oven where hot air is used to heat the printed material;
 - (iii) Publication rotogravure: rotogravure used for printing paper for magazines, brochures, catalogues or similar products, using toluene-based inks;
 - (iv) Rotogravure: a printing process using a cylindrical image carrier in which the printing area is below the non-printing area, using liquid inks that dry through evaporation. The recesses are filled with ink and the surplus is cleaned off the non-printing area before the surface to be printed contacts the cylinder and lifts the ink from the recesses;
 - (v) Rotary screen printing: a web-fed printing process in which the ink is passed onto the surface to be printed by forcing it through a porous image carrier, in which the printing area is open and the non-printing area is sealed off, using liquid inks that dry only through evaporation. Web-fed means that the material to be printed is fed to the machine from a reel as distinct from separate sheets;
 - (vi) Laminating associated to a printing process: the adhering of two or more flexible materials to produce laminates; and
 - (vii) Varnishing: a process by which a varnish or an adhesive coating is applied to a flexible material for the purpose of later sealing the packaging material;
9. 'Manufacturing of pharmaceutical products' means chemical synthesis, fermentation, extraction, formulation and finishing of pharmaceutical products and, where carried out at the same site, the manufacture of intermediate products;
10. 'Conversion of natural or synthetic rubber' means any process of mixing, crushing, blending, calendering, extruding and vulcanization of natural or synthetic rubber and additionally processes for the processing of natural or synthetic rubber to derive an end product;

11. 'Surface cleaning' means any process except dry cleaning using organic solvents to remove contamination from the surface of material, including degreasing; a cleaning process consisting of more than one step before or after any other processing step is considered as one surface-cleaning process. The process refers to the cleaning of the surface of products and not to the cleaning of process equipment;
12. 'Extraction of vegetable oil and animal fat and refining of vegetable oil' means the extraction of vegetable oil from seeds and other vegetable matter, the processing of dry residues to produce animal feed, and the purification of fats and vegetable oils derived from seeds, vegetable matter and/or animal matter;
13. 'Vehicle refinishing' means any industrial or commercial coating activity and associated degreasing activities performing:
 - (i) The coating of road vehicles, or part of them, carried out as part of vehicle repair, conservation or decoration outside manufacturing installations, or
 - (ii) The original coating of road vehicles, or part of them, with refinishing-type materials, where this is carried out away from the original manufacturing line, or
 - (iii) The coating of trailers (including semi-trailers);
14. 'Impregnation of wooden surfaces' means any process impregnating timber with preservative;
15. 'Standard conditions' means a temperature of 273,15 K and a pressure of 101,3 kPa;
16. 'NMVOCs' comprise all organic compounds except methane which at 273,15 K show a vapour pressure of at least 0,01 kPa or which show a comparable volatility under the given application conditions;
17. 'Waste gas' means the final gaseous discharge containing NMVOCs or other pollutants from a stack or from emission abatement equipment into air. The volumetric flow rates shall be expressed in m³/h at standard conditions;
18. 'Fugitive emission of NMVOCs' means any emission, not in waste gases, of NMVOC into air, soil and water as well as, unless otherwise stated, solvents contained in any product and includes uncaptured emissions of NMVOCs released to the outside environment via windows, doors, vents and similar openings. Fugitive limit values are calculated on the basis of a solvent management plan (see appendix I to the present annex);
19. 'Total emission of NMVOCs' means the sum of fugitive emission of NMVOCs and emission of NMVOCs in waste gases;
20. 'Input' means the quantity of organic solvents and their quantity in preparations used when carrying out a process, including the solvents recycled inside and outside the installation, and which are counted every time they are used to carry out the activity;
21. 'Limit value' means the maximum quantity of a gaseous substance contained in the waste gases from an installation which is not to be exceeded during normal operation. Unless otherwise specified, it shall be calculated in terms of mass of pollutant per volume of the waste gases (expressed as mg C/Nm³ unless specified otherwise), assuming standard conditions for temperature and pressure for dry gas. For solvent-using installations, limit values are given as mass unit per characteristic unit of the respective activity. Gas volumes that are added to the waste gas for cooling or dilution purposes shall not be considered when determining the mass concentration of the pollutant in the waste gas. Limit values generally address all volatile organic compounds except methane (no further distinction is made, e. g. in terms of reactivity or toxicity);
22. 'Normal operation' means all periods of operation except start-up and shutdown operations and maintenance of equipment;
23. 'Substances harmful to human health' are subdivided into two categories:
 - (i) Halogenated VOCs that have possible risk of irreversible effects; or
 - (ii) Hazardous substances that are carcinogens, mutagens or toxic to reproduction or that may cause cancer, may cause heritable genetic damage, may cause cancer by inhalation, may impair fertility or may cause harm to the unborn child.
4. The following requirements shall be satisfied:
 - (a) Emissions of NMVOCs shall be monitored ⁽¹⁾ and compliance with limit values shall be verified. The methods of verification may include continuous or discontinuous measurements, type approval, or any other technically sound method; furthermore, they shall be economically viable;

⁽¹⁾ Monitoring is to be understood as an overall activity, comprising measuring of emissions, mass balancing, etc. It can be carried out continuously or discontinuously.

- (b) The concentrations of air pollutants in gas-carrying ducts shall be measured in a representative way. Sampling and analysis of all pollutants, as well as reference measurement methods to calibrate any measurement system, shall be carried out according to the standards laid down by the European Committee for Standardization (CEN) or by the International Organization for Standardization (ISO). While awaiting the development of CEN or ISO standards, national standards shall apply;
 - (c) If measurements of emissions of NMVOCs are required, they should be carried out continuously if emissions of NMVOCs exceed 10 kg of total organic carbon (TOC)/h in the exhaust duct downstream from an emission reduction installation and the hours of operation exceed 200 hours a year. For all other installations, discontinuous measurement is required as a minimum. For the approval of compliance, own approaches may be used provided that they result in equal stringency;
 - (d) In the case of continuous measurements, as a minimum requirement, compliance with the emission standards is achieved if the daily mean does not exceed the limit value during normal operation and no hourly average exceeds the limit values by 150 %. For the approval of compliance, own approaches may be used provided that they result in equal stringency;
 - (e) In the case of discontinuous measurements, as a minimum requirement, compliance with the emission standards is achieved if the mean value of all readings does not exceed the limit value and no hourly mean exceeds the limit value by 150 %. For the approval of compliance, own approaches may be used provided that they result in equal stringency;
 - (f) All appropriate precautions shall be taken to minimize emissions of NMVOCs during start-up and shutdown, and in case of deviations from normal operation; and
 - (g) Measurements are not required if end-of-pipe abatement equipment is not needed to comply with the limit values below and it can be shown that limit values are not exceeded.
5. The following limit values should be applied for waste gases, unless stated otherwise below:
- (a) 20 mg substance/m³ for discharges of halogenated volatile organic compounds (which are assigned the risk phrase: possible risk of irreversible effects), where the mass flow of the sum of the considered compounds is greater than or equal to 100 g/h; and
 - (b) 2 mg/m³ (expressed as the mass sum of individual compounds) for discharges of volatile organic compounds (which are assigned the following risk phrases: may cause cancer, heritable genetic damage, cancer by inhalation or harm to the unborn child; may impair fertility), where the mass flow of the sum of the considered compounds is greater than or equal to 10 g/h.
6. For the source categories listed in paragraphs 9 to 21 below, the following revisions are relevant:
- (a) Instead of applying the limit values for installations set out below, the operators of the respective installations may be allowed to use a reduction scheme (see appendix II to the present annex). The purpose of a reduction scheme is to give the operator the possibility to achieve by other means emission reductions equivalent to those achieved if given limit values were to be applied; and
 - (b) For fugitive emissions of NMVOCs, the fugitive emission values set out below shall be applied as a limit value. However, where it is demonstrated to the satisfaction of the competent authority that for an individual installation this value is not technically and economically feasible, the competent authority may exempt that installation provided that significant risks to human health or the environment are not expected. For each derogation, the operator must demonstrate to the satisfaction of the competent authority that the best available technique is used.
7. The limit values for VOC emissions for the source categories defined in paragraph 3 shall be as specified in paragraphs 8 to 21 below.
8. Storage and distribution of petrol:

Table 1: Limit values for VOC emissions released from the storage and distribution of petrol, excluding the loading of seagoing ships

Capacity, technique, further specification	Threshold values	Limit value
Vapour recovery unit serving storage and distribution facilities at refinery tank farms or terminals	5 000 m ³ petrol throughput annually	10 g VOC/Nm ³ including methane

Note: The vapour displaced by the filling of petrol storage tanks shall be displaced either into other storage tanks or into abatement equipment meeting the limit values in the table above.

9. Adhesive coating:

Table 2: Limit values for NMVOC emissions released from adhesive coating

Capacity, technique, further specification	Threshold value for solvent consumption (Mg/year)	Limit value	Limit value for fugitive emissions of NMVOCs (% of solvent input)
Footwear manufacture; new and existing installations	> 5	25 g solvent per pair	
Other adhesive coating, except footwear; new and existing installations	5-15	50 ^(a) mg C/Nm ³	25
	> 15	50 ^(a) mg C/Nm ³	20

^(a) If techniques are used which allow reuse of recovered solvent, the limit value shall be 150 mg C/Nm³.

10. Wood and plastic lamination:

Table 3: Limit values for NMVOC emissions released from wood and plastic lamination

Capacity, technique, further specification	Threshold value for solvent consumption (Mg/year)	Limit value for total emissions of NMVOCs
Wood and plastic laminating; new and existing installations	> 5	30 g NMVOC/m ²

11. Coating processes (metal and plastic surfaces in passenger cars, truck cabins, trucks, buses, wooden surfaces):

Table 4: Limit values for NMVOC emissions released from coating processes in the car industry

Capacity, technique, further specification	Threshold value for solvent consumption (Mg/year) ^(a)	Limit value ^(b) for total emissions of NMVOCs
New installations, car coating (M1, M2)	> 15 (and > 5 000 coated items a year)	45 g NMVOC/m ² or 1,3 kg/item and 33 g NMVOC/m ²
Existing installations, car coating (M1, M2)	> 15 (and > 5 000 coated items a year)	60 g NMVOC/m ² or 1,9 kg/item and 41 g NMVOC/m ²
New and existing installations, car coating (M1, M2)	> 15 (≤ 5 000 coated monocoques or > 3 500 coated chassis a year)	90 g NMVOC/m ² or 1,5 kg/item and 70 g NMVOC/m ²
New installations, coating of new truck cabins (N1, N2, N3)	> 15 (≤ 5 000 coated items a year)	65 g NMVOC/m ²
New installations, coating of new truck cabins (N1, N2, N3)	> 15 (> 5 000 coated items a year)	55 g NMVOC/m ²
Existing installations, coating of new truck cabins (N1, N2, N3)	> 15 (≤ 5 000 coated items a year)	85 g NMVOC/m ²
Existing installations, coating of new truck cabins (N1, N2, N3)	> 15 (> 5 000 coated items a year)	75 g NMVOC/m ²
New installations, coating of new trucks and vans (without cabin) (N1, N2, N3)	> 15 (≤ 2 500 coated items a year)	90 g NMVOC/m ²

Capacity, technique, further specification	Threshold value for solvent consumption (Mg/year) ^(a)	Limit value ^(b) for total emissions of NMVOCs
New installations, coating of new trucks and vans (without cabin) (N1, N2, N3)	> 15 (> 2 500 coated items a year)	70 g NMVOC/m ²
Existing installations, coating of new trucks and vans (without cabin) (N1, N2, N3)	> 15 (≤ 2 500 coated items a year)	120 g NMVOC/m ²
Existing installations, coating of new trucks and vans (without cabin) (N1, N2, N3)	> 15 (> 2 500 coated items a year)	90 g NMVOC/m ²
New installations, coating of new buses (M3)	> 15 (≤ 2 000 coated items a year)	210 g NMVOC/m ²
New installations, coating of new buses (M3)	> 15 (> 2 000 coated items a year)	150 g NMVOC/m ²
Existing installations, coating of new buses (M3)	> 15 (≤ 2 000 coated items a year)	290 g NMVOC/m ²
Existing installations, coating of new buses (M3)	> 15 (> 2 000 coated items a year)	225 g NMVOC/m ²

^(a) For a solvent consumption ≤ 15 Mg a year (coating of cars), table 14 on car refinishing applies.

^(b) The total limit values are expressed in terms of mass of solvent (g) emitted in relation to the surface area of product (m²). The surface area of the product is defined as the surface area calculated from the total electrophoretic coating area and the surface area of any parts that might be added in successive phases of the coating process which are coated with the same coatings. The surface of the electrophoretic coating area is calculated using the formula: (2 × total weight of product shell): (average thickness of metal sheet × density of metal sheet).

Table 5: Limit values for NMVOC emissions released from coating processes in various industrial sectors

Capacity, technique, further specification	Threshold value for solvent consumption (Mg/year)	Limit value	Limit value for fugitive emission of NMVOCs (% of solvent input)
New and existing installations: other coating, incl. metal, plastics, textile, fabric, foil and paper (excl. web screen printing for textiles, see printing)	5-15	100 ^(a) ^(b) mg C/Nm ³	25 ^(b)
	> 15	50/75 ^(b) ^(c) ^(d) mg C/Nm ³	20 ^(b)
New and existing installations: wood coating	15-25	100 ^(a) mg C/Nm ³	25
	> 25	50/75 ^(c) mg C/Nm ³	20

^(a) Limit value applies to coating applications and drying processes operated under contained conditions.

^(b) If contained coating conditions are not possible (boat construction, aircraft coating, etc.), installations may be granted exemption from these values. The reduction scheme of paragraph 6 (a) is then to be used, unless it is demonstrated to the satisfaction of the competent authority that this option is not technically and economically feasible. In this case, the operator must demonstrate to the satisfaction of the competent authority that the best available technique is used.

^(c) The first value applies to drying processes, the second to coating application processes.

^(d) If, for textile coating, techniques are used which allow reuse of recovered solvents, the limit value shall be 150 mg C/Nm³ for drying and coating together.

12. Coil coating:

Table 6: Limit values for NMVOC emissions released from coil coating

Capacity, technique, further specification	Threshold value for solvent consumption (Mg/year)	Limit value (mg C/Nm ³)	Limit value for fugitive emissions of NMVOCs (% of solvent input)
New installations	> 25	50 ^(a)	5
Existing installations	> 25	50 ^(a)	10

^(a) If techniques are used which allow reuse of recovered solvent, the limit value shall be 150 mg C/Nm³.

13. Dry cleaning:

Table 7: Limit values for NMVOC emissions released from dry cleaning

Capacity, technique, further specification	Threshold value for solvent consumption (Mg/year)	Limit value
New and existing installations	0	20 g NMVOC/kg ^(a)

^(a) Limit value for total emissions of NMVOCs calculated as mass of emitted solvent per mass of cleaned and dried product.

14. Manufacturing of coatings, varnishes, inks and adhesives:

Table 8: Limit values for NMVOC emissions released from manufacturing of coatings, varnishes, inks and adhesives

Capacity, technique, further specification	Threshold value for solvent consumption (Mg/year)	Limit value (mg C/Nm ³)	Limit value for fugitive emissions of NMVOCs (% of solvent input)
New and existing installations	100-1 000	150 ^(a)	5 ^(a) ^(c)
	> 1 000	150 ^(b)	3 ^(b) ^(c)

^(a) A total limit value of 5 % of solvent input may be applied instead of using the waste gas concentration limit and the limit value for fugitive emissions of NMVOCs.

^(b) A total limit value of 3 % of solvent input may be applied instead of using the waste gas concentration limit and the limit value for fugitive emissions of NMVOCs.

^(c) The fugitive limit value does not include solvents sold as part of a preparation in a sealed container.

15. Printing (flexography, heat set web offset, publication rotogravure etc.):

Table 9: Limit values for NMVOC emissions released from printing processes

Capacity, technique, further specification	Threshold value for solvent consumption (Mg/year)	Limit value (mg C/Nm ³)	Limit value for fugitive emissions of NMVOCs (% of solvent input)
New and existing installations: heat set web offset	15-25	100	30 ^(a)
	> 25	20	30 ^(a)
New installations: publication roto-gravure	> 25	75	10

Capacity, technique, further specification	Threshold value for solvent consumption (Mg/year)	Limit value (mg C/Nm ³)	Limit value for fugitive emissions of NMVOCs (% of solvent input)
Existing installations: publication rotogravure	> 25	75	15
New and existing installations: other rotogravure, flexography, rotary screen printing, lamination and varnishing units	15-25	100	25
	> 25	100	20
New and existing installations: rotary screen printing on textiles, paperboard	> 30	100	20

^(a) Solvent residue in finished products is not to be considered as part of the fugitive emissions of NMVOCs.

16. Manufacturing of pharmaceutical products:

Table 10: Limit values for NMVOC emissions released from manufacturing of pharmaceutical products

Capacity, technique, further specification	Threshold value for solvent consumption (Mg/year)	Limit value (mg C/Nm ³)	Limit value for fugitive emissions of NMVOCs (% of solvent input)
New installations	> 50	20 ^(a) ^(b)	5 ^(b) ^(d)
Existing installations	> 50	20 ^(a) ^(c)	15 ^(c) ^(d)

^(a) If techniques are used which allow reuse of recovered solvents, the limit value shall be 150 mg C/Nm³.

^(b) A total limit value of 5 % of solvent input may be applied instead of using the waste gas concentration limit and the limit value for fugitive emissions of NMVOCs.

^(c) A total limit value of 15 % of solvent input may be applied instead of using the waste gas concentration limit and the limit value for fugitive emissions of NMVOCs.

^(d) The fugitive limit value does not include solvents sold as part of a coatings preparation in a sealed container.

17. Conversion of natural or synthetic rubber:

Table 11: Limit values for NMVOC emission released from conversion of natural or synthetic rubber

Capacity, technique, further specification	Threshold value for solvent consumption (Mg/year)	Limit value (mg C/Nm ³)	Limit value for fugitive emissions of NMVOCs (% of solvent input)
New and existing installations: conversion of natural or synthetic rubber	> 15	20 ^(a) ^(b)	25 ^(a) ^(c)

^(a) A total limit value of 25 % of solvent input may be applied instead of using the waste gas concentration limit and the limit value for fugitive emissions of NMVOCs.

^(b) If techniques are used which allow reuse of recovered solvent, the limit value shall be 150 mg C/Nm³.

^(c) The fugitive limit does not include solvents sold as part of a preparation in a sealed container.

18. Surface cleaning:

Table 12: Limit values for NMVOC emissions released from surface cleaning

Capacity, technique, further specification	Threshold value for solvent consumption (Mg/year)	Limit value	Limit value for fugitive emissions of NMVOCs (% of solvent input)
New and existing installations: surface cleaning using substances mentioned in paragraph 3 (w)	1-5	20 mg compound/Nm ³	15
	> 5	20 mg compound/Nm ³	10
New and existing installations: other surface cleaning	2-10	75 mg C/Nm ³ ^(a)	20 ^(a)
	> 10	75 mg C/Nm ³ ^(a)	15 ^(a)

^(a) Installations which demonstrate to the competent authority that the average organic solvent content of all cleaning material used does not exceed 30 % w/w are exempt from applying these values.

19. Vegetable oil and animal fat extraction and vegetable oil refining processes:

Table 13: Limit values for NMVOC emissions released from extraction of vegetable and animal fat and refining of vegetable oil

Capacity, technique, further specification	Threshold value for solvent consumption (Mg/year)	Total limit value (kg/Mg)
New and existing installations	> 10	Animal fat: 1,5 Castor: 3,0 Rape seed: 1,0 Sunflower seed: 1,0 Soya beans (normal crush): 0,8 Soya beans (white flakes): 1,2 Other seeds and vegetable material: 3,0 ^(a) All fractionation processes, excl. degumming ^(b) : 1,5 Degumming: 4,0

^(a) Limit values for total emissions of NMVOCs from installations treating single batches of seeds or other vegetable material shall be set case by case by the competent authorities on the basis of the best available technologies.

^(b) The removal of gum from the oil.

20. Vehicle refinishing:

Table 14: Limit values for NMVOC emissions released from vehicle refinishing

Capacity, technique, further specification	Threshold value for solvent consumption (Mg/year)	Limit value (mg C/Nm ³)	Limit value for fugitive emissions of NMVOCs (% of solvent input)
New and existing installations	> 0,5	50 ^(a)	25

^(a) Compliance with limit values to be proven by 15-minute average measurements.

21. Impregnation of wooden surfaces:

Table 15: Limit values for NMVOC emissions released from impregnation of wooden surfaces

Capacity, technique, further specification	Threshold value for solvent consumption (Mg/year)	Limit value (mg C/Nm ³)	Limit value for fugitive emission of NMVOCs (% of solvent input)
New and existing installations	> 25	100 ^(a) ^(b)	45 ^(b)

^(a) Does not apply to impregnation with creosote.

^(b) A total limit value of 11 kg solvent/m³ of wood treated may be applied instead of using the waste gas concentration limit and the limit value for fugitive emissions of NMVOCs.

B. Canada

22. Limit values for controlling emissions of volatile organic compounds (VOCs) from new stationary sources in the following stationary source categories will be determined on the basis of available information on control technology and levels, including limit values applied in other countries, and the following documents:

1. Canadian Council of Ministers of the Environment (CCME). Environmental Code of Practice for the Reduction of Solvent Emissions from Dry Cleaning Facilities. December 1992. PN1053;
2. CCME. Environmental Guideline for the Control of Volatile Organic Compounds Process Emissions from New Organic Chemical Operations. September 1993. PN1108;
3. CCME. Environmental Code of Practice for the Measurement and Control of Fugitive VOC Emissions from Equipment Leaks. October 1993. PN1106;
4. CCME. A Program to Reduce Volatile Organic Compound Emissions by 40 Percent from Adhesives and Sealants. March 1994. PN1116;
5. CCME. A Plan to Reduce Volatile Organic Compound Emissions by 20 Percent from Consumer Surface Coatings. March 1994. PN1114;
6. CCME. Environmental Guidelines for Controlling Emissions of Volatile Organic Compounds from Aboveground Storage Tanks. June 1995. PN1180;
7. CCME. Environmental Code of Practice for Vapour Recovery during Vehicle Refueling at Service Stations and Other Gasoline Dispensing Facilities. (Stage II) April 1995. PN1184;
8. CCME. Environmental Code of Practice for the Reduction of Solvent Emissions from Commercial and Industrial Degreasing Facilities. June 1995. PN1182;
9. CCME. New Source Performance Standards and Guidelines for the Reduction of Volatile Organic Compound Emissions from Canadian Automotive Original Equipment Manufacturer (OEM) Coating Facilities. August 1995. PN1234;
10. CCME. Environmental Guideline for the Reduction of Volatile Organic Compound Emissions from the Plastics Processing Industry. July 1997. PN1276; and
11. CCME. National Standards for the Volatile Organic Compound Content of Canadian Commercial/Industrial Surface Coating Products — Automotive Refinishing. August 1997. PN1288.

C. United States of America

23. Limit values for controlling emissions of VOCs from new stationary sources in the following stationary source categories are specified in the following documents:

1. Storage Vessels for Petroleum Liquids — 40 Code of Federal Regulations (C.F.R.) Part 60, Subpart K, and Subpart Ka;
2. Storage Vessels for Volatile Organic Liquids — 40 C.F.R. Part 60, Subpart Kb;
3. Petroleum Refineries — 40 C.F.R. Part 60, Subpart J;
4. Surface Coating of Metal Furniture — 40 C.F.R. Part 60, Subpart EE;
5. Surface Coating for Automobile and Light Duty Trucks — 40 C.F.R. Part 60, Subpart MM;
6. Publication Rotogravure Printing — 40 C.F.R. Part 60, Subpart QQ;
7. Pressure Sensitive Tape and Label Surface Coating Operations — 40 C.F.R. Part 60,

8. Subpart RR;
9. Large Appliance, Metal Coil and Beverage Can Surface Coating — 40 C.F.R. Part 60, Subpart SS, Subpart TT and Subpart WW;
10. Bulk Gasoline Terminals — 40 C.F.R. Part 60, Subpart XX;
11. Rubber Tire Manufacturing — 40 C.F.R. Part 60, Subpart BBB;
12. Polymer Manufacturing — 40 C.F.R. Part 60, Subpart DDD;
13. Flexible Vinyl and Urethane Coating and Printing — 40 C.F.R. Part 60, Subpart FFF;
14. Petroleum Refinery Equipment Leaks and Wastewater Systems — 40 C.F.R. Part 60,
15. Subpart GGG and Subpart QQQ;
16. Synthetic Fiber Production — 40 C.F.R. Part 60, Subpart HHH;
17. Petroleum Dry Cleaners — 40 C.F.R. Part 60, Subpart JJJ;
18. Onshore Natural Gas Processing Plants — 40 C.F.R. Part 60, Subpart KKK;
19. SOCM Equipment Leaks, Air Oxidation Units, Distillation Operations and Reactor Processes — 40 C.F.R. Part 60, Subpart VV, Subpart III, Subpart NNN and Subpart RRR;
20. Magnetic Tape Coating — 40 C.F.R. Part 60, Subpart SSS;
21. Industrial Surface Coatings — 40 C.F.R. Part 60, Subpart TTT; and
22. Polymeric Coatings of Supporting Substrates Facilities — 40 C.F.R. Part 60, Subpart VVV.

Appendix I

SOLVENT MANAGEMENT PLAN

Introduction

1. This appendix to the annex on limit values for emissions of non-methane volatile organic compounds (NMVOCs) from stationary sources provides guidance on carrying out a solvent management plan. It identifies the principles to be applied (para. 2), provides a framework for the mass balance (para. 3) and provides an indication of the requirements for verification of compliance (para. 4).

Principles

2. The solvent management plan serves the following purposes:
 - (a) Verification of compliance, as specified in the annex; and
 - (b) Identification of future reduction options.

Definitions

3. The following definitions provide a framework for the mass balance exercise:
 - (a) Inputs of organic solvents:
 11. The quantity of organic solvents or their quantity in preparations purchased that are used as input into the process in the time frame over which the mass balance is being calculated.
 12. The quantity of organic solvents or their quantity in preparations recovered and reused as solvent input into the process. (The recycled solvent is counted every time it is used to carry out the activity.)
 - (b) Outputs of organic solvents:
 - O1. Emission of NMVOCs in waste gases.
 - O2. Organic solvents lost in water, if appropriate taking into account waste-water treatment when calculating O5.
 - O3. The quantity of organic solvents that remains as contamination or residue in output of products from the process.

- O4. Uncaptured emissions of organic solvents to air. This includes the general ventilation of rooms, where air is released to the outside environment via windows, doors, vents and similar openings.
- O5. Organic solvents and/or organic compounds lost due to chemical or physical reactions (including, for example, those that are destroyed, e. g. by incineration or other waste-gas or waste-water treatments, or captured, e. g. by adsorption, as long as they are not counted under O6, O7 or O8).
- O6. Organic solvents contained in collected waste.
- O7. Organic solvents, or organic solvents contained in preparations, that are sold or are intended to be sold as a commercially valuable product.
- O8. Organic solvents contained in preparations recovered for reuse but not as input into the process, as long as they are not counted under O7.
- O9. Organic solvents released in other ways.

Guidance on use of the solvent management plan for verification of compliance

4. The use of the solvent management plan will be determined by the particular requirement which is to be verified, as follows:

- (a) Verification of compliance with the reduction option mentioned in paragraph 6 (a) of the annex, with a total limit value expressed in solvent emissions per unit product, or as otherwise stated in the annex.

- (i) For all activities using the reduction option mentioned in paragraph 6 (a) of the annex, the solvent management plan should be put into effect annually to determine consumption. Consumption can be calculated by means of the following equation:

$$C = I1 - O8$$

A parallel exercise should also be undertaken to determine solids used in coating in order to derive the annual reference emission and the target emission each year;

- (ii) For assessing compliance with a total limit value expressed in solvent emissions per unit product or as otherwise stated in the annex, the solvent management plan should be put into effect annually to determine emission of NMVOCs. Emission of NMVOCs can be calculated by means of the following equation:

$$E = F + O1$$

Where F is the fugitive emission of NMVOC as defined in subparagraph (b) (i) below. The emission figure should be divided by the relevant product parameter;

- (b) Determination of fugitive emission of NMVOCs for comparison with fugitive emission values in the annex:

- (i) Methodology: The fugitive emission of NMVOC can be calculated by means of the following equation:

$$F = I1 - O1 - O5 - O6 - O7 - O8$$

or

$$F = O2 + O3 + O4 + O9$$

This quantity can be determined by direct measurement of the quantities. Alternatively, an equivalent calculation can be made by other means, for instance by using the capture efficiency of the process.

The fugitive emission value is expressed as a proportion of the input, which can be calculated by means of the following equation:

$$I = I1 + I2$$

- (ii) Frequency: Fugitive emission of NMVOCs can be determined by a short but comprehensive set of measurements. This need not to be done again until the equipment is modified.

Appendix II

REDUCTION SCHEME**Principles**

1. The purpose of the reduction scheme is to allow the operator the possibility to achieve by other means emission reductions equivalent to those achieved if the limit values were to be applied. To that end the operator may use any reduction scheme specially designed for his installation, provided that in the end an equivalent emission reduction is achieved. Parties shall report on progress in achieving the same emission reduction, including experience with the application of the reduction scheme.

Practice

2. If applying coatings, varnishes, adhesives or inks, the following scheme can be used. Where it is inappropriate, the competent authority may allow an operator to apply any alternative exemption scheme which it is satisfied fulfils the principles outlined here. The design of the scheme takes into account the following facts:
 - (a) Where substitutes containing little or no solvent are still under development, a time extension must be given to the operator to implement his emission reduction plans;
 - (b) The reference point for emission reductions should correspond as closely as possible to the emissions that would have resulted had no reduction action been taken.
3. The following scheme shall operate for installations for which a constant solid content of product can be assumed and used to define the reference point for emission reductions:
 - (a) The operator shall forward an emission reduction plan which includes in particular decreases in the average solvent content of the total input and/or increased efficiency in the use of solids to achieve a reduction of the total emissions from the installation to a given percentage of annual reference emissions, termed the target emission. This must be done in the following time frame:

Time period		Maximum allowed total annual emissions
New installations	Existing installations	
By 31.10.2001	By 31.10.2005	Target emission $\times 1,5$
By 31.10.2004	By 31.10.2007	Target emission

- (b) The annual reference emission is calculated as follows:
 - (i) The total mass of solids in the quantity of coating and/or ink, varnish or adhesive consumed in a year is determined. Solids are all materials in coatings, inks, varnishes and adhesives that become solid once the water or the volatile organic compounds are evaporated;
 - (ii) The annual reference emissions are calculated by multiplying the mass determined as in subparagraph (i) by the appropriate factor listed in the table below. The competent authorities may adjust these factors for individual installations to reflect documented increased efficiency in the use of solids.

Activity	Multiplication factor for use in subparagraph (b) (ii)
Rotogravure printing; flexography printing; laminating as part of a printing activity; printing; varnishing as part of a printing activity; wood coating; coating of textiles, fabric, film or paper; adhesive coating	4
Coil coating; vehicle refinishing	3
Food contact coating; aerospace coating	2,33
Other coatings and rotary screen printing	1,5

- (iii) The target emission is equal to the annual reference emission multiplied by a percentage equal to:
- (The fugitive emission value + 15), for installations in the following sectors:
 - Vehicle coating (solvent consumption < 15 Mg/year) and vehicle refinishing;
 - Metal, plastic, textile, fabric, film and paper coating (solvent consumption between 5 and 15 Mg/year);
 - Coating of wooden surfaces (solvent consumption between 15 and 25 Mg/year).
 - (The fugitive emission value + 5) for all other installations;
- (iv) Compliance is achieved if the actual solvent emission determined from the solvent management plan is less than or equal to the target emission.
-

ANNEX VII

TIMESCALES UNDER ARTICLE 3

1. The timescales for the application of the limit values referred to in article 3, paragraphs 2 and 3, shall be:
 - (a) For new stationary sources, one year after the date of entry into force of the present Protocol for the Party in question; and
 - (b) For existing stationary sources:
 - (i) In the case of a Party that is not a country with an economy in transition, one year after the date of entry into force of the present Protocol or 31 December 2007, whichever is the later; and
 - (ii) In the case of a Party that is a country with an economy in transition, eight years after the entry into force of the present Protocol.
2. The timescales for the application of the limit values for fuels and new mobile sources referred to in article 3, paragraph 5, and the limit values for gas oil referred to in annex IV, table 2, shall be:
 - (i) In the case of a Party that is not a country with an economy in transition, the date of entry into force of the present Protocol or the dates associated with the measures specified in annex VIII and with the limit values specified in annex IV, table 2, whichever is the later; and
 - (ii) In the case of a Party that is a country with an economy in transition, five years after the date of entry into force of the present Protocol or five years after the dates associated with the measures specified in annex VIII and with the limit values in annex IV, table 2, whichever is the later.

This timescale shall not apply to a Party to the present Protocol to the extent that that Party is subject to a shorter timescale with regard to gas oil under the Protocol on Further Reduction of Sulphur Emissions.

3. For the purpose of the present annex, 'a country with an economy in transition' means a Party that has made with its instrument of ratification, acceptance, approval or accession a declaration that it wishes to be treated as a country with an economy in transition for the purposes of paragraphs 1 and/or 2 of this annex.
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ANNEX VIII

LIMIT VALUES FOR FUELS AND NEW MOBILE SOURCES

Introduction

1. Section A applies to Parties other than Canada and the United States of America, section B applies to Canada and section C applies to the United States of America.
2. The annex contains limit values for NO_x, expressed as nitrogen dioxide (NO₂) equivalents, and for hydrocarbons, most of which are volatile organic compounds, as well as environmental specifications for marketed fuels for vehicles.
3. The timescales for applying the limit values in this annex are laid down in annex VII.

A. Parties other than Canada and the United States of America

Passenger cars and light-duty vehicles

4. Limit values for power-driven vehicles with at least four wheels and used for the carriage of passengers (category M) and goods (category N) are given in table 1.

Heavy-duty vehicles

5. Limit values for engines for heavy-duty vehicles are given in tables 2 and 3 depending on the applicable test procedures.

Motorcycles and mopeds

6. Limit values for motorcycles and mopeds are given in table 6 and table 7.

Non-road vehicles and machines

7. Limit values for agricultural and forestry tractors and other non-road vehicle/machine engines are listed in tables 4 and 5. Stage I (table 4) is based on ECE regulation 96, 'Uniform provisions concerning the approval of compression-ignition (C.I.) engines to be installed in agricultural and forestry tractors with regard to the emissions of pollutants by the engine'.

Fuel quality

8. Environmental quality specifications for petrol and diesel are given in tables 8 to 11.

Table 1: Limit values for passenger cars and light-duty vehicles

Category		Class	To be applied from ^(b)	Reference mass (RW) (kg)	Limit values								
					Carbon monoxide		Hydrocarbons		Nitrogen oxides		Hydrocarbons and nitrogen oxides combined		Particulates ^(a)
					L1 (g/km)		L2 (g/km)		L3 (g/km)		L2 + L3 (g/km)		L4 (g/km)
					Petrol	Diesel	Petrol	Diesel	Petrol	Diesel	Petrol	Diesel	Diesel
A	M ^(c)		1.1.2001	All ^(g)	2,3	0,64	0,20	—	0,15	0,50	—	0,56	0,05
	N ₁ ^(d)	I	1.1.2001 ^(e)	RW ≤ 1 305	2,3	0,64	0,20	—	0,15	0,50	—	0,56	0,05
		II	1.1.2002	1 305 < RW ≤ 1 760	4,17	0,80	0,25	—	0,18	0,65	—	0,72	0,07
		III	1.1.2002	1 760 < RW	5,22	0,95	0,29	—	0,21	0,78	—	0,86	0,10
B	M ^(c)		1.1.2006	All	1,0	0,50	0,10	—	0,08	0,25	—	0,30	0,025
	N ₁ ^(d)	I	1.1.2006 ^(f)	RW ≤ 1 305	1,0	0,50	0,10	—	0,08	0,25	—	0,30	0,025
		II	1.1.2007	1 305 < RW ≤ 1 760	1,81	0,63	0,13	—	0,10	0,33	—	0,39	0,04
		III	1.1.2007	1 760 < RW	2,27	0,74	0,16	—	0,11	0,39	—	0,46	0,06

^(a) For compression-ignition engines.

^(b) The registration, sale or entry into service of new vehicles that fail to comply with the respective limit values shall be refused as from the dates given in this column and type approval may no longer be granted with effect from 12 months prior to these dates.

^(c) Except vehicles whose maximum mass exceeds 2 500 kg.

^(d) And those category M vehicles specified in note ^(c).

^(e) 1.1.2002 for those category M vehicles specified in note ^(c).

^(f) 1.1.2007 for those category M vehicles specified in note ^(c).

^(g) Until 1 January 2003 vehicles in this category fitted with compression-ignition engines that are non-road vehicles and vehicles with a maximum mass of more than 2 000 kg which are designed to carry more than six occupants, including the driver, shall be considered as vehicles in category N1, class III, in row A.

Table 2: Limit values for heavy-duty vehicles — European steady-state cycle (ESC) and European load-response (ELR) tests

Row	To be applied from ^(a)	Carbon monoxide (g/kWh)	Hydrocarbons (g/kWh)	Nitrogen oxides (g/kWh)	Particulates (g/kWh)	Smoke (m ⁻¹)
A	1.10.2001	2,1	0,66	5,0	0,10/0,13 ^(b)	0,8
B1	1.10.2006	1,5	0,46	3,5	0,02	0,5
B2	1.10.2009	1,5	0,46	2,0	0,02	0,5

^(a) With effect from the given dates and except for vehicles and engines intended for export to countries that are not parties to the present Protocol and for replacement engines for vehicles in use, Parties shall prohibit the registration, sale, entry into service or use of new vehicles propelled by a compression-ignition or gas engine and the sale and use of new compression-ignition or gas engines if their emissions do not comply with the respective limit values. With effect from twelve months prior to these dates, type approval may be refused if the limit values are not complied with.

^(b) For engines with a swept volume below 0,75 dm³ per cylinder and a rated power speed above 3 000 revolutions per minute.

Table 3: Limit values for heavy-duty vehicles — European transient cycle (ETC) test ^(a)

Row	To be applied from ^(b)	Carbon monoxide (g/kWh)	Non-methane hydrocarbons (g/kWh)	Methane ^(c) (g/kWh)	Nitrogen oxides (g/kWh)	Particulates ^(d)
A (2000)	1.10.2001	5,45	0,78	1,6	5,0	0,16/0,21 ^(e)
B1 (2005)	1.10.2006	4,0	0,55	1,1	3,5	0,03
B2 (2008)	1.10.2009	4,0	0,55	1,1	2,0	0,03

^(a) The conditions for verifying the acceptability of the ETC tests when measuring the emissions of gas-fuelled engines against the limit values applicable in row A shall be re-examined and, where necessary, modified in accordance with the procedure laid down in article 13 of Directive 70/156/EEC.

^(b) With effect from the given dates and except for vehicles and engines intended for export to countries that are not parties to the present Protocol and for replacement engines for vehicles in use, Parties shall prohibit the registration, sale, entry into service or use of new vehicles propelled by a compression-ignition or gas engine and the sale and use of new compression-ignition or gas engines if their emissions do not comply with the respective limit values. With effect from twelve months prior to these dates, type approval may be refused if the limit values are not complied with.

^(c) For natural gas engines only.

^(d) Not applicable to gas-fuelled engines at stage A and stages B1 and B2.

^(e) For engines with a swept volume below 0,75 dm³ per cylinder and a rated power speed above 3 000 revolutions per minute.

Table 4: Limit values (stage I) for diesel engines for non-road mobile machines (measurement procedure ISO 8178)

Net power (P) (kW)	To be applied from ^(a)	Carbon monoxide (g/kWh)	Hydrocarbons (g/kWh)	Nitrogen oxides (g/kWh)	Particulate matter (g/kWh)
130 ≤ P < 560	31.12.1998	5,0	1,3	9,2	0,54
75 ≤ P < 130	31.12.1998	5,0	1,3	9,2	0,70
37 ≤ P < 75	31.3.1998	6,5	1,3	9,2	0,85

^(a) With effect from the given date and with the exception of machinery and engines intended for export to countries that are not parties to the present Protocol, Parties shall permit the registration, where applicable, and placing on the market of new engines, whether or not installed in machinery, only if they meet the limit values set out in the table. Type approval for an engine type or family shall be refused with effect from 30 June 1998 if it fails to meet the limit values.

Note: These limits are engine-out limits and shall be achieved before any exhaust after-treatment service.

Table 5: Limit values (stage II) for diesel engines for non-road mobile machines (measurement procedure ISO 8178)

Net power (P) (kW)	To be applied from ^(a)	Carbon monoxide (g/kWh)	Hydrocarbons (g/kWh)	Nitrogen oxides (g/kWh)	Particulate matter (g/kWh)
130 ≤ P < 560	31.12.2001	3,5	1,0	6,0	0,2
75 ≤ P < 130	31.12.2002	5,0	1,0	6,0	0,3
37 ≤ P < 75	31.12.2003	5,0	1,3	7,0	0,4
18 ≤ P < 37	31.12.2000	5,5	1,5	8,0	0,8

^(a) With effect from the given dates and with the exception of machinery and engines intended for export to countries that are not parties to the present Protocol, Parties shall permit the registration, where applicable, and placing on the market of new engines, whether or not installed in machinery, only if they meet the limit values set out in the table. Type approval for an engine type or family shall be refused with effect from twelve months prior to these dates if it fails to meet the limit values.

Table 6: Limit values for motorcycles and 3- and 4-wheelers (> 50 cm³; > 45 km/h) to be applied from 17 June 1999 ^(a)

Engine type	Limit values
2-stroke	CO = 8 g/km HC = 4 g/km NO _x = 0,1 g/km
4-stroke	CO = 13 g/km HC = 3 g/km NO _x = 0,3 g/km

^(a) Type approval shall be refused as from the given date if the vehicle's emissions do not meet the limit values.

Note: For 3- and 4-wheelers, the limit values have to be multiplied by 1,5.

Table 7: Limit values for mopeds (≤ 50 cm³; < 45 km/h)

Stage	To be applied from ^(a)	Limit values	
		CO (g/km)	HC + NO _x (g/km)
I	17.6.1999	6,0 ^(b)	3,0 ^(b)
II	17.6.2002	1,0 ^(c)	1,2

^(a) Type approval shall be refused as from the given dates if the vehicle's emissions do not meet the limit values.

^(b) For 3- and 4-wheelers, multiply by 2.

^(c) For 3- and 4-wheelers, 3,5 g/km.

Table 8: Environmental specifications for marketed fuels to be used for vehicles equipped with positive-ignition engines

Type: Petrol

Parameter	Unit	Limits ^(a)		Test	
		Minimum	Maximum	Method ^(b)	Date of publication
Research octane number		95	—	EN 25164	1993
Motor octane number		85	—	EN 25163	1993
Reid vapour pressure, summer period ^(c)	kPa	—	60	EN 12	1993
Distillation:					
— evaporated at 100 °C	% v/v	46	—	EN-ISO 3405	1988
— evaporated at 150 °C	% v/v	75	—		

Parameter	Unit	Limits ^(a)		Test	
		Minimum	Maximum	Method ^(b)	Date of publication
Hydrocarbon analysis:					
— olefins	% v/v	—	18,0 ^(d)	ASTM D1319	1995
— aromatics		—	42	ASTM D1319	1995
— benzene		—	1	project EN 12177	1995
Oxygen content	% m/m	—	2,7	EN 1601	1996
Oxygenates:					
— Methanol, stabilizing agents must be added	% v/v	—	3	EN 1601	1996
— Ethanol, stabilizing agents may be necessary	% v/v	—	5	EN 1601	1996
— Iso-propyl alcohol	% v/v	—	10	EN 1601	1996
— Tert-butyl alcohol	% v/v	—	7	EN 1601	1996
— Iso-butyl alcohol	% v/v	—	10	EN 1601	1996
— Ethers containing 5 or more carbon atoms per molecule	% v/v	—	15	EN 1601	1996
Other oxygenates ^(e)	% v/v	—	10	EN 1601	1996
Sulphur content	mg/kg	—	150	project EN-ISO/DIS 14596	1996

^(a) The values quoted in the specification are 'true values'. In the establishment of their limit values, the terms of ISO 4259, 'Petroleum products — Determination and application of precision data in relation to methods of test', have been applied and, in fixing a minimum value, a minimum difference of 2R above zero has been taken into account (R = reproducibility). The results of individual measurements shall be interpreted on the basis of the criteria described in ISO 4259 (published in 1995).

^(b) EN — European standard; ASTM — American Society for Testing and Materials; DIS — Draft international standard.

^(c) The summer period shall begin no later than 1 May and shall not end before 30 September. For member States with arctic conditions the summer period shall begin no later than 1 June and not end before 31 August and the RVP is limited to 70 kPa.

^(d) Except for regular unleaded petrol (minimum motor octane number (MON) of 81 and minimum research octane number (RON) of 91), for which the maximum olefin content shall be 21 % v/v. These limits shall not preclude the introduction on the market of a member State of another unleaded petrol with lower octane numbers than set out here.

^(e) Other mono-alcohols with a final distillation point no higher than the final distillation point laid down in national specifications or, where these do not exist, in industrial specifications for motor fuels.

Note: Parties shall ensure that, no later than 1 January 2000, petrol can be marketed within their territory only if it complies with the environmental specifications set out in table 8. Where a Party determines that banning petrol with a sulphur content which does not comply with the specifications for sulphur content in table 8, but does not exceed the current content, would raise severe difficulties for its industries in making the necessary changes in their manufacturing facilities by 1 January 2000, it may extend the time period of marketing within its territory until 1 January 2003 at the latest. In such a case the Party shall specify, in a declaration to be deposited together with its instrument of ratification, acceptance, approval or accession, that it intends to extend the time period and present written information on the reason for this to the Executive Body.

Table 9: Environmental specifications for marketed fuels to be used for vehicles equipped with compression-ignition engines

Type: Diesel fuel

Parameter	Unit	Limits ^(a)		Test	
		Minimum	Maximum	Method ^(b)	Date of publication
Cetane number		51	—	EN-ISO 5165	1992
Density at 15 °C	kg/m ³	—	845	EN-ISO 3675	1995
Distillation point: 95 %	°C	—	360	EN-ISO 3405	1988
Polycyclic aromatic hydrocarbons	% m/m	—	11	IP 391	1995
Sulphur content	mg/kg	—	350	project EN-ISO/DIS 14596	1996

^(a) The values quoted in the specification are 'true values'. In the establishment of their limit values, the terms of ISO 4259, 'Petroleum products — Determination and application of precision data in relation to methods of test', have been applied and, in fixing a minimum value, a minimum difference of 2R above zero has been taken into account (R = reproducibility). The results of individual measurements shall be interpreted on the basis of the criteria described in ISO 4259 (published in 1995).

^(b) EN — European standard; IP — The Institute of Petroleum; DIS — Draft international standard.

Note: Parties shall ensure that, no later than 1 January 2000, diesel fuel can be marketed within their territory only if it complies with the environmental specifications set out in table 9. Where a Party determines that banning diesel fuel with a sulphur content which does not comply with the specifications for sulphur content in table 9, but does not exceed the current content, would raise severe difficulties for its industries in making the necessary changes in their manufacturing facilities by 1 January 2000, it may extend the time period of marketing within its territory until 1 January 2003 at the latest. In such a case the Party shall specify, in a declaration to be deposited together with its instrument of ratification, acceptance, approval or accession, that it intends to extend the time period and present written information on the reason for this to the Executive Body.

Table 10: Environmental specifications for marketed fuels to be used for vehicles equipped with positive-ignition engines

Type: Petrol

Parameter	Unit	Limits ^(a)		Test	
		Minimum	Maximum	Method ^(b)	Date of publication
Research octane number		95		EN 25164	1993
Motor octane number		85		EN 5163	1993
Reid vapour pressure, summer period	kPa	—			
Distillation:					
— evaporated at 100 °C	% v/v	—	—		
— evaporated at 150 °C		—	—		
Hydrocarbon analysis:					
— olefins	% v/v	—			
— aromatics	% v/v	—	35	ASTM D1319	1995
— benzene	% v/v	—			
Oxygen content	% m/m	—			
Sulphur content	mg/kg	—	50	project EN-ISO/DIS 14596	1996

^(a) The values quoted in the specification are 'true values'. In the establishment of their limit values, the terms of ISO 4259, 'Petroleum products — Determination and application of precision data in relation to methods of test', have been applied and, in fixing a minimum value, a minimum difference of 2R above zero has been taken into account (R = reproducibility). The results of individual measurements shall be interpreted on the basis of the criteria described in ISO 4259 (published in 1995).

^(b) EN — European standard; ASTM — American Society for Testing and Materials; DIS — Draft international standard.

Note: Parties shall ensure that, no later than 1 January 2005, petrol can be marketed within their territory only if it complies with the environmental specifications set out in table 10. Where a Party determines that banning petrol with a sulphur content which does not comply with the specifications for sulphur content in table 10, but does comply with table 8, would raise severe difficulties for its industries in making the necessary changes in their manufacturing facilities by 1 January 2005, it may extend the time period of marketing within its territory until 1 January 2007 at the latest. In such a case the Party shall specify, in a declaration to be deposited together with its instrument of ratification, acceptance, approval or accession, that it intends to extend the time period and present written information on the reason for this to the Executive Body.

Table 11: Environmental specifications for marketed fuels to be used for vehicles equipped with compression-ignition engines

Type: Diesel fuel

Parameter	Unit	Limits ^(a)		Test	
		Minimum	Maximum	Method ^(b)	Date of publication
Cetane number			—		
Density at 15 °C	kg/m ³		—		
Distillation point: 95 %	°C	—			
Polycyclic aromatic hydrocarbons	% m/m	—			
Sulphur content	mg/kg	—	50	project EN-ISO/DIS 14596	1996

^(a) The values quoted in the specification are 'true values'. In the establishment of their limit values, the terms of ISO 4259, 'Petroleum products — Determination and application of precision data in relation to methods of test', have been applied and, in fixing a minimum value, a minimum difference of 2R above zero has been taken into account (R = reproducibility). The results of individual measurements shall be interpreted on the basis of the criteria described in ISO 4259.

^(b) EN — European standard; DIS — Draft international standard.

Note: Parties shall ensure that, no later than 1 January 2005, diesel fuel can be marketed within their territory only if it complies with the environmental specifications set out in table 11. Where a Party determines that banning diesel fuel with a sulphur content which does not comply with the specifications for sulphur content in table 11, but does comply with table 9, would raise severe difficulties for its industries in making the necessary changes in their manufacturing facilities by 1 January 2005, it may extend the time period of marketing within its territory until 1 January 2007 at the latest. In such a case the Party shall specify, in a declaration to be deposited together with its instrument of ratification, acceptance, approval or accession, that it intends to extend the time period and present written information on the reason for this to the Executive Body.

B. Canada

9. New vehicle emission standards for light-duty vehicles, light-duty trucks, heavy-duty vehicles, heavy-duty engines and motorcycles: Motor Vehicle Safety Act (and successor legislation), Schedule V of the Motor Vehicle Safety Regulations: Vehicle Emissions (Standard 1100), SOR/97-376, (28 July, 1997), as amended from time to time.
10. Canadian Environmental Protection Act, Diesel Fuel Regulations, SOR/97-110 (4 February, 1997, sulphur in diesel fuel), as amended from time to time.
11. Canadian Environmental Protection Act, Benzene in Gasoline Regulations, SOR/97-493 (6 November, 1997), as amended from time to time.
12. Canadian Environmental Protection Act, Sulphur in Gasoline Regulations, Canada Gazette, Part II, June 4, 1999, as amended from time to time.

C. United States of America

13. Implementation of a mobile source emission control programme for light-duty vehicles, light-duty trucks, heavy-duty trucks and fuels to the extent required by sections 202 (a), 202 (g) and 202 (h) of the Clean Air Act, as implemented through:
 - (a) 40 Code of Federal Regulations (C.F.R.) Part 80, Subpart D — Reformulated Gasoline;
 - (b) 40 C.F.R. Part 86, Subpart A — General Provisions for Emission Regulations;
 - (c) 40 C.F.R. Part 80, section 80.29 — Controls and Prohibitions on Diesel Fuel Quality.

ANNEX IX

MEASURES FOR THE CONTROL OF EMISSIONS OF AMMONIA FROM AGRICULTURAL SOURCES

1. The Parties that are subject to obligations in article 3, paragraph 8 (a), shall take the measures set out in this annex.
2. Each Party shall take due account of the need to reduce losses from the whole nitrogen cycle.

A. Advisory code of good agricultural practice

3. Within one year from the date of entry into force of the present Protocol for it, a Party shall establish, publish and disseminate an advisory code of good agricultural practice to control ammonia emissions. The code shall take into account the specific conditions within the territory of the Party and shall include provisions on:

- Nitrogen management, taking account of the whole nitrogen cycle;
- Livestock feeding strategies;
- Low-emission manure spreading techniques;
- Low-emission manure storage systems;
- Low-emission animal housing systems; and
- Possibilities for limiting ammonia emissions from the use of mineral fertilizers.

Parties should give a title to the code with a view to avoiding confusion with other codes of guidance.

B. Urea and ammonium carbonate fertilizers

4. Within one year from the date of entry into force of the present Protocol for it, a Party shall take such steps as are feasible to limit ammonia emissions from the use of solid fertilizers based on urea.
5. Within one year from the date of entry into force of the present Protocol for it, a Party shall prohibit the use of ammonium carbonate fertilizers.

C. Manure application

6. Each Party shall ensure that low-emission slurry application techniques (as listed in guidance document V adopted by the Executive Body at its seventeenth session (decision 1999/1) and any amendments thereto) that have been shown to reduce emissions by at least 30 % compared to the reference specified in that guidance document are used as far as the Party in question considers them applicable, taking account of local soil and geomorphological conditions, slurry type and farm structure. The timescales for the application of these measures shall be: 31 December 2009 for Parties with economies in transition and 31 December 2007 for other Parties ⁽¹⁾.
7. Within one year from the date of entry into force of the present Protocol for it, a Party shall ensure that solid manure applied to land to be ploughed shall be incorporated within at least 24 hours of spreading as far as it considers this measure applicable, taking account of local soil and geomorphological conditions and farm structure.

⁽¹⁾ For the purpose of the present annex, 'a country with an economy in transition' means a Party that has made with its instrument of ratification, acceptance, approval or accession a declaration that it wishes to be treated as a country with an economy in transition for the purposes of paragraphs 6 and/or 9 of this annex.

D. Manure storage

8. Within one year from the date of entry into force of the present Protocol for it, a Party shall use for new slurry stores on large pig and poultry farms of 2 000 fattening pigs or 750 sows or 40 000 poultry, low-emission storage systems or techniques that have been shown to reduce emissions by 40 % or more compared to the reference (as listed in the guidance document referred to in paragraph 6), or other systems or techniques with a demonstrably equivalent efficiency ⁽¹⁾.
9. For existing slurry stores on large pig and poultry farms of 2 000 fattening pigs or 750 sows or 40 000 poultry, a Party shall achieve emission reductions of 40 % insofar as the Party considers the necessary techniques to be technically and economically feasible ⁽¹⁾. The timescales for the application of these measures shall be: 31 December 2009 for Parties with economies in transition and 31 December 2007 for all other Parties ⁽²⁾.

E. Animal housing

10. Within one year from the date of entry into force of the present Protocol for it, a Party shall use, for new animal housing on large pig and poultry farms of 2 000 fattening pigs or 750 sows or 40 000 poultry, housing systems which have been shown to reduce emissions by 20 % or more compared to the reference (as listed in the guidance document referred to in paragraph 6), or other systems or techniques with a demonstrably equivalent efficiency ⁽¹⁾. Applicability may be limited for animal welfare reasons, for instance in straw-based systems for pigs and aviary and free-range systems for poultry.
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⁽¹⁾ Where a Party judges that other systems or techniques with a demonstrably equivalent efficiency can be used for manure storage and animal housing in order to comply with paragraphs 8 and 10, or where a Party judges the reduction of emissions from manure storage required under paragraph 9 not to be technically or economically feasible, documentation to this effect shall be reported in accordance with article 7, paragraph 1 (a).

⁽²⁾ For the purpose of the present annex, 'a country with an economy in transition' means a Party that has made with its instrument of ratification, acceptance, approval or accession a declaration that it wishes to be treated as a country with an economy in transition for the purposes of paragraphs 6 and/or 9 of this annex.

Proposal for a Council Decision amending Decision 1999/311/EC adopting the third phase of the trans-European cooperation scheme for higher education (Tempus III) (2000-2006)

(2002/C 151 E/03)

COM(2002) 47 final — 2002/0037(CNS)

(Submitted by the Commission on 11 February 2002)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

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

Whereas:

(1) On 23 July 1996 the Council adopted Regulation (EC) No 1488/96 on financial and technical measures to accompany (MEDA) the reform of economic and social structures in the framework of the Euro-Mediterranean partnership ⁽¹⁾.

(2) The Mediterranean region constitutes a priority area for the Community and the political, economic and social development of the Mediterranean partners is a challenge of ever increasing proportions.

(3) It is important to pursue and intensify the cooperation launched within the Euro-Mediterranean partnership which was established by the Barcelona Declaration of 27 November 1995.

(4) The Barcelona Declaration recognises that the traditions of culture and civilisation throughout the Mediterranean region, dialogue between these cultures and exchanges at human, scientific and technological level are an essential factor in bringing their peoples closer, promoting understanding between them and improving their perception of each other. It stresses the essential nature of the development of human resources, both as regards the education and training of young people in particular and in the area of culture and recognises the essential contribution civil society can make in the process of development of the Euro-Mediterranean partnership and as an essential factor for greater understanding and closeness between peoples.

(5) Euro-Mediterranean cooperation in higher education is an indispensable instrument to achieve the key objectives set out in the Barcelona Declaration and in particular to develop human resources, promote understanding between cultures and rapprochement of the peoples in the Euro-Mediterranean region as well as to develop free and flourishing civil societies.

(6) On 29 April 1999 the Council adopted Decision 1999/311/EC adopting the third phase of the trans-European cooperation scheme for higher education (Tempus III) (2000-2006) ⁽²⁾.

(7) The Tempus III programme has proved an effective tool for structural cooperation in and development of higher education including the improvement of human resources and occupational skills. Via universities and university staff it can also make an effective contribution to the development of public administration and education structures in the eligible countries.

(8) Enlarging the geographical scope of the Tempus III programme to the Mediterranean non-member countries and territories referred to in Regulation (EC) No 1488/96 would make it possible to build on the proven strengths of that programme, achieve economies of scale and favour regional cooperation around the wider Euro-Mediterranean area.

(9) It is appropriate to extend the period covered by the Tempus III programme by 6 months to 31 December 2006 without adjusting the financial provision, since that period corresponds to that of the financial perspectives as well as that of the other major Community education and training programmes.

(10) Decision 1999/311/EC should therefore be amended accordingly,

⁽¹⁾ OJ L 189, 30.7.1996, p. 1. Regulation as last amended by Regulation (EC) No 2698/2000 (OJ L 311, 12.12.2000, p. 1).

⁽²⁾ OJ L 120, 8.5.1999, p. 30. Decision as last amended by Regulation (EC) No 2666/2000 (OJ L 306, 7.12.2000, p. 1).

HAS DECIDED AS FOLLOWS:

Sole Article

Decision 1999/311/EC is amended as follows:

1. Articles 1 and 2 are replaced by the following:

'Article 1

Duration of Tempus III

The third phase of the trans-European cooperation scheme for higher education (hereinafter referred to as "Tempus III") is hereby adopted for the period from 1 July 2000 to 31 December 2006.

Article 2

Eligible countries

1. Tempus III concerns the countries which are beneficiaries under Council Regulation (EC) No 2666/2000 (*) and the new independent States of the former Soviet Union and Mongolia referred to in Council Regulation (EC, Euratom) No 99/2000 (**), and Mediterranean non-member countries and territories listed in Council Regulation (EC) No 1488/96 (***). These countries and territories are hereinafter referred to as "eligible countries".

2. On the basis of an evaluation of the specific situation of each country the Commission, in accordance with the procedures referred to in the Regulations referred to in paragraph 1, shall agree with the eligible countries concerned whether they should participate in Tempus III, and the nature and conditions of their participation. The conditions of Article 10(1) will apply to eligible countries that do not participate in Tempus III.

(*) OJ L 306, 7.12.2000, p. 1.

(**) OJ L 12, 18.1.2000, p. 1.

(***) OJ L 189, 30.7.1996, p. 1.

2. Articles 5 and 6 are replaced by the following:

'Article 5

Aims

1. The aim of Tempus III is to promote, in line with the guidelines and general objectives of the Regulations referred to in Article 2(1), and in complementarity with the programmes and sectoral approaches resulting therefrom, the development of the higher education systems in the

eligible countries through the most balanced cooperation possible with partners from all Member States.

2. More specifically, Tempus III shall:

- (a) promote understanding between and rapprochement of cultures, develop free and flourishing civil societies; and
- (b) facilitate the adaptation and development of higher education to better respond to the socio-economic and cultural needs of the eligible countries by addressing:
 - (i) issues relating to the development and reshaping of curricula in the priority areas;
 - (ii) reform and development of higher education structures and establishments and their management;
 - (iii) the development of training leading to such qualifications as will remedy the shortage of high-level skills needed in the context of economic reform and development, particularly by improving and increasing links with industry;
 - (iv) the contribution of higher education and training to citizenship and the strengthening of democracy.

3. The Commission shall, when pursuing the objectives of Tempus III, observe the Community's general policy on equal opportunities for men and women. The Commission shall also ensure that no group of citizens is excluded or disadvantaged.

Article 6

Dialogue with the eligible countries

In agreement with the competent authorities in each country, the Commission shall define the detailed priorities and objectives for the role of Tempus III, on the basis of the programme's objectives and the provisions set out in the Annex, and in conformity in particular with:

- (a) the general objectives of the Regulations referred to in Article 2(1);
- (b) the economic, social and educational policy of each eligible country;
- (c) the need to strike an appropriate balance between the priority areas selected and the resources allocated to Tempus III.

3. Articles 9 and 10 are replaced by the following:

'Article 9

Links with other Community Actions

In accordance with the procedure referred to in Article 7(3) of this Decision and, if applicable, the procedure referred to in Article 10 of Regulation (EC) No 2666/2000, in Article 13 of Regulation (EC, Euratom) No 99/2000, and in Article 11 of Regulation (EC) No 1488/96, within the limits established by the annual budgetary decisions, the Commission shall ensure consistency and, where necessary, complementarity between Tempus III and other Community actions undertaken both in the Community and as part of assistance provided to eligible countries, particularly with regard to the activities of the European Training Foundation.

Article 10

Coordination with action taken in third countries

1. The Commission shall organise appropriate coordination with actions undertaken by third countries (*) or by universities and the business sector in these countries in the same field as Tempus III, including, where applicable, participation in Tempus III projects.

2. This participation may take a variety of forms, including one or more of the following:

(a) participation in Tempus III projects on a cofinancing basis;

(b) use of the opportunities available under Tempus III to channel exchange actions receiving bilateral funding;

(c) coordination between Tempus III and national initiatives which have the same aims but which are funded and managed separately;

(d) mutual exchange of information on all relevant initiatives in this field.

(*) These countries are the members of the Group of 24, other than the Member States of the Community, the Republic of Cyprus and Malta, and the associated countries of central and eastern Europe, and participation relates to projects with the non-associated countries of central and eastern Europe eligible under the PHARE programme and such other countries the Community might subsequently decide to include.'

4. In Article 12, the second paragraph is replaced by the following:

'It shall submit by 30 June 2004 an interim report on the findings of the evaluation, together with any proposals for extending or adjusting Tempus III for the period commencing on 1 January 2007.'

5. The text under the heading 'Individual grants' in the Annex is replaced by the text in the Annex to this Decision.

ANNEX

The text under the heading 'Individual grants' in the Annex to Decision 1999/311/EC shall be replaced by the following:

'Individual grants

In addition to the JEPs and the structural and/or complementary measures, the European Community will also support the provision of individual grants to teachers, researchers, trainers, university administrators, senior ministerial officials, education planners, and other experts in training from eligible countries or from the Community, for visits to promote the quality, development and restructuring of higher education and training in the eligible countries.

These visits could *inter alia* cover the following areas:

- the development of courses and teaching material;
- the development of staff, particularly through periods of refresher training and in-company placements;
- teaching, research and training assignments;
- activities to support the development of higher education;
- participation in the activities of European associations, in particular university associations.'

Proposal for a Regulation of the European Parliament and of the Council on the transboundary movement of genetically modified organisms

(2002/C 151 E/04)

(Text with EEA relevance)

COM(2002) 85 final — 2002/0046(COD)

(Submitted by the Commission on 18 February 2002)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

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

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

- (1) The Cartagena Protocol on Biosafety to the Convention on Biological Diversity (hereinafter referred to as the Protocol), was signed by the Community and its Member States on 24 May 2000.
- (2) The Cartagena Protocol on Biosafety, in its Article 1, specifies that, in accordance with the precautionary approach contained in Principle 15 of the Rio declaration, the objective of the Protocol is to contribute to ensuring an adequate level of protection in the field of safe transfer, handling and use of genetically modified organisms resulting from modern biotechnology that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, and specifically focussing on transboundary movements.
- (3) The Protocol requires each Party to take necessary and appropriate legal, administrative and other measures to implement its obligations under the Protocol. Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EC⁽¹⁾, as last amended by Regulation (EC) ... of the European Parliament and of the Council concerning the traceability and labelling of genetically modified organisms invited the Commission to bring forward a legislative proposal for implementing the procedures laid down in the Protocol and, in accordance with the Protocol, requiring Community exporters to ensure that all requirements of

the Advance Informed Agreement Procedure, as set out in Articles 7 to 10, 12 and 14 of the Protocol, are fulfilled.

- (4) It is important to organise the supervision and control of transboundary movements of GMOs in order to take account of conservation and sustainable use of biological diversity, taking also into account risks to human health.
- (5) Since Community legislation does not contain requirements for exports of GMOs to third countries and in order to ensure compliance with the obligations in the Protocol regarding transboundary movements of GMOs, a common legal framework should be established for such exports.
- (6) Exports of GMOs should be notified to the country of import, allowing it to make an informed decision, based on risk assessment carried out in a scientifically sound manner.
- (7) The notification should be ensured by the exporter, which is legally responsible vis-à-vis its contracting party for the product it sells. The notifier, normally the exporter, should be responsible for the accuracy of the information provided in the notification.
- (8) According to the Protocol, the Community may take action that is more protective of the conservation and sustainable use of biological diversity than that called for in the Protocol, provided that such action is consistent with the objective and the provisions of the Protocol and in accordance with the Community's other obligations under international law.
- (9) According to the Protocol, the Community may apply its domestic legislation in respect of the movements of GMOs within its customs territory.
- (10) The Protocol provides that Parties may decide to apply either the procedures of the Protocol or their domestic regulations with respect to imports of GMOs. As existing Community legislation, and in particular Directive 2001/18/EC and sectoral legislation providing for a specific risk assessment to be carried out in accordance with the principles set out in that Directive, already contain rules which are in line with the objectives of the Protocol, there is no need to adopt supplementary provisions with regard to imports of GMOs into the Community.

⁽¹⁾ OJ L 106, 17.4.2001, p. 1.

- (11) It is necessary to ensure the safe transport, handling and packaging of GMOs. As existing Community legislation, in particular Council Directive 94/55/EC of 21 November 1994 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road ⁽¹⁾, as last amended by Commission Directive 2001/7/EC ⁽²⁾, and Council Directive 96/49/EC of 23 July 1996 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail ⁽³⁾, as last amended by Commission Directive 2001/6/EC ⁽⁴⁾, already contain appropriate rules, there is no need to adopt supplementary provisions in this respect.
- (12) It is necessary to ensure the identification of GMOs being exported from or imported into the Community. With regard to imports into the Community existing Community legislation, in particular Regulation (EC) ... of the European Parliament and of the Council concerning the traceability and labelling of genetically modified organisms, already contain appropriate provisions. With regard to exports similar rules should apply.
- (13) In order to respond efficiently to unintentional transboundary movements of GMOs that are likely to have a significant adverse effect on the conservation and sustainable use of biological diversity, taking account risks to human health, Member States from whose territory such a movement originates should take appropriate measures to inform affected or potentially affected States, the Biosafety Clearing House (the BCH) and, where appropriate, relevant international organisations when they become aware of such an occurrence under their jurisdiction.
- (14) In order to help developing the BCH, the Community and its Member States should ensure that relevant information is communicated to the BCH on a regular basis, and that monitoring and reporting on the implementation of the Protocol in the Community are performed.
- (15) Member States should lay down rules on penalties applicable to infringements of the provisions of this Regulation and ensure that they are implemented. Those penalties must be effective, proportionate and dissuasive.
- (16) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

OBJECTIVES, SCOPE AND DEFINITIONS

Article 1

Objective

In accordance with the precautionary principle, the objective of this Regulation is to establish a common system of notification and information for exports to third countries of genetically modified organisms (GMOs) in order to contribute to ensuring an adequate level of protection in the field of the safe transfer, handling and use of GMOs that may have adverse effects on the conservation and the sustainable use of biological diversity, taking also into account risks to human health.

Article 2

Scope

1. This Regulation shall apply to the export and unintentional transboundary movement of all GMOs that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health.
2. Pharmaceuticals for human use are excluded from the scope of this Regulation.
3. GMOs intended for deliberate release into the environment identified in a decision of the Conference of the Parties serving as the Meeting of the Parties to the Protocol as being not likely to have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health are excluded from the scope of Section 1 of this Regulation.

Article 3

Definitions

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

1. 'Organism' means organism as defined in Article 2(1) of Directive 2001/18/EC;
2. 'Genetically modified organism', or 'GMO', means genetically modified organism as defined in Article 2(2) of Directive 2001/18/EC, excluding organisms obtained through the techniques of genetic modification listed in Annex IB of Directive 2001/18/EC;
3. 'Deliberate release' means deliberate release as defined in Article 2(3) of Directive 2001/18/EC;

⁽¹⁾ OJ L 319, 12.12.1994, p. 7.

⁽²⁾ OJ L 30, 1.2.2001, p. 43.

⁽³⁾ OJ L 235, 17.9.1996, p. 25.

⁽⁴⁾ OJ L 30, 1.2.2001, p. 42.

4. 'Placing on the market' means placing on the market as defined in Article 2(4) of Directive 2001/18/EC;
5. 'Contained use' means:
- (a) activities defined in Article 2(c) of Directive 90/219/EEC on the contained use of genetically modified micro-organisms ⁽¹⁾, as last amended by Directive 98/81/EC,
 - (b) activities in which GMOs other than micro-organisms are genetically modified or in which such GMOs are cultured, stored, transported, destroyed, disposed of or used in any other way, and for which specific containment measures, based on the same principles of containment as in Directive 90/219/EEC, are used to limit their contact with the general population and the environment.
6. 'Product' means product as defined in Article 2(7) of Directive 2001/18/EC;
7. 'Food' means food as defined in [Article 2 of the Proposal for a Regulation laying down the general principles and requirements of food law, establishing the European Food Authority, and laying down procedures in matters of food ⁽²⁾];
8. 'Feed' means feed as defined in [Article 3(4) of the Proposal for a Regulation laying down the general principles and requirements of food law, establishing the European Food Authority, and laying down procedures in matters of food];
9. 'Notification' means the submission of the information required under this Regulation to the competent authority of a Party to the Protocol or to the relevant authorities of non-Parties;
10. 'The Biosafety Clearing House' or 'the BCH' means the Biosafety Clearing House established under Article 20 of the Protocol;
11. 'Notifier' means the natural or legal person submitting the notification;
12. 'Export' means:
- (a) the permanent or temporary leaving of the customs territory of the Community of products meeting the conditions of Article 23(2) of the Treaty,
 - (b) the re-export of products not meeting the conditions referred to in (a) which are placed under a custom procedure other than transit procedure.
13. 'Import' means the placing under a customs procedure other than transit procedure of products introduced into the customs territory of the Community;
14. 'Exporter' means any natural or legal person on whose behalf a notification is made, that is to say the person who, at the time when the notification is sent, holds the contract with the consignee in the third country and has the power for determining the sending of the item out of the customs territory of the Community. If no export contract has been concluded or if the holder of the contract does not act on its own behalf, the power for determining the sending of the item out of the customs territory of the Community shall be decisive;
15. 'Party' means any country or regional organisation having concluded the Protocol;
16. 'non-Party' means any country or regional organisation not having concluded the Protocol;
17. 'The Protocol' means the Cartagena Protocol on Biosafety to the Convention on Biological Diversity;
18. 'Biological diversity' means the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems;
19. 'Competent national authority' means the competent authority designated by the Parties to the Protocol which is responsible for performing the administrative functions required by the Protocol and which shall be authorised to act on its behalf with respect to those functions;
20. 'Focal point' means the entity designed by a Party to be responsible on its behalf for liaisons with the Secretariat;
21. 'Secretariat' means the Secretariat to the Protocol.

⁽¹⁾ OJ L 117, 8.5.1990, p. 1.

⁽²⁾ OJ C 96 E, 27.3.2001, p. 247.

CHAPTER II

EXPORTS OF GMOs TO THIRD COUNTRIES

Section 1

Exports of GMOs intended for deliberate release into the environment

Article 4

Notification to Parties and non-Parties of Import

1. The exporter shall ensure notification, in writing, to the competent national authority of the Party or non-Party of Import prior to the first intentional transboundary movement of a GMO intended for deliberate release into their environment. The notification shall contain, at a minimum, the information specified in Annex I. The notifier shall ensure that the information contained in the notification is accurate.

2. Section 1 shall not apply to GMOs intended for direct use as food or feed, or for processing.

Article 5

Cases of non-reply to notifications

In cases where the Party or non-Party of Import does not reply to a notification within 270 days from the date of receiving the notification, the exporter shall send a written reminder to the competent national authority of that Party or non-Party of Import, with copy to the Secretariat, with a deadline of 60 days from receipt for response.

Article 6

Informing the Party of Export

The exporter, or the notifier, shall keep a record of the notification and the acknowledgement of receipt and send a copy of these documents to the competent national authority of the Member State of Export and to the Commission.

Article 7

Transit

The exporter ensures notification of the transit of GMOs intended for deliberate release into the environment to Parties that have taken the decision to regulate transit of GMOs through their territory and have notified this decision to the Biosafety Clearing House (the BCH).

Section 2

GMOs intended for direct use as food or feed, or for processing

Article 8

Notification to the BCH

1. The Commission shall notify to the BCH, on behalf of the Community, any final decision regarding Community use,

including placing on the market, of a GMO that may be subject to transboundary movements for direct use as food or feed or for processing. This notification shall be sent to the BCH within fifteen days of the adoption of that decision.

This paragraph shall not apply to decisions regarding field trials.

2. The information referred to in paragraph 1 to the Biosafety Clearing House shall contain as a minimum the information specified in Annex II.

3. The Commission shall process requests made by any Party for additional information regarding the decisions referred to in paragraph 1.

4. A copy of this information shall be sent, in writing, to the national focal point of each Party that informs the Secretariat in advance that it does not have access to the BCH.

Section 3

Common provisions

Article 9

Identification

1. Exporters shall ensure that the following information is transmitted to the operator receiving the product:

(a) that it contains or consists of GMOs,

(b) the relevant unique code(s) assigned to those GMOs.

However, the information under (b) above may be replaced by a declaration by the operator that the product shall only be used as food or feed, or for processing, together with the unique codes for the GMOs that the product may contain.

2. Paragraph 1 is without prejudice to other specific requirements in Community legislation and to international identification requirement to be developed in accordance with Article 18 of the Protocol.

CHAPTER III

UNINTENTIONAL TRANSBOUNDARY MOVEMENT

Article 10

1. As soon as a Member State becomes aware of an occurrence, under its jurisdiction, resulting in a release of GMOs that leads, or may lead, to an unintentional transboundary movement that is likely to have significant adverse effects on the conservation and sustainable use of biological diversity, taking into account risks to human health, that Member State shall take the following action:

- (a) take the appropriate measures to inform the public and notify without delay the Commission, other Member States, affected or potentially affected States, the BCH, and, where appropriate, relevant international organisations,
- (b) consult the affected or potentially affected State to enable it to determine appropriate responses and initiate necessary action, including emergency measures.

2. Any information arising from paragraph 1 shall include the information specified in Annex III.

CHAPTER IV

COMMON PROVISIONS

Article 11

Participation to the international information procedure

1. The Member States shall in accordance with the provisions of the Protocol notify to the Commission:

- (a) national legislation and guidelines relevant for the implementation of the Protocol, in accordance with Article 20.3(a) of the Protocol;
 - (b) national contact points for notification of unintentional transboundary movements, in accordance with Article 17 of the Protocol;
 - (c) any bilateral, regional and multilateral agreement and arrangements regarding intentional transboundary movements of GMOs, in accordance with Article 20.3(b) of the Protocol;
 - (d) information concerning cases of illegal transboundary movements pertaining to them, in accordance with Article 25 of the Protocol.
2. The Commission shall in accordance with the provisions of the Protocol notify, on behalf of the Community, to the BCH:
- (a) information notified by the Member States pursuant to paragraph 1;
 - (b) Community legislation and guidelines relevant for the implementation of the Protocol, in accordance with Article 20.3(a) of the Protocol;
 - (c) any bilateral, regional and multilateral agreement and arrangements at the Community level regarding intentional transboundary movements of GMOs, in accordance with Article 20.3(b) of the Protocol;
 - (d) any final decision regarding the use within the Community, the release or the importation of a GMO, in accordance with Articles 11 and 20.3(d) of the Protocol;
- (e) any summary of risk assessments or environmental review of GMOs generated by the Community regulatory process and carried out in accordance with procedures similar to those laid down in Annex II to Directive 2001/18/EC, including, where appropriate, relevant information regarding products thereof, namely, processed materials that are of GMO origin, containing detectable novel combinations of replicable genetic material obtained through the use of modern biotechnology, in accordance with Article 20.3(c) of the Protocol;
 - (f) any information concerning cases of unintentional or illegal transboundary movements, in accordance with Articles 17 and 25 of the Protocol;
 - (g) Community contact point for notification of unintentional transboundary movement, in accordance with Article 17 of the Protocol;
 - (h) any review of decisions regarding an intentional transboundary movement, in accordance with Article 12 of the Protocol;
 - (i) application of Community legislation instead of the procedures of the Protocol for movements of GMOs within the Community and imports of GMOs into the Community in accordance with Article 14(3) and 14(4) of the Protocol;
 - (j) reports submitted pursuant to Article 20 of this Regulation, including those on implementation of the advanced informed agreement procedure, in accordance with Article 20.3(e) of the Protocol.

Article 12

Competent national authorities and focal points

1. The Commission shall designate one focal point.
2. Each Member State shall designate one national focal point, as well as one or more competent national authorities. A single entity can also fulfil the functions of both focal point and competent national authority.
3. The Commission, on behalf of the EC, and the Member States shall, no later than the date of entry into force of the Protocol for them, notify the Secretariat of the names and addresses of their focal points and their competent national authority or authorities. Where a Member State designates more than one competent national authority, it shall convey to the Secretariat, with its notification, relevant information on the respective responsibilities of those authorities. Where applicable, such information shall, at a minimum, specify which competent national authority is responsible for which type of GMO. The Commission and the Member States shall forthwith notify the Secretariat of any changes in the designation of their national focal points or in the name and address or responsibilities of their competent national authority or authorities.

*Article 13***Penalties**

The Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measure necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission, by (date) at the latest [180 days following the date of publication of this Regulation in the *Official Journal of the European Communities*] and shall notify it without delay of any subsequent amendment affecting them.

*Article 14***Monitoring and reporting**

1. Member States shall regularly forward to the Commission information on the implementation of the present Regulation.
2. The Commission shall, at intervals to be determined by the Conference of the Parties serving as the meeting of the

Parties to the Protocol, compile a report on the basis of the information provided by the Member States and present it to the Conference of the Parties serving as the meeting of the Parties to the Protocol.

*Article 15***Entry into force**

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

2. This Regulation shall apply from the day of entry into force of the Protocol, according to Article 37(1) of the Protocol, or ninety days after the date of the deposit of the instrument of ratification by the Community, whichever shall be the later.

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

ANNEX I

INFORMATION REQUIRED IN NOTIFICATIONS UNDER ARTICLE 4

- (a) Name, address and contact details of the exporter.
 - (b) Name, address and contact details of the importer.
 - (c) Name and identity of the genetically modified organism, as well as the domestic classification, if any, of the biosafety level of the genetically modified organism in the State of export.
 - (d) Intended date or dates of the transboundary movement, if known.
 - (e) Taxonomic status, common name, point of collection or acquisition, and characteristics of recipient organism or parental organisms related to biosafety.
 - (f) Centres of origin and centres of genetic diversity, if known, of the recipient organism and/or the parental organisms and a description of the habitats where the organisms may persist or proliferate.
 - (g) Taxonomic status, common name, point of collection or acquisition, and characteristics of the donor organism or organisms related to biosafety.
 - (h) Description of the nucleic acid or the modification introduced, the technique used, and the resulting characteristics of the genetically modified organism.
 - (i) Intended use of the genetically modified organism or products thereof, namely, processed materials that are of genetically modified organism origin, containing detectable novel combinations of replicable genetic material obtained through techniques listed in Annex I A, Part 1 of Directive 2001/18/EC.
 - (j) Quantity or volume of the genetically modified organism to be transferred.
 - (k) A previous and existing risk assessment report consistent with Annex II of Directive 2001/18/EC.
 - (l) Suggested methods for the safe handling, storage, transport and use, including packaging, labelling, documentation, disposal and contingency procedures, where appropriate.
 - (m) Regulatory status of the genetically modified organism within the State of export (for example, whether it is prohibited in the State of export, whether there are other restrictions, or whether it has been approved for general release) and, if the genetically modified organism is banned in the State of export, the reason or reasons for the ban.
 - (n) Result and purpose of any notification by the exporter to other States regarding the genetically modified organism to be transferred.
 - (o) A declaration that the abovementioned information is factually correct.
-

*ANNEX II***INFORMATION REQUIRED UNDER ARTICLE 8**

- (a) The name and contact details of the applicant for a decision for domestic use.
 - (b) The name and contact details of the authority responsible for the decision.
 - (c) Name and identity of the genetically modified organism.
 - (d) Description of the gene modification, the technique used, and the resulting characteristics of the genetically modified organism.
 - (e) Any unique identification of the genetically modified organism.
 - (f) Taxonomic status, common name, point of collection or acquisition, and characteristics of recipient organism or parental organisms related to biosafety.
 - (g) Centres of origin and centres of genetic diversity, if known, of the recipient organism and/or the parental organisms and a description of the habitats where the organisms may persist or proliferate.
 - (h) Taxonomic status, common name, point of collection or acquisition, and characteristics of the donor organism or organisms related to biosafety.
 - (i) Approved uses of the genetically modified organism.
 - (j) A risk assessment report consistent with Annex II of Directive 2001/18/EC.
 - (k) Suggested methods for the safe handling, storage, transport and use, including packaging, labelling, documentation, disposal and contingency procedures, where appropriate.
-

*ANNEX III***INFORMATION REQUIRED UNDER ARTICLE 10**

- (a) Available relevant information on the estimated quantities and relevant characteristics and/or traits of the GMO;
 - (b) Information on the circumstances and estimated date of the release, and on the use of the GMO in the originating Party;
 - (c) Any available information about the possible adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, as well as available information about possible risk management measures;
 - (d) Any other relevant information; and
 - (e) A point of contact for further information.
-

Proposal for a Directive of the European Parliament and of the Council on the patentability of computer-implemented inventions

(2002/C 151 E/05)

COM(2002) 92 final — 2002/0047(COD)

(Submitted by the Commission on 20 February 2002)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

- (1) The realisation of the internal market implies the elimination of restrictions to free circulation and of distortions in competition, while creating an environment which is favourable to innovation and investment. In this context the protection of inventions by means of patents is an essential element for the success of the internal market. Effective and harmonised protection of computer-implemented inventions throughout the Member States is essential in order to maintain and encourage investment in this field.
- (2) Differences exist in the protection of computer-implemented inventions offered by the administrative practices and the case law of the different Member States. Such differences could create barriers to trade and hence impede the proper functioning of the internal market.
- (3) Such differences have developed and could become greater as Member States adopt new and different administrative practices, or where national case law interpreting the current legislation evolves differently.
- (4) The steady increase in the distribution and use of computer programs in all fields of technology and in their world-wide distribution via the Internet is a critical factor in technological innovation. It is therefore

necessary to ensure that an optimum environment exists for developers and users of computer programs in the Community.

- (5) Therefore, the legal rules as interpreted by Member States' courts should be harmonised and the law governing the patentability of computer-implemented inventions should be made transparent. The resulting legal certainty should enable enterprises to derive the maximum advantage from patents for computer-implemented inventions and provide an incentive for investment and innovation.
- (6) The Community and its Member States are bound by the Agreement on trade-related aspects of intellectual property rights (TRIPS), approved by Council Decision 94/800/EC of 22 December 1994 concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the agreements reached in the Uruguay Round multilateral negotiations (1986-1994) ⁽¹⁾. Article 27(1) of TRIPS provides that patents shall be available for any inventions, whether products or processes, in all fields of technology, provided that they are new, involve an inventive step and are capable of industrial application. Moreover, according to TRIPS, patent rights should be available and patent rights enjoyable without discrimination as to the field of technology. These principles should accordingly apply to computer-implemented inventions.
- (7) Under the Convention on the Grant of European Patents signed in Munich on 5 October 1973 and the patent laws of the Member States, programs for computers together with discoveries, scientific theories, mathematical methods, aesthetic creations, schemes, rules and methods for performing mental acts, playing games or doing business, and presentations of information are expressly not regarded as inventions and are therefore excluded from patentability. This exception, however, applies and is justified only to the extent that a patent application or patent relates to such subject-matter or activities as such, because the said subject-matter and activities as such do not belong to a field of technology.
- (8) Patent protection allows innovators to benefit from their creativity. Whereas patent rights protect innovation in the interests of society as a whole; they should not be used in a manner which is anti-competitive.

⁽¹⁾ OJ L 336, 23.12.1994, p. 1

- (9) In accordance with Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs ⁽¹⁾, the expression in any form of an original computer program is protected by copyright as a literary work. However, ideas and principles which underlie any element of a computer program are not protected by copyright.
- (10) In order for any invention to be considered as patentable it should have a technical character, and thus belong to a field of technology.
- (11) Although computer-implemented inventions are considered to belong to a field of technology, in order to involve an inventive step, in common with inventions in general, they should make a technical contribution to the state of the art.
- (12) Accordingly, where an invention does not make a technical contribution to the state of the art, as would be the case, for example, where its specific contribution lacks a technical character, the invention will lack an inventive step and thus will not be patentable.
- (13) A defined procedure or sequence of actions when performed in the context of an apparatus such as a computer may make a technical contribution to the state of the art and thereby constitute a patentable invention. However, an algorithm which is defined without reference to a physical environment is inherently non-technical and cannot therefore constitute a patentable invention.
- (14) The legal protection of computer-implemented inventions should not necessitate the creation of a separate body of law in place of the rules of national patent law. The rules of national patent law should remain the essential basis for the legal protection of computer-implemented inventions as adapted or added to in certain specific respects as set out in this Directive.
- (15) This Directive should be limited to laying down certain principles as they apply to the patentability of such inventions, such principles being intended in particular to ensure that inventions which belong to a field of technology and make a technical contribution are susceptible of protection, and conversely to ensure that those inventions which do not make a technical contribution are not so susceptible.
- (16) The competitive position of European industry in relation to its major trading partners would be improved if the current differences in the legal protection of computer-implemented inventions were eliminated and the legal situation was transparent.
- (17) This Directive shall be without prejudice to the application of the competition rules, in particular Articles 81 and 82 of the Treaty.
- (18) Acts permitted under Directive 91/250/EEC on the legal protection of computer programs by copyright, in

particular provisions thereof relating to decompilation and interoperability, or the provisions concerning semiconductor topographies or trade marks, shall not be affected through the protection granted by patents for inventions within the scope of this Directive.

- (19) Since the objectives of the proposed action, namely to harmonise national rules on computer-implemented inventions, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve those objectives.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Scope

This Directive lays down rules for the patentability of computer-implemented inventions.

Article 2

Definitions

For the purposes of this Directive the following definitions shall apply:

- (a) 'computer-implemented invention' means any invention the performance of which involves the use of a computer, computer network or other programmable apparatus and having one or more *prima facie* novel features which are realised wholly or partly by means of a computer program or computer programs;
- (b) 'technical contribution' means a contribution to the state of the art in a technical field which is not obvious to a person skilled in the art.

Article 3

Computer-implemented inventions as a field of technology

Member States shall ensure that a computer-implemented invention is considered to belong to a field of technology.

Article 4

Conditions for patentability

1. Member States shall ensure that a computer-implemented invention is patentable on the condition that it is susceptible of industrial application, is new, and involves an inventive step.
2. Member States shall ensure that it is a condition of involving an inventive step that a computer-implemented invention must make a technical contribution.

⁽¹⁾ OJ L 122, 17.5.1991, p. 42 — Directive amended by Directive 93/98/EEC (OJ L 290, 24.11.1993, p. 9).

3. The technical contribution shall be assessed by consideration of the difference between the scope of the patent claim considered as a whole, elements of which may comprise both technical and non-technical features, and the state of the art.

Article 5

Form of claims

Member States shall ensure that a computer-implemented invention may be claimed as a product, that is as a programmed computer, a programmed computer network or other programmed apparatus, or as a process carried out by such a computer, computer network or apparatus through the execution of software.

Article 6

Relationship with Directive 91/250/EEC

Acts permitted under Directive 91/250/EEC on the legal protection of computer programs by copyright, in particular provisions thereof relating to decompilation and interoperability, or the provisions concerning semiconductor topographies or trade marks, shall not be affected through the protection granted by patents for inventions within the scope of this Directive.

Article 7

Monitoring

The Commission shall monitor the impact of computer-implemented inventions on innovation and competition, both within Europe and internationally, and on European businesses, including electronic commerce.

Article 8

Report on the effects of the Directive

The Commission shall report to the European Parliament and the Council by [Date (three years from the date specified in Article 9(1))] at the latest on

- (a) the impact of patents for computer-implemented inventions on the factors referred to in Article 7;
- (b) whether the rules governing the determination of the patentability requirements, and more specifically novelty, inventive step and the proper scope of claims, are adequate; and
- (c) whether difficulties have been experienced in respect of Member States where the requirements of novelty and inventive step are not examined prior to issuance of a patent, and if so, whether any steps are desirable to address such difficulties.

Article 9

Implementation

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than [Date (last day of a month)]. They shall forthwith inform the Commission thereof.

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

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

Article 10

Entry into force

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

Article 11

Addressees

This Directive is addressed to the Member States.

**Proposal for a Directive of the European Parliament and of the Council on environmental liability
with regard to the prevention and remedying of environmental damage**

(2002/C 151 E/06)

(Text with EEA relevance)

COM(2002) 17 final — 2002/0021(COD)

(Submitted by the Commission on 21 February 2002)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE
EUROPEAN UNION,

Having regard to the Treaty establishing the European
Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social
Committee,

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

Acting in accordance with the procedure laid down in Article
251 of the Treaty,

Whereas:

(1) There are currently many contaminated sites in the Community posing significant health risks and the loss of biodiversity has dramatically accelerated over the last decades. Failure to act could result in increased site contamination and greater loss of biodiversity in the future. Preventing and remedying, in so far as is possible, environmental damage contributes to implementing the objectives and principles of the Community's environment policy as set out in Article 174 of the Treaty.

(2) The prevention and remedying of environmental damage should be implemented through the furtherance of the principle according to which the polluter should pay, as indicated in Article 174(2) of the Treaty. One of the fundamental principles of this Directive should therefore be that an operator whose activity has caused the environmental damage or the imminent threat of such damage will be held financially liable in order to induce operators to adopt measures and develop practices to minimise the risks of environmental damage so that their exposure to financial liabilities is reduced.

(3) Since the objective of the proposed action, namely to establish a common framework for the prevention and remedying of environmental damage at a low cost to society, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level by reason of the scale of the proposed action and the implications in respect of other Community legislation, namely Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds ⁽¹⁾, Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora ⁽²⁾, and Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy ⁽³⁾, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

(4) Notions instrumental to the correct interpretation and application of the scheme provided for by this Directive should be defined. When the notion in question derives from other relevant Community legislation, the same definition should be used so that common criteria can be used and uniform application promoted.

(5) Biodiversity should also be defined by reference to areas of protection or conservation that have been designated in pursuance of national legislation on nature conservation. Account should nevertheless be taken of specific situations where Community directives or equivalent national provisions allow for certain derogations from the level of protection afforded to the environment.

(6) This Directive should apply, as far as environmental damage is concerned, to occupational activities which present a risk for human health and the environment. Those activities should be identified, in principle, by reference to the relevant Community legislation which provides for regulatory requirements in relation to certain activities or practices considered as posing a potential or actual risk for man or the environment.

⁽¹⁾ OJ L 103, 25.4.1979, p. 1. Directive as last amended by Commission Directive 97/49/EC (OJ L 223, 13.8.1997, p. 9).

⁽²⁾ OJ L 206, 22.7.1992, p. 7. Directive amended by Directive 97/62/EC (OJ L 305, 8.11.1997, p. 42).

⁽³⁾ OJ L 327, 22.12.2000, p. 1.

- (7) This Directive should also apply, in relation to biodiversity damage, to any occupational activities other than those already directly or indirectly identified by reference to Community legislation as posing an actual or potential risk for man or the environment.
- (8) Express account should be taken of the Euratom Treaty and relevant international conventions and of Community legislation regulating more comprehensively and more stringently the operation of any of the activities falling under the scope of this Directive. This Directive, which does not provide for additional rules of conflict of laws when it specifies the powers of the competent authorities, is without prejudice to the rules on international jurisdiction of courts as provided, *inter alia*, in Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ⁽¹⁾. This Directive should not apply to activities carried out in the interest of national defence.
- (9) Not all forms of environmental damage can be remedied by means of the liability mechanism. For the latter to be effective, there need to be one (or more) identifiable actors (polluters), the damage needs to be concrete and quantifiable, and a causal link needs to be established between the damage and the identified polluter(s). Liability is therefore not a suitable instrument for dealing with pollution of a widespread, diffuse character, where it is impossible to link the negative environmental effects with the activities of certain individual actors.
- (10) Since the prevention and remedying of environmental damage is a task directly contributing to the pursuit of the Community's environment policy, public authorities should be entrusted with special responsibilities to ensure the proper implementation and enforcement of the scheme provided for by this Directive.
- (11) In order for the system to be effective, the competent authority should take action itself in cases where the operators responsible do not or are not able to take the necessary measures either to prevent environmental damage or to remedy such damage.
- (12) Restoration of the environment should take place in an effective manner ensuring that the relevant restoration objectives are achieved. Appropriate guidelines should be defined to that end, the proper application of which should be supervised by the competent authority.
- (13) Appropriate provision should be made for those situations where several instances of environmental damage have occurred in such a manner that the competent authority cannot ensure that all the necessary restorative measures are taken at the same time. In such a case, the competent authority should be entitled to decide which instance of environmental damage is to be remedied first.
- (14) According to the 'polluter pays' principle, an operator causing environmental damage or creating an imminent threat of such damage should, in principle, bear the cost of the necessary preventive or restorative measures. In cases where a competent authority has to act itself or through a third party in the place of an operator, that authority should ensure that the cost incurred by it is recovered from the operator. It is also appropriate that the operators should ultimately bear the cost of assessing environmental damage and, as the case may be, assessing an imminent threat of such damage occurring.
- (15) Member States should ensure that the necessary preventive or restorative measures are taken when the polluter pays principle cannot be implemented. In such cases, Member States should adopt whatever provisions they deem fit in conformity with their legal systems provided that they ensure effectively that the necessary preventive or restorative measures are financed.
- (16) Where biodiversity damage has been caused by an operator in the course of an occupational activity other than one of those identified by this Directive as posing an actual or potential risk for man or the environment, that operator should not be obliged to bear the cost of preventive or restorative measures taken in pursuance of this Directive where it is not established that the operator was at fault or negligent.
- (17) Appropriate account should be taken of situations where the damage in question or imminent threat thereof is the result of certain events beyond the operator's control or of emissions or events explicitly authorised or where the potential for damage could not have been known when the event or emission took place, or where persons act in their capacity as insolvency practitioners and are not otherwise at fault or negligent, or where operators merely comply with the regulatory requirements imposed on their activity. In that context, there may be situations in which it is justifiable that, although the operator should not bear the cost of preventive or restorative measures, Member States should nevertheless be required to take action.
- (18) Operators should bear the costs relating to preventive measures when those measures should have been taken as a matter of course in order to comply with the legislative, regulatory and administrative provisions regulating their activities or the terms of any permit or authorisation.

⁽¹⁾ OJ L 12, 16.1.2001, p. 1.

- (19) Appropriate provision should be made to take account of cases where several operators have caused the damage including the possibility for Member States to either provide for joint and several liability or for apportionment on a fair and reasonable basis of the financial responsibility.
- (20) Competent authorities should be entitled to recover the cost of preventive or restorative measures from an operator for a reasonable period of time from the date on which those measures were effected.
- (21) It is necessary to ensure that effective means of implementation and enforcement are available, while ensuring that the legitimate interests of the relevant operators and other interested parties are adequately safeguarded. Competent authorities should carry out appropriate investigations and remain in charge of specific tasks entailing expert knowledge and appropriate administrative discretion, namely the duty to assess the significance of the damage and to determine which restorative measures should be taken.
- (22) Persons adversely affected or likely to be adversely affected by environmental damage should be entitled to ask the competent authority to take action. Environmental protection is, however, a diffuse interest on behalf of which individuals will not always act or will not be in a position to act. Qualified entities should therefore be given a special status so that they can properly contribute to the effective implementation of this Directive.
- (23) In order to facilitate requests for action, appropriate procedures should be provided for, and the competent authority should be under an obligation to inform the interested party when it is not possible to take a decision within a reasonable period or time.
- (24) The relevant persons and qualified entities should have access to procedures for the review of the competent authority's decisions, acts or failure to act.
- (25) Where environmental damage affects or is likely to affect several Member States, those Member States should co-operate with a view to ensuring proper and effective preventive or, as the case may be, restorative action in respect of any environmental damage.
- (26) Member States should encourage the use by operators of any appropriate insurance or other forms of financial security in order to provide effective cover for financial obligations under this Directive.
- (27) This Directive should not prevent Member States from maintaining or enacting more stringent provisions in relation to the prevention and remedying of environmental damage; nor should it prevent the adoption by Member States of appropriate measures in relation to situations where double recovery could occur as a result

of concurrent action by a competent authority under this Directive and by a person whose property is affected by damage.

- (28) Damage caused before the expiry of the deadline for implementation of this Directive should not be covered by its provisions and appropriate provision should be made for cases where it is not clear whether or not the cause of the damage occurred after that date.
- (29) Member States should report to the Commission on the experience gained in the application of this Directive so as to enable the Commission to consider, taking into account the impact on sustainable development, whether any review of the Directive is appropriate,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter

The purpose of this Directive is to establish a framework, based on environmental liability, for the prevention and remedying of environmental damage.

Article 2

Definitions

1. For the purpose of this Directive the following definitions shall apply:
 1. 'baseline condition' means the condition of the natural resources and services that would have existed had the damage not occurred, estimated on the basis of historical data, reference data, control data, or data on incremental changes (such as the number of dead animals), alone or in combination, as appropriate;
 2. 'biodiversity' means natural habitats and species listed in Annex I to Directive 79/409/EEC, or in Annexes I, II and IV to Directive 92/43/EEC, or habitats and species, not covered by those Directives, for which areas of protection or conservation have been designated pursuant to the relevant national legislation on nature conservation;
 3. 'conservation status' means:
 - (a) in respect of a natural habitat, the sum of the influences acting on a natural habitat and its typical species that may affect its long-term natural distribution, structure and functions as well as the long-term survival of its typical species within, as the case may be, the European territory of the Member States to which the Treaty applies or the territory of a Member State or the natural range of that habitat;

- (b) in respect of a species, the sum of the influences acting on the species concerned that may affect the long-term distribution and abundance of its populations within, as the case may be, the European territory of the Member States to which the Treaty applies or the territory of a Member State or the natural range of that species;
4. 'costs' means costs which are justified by the need to ensure the proper and effective implementation of this Directive including administrative, legal, and enforcement costs, the costs of data collection and other general costs and monitoring and supervision costs;
5. 'damage' means a measurable adverse change in a natural resource and/or measurable impairment of a natural resource service which may occur directly or indirectly and which is caused by any of the activities covered by this Directive;
6. 'imminent threat' means a sufficient likelihood that environmental damage will occur in the near future;
7. 'insolvency practitioner' means a person appointed in accordance with the relevant national law for the purposes of insolvency, liquidation, winding up or analogous proceedings;
8. 'natural resource' means biodiversity, water and soil, including subsoil;
9. 'operator' means any person who directs the operation of an activity covered by this Directive including the holder of a permit or authorisation for such an activity and/or the person registering or notifying such an activity;
10. 'person' means any natural or legal person;
11. 'land contamination' or 'soil and subsoil contamination' means the direct or indirect introduction, as a result of human activity, of substances, preparations, organisms or micro-organisms harmful to human health or natural resources into soil and subsoil;
12. 'preventive measures' means any measures taken in response to an event, act or omission that has created an imminent threat of environmental damage, with a view to preventing or minimising that damage;
13. 'occupational activity' includes non-profit-making activity and the rendering of services to the public;
14. 'qualified entity' means any person who, according to criteria laid down in national law, has an interest in ensuring that environmental damage is remedied, including bodies and organisations whose purpose, as indicated by the articles of incorporation thereof, is to protect the environment and which meet any requirements specified by national law;
15. 'recovery' means the return of damaged natural resources and/or services to baseline condition;
16. 'restoration' means any action, or combination of actions, to restore, rehabilitate or replace damaged natural resources and/or impaired services, or to provide an equivalent alternative to those resources or services, including:
- (a) primary restoration, which is any action, including natural recovery, that returns damaged natural resources and/or impaired services to baseline condition;
- (b) compensatory restoration, which is any restorative action taken in relation to natural resources and/or services in a different location from that in which the relevant natural resources and/or services have been damaged and any action taken to compensate for interim losses of natural resources and/or services that occur from the date of damage occurring until the return of damaged natural resources and/or impaired services to baseline condition;
17. 'services' (or 'natural resources services') means the functions performed by a natural resource for the benefit of another natural resource and/or the public;
18. 'environmental damage' means:
- (a) biodiversity damage, which is any damage that has serious adverse effects on the conservation status of biodiversity;
- (b) water damage, which is any damage that adversely affects the ecological status, ecological potential and/or chemical status of the waters concerned to such an extent that this status will or is likely to deteriorate from one of the categories defined in Directive 2000/60/EC with the exception of adverse effects where Article 4(7) of Directive 2000/60/EC applies;
- (c) land damage, which is any damage that creates serious potential or actual harm to public health as a result of soil and subsoil contamination;

19. 'value' means the maximum amount of goods, services, or money that an individual is willing to give up to obtain a specific good or service, or the minimum amount of goods, services, or money that an individual is willing to accept to forgo a specific good or service. The total value of a habitat or species includes the value derived by individuals from their direct use of the natural resource, for example, swimming, boating, or birdwatching, as well as the value attributed by individuals to the habitats and species irrespective of direct uses. This excludes loss of financial income to individuals;
20. 'waters' mean all waters covered by Directive 2000/60/EC;
21. 'emission' means the release in the environment of substances, preparations, organisms or micro-organisms.
2. Biodiversity damage within the meaning of paragraph 1(18)(a) does not include adverse effects which result from an act by the operator which was expressly authorised by the relevant authorities in accordance with provisions implementing Article 6(3) and (4) of Directive 92/43/EEC or in accordance with any other provisions of national law which have equivalent effect in relation to habitats and species protected under national legislation on nature conservation but not covered by Directives 79/409/EEC or 92/43/EEC, provided that those national provisions offer at least equivalent guarantees, including in terms of the compensatory measures required.
- Biodiversity damage does not include adverse effects which result from an act by the operator which was expressly authorised by the relevant authorities in accordance with provisions implementing Article 9 of Directive 79/409/EEC or Article 16 of Directive 92/43/EEC.
- Article 3*
- Scope**
1. This Directive shall apply to environmental damage caused by the operation of any of the occupational activities listed in Annex I, and to any imminent threat of such damage occurring by reason of any of those activities.
2. This Directive shall apply to biodiversity damage caused by the operation of any occupational activities other than those listed in Annex I, and to any imminent threat of such damage occurring by reason of any of those activities.
3. This Directive shall not apply to environmental damage or to any imminent threat of such damage arising from an incident in respect of which liability or compensation is regulated by any of the following agreements:
- (a) the International Convention of 27 November 1992 on Civil Liability for Oil Pollution Damage;
 - (b) the International Convention of 27 November 1992 on the Establishment of an International Fund for Compensation for Oil Pollution Damage;
 - (c) the International Convention of 23 March 2001 on Civil Liability for Bunker Oil Pollution Damage;
 - (d) the International Convention of 3 May 1996 on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea;
 - (e) the Convention of 10 October 1989 on Civil Liability for Damage Caused during Carriage of Dangerous Goods by Road, Rail and Inland Navigation Vessels.
4. This Directive shall not apply to such nuclear risks or environmental damage or imminent threat of such damage as may be caused by the operation of the activities covered by the Treaty establishing the Atomic Energy European Community or caused by an incident or activity in respect of which liability or compensation is regulated by any of the following agreements:
- (a) the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy and the Brussels Supplementary Convention of 31 January 1963;
 - (b) the Vienna Convention of 21 May 1963 on Civil Liability for Nuclear Damage, and the Vienna Convention of 12 September 1997 on Supplementary Compensation for Nuclear Damage;
 - (c) the Joint Protocol of 21 September 1988 Relating to the Application of the Vienna Convention and the Paris Convention;
 - (d) the Brussels Convention of 17 December 1971 relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material.
5. This Directive shall apply without prejudice to more stringent provisions of Community legislation regulating the operation of any of the activities falling within the scope of this Directive and without prejudice to Community legislation containing rules on conflicts of jurisdiction.
6. This Directive shall not apply to environmental damage or to an imminent threat of such damage caused by pollution of a widespread, diffuse character, where it is impossible to establish a causal link between the damage and the activities of certain individual operators.

7. This Directive shall not apply to activities the sole purpose of which is to serve national defence.

8. Subject to Article 11(3), this Directive shall not give private parties a right of compensation for any economic loss sustained in consequence of environmental damage or of an imminent threat of such damage.

Article 4

Prevention

1. Where environmental damage has not yet occurred but there is an imminent threat of such damage occurring, the competent authority shall either require the operator to take the necessary preventive measures or shall itself take such measures.

2. Without prejudice to any further action which could be required by the competent authority under paragraph 1, Member States shall provide that, when operators are aware of an imminent threat or ought to be aware of such an imminent threat, those operators are required to take the necessary measures to prevent environmental damage from occurring, without waiting for a request to do so by the competent authority.

3. Member States shall provide that where appropriate, and in any case whenever an imminent threat of environmental damage is not dispelled despite the preventive measures taken by the relevant operator, operators are to inform the competent authority of the situation.

4. If the operator fails to comply with the obligations laid down in paragraph 1 or 2, the competent authority shall take the necessary preventive measures.

Article 5

Restoration

1. Where environmental damage has occurred the competent authority shall either require the operator to take the necessary restorative measures or shall itself take such measures.

2. If the operator fails to comply with a request issued under paragraph 1, the competent authority shall take the necessary restorative measures.

3. The necessary restorative measures shall be determined in accordance with Annex II.

4. Where several instances of environmental damage have occurred in such a manner that the competent authority cannot ensure that the necessary restorative measures are taken at the same time, the competent authority shall be entitled to decide which instance of environmental damage must be remedied first.

In making that decision, the competent authority shall have regard, *inter alia*, to the nature, extent and gravity of the various instances of environmental damage concerned, and to the possibility of natural recovery.

Article 6

Additional provisions in relation to prevention and restoration

1. Subject to Article 9(1), Member States shall ensure that the necessary preventive or restorative measures are taken:

- (a) where it is not possible to identify the operator who caused the damage or the imminent threat of damage;
- (b) where the operator can be identified but has insufficient financial means to take any of the necessary preventive or restorative measures;
- (c) where the operator can be identified but has insufficient financial means to take all of the necessary preventive or restorative measures; or
- (d) where the operator is not required under this Directive to bear the cost of the necessary preventive or restorative measures.

2. Measures taken in pursuance of paragraph 1(a), (b) and (c) shall be without prejudice to the liability of the relevant operator under this Directive and without prejudice to Articles 87 and 88 of the EC Treaty.

Article 7

Recovery of costs

1. Subject to Articles 8, 9 and 10 the competent authority shall recover from the operator who has caused the damage or the imminent threat of damage the costs it has incurred in relation to the taking of preventive or restorative measures under this Directive.

2. The competent authority shall also recover from the operator who has caused the damage or the imminent threat of damage the costs of assessing environmental damage and, as the case may be, the costs of assessing an imminent threat of such damage.

Article 8

Cost allocation in relation to certain biodiversity damage

Subject to Article 10, in the cases referred to in Article 3(2), where it is not established that the operator who has caused the damage or the imminent threat of damage is at fault or has been negligent, that operator shall not be required to bear the cost of preventive or restorative measures taken pursuant to this Directive.

*Article 9***Exceptions**

1. Subject to Article 10, this Directive shall not cover environmental damage or an imminent threat of such damage caused by:

- (a) an act of armed conflict, hostilities, civil war or insurrection;
- (b) a natural phenomenon of exceptional, inevitable and irresistible character;
- (c) an emission or event allowed in applicable laws and regulations, or in the permit or authorisation issued to the operator;
- (d) emissions or activities which were not considered harmful according to the state of scientific and technical knowledge at the time when the emission was released or the activity took place.

2. Paragraph 1(c) and (d) shall not apply if the operator has been negligent.

3. Subject to Article 10, an operator shall not be required to bear the cost of preventive or restorative measures taken pursuant to this Directive when the environmental damage or imminent threat of such damage occurring is the result of:

- (a) an act done by a third party with intent to cause damage, and the damage or imminent threat in question resulted despite the fact that appropriate safety measures were in place;
- (b) compliance with a compulsory order, instruction or other legally binding or compulsory measure emanating from a public authority.

4. Where the operator is a person acting in his capacity as an insolvency practitioner, that person shall not be personally obliged to bear the costs relating to prevention or restoration under this Directive insofar as that person acts in accordance with the relevant national provisions governing insolvency, liquidation, winding up or analogous proceedings, and is not otherwise at fault or negligent.

*Article 10***Cost allocation in relation to certain preventive measures**

1. Member States shall ensure that in all circumstances operators bear any costs relating to preventive measures which they were required to take as a matter of course in order to comply with the legislative, regulatory and administrative provisions regulating their activities, including the terms of any permit or authorisation.

2. Article 4 shall not be taken into consideration for the purpose of defining the legislative, regulatory and administrative provisions referred to in paragraph 1.

*Article 11***Cost allocation in cases of multiple party causation**

1. Subject to paragraph 2, where the competent authority is able to establish with a sufficient degree of plausibility and probability that one and the same instance of damage has been caused by the actions or omissions of several operators, Member States may provide either that the relevant operators are to be held jointly and severally liable for that damage or that the competent authority is to apportion the share of the costs to be borne by each operator on a fair and reasonable basis.

2. Operators who are able to establish the extent to which the damage results from their activities shall be required to bear only such costs as relate to that part of the damage.

3. This Directive is without prejudice to any provisions of national law concerning the rights of contribution or recourse.

*Article 12***Limitation period for recovery**

The competent authority shall be entitled to initiate cost recovery proceedings against the operator who has caused the damage or the imminent threat of damage in relation to any measures taken in pursuance of this Directive during a period of five years from the date on which the measures in question were effected.

*Article 13***Competent authority**

1. Member States shall designate a competent authority or competent authorities responsible for fulfilling the duties provided for in this Directive.

Where a Member State decides not to give the competent authority the power to issue binding decisions or the power to enforce any such decisions, that Member State shall ensure that a court or other independent and impartial public body is competent to issue and enforce such decisions.

2. Regardless of whether a decision referred to in the second subparagraph of paragraph 1 is issued by the competent authority, a court or some other independent and impartial public body, the duty to establish which operator has caused the damage or the imminent threat of damage, to assess the significance of the damage and to determine which restorative measures should be taken in accordance with Annex II shall rest with the competent authority.

3. Member States shall ensure that the competent authority carries out appropriate investigations so as to fulfil its duties under this Directive, independently of any prior request for action lodged pursuant to Article 14.

To that effect, the competent authority shall be entitled to require the relevant operator to supply any information and data necessary for the purpose of the investigation.

Member States shall specify the detailed arrangements in accordance with which the competent authority may require such information and data.

4. Member States shall ensure that the competent authority may empower or require third parties to carry out the necessary preventive or restorative measures.

5. Any decision taken pursuant to this Directive which imposes preventive or restorative measures shall state the exact grounds on which it is based. Such decision shall be notified forthwith to the operator concerned, who shall at the same time be informed of the legal remedies available to him under the laws in force in the Member State concerned and of the time-limits to which such remedies are subject.

Article 14

Request for action

1. Without prejudice to any investigation initiated by the competent authority of its own motion, persons adversely affected or likely to be adversely affected by environmental damage and qualified entities shall be entitled to submit to the competent authority any observations relating to instances of environmental damage of which they are aware and shall be entitled to request the competent authority to take action under this Directive.

2. The competent authority shall be entitled to require that the request for action be accompanied by all relevant information and data supporting the observations submitted in relation to the environmental damage in question.

3. Where the request for action and the accompanying observations show in a sufficiently plausible manner that an instance of environmental damage exists, the competent authority shall consider any such observations and requests for action.

4. The competent authority shall give the relevant operator an opportunity to make his views known with respect to the request for action and the accompanying observations.

5. The competent authority shall, as soon as possible or in any case within a reasonable time-frame having regard to the nature, extent and gravity of the environmental damage concerned, inform the relevant person or qualified entity of its decision to accede to or refuse the request for action and shall provide the reasons for that decision.

6. Where the competent authority is unable, despite due diligence, to take a decision on a request for action within the period referred to in paragraph 5, the competent authority shall, at the latest within four months of being called upon to act, inform the relevant person or qualified entity of the steps and measures which it has taken and which it proposes to take in order to ensure the application

of this Directive within a time-frame which is consistent with the proper achievement of the purpose thereof.

Article 15

Review procedures

1. Any person who has lodged a request for action under this Directive, or any qualified entity which has lodged such a request, shall have access to a court or other independent and impartial public body competent to review the procedural and substantive legality of the decisions, acts or failure to act of the competent authority.

2. This Directive shall be without prejudice to any provisions of national law which require that administrative review procedures be exhausted prior to recourse to judicial proceedings.

Article 16

Financial security

Member States shall encourage the use by operators of any appropriate insurance or other forms of financial security. Member States shall also encourage the development of appropriate insurance or other financial security instruments and markets by the appropriate economic and financial operators, including the financial services industry.

Article 17

Co-operation between Member States

Where environmental damage affects or is likely to affect several Member States, those Member States shall co-operate with a view to ensuring that proper and effective preventive action and, where necessary, restorative action is taken in respect of any such environmental damage

Article 18

Relationship with national law

1. This Directive shall not prevent Member States from maintaining or adopting more stringent provisions in relation to the prevention and remedying of environmental damage, including the identification of additional activities to be subject to the prevention and restoration requirements of this Directive, the identification of additional responsible parties and allocation of financial responsibility to or among responsible parties.

2. This Directive shall not prevent Member States from adopting appropriate measures, such as the prohibition of double recovery, in relation to situations where double recovery could occur as a result of concurrent action by a competent authority under this Directive and by a person whose property is affected by damage.

*Article 19***Temporal application**

1. This Directive shall not apply to damage caused by activities that have been carried out before the date referred to in Article 21(1). In particular, this Directive shall not apply to damage caused by waste the disposal of which took place lawfully in authorised disposal facilities before the date referred to in Article 21(1) or by substances released into the environment before the date referred to in Article 21(1).

2. Where the competent authority is able to establish with a sufficient degree of plausibility and probability that the environmental damage has been caused by an activity which has taken place after the date referred to in Article 21(1), this Directive shall apply unless the operator can establish that the activity that caused the damage in question took place before that date.

3. Paragraph 2 shall not apply to operators who, within one year of the date referred to in Article 21(1), have lodged with the competent authority a statement identifying any environmental damage that may have been caused by their activities before the date referred to in Article 21(1).

Member States shall take the necessary measures to ensure that the statement submitted by the operators may be relied on with respect to its quality and veracity.

*Article 20***Reports**

Member States shall report to the Commission on the experience gained in the application of this Directive by [date (five years after the date referred to in Article 22(1))] at the latest. The national reports shall include the information and data set out in Annex III.

On that basis the Commission shall submit a report to the European Parliament and the Council together with any proposal which it may consider appropriate.

*Article 21***Implementation**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 June 2005 at the latest. They shall forthwith inform the Commission thereof.

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

2. Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field governed by this Directive and a correlation table between this Directive and the national provisions adopted.

*Article 22***Entry into force**

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

*Article 23***Addressees**

This Directive is addressed to the Member States.

ANNEX I

ACTIVITIES REFERRED TO IN ARTICLE 3(1)

- The operation of installations subject to permit in pursuance of Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control ⁽¹⁾.
- The operation of installations subject to authorisation in pursuance of Council Directive 84/360/EEC of 28 June 1984 on the combating of air pollution from industrial plants ⁽²⁾ in relation to the release into air of any of the polluting substances covered by the aforementioned Directive.
- The operation of installations subject to permit in pursuance of Council Directive 76/464/EEC of 4 May 1976 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community ⁽³⁾ in relation to the discharge of any of the dangerous substances covered by the aforementioned Directive.
- The operation of installations subject to permit for discharging any of the dangerous substances in pursuance of Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances ⁽⁴⁾ in relation to the discharge of any of the dangerous substances covered by the aforementioned Directive.
- The operation of installations subject to permit, authorisation or registration in pursuance of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy ⁽⁵⁾ in relation to the discharge of any of the dangerous substances covered by the aforementioned Directive.

Note: Directives 76/464/EEC and 80/68/EEC shall be repealed on 22 December 2013 in pursuance of Article 22 of Directive 2000/60/EC; as of 23 December 2013, the relevant provisions of Directive 2000/60/EC shall be entirely applicable. Consequently, Directive 2000/60/EC shall only be taken into account for the purpose of this Directive as of that date.

- Water abstraction and impoundment of water subject to prior authorisation in pursuance of Directive 2000/60/EC of the European Parliament and of the Council.
- Waste management operations, including the collection, transport, recovery and disposal of waste and hazardous waste, including the supervision of such operations and after-care of disposal sites, subject to permit or registration in pursuance of Council Directive 75/442/EEC of 15 July 1975 on waste ⁽⁶⁾ and Council Directive 91/689/EEC of 12 December 1991 on hazardous waste ⁽⁷⁾.

Those operations include, *inter alia*, the operation of landfill sites under Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste ⁽⁸⁾ and the operation of incineration plants under Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 on the incineration of waste ⁽⁹⁾.

- Manufacture, use, storage, transport within the perimeter of the same undertaking or release into the environment of dangerous substances as defined and within the scope of Council Directive 67/548/EEC of 27 June 1967 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous substances ⁽¹⁰⁾.

⁽¹⁾ OJ L 257, 10.10.1996, p. 26.

⁽²⁾ OJ L 188, 16.7.1984, p. 20.

⁽³⁾ OJ L 129, 18.5.1976, p. 23.

⁽⁴⁾ OJ L 20, 26.1.1980, p. 43.

⁽⁵⁾ OJ L 327, 22.12.2000, p. 1.

⁽⁶⁾ OJ L 194, 25.7.1975, p. 39. Directive as last amended by Commission Decision 96/350/EC of 24 May 1996 adapting its Annexes IIA and IIB (OJ L 135, 6.6.1996, p. 32).

⁽⁷⁾ OJ L 377, 31.12.1991, p. 20. Directive as amended by Council Directive 94/31/EC of 27 June 1994 (OJ L 168, 2.7.1994, p. 28).

⁽⁸⁾ OJ L 182, 16.7.1999, p. 1.

⁽⁹⁾ OJ L 332, 28.12.2000, p. 91.

⁽¹⁰⁾ OJ 196, 16.8.1967, p. 1. Directive as last amended by Commission Directive 2001/59/EC of 6 August 2001 adapting to technical progress for the 28th time Council Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (OJ L 225, 21.8.2001, p. 1).

- Manufacture, use, storage, transport within the perimeter of the same undertaking or release into the environment of dangerous preparations as defined and within the scope of Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations ⁽¹⁾.
 - Manufacture, use, storage, transport or release into the environment of plant protection products or active substances used in plant protection products as defined and within the scope of Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽²⁾.
 - Manufacture, use, storage, transport or release into the environment of biocidal products or active substances used in biocidal products as defined and within the scope of Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market ⁽³⁾.
 - Transport by road, rail, inland waterways, sea or air of dangerous goods or polluting goods as defined either in Annex A to Council Directive 94/55/EC of 21 November 1994 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road ⁽⁴⁾ or in the Annex to Council Directive 96/49/EC of 23 July 1996 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail ⁽⁵⁾ or as defined in Council Directive 93/75/EEC of 13 September 1993 concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods ⁽⁶⁾.
 - Any contained use, including transport, of genetically modified micro-organisms as defined and within the scope of Council Directive 90/219/EEC of 23 April 1990 on the contained use of genetically modified micro-organisms ⁽⁷⁾.
 - Any deliberate release into the environment or transport of genetically modified organisms as defined and within the scope of Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC ⁽⁸⁾.
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⁽¹⁾ OJ L 200, 30.7.1999, p. 1. Commission Directive 2001/60/EC of 7 August 2001 adapting to technical progress Directive 1999/45/EC of the European Parliament and of the Council concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations (OJ L 226, 22.8.2001, p. 5).

⁽²⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2001/103/EC of 28 November 2001 (OJ L 313, 30.11.2001, p. 37).

⁽³⁾ OJ L 123, 24.4.1998, p. 1. Directive as last amended by Commission Directive 2001/87/EC of 12 October 2001 (OJ L 276, 19.10.2001, p. 17).

⁽⁴⁾ OJ L 319, 12.12.1994, p. 7. Directive as last amended by Commission Directive 2001/7/EC of 29 January 2001 (OJ L 30, 1.2.2001, p. 43).

⁽⁵⁾ OJ L 235, 17.9.1996, p. 25. Directive as last amended by Commission Directive 2001/6/EC of 29 January 2001 (OJ L 30, 1.2.2001, p. 42).

⁽⁶⁾ OJ L 247, 5.10.1993, p. 19. Directive as last amended by Commission Directive 98/74/EC of 1 October 1998 (OJ L 276, 13.10.1998, p. 7).

⁽⁷⁾ OJ L 117, 8.5.1990, p. 1. Directive as amended by Council Directive 98/81/EC of 26 October 1998 (OJ L 330, 5.12.1998, p. 13).

⁽⁸⁾ OJ L 106, 17.4.2001, p. 1.

ANNEX II

REMEDYING OF ENVIRONMENTAL DAMAGE

1. Introduction

This Annex sets out the rules to be followed by the competent authority in order to ensure the remedying of environmental damage.

2. Restoration objectives

- 2.1. Remedying of environmental damage, in terms of biodiversity damage and water pollution, is achieved through the restoration of the environment as a whole to its baseline condition. Subject to point 3.2.3 below, this objective is achieved in principle through the return of damaged habitats, species and associated natural resources services or waters concerned to baseline condition and compensation for any interim losses incurred. Restoration is done through rehabilitating, replacing or acquiring the equivalent of damaged natural resources and/or services at the site originally damaged or at a different location.
- 2.2. Remedying of environmental damage, in terms of water pollution and in terms of biodiversity damage, also implies that any serious harm or serious potential harm to human health be removed should such a harm be present.
- 2.3. Where polluted soil or subsoil gives rise to a serious harm to human health or could pose such a risk, the necessary measures shall be taken to ensure that the relevant contaminants are controlled, contained, diminished or removed so that the polluted soil does not pose any serious harm or serious potential harm to human health which would be incompatible with the current or plausible future use of the land concerned. Plausible future use shall be ascertained on the basis of the land use regulations in force when the damage occurred.
- 2.4. Achieving the goal of this Directive also requires restoration to be undertaken to compensate for interim losses from the date of the damage until the baseline is restored.

3. Restoration

3.1. *Identification of reasonable restorative options*

Identification of primary restorative actions

- 3.1.1. The competent authority shall consider a natural recovery option, that is an option in which no human intervention would be taken to directly restore the damaged natural resources and/or services to, or towards, baseline condition.
- 3.1.2. The competent authority shall also consider options comprised of actions to directly restore the natural resources and services towards baseline condition on an accelerated time frame.

Identification of compensatory restorative actions

- 3.1.3. For each option, the competent authority shall consider compensatory restorative actions to compensate for the interim loss of natural resources and services pending recovery.
- 3.1.4. The competent authority shall ensure that compensatory restoration takes account of the time dimension by discounting the value attributable to natural resources and/or services.
- 3.1.5. To the extent practicable, when evaluating compensatory restorative actions, the competent authority shall first consider actions that provide natural resources and/or services of the same type and quality, and of comparable value as those damaged.
- 3.1.6. When determining the scale of restorative actions that provide natural resources and/or services of the same type and quality, and of comparable value as those lost, the competent authority shall consider the use of a resource-to-resource or service-to-service scaling approach. Under this approach, the competent authority determines the scale of restorative actions that will provide natural resources and/or services equal in quantity to those lost.

- 3.1.7. If it is not possible to use the first choice resource-to-resource or service-to-service scaling approaches, monetary valuation techniques towards the damaged site may be used to choose compensatory restoration actions.
- 3.1.8. If, in the judgment of the competent authority, valuation of the lost resources and/or services is practicable, but valuation of the replacement natural resources and/or services cannot be performed within a reasonable time-frame or at a reasonable cost, the competent authority may estimate the monetary value of the lost resources and/or services and select the scale of the restoration action that has a cost equivalent to the lost value.
- 3.2. *Choice of the restorative options*
- 3.2.1. Once the competent authority has developed a reasonable range of restorative options, it shall evaluate the proposed options based on, at a minimum:
1. The effect of each option on public health and safety;
 2. The cost to carry out the option;
 3. The likelihood of success of each option;
 4. The extent to which each option will prevent future damage, and avoid collateral damage as a result of implementing the option; and
 5. The extent to which each option benefits to each component of the natural resource and/or service.
- 3.2.2. If several options are likely to deliver the same value, the least costly one shall be preferred.
- 3.2.3. When assessing the different identified restoration options, the competent authority is entitled to choose primary restoration actions that do not fully restore the damaged bio-diversity, water or soil to baseline. The competent authority is entitled to take this decision only if it compensates for the services, resources or value foregone at the primary site as a result of its decision by increasing compensatory actions to provide a similar level of services, resources or value as were foregone. These additional compensatory actions shall be determined in accordance with the rules set out in section 3.1. and the present section of this Annex.
- 3.2.4. The competent authority shall invite the operator to co-operate in the implementation of the procedures set out in this Annex so that those procedures can be properly and effectively carried out. The operator's participation may take the form, *inter alia*, of supplying appropriate information and data.
- 3.2.5. The competent authority shall also invite take the persons on whose land restorative measures should be carried out to submit their observations and shall take them into account.
- 3.2.6. On the basis of the above assessment, the competent authority shall decide which restorative measures shall be implemented.
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ANNEX III

INFORMATION AND DATA REFERRED TO IN ARTICLE 20(1)

The national reports referred to Article 20(1) shall include a list of instances of environmental damage and instances of liability under this Directive with the following information and data for each instance:

1. Date of occurrence of environmental damage and date on which proceedings were initiated under this Directive.
2. Industry classification code of the liable legal person(s).
3. Type of environmental damage.
4. Costs incurred with restoration and prevention measures, as defined in this Directive:
 - paid for directly by liable parties;
 - recovered *ex post facto* from liable parties;
 - unrecovered from liable parties. (Reasons for non-recovery shall be specified.)
5. Amount of additional administrative costs incurred annually by the public administration in setting up and operating the administrative structures needed to implement and enforce this Directive.
6. Whether there has been resort to judicial review proceedings either by liable parties or qualified entities. (The identity of the claimants and the outcome of proceedings shall be specified).
7. Outcome of the restoration process.
8. Date of closure of proceedings.

Member States may include in their reports any other information and data they deem useful on issues such as the desirability for introducing limited liability in certain cases, so as to allow a proper assessment of the functioning of this Directive. An evaluation of the possibility of introducing a cap should be undertaken within three years after the entry into force of this Directive.

Amended proposal for a Regulation of the European Parliament and of the Council on action by Member States concerning public service requirements and the award of public service contracts in passenger transport by rail, road and inland waterway ⁽¹⁾

(2002/C 151 E/07)

COM(2002) 107 final — 2000/0212(COD)

(Submitted by the Commission pursuant to Article 250(2) of the EC Treaty on 21 February 2002)

⁽¹⁾ OJ C 365 E, 19.12.2000, p. 169.

INITIAL PROPOSAL

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 71 and 89 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

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

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

- (1) The development of the highest possible standards of public service in the provision of passenger transport by, road, rail and inland waterway is, one of the primary Community objectives under the Common Transport Policy.
- (2) Competent authorities in the Member States have recourse to three main mechanisms in pursuing this objective: the conclusion of public service contracts with operators, the granting of exclusive rights to operators and the laying down of minimum standards for public transport operation.

AMENDED PROPOSAL

Unchanged

Having regard to the opinion of the Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Unchanged

- (1) The development of the highest possible standards of public service in the provision of passenger transport by rail, road and inland waterway is, as a means of boosting the use of sustainable forms of transport, one of the primary Community objectives under the Common Transport Policy. The Common Transport Policy moreover aims to achieve a substantial shift to sustainable transport modes. The European Council of Gothenburg of 15 and 16 June 2001 placed modal shift at the heart of the Community's sustainable development strategy.
- (2) Many socially necessary transport services are currently unable to operate on a commercial basis. Competent authorities in the Member States should be able to intervene to secure the provision of these services. Mechanisms that competent authorities can use to secure the provision of public passenger transport services include: awarding exclusive rights to operators; granting financial compensation to operators; and laying down general rules for public transport operation, applicable to all operators.

⁽¹⁾ OJ C 221, 7.8.2001, p. 31.

⁽²⁾ OJ C 253, 12.9.2001, p. 9.

INITIAL PROPOSAL

AMENDED PROPOSAL

(3) It is important to clarify the legal position of such mechanisms with respect to Community law. (4) In relation to inland transport, Article 73 of the Treaty refers to the discharge of certain obligations inherent in the concept of public service. Council Regulation (EEC) No 1191/69 of 26 June 1969 on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway ⁽¹⁾ establishes a Community regulatory framework for public passenger transport, implementing this Article of the Treaty and indicating how competent authorities in the Member States can ensure adequate transport services which contribute to sustainable development, social integration, environmental improvement and regional balance. (5) Many Member States have introduced legislation providing for the award of fixed-duration exclusive rights and public service contracts, in at least part of their public transport market, on the basis of open, transparent and fair award procedures. In the light of those developments, the application of Community rules on the freedom of establishment, and the application of Community public procurement rules, significant progress has been made towards Community/EEA-wide market access in public transport. As result, trade between Member States has substantially developed and several public transport operators are now providing services in more than one Member State. (6) However, the opening of the market on the basis of national legislation has led to disparities in the procedures applied and has created legal uncertainty as to the rights of operators and the duties of competent authorities.	(3) Competent authorities in the Community provide public passenger transport services in different ways: by acting themselves directly, by acting indirectly through companies they control, or by entrusting provision to third parties, public or private. (4) It is important to clarify the legal position of such mechanisms and ways of providing services with respect to Community law. Competent authorities should ensure that their actions are in compliance with the rules and principles of the Treaty that aim to ensure equal treatment and fair competition between undertakings. (5) In relation to inland transport, Article 73 of the Treaty refers to the discharge of certain obligations inherent in the concept of public service. Council Regulation (EEC) No 1191/69 of 26 June 1969 on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway ⁽¹⁾ establishes a Community regulatory framework for public passenger transport, implementing that Article of the Treaty and indicating how competent authorities in the Member States can ensure adequate transport services which contribute to sustainable development, social integration, environmental improvement and regional balance. (6) Many Member States have introduced legislation providing for the award of fixed-duration exclusive rights and public service contracts, in at least part of their public transport market, on the basis of open, transparent and fair award procedures. In the light of those developments, in the application of Community rules on the freedom of establishment, and in the application of Community public procurement rules, significant progress has been made towards Community/EEA-wide market access in public transport. As result, trade between Member States has substantially developed and several public transport operators are now providing services in more than one Member State. (7) However, the opening of the market on the basis of national legislation has led to disparities in the procedures applied and has created legal uncertainty as to the rights of operators and the duties of competent authorities.

⁽¹⁾ OJ L 156, 28.6.1969, p. 1; Regulation as last amended by Regulation (EEC) No 1893/91 (OJ L 169, 29.6.1991, p. 1).

⁽¹⁾ OJ L 156, 28.6.1969, p. 1; Regulation as last amended by Regulation (EEC) No 1893/91 (OJ L 169, 29.6.1991, p. 1).

INITIAL PROPOSAL

- (7) Studies carried out on behalf of the Commission ⁽¹⁾, and the experience of States where competition in the public transport sector has been in place for a number of years, show that, with appropriate safeguards, the introduction of regulated competition between Community operators in this sector leads to more attractive services at lower costs and is not likely to obstruct the performance of the specific tasks assigned to the operators.
- (8) It is important to update the Community legal framework in order to ensure the further development of competition in the provision of public passenger transport services and to take into account the new legal approaches which Member States have introduced in regulating the provision of public passenger transport services. This is in line with the conclusions of the European Council of Lisbon of 28 March 2000 where the Commission, Council and the Member States, each in accordance with their respective powers, were asked to 'speed up liberalisation in areas such as transport'. The updating of the Community legal framework will offer an opportunity to ensure that the smooth opening of the market is guaranteed at Community level and that basic elements of competitive procedures in all Member States are harmonised.
- (9) Article 16 of the Treaty establishes the need to ensure that services of general economic interest operate on the basis of principles and conditions which enable them to fulfil their missions. The development of competition should therefore be accompanied by Community rules that guarantee the protection of the general interest in terms of adequate quality and availability of public transport. In securing this general interest, it is important for consumers and interested parties to have at their disposal integrated information about the services available.

AMENDED PROPOSAL

- (8) Studies carried out on behalf of the Commission, and the experience of States where competition in the public transport sector has been in place for a number of years, show that, with appropriate safeguards, the introduction of controlled competition between Community operators in this sector leads to more attractive services at lower costs and is not likely to obstruct the performance of the specific tasks assigned to the operators.
- (9) It is important to update the Community legal framework in order to ensure the further development of controlled competition in the provision of public passenger transport services and to take into account the new legal approaches which Member States have introduced in regulating the provision of public passenger transport services. This is in line with the conclusions of the European Council of Lisbon of 28 March 2000 at which the Commission, Council and the Member States, each in accordance with its respective powers, were asked to 'speed up liberalisation in areas such as transport'. The updating of the Community legal framework will offer an opportunity to ensure that the smooth opening of the market is guaranteed at Community level and that basic elements of competitive procedures in all Member States are harmonised.
- (10) Procedures should be based on the principle of neutrality with regard to the rules governing property ownership under Article 295 of the Treaty, the principle of freedom to define services of general interest under Article 16 of the Treaty, and the principle of proportionality under Article 5 of the Treaty.
- (11) Article 16 of the Treaty establishes the need to ensure that services of general economic interest operate on the basis of principles and conditions which enable them to fulfil their missions. The development of competition should therefore be accompanied by Community rules that promote the protection of the general interest in terms of adequate availability in all regions of high-quality, reasonably priced public transport, accessible to people with reduced mobility and providing full social coverage. The term 'reduced mobility' does not automatically imply any form of medical impairment. In securing this general interest, it is important for consumers and interested parties to have at their disposal integrated information about the services available.

⁽¹⁾ 'Improved structure and organisation for urban transport operations of passengers in Europe' Isotope consortium, CEC, 1998; 'Examination of Community law relating to the public service obligations and contracts in the field of inland passenger transport', submitted to the European Commission by NEA Transport research and training, 1998.

INITIAL PROPOSAL

(10) Freedom of establishment is a basic principle of the common transport policy and requires that operators of a Member State established in another Member State be guaranteed effective access to the public transport market of that State in a transparent way and without discrimination.

(11) The Treaty lays down specific rules with regard to restrictions on competition. Article 86(1) of the Treaty, in particular, obliges the Member States to adhere to these rules with regard to public undertakings and undertakings which have been granted exclusive rights. Article 86(2) of the Treaty subjects undertakings entrusted with the operation of services of general economic interest to these rules, under specific conditions.

AMENDED PROPOSAL

(12) Environmental protection requirements should be integrated into the application of this Regulation to ensure that, when assessing the adequacy of public passenger service networks, defining selection and award criteria, and awarding public service contracts, competent authorities take environmental factors into account, in particular rational energy use and local, national and international standards and norms, especially those concerning the emission of air pollutants, noise and greenhouse gases.

(13) Freedom of establishment is a basic principle of the common transport policy and requires that all operators legally established in a Member State be guaranteed effective access to the public transport market of that State in a transparent way and without discrimination.

(14) The Treaty lays down specific rules with regard to restrictions on competition. Article 86(1) of the Treaty, in particular, obliges Member States to adhere to those rules with regard to public undertakings and undertakings which have been granted exclusive rights. Article 86(2) of the Treaty subjects undertakings entrusted with the operation of services of general economic interest to these rules, under specific conditions.

(15) In observing the requirements of the Treaty in the public passenger transport sector, in particular those requirements relating to services of general economic interest and exclusive rights, Member States should be able to use a range of approaches.

(16) Passenger transport markets which are deregulated and in which there are no exclusive rights should be allowed to maintain their characteristics and way of functioning, insofar as these are compatible with Treaty requirements.

(17) As an alternative to deregulation, competent authorities should be able to choose controlled competition for services of general economic interest. This can take the form of competition for the award of exclusive rights; or the assignment of particular tasks to publicly-owned operators in a context where other operators are also free to provide services, but where all operators are constrained by quality and integration requirements.

INITIAL PROPOSAL

- (12) In order to ensure the application of the principle of non-discrimination and the equal treatment of competing operators, it is essential to define basic common procedures that must be followed by competent authorities in concluding public service contracts or laying down minimum criteria for public transport operation. According to the principles of Community law, competent authorities are required to apply mutual recognition of technical standards and proportionality of selection criteria in implementing these procedures. In accordance with the principle of subsidiarity, such basic common procedures should nevertheless leave it open for competent authorities in the Member States to conclude public service contracts or lay down minimum criteria for public transport operation in ways that take account of specific national or regional circumstances, whether legal or factual.
- (13) Studies and experience show that competitive tendering for public service contracts be is an effective way of achieving the benefits of competition in terms of cost, efficiency and innovation without obstructing the performance of the specific tasks assigned to the operators in the general public interest.
- (14) Mandatory tendering rules for the conclusion of certain contracts are laid down by Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts ⁽¹⁾ and Directive 93/38/EEC of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors ⁽²⁾.
- (14) Where such rules are applicable, those aspects of this Regulation that deal with the requirement for contracts to be tendered, and with the methods by which the selection of operators should be conducted, do not apply.

⁽¹⁾ OJ L 209, 24.7.1992, p. 1; Directive as last amended by Directive 97/52/EC (OJ L 328, 28.11.1997, p. 1).

⁽²⁾ OJ L 199, 9.8.1993 p. 84; Directive as last amended by Directive 98/4/EC (OJ L 101, 1.4.1998, p. 1).

AMENDED PROPOSAL

- (18) In order to ensure the application of the principle of non-discrimination and the equal treatment of competing operators, it is essential to define basic common procedures that must be followed by competent authorities in concluding public service contracts or laying down general rules for public transport operation. According to the principles of Community law, competent authorities are required to observe a mutual recognition of technical standards and proportionality of selection criteria in implementing these procedures. In accordance with the principle of subsidiarity, such basic common procedures should nevertheless leave it open for competent authorities in the Member States to conclude public service contracts or to lay down general rules for public transport operation in ways that take account of specific national or regional circumstances, whether legal or factual.
- (19) Studies and experience show that competitive tendering for public service contracts can in many cases be an effective way of achieving the benefits of competition in terms of cost, efficiency and innovation without obstructing the performance of the specific tasks assigned to the operators in the general public interest.
- (20) Mandatory tendering rules for the conclusion of certain contracts are laid down by Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts ⁽¹⁾, Directive 93/36/EEC of 14 June 1993 coordinating procedures for the award of public supply contracts ⁽²⁾, Directive 93/37/EEC of 14 June 1993 concerning the coordination of procedures for the award of public works contracts ⁽³⁾ and Directive 93/38/EEC of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors ⁽⁴⁾.
- (21) Where the mandatory tendering rules in these directives are applicable, those aspects of this Regulation that deal with the requirement for contracts to be tendered, and with the methods by which the selection of operators should be conducted, do not apply.

⁽¹⁾ OJ L 209, 24.7.1992, p. 1; Directive as last amended by Commission Directive 2001/78/EC (OJ L 285, 29.10.2001, p. 1).

⁽²⁾ OJ L 199, 9.8.1993, p. 1; Directive as last amended by Commission Directive 2001/78/EC (OJ L 285, 29.10.2001, p. 1).

⁽³⁾ OJ L 199, 9.8.1993, p. 54; Directive as last amended by Commission Directive 2001/78/EC (OJ L 285, 29.10.2001, p. 1).

⁽⁴⁾ OJ L 199, 9.8.1993, p. 84; Directive as last amended by Commission Directive 2001/78/EC (OJ L 285, 29.10.2001, p. 1).

INITIAL PROPOSAL

AMENDED PROPOSAL

- (22) Where the tendering rules in these directives are not compulsorily applicable, this Regulation should apply in full.
- (23) The tendering rules in those directives do not have to be applied to public service concessions. To help competent authorities apply this Regulation correctly, it is therefore necessary to define the concept of public service concessions as it relates to public passenger transport. Taking into account the Commission's interpretative communication on concessions under Community law ⁽¹⁾, a concession consists of the award to an operator of the right to exploit a particular service, together with the associated economic risk.
- (24) The tendering rules in those directives do not have to be applied when a competent authority decides to entrust an operator forming part of the same administration with the supply of services. They do not have to be applied when a competent authority decides to entrust with the supply of services an operator over which it exercises a control which is similar to that which it exercises over its own departments and which, at the same time, carries out the essential part of its activities with the controlling authority or authorities. They do not have to be applied to public service contracts which concern exclusively heavy rail, metro or inland waterway services, and not bus or light rail services.
- (25) The tendering rules in Directives 92/50/EEC and 93/38/EEC do not have to be applied when an authority awards a contract to an operator on the basis of certain exclusive rights, provided that the exclusive right is compatible with the Treaty and the operator is itself a State, a regional or local authority, a body governed by public law or an association formed by one or more of such authorities or bodies.
- (26) The tendering rules in Directive 93/38/EEC do not have to be applied when an authority awards a contract to an operator which is affiliated, as defined in that Directive, to the competent authority.

⁽¹⁾ OJ L 121, 29.4.2000, p. 2.

INITIAL PROPOSAL

AMENDED PROPOSAL

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(15) Tendering of public service contracts should not be compulsory where safety standards in the provision of rail services. (15) or the coordination of a metro or light rail network would be endangered. (15) Interested parties should nevertheless have the opportunity to comment on plans to award contracts in this way, in time for their views to be taken into account. Where rail contracts awarded in this way are fully integrated with bus services, it should be possible for the bus services to be included in the same contract.	(27) Certain rail services in Member States are operated mainly for reasons of historical preservation or recreation. They include certain services which use steam-powered locomotives, narrow track gauges or lines not connected to the public rail network. Even though they may receive incidental financial support from public bodies, these operations clearly have a purpose other than the provision of public passenger transport and should therefore not be affected by rules and procedures applying to public service requirements. (28) Tendering of public service contracts should not be compulsory where safety standards would be endangered in the provision of heavy rail services. (29) Tendering should also not be compulsory where the complexity or specific technical features of a metro network make it impossible to tender single lines or groups of lines without the likelihood of the incumbent operator becoming the only realistic tenderer and thereby establishing a de facto monopoly. (30) Where authorities consider that the savings that could reasonably be anticipated from awarding a contract for the provision of metro or light rail services following a competitive procedure would be outweighed by additional costs, tendering should similarly not be compulsory. In assessing this, competent authorities should be able to take into account the cost of maintaining coordination between the operator and the manager of the infrastructure; the cost of maintaining coordination between the operator and the authority; and the costs of tendering and managing the contract. This condition will normally be considered to be fulfilled where the operating costs of the operator to whom direct award will be made are compatible with those of comparable operators, including in particular those whose contracts have been awarded by competitive tender. Deleted
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INITIAL PROPOSAL

- (16) Tendering for public service contracts should also not be compulsory where the contract has a low value. This value should be higher for the tendering of a whole network than for the tendering of a part of a network or of a single route.
- (17) Taking into account the specific, commercially viable nature of certain parts of the public transport market, it should also be possible for competent authorities to facilitate new initiatives that arise from the market and that fill gaps not currently served by any operator, by granting an exclusive right to provide services on a particular route, where this is at the operator's request. It is not inappropriate for this grant to be made without tendering, provided that it is for a strictly limited period only and is not renewable.
- (18) Where authorities grant an exclusive right but where no direct financial compensation is involved, they should be able to grant it by means of a simplified procedure that nonetheless provides for non-discriminatory competition between operators.

AMENDED PROPOSAL

- (31) Tendering for public service contracts should likewise not be compulsory where the contract has a low value. This value should be higher for the tendering of a whole network.
- (32) Taking into account the specific, commercially viable nature of certain parts of the public transport market, competent authorities should be empowered to facilitate new initiatives that arise from the market and that fill gaps not currently served by any operator, by granting an exclusive right to provide services on a particular route, where this is at the operator's request and does not require financial compensation for operating cost losses. It is not inappropriate for this grant to be made without tendering, provided that it is for a strictly limited period only and is not renewable.
- (33) Where authorities grant an exclusive right but where no direct financial compensation is involved, they should be permitted to grant it by means of a simplified procedure that nonetheless provides for non-discriminatory competition between operators.
- (34) The provisions of this Regulation applicable to operators should also apply in those cases where public transport services are provided by a public administration which does not have a legal personality distinct from that of the public administration that is acting as the competent authority. Any other arrangement, by not applying these provisions to cases where the State acts in an entrepreneurial capacity, would not ensure the non-discriminatory application of Community law. The application of this approach should not, however, prevent the continuation of competent authorities' role in providing transport services, either themselves or through operators that they control, where this is in the public interest.
- (35) Competent authorities that provide bus services themselves, or through operators that they control, should be permitted to continue these arrangements until the end of a long transitional period.
- (36) Moreover, beyond the end of the transitional period, competent authorities should be able to make proposals to the Commission for the continuation of the direct provision of bus services, and to provide financial compensation to ensure the provision of socially necessary services, without the need for a competitive tendering procedure, provided that other operators are able to offer supplementary services within the limitations required by non-discriminatory general rules.

INITIAL PROPOSAL

AMENDED PROPOSAL

- (19) It should be possible for authorities to compensate operators for the cost of complying with minimum criteria for public transport operation provided that this compensation can be fairly calculated and is not at such a high level that it detracts from the pressure on operators to focus primarily on the requirements of passengers.
- (37) However, if an authority wishes, for transport policy reasons, to exclude all other operators from offering transport services in the same area, this should be done in a way that minimises the restriction of competition. A fair competitive tendering procedure for the award of an exclusive right would normally be considered to satisfy this requirement.
- (38) In the case of heavy rail, however, Council Directive 91/440/EEC ⁽¹⁾ of 29 July 1991 on the development of the Community's railways requires railway undertakings to be managed independently of the State. It therefore rules out the direct provision of heavy rail services by public authorities.
- (39) Competent authorities are responsible for network management; that is, activities, other than the supply of public passenger transport to passengers, that contribute to the provision of a network of integrated public passenger transport services. These activities may include laying down general rules for public passenger transport operation; publicising the network and providing information for users and potential users; coordinating service timetables; designing and administering integrated ticketing schemes, including arrangements for reimbursement between operators; coordinating or providing security and inspection arrangements; organising services to react to short-term changes in demand or disruptions; providing or managing infrastructure; or providing rolling stock. Authorities should be permitted to carry out these functions themselves, to delegate them to publicly-owned operators or other agencies, or to include some or all of them in contracts awarded by way of a competitive procedure.
- (40) Authorities should be permitted to compensate operators not only for the cost of complying with general rules for public transport operation, but also for the costs or income losses arising from activities that boost the use made of public transport, provided that this compensation can be fairly calculated and is accompanied by requirements that place pressure on operators to focus primarily on the requirements of passengers. In order to ensure transparency, simplified contract award procedures and the direct award of exclusive rights for innovative services should only be used if the amount of compensation payable for compliance with general rules is small in relation to the total value of the service.

⁽¹⁾ OJ L 237, 24.8.1991, p. 25; Directive as last amended by Directive 2001/12/EC of the European Parliament and of the Council (OJ L 75, 15.3.2001, p. 1).

INITIAL PROPOSAL

- (20) The provisions of this Regulation applicable to operators should also apply in those cases where public transport services are provided by a public administration which does not have a legal personality distinct from that of the public administration that is acting as the competent authority. Any other arrangement, by not applying these provisions to case where the State acts in an entrepreneurial capacity, would not ensure the non-discriminatory application of Community law.

- (21) Studies and experience show that where services are provided under public service contracts whose duration is limited to five years, the performance of the specific tasks assigned to the operators need not be obstructed. To minimise the distortion of competition while protecting the quality of services, public service contracts should normally, therefore, be limited to this duration

AMENDED PROPOSAL

- (41) Passengers and the wider community should have the opportunity to comment on plans to directly award contracts, in time for their views to be taken into account.
- (42) Where a competent authority proposes to award a contract without competition, potential operators who would thereby be excluded from tendering for services should have the opportunity to make alternative proposals. If such a proposal is made, the authority should consider it and give reasons in writing for accepting or rejecting it.
- (43) In order to protect the interests of passengers and the wider public interest, operators that receive contracts by direct award should have to justify the trust placed in them in particular by regularly demonstrating that their performance in terms of attracting passengers and carrying out their services with the support of public money is in line with that of comparable operators and the operator's own previous performance. Under-performance should call into question whether the operator is successfully fulfilling the public service requirements laid on them or whether an alternative arrangement would achieve better results for passengers and for the wider public interest.
- (44) Where authorities are faced with the risk of a breakdown in the provision of services, they should have the power to put in place short-term emergency measures pending the award of a new public service contract.
- (45) Studies and experience show that there are disadvantages to public service contracts that are either too short or too long in duration. Contracts of short duration can create problems in terms of the continuity of provision, investment and stability of staffing. Contracts of long duration can lead to the closing of the market for a longer period than is necessary, entailing a diminishing effect on the benefits of competitive pressure. To minimise the distortion of competition while protecting the quality of services, public service contracts should normally, therefore, be limited to no more than eight years for bus services and fifteen years for rail and inland waterway services. This will give the competent authorities the flexibility required for adapting contract periods to local circumstances.

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(21) However, longer periods may be necessary where the operator has to invest in infrastructure, railway rolling-stock or other vehicles that are tied to specific, geographically defined transport services and that have long payback periods

(22) In accordance with the principle of non-discrimination, competent authorities should ensure that public service contracts do not cover a wider geographical area than required by the general interest and in particular, by the need to provide integrated services to significant groups of passengers who habitually use more than one link in the public transport network during the same journey.

(23) Where it is appropriate for competent authorities, in pursuing the general interest, to protect employees in situations where the conclusion of a public service contract may lead to a change of operator, they should have the power to require operators to apply the relevant provisions of Council Directive 77/187/EEC of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses ⁽¹⁾.

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(46) However, provision may be necessary for longer contracts where the operator has to invest in infrastructure, railway rolling-stock or other vehicles that are tied to specific, geographically defined transport services and that have payback periods longer than the standard contract period. Alternatively, competent authorities should be permitted to set up leasing schemes for vehicles and rolling stock or non-discriminatory indemnity arrangements that do not give an advantage to either an incumbent or an incoming operator.

Deleted

(47) Contracts should contain provisions that protect competent authorities and passengers from poor performance by operators. They should if necessary also contain incentives to operators to improve the service provided to the public. Contracts may be subject to variation in line with provisions agreed by the contracting parties but, in order to ensure transparency, increases in the value of the contract should not be excessive.

(48) The integration of services across the boundaries of competent authorities is of significant importance to passengers who need to use services for which more than one operator or authority is responsible. Within Member States, national rules or procedures can ensure that authorities work in co-operation. Where neighbouring authorities are separated by a national border, there is no authority competent to ensure that such authorities work in co-operation. In many cases such co-operation can be achieved bilaterally. However, where this is not the case, an authority should be empowered to make proposals for the extension of its integrated systems to a second authority, and for there to be a presumption that these proposals will be accepted unless the second authority has good reason for rejection.

(49) Where it is appropriate for competent authorities, in pursuing the general interest, to protect employees in situations where the conclusion of a public service contract may lead to a change of operator, they should have the power to require operators to apply the relevant provisions of Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses ⁽¹⁾.

⁽¹⁾ OJ L 61, 5.3.1977, p. 26; Directive as amended by Directive 98/50/EC (OJ L 201, 17.7.1998, p. 88).

⁽¹⁾ OJ L 82, 22.3.2001, p. 16.

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(24) It is necessary that the procedures introduced according to this Regulation are transparent and that appeals procedures against decisions of the competent authorities are in place. Authorities should also keep records of their decisions for a period of ten years, in line with the limitation period laid down in Article 15 of Council Regulation (EC) No 659/1999 on State aid procedures ⁽¹⁾.

(50) In giving effect to this Regulation, competent authorities should ensure that all operators comply fully with the social obligations established by relevant European and national law and with the provisions of any generally-applicable collective agreements. These should be applied without discrimination. It is also appropriate for competent authorities to be able to require operators awarded public service contracts to comply with other social obligations, including those laid down in collective agreements in force in the place where the services are to be provided, provided that those obligations are compatible with Community law.

(51) Competent authorities may require all operators providing services in their territory to be established in the Member State to which that authority belongs, except where Community law provides otherwise. Operators should meet all the licensing requirements of the Member State. In order to ensure non-discrimination, operators should not be excluded from tendering procedures because they are not yet established in the Member State or have not yet obtained the necessary licences.

(52) The provisions of this Regulation should permit competent authorities to ensure that small and medium-sized enterprises have the opportunity to continue to secure market shares in local transport services. This should be achieved in particular through limiting contracts to proportionate geographical size and through implementing measures that control the development of oligopoly in markets open to controlled competition.

(53) The tendering of high-value contracts requires competent authorities to define and describe complex systems. Therefore, authorities should be empowered, when awarding such contracts, to negotiate details with some or all of the potential operators after tenders have been submitted. This process should be non-discriminatory.

(54) It is necessary that the procedures introduced under this Regulation are transparent and that appeals procedures against decisions of the competent authorities are available. Authorities should also keep records of their decisions for a period of ten years, in line with the limitation period laid down in Article 15 of Council Regulation (EC) No 659/1999 on State aid procedures ⁽¹⁾.

⁽¹⁾ OJ L 83, 27.3.1999, p. 1.

⁽¹⁾ OJ L 83, 27.3.1999, p. 1.

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- (25) Regulation (EEC) No 1191/69 provides that operating costs and revenues, overheads, assets and liabilities relating to the fulfilment of public service requirements need to be accounted for separately. This requirement should be retained, in a modernised form, in particular to ensure that authorities obtain value for money from public expenditure and that payments made by way of compensation are not misused to distort competition.
- (26) Compensation payments which exceed the net costs incurred by an operator as a result of fulfilling a public service requirement are liable to be examined under Community rules on State aids. It is therefore appropriate for the Community to lay down rules establishing when compensation may be considered not to be excessive. Competitive tendering for the conclusion of contracts is an efficient way of ensuring that compensation is not excessive, provided that the results of the tendering reflect fair and realistic market conditions.
- (27) Regulation (EEC) No 1191/69 exempts compensation paid pursuant to its provisions from the State aid notification procedure laid down in Article 88(3) of the Treaty; this Regulation establishes new and detailed provisions, designed for the specific circumstances of the public passenger transport sector, including modernised requirements for separate accounting, to ensure that compensation is compatible with Community State aid rules; in addition, it establishes new detailed procedures permitting the Commission to monitor these payments. It is therefore appropriate to continue to exempt compensation paid pursuant to the provisions of this Regulation from the State aid notification procedure.
- (28) With a view to improving the operation of this Regulation in the light of experience, the Commission should report on the impact of Community legislation and the application of this Regulation.

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- (55) Regulation (EEC) No 1191/69 provides that operating costs and revenues, overheads, assets and liabilities relating to the fulfilment of public service requirements need to be accounted for separately. This requirement should be retained, in a modernised and reinforced form, in particular to ensure that authorities obtain value for money from public expenditure and that payments made by way of compensation are not misused to distort competition. It is appropriate to accept a reasonable profit as part of an operator's costs. Competent authorities should be permitted to require guarantees from operators and for these guarantees to be provided where appropriate by third parties, provided that in doing so the operator or third party is not misusing funds provided to it by a public body for a different purpose.
- (56) Compensation payments which exceed the net costs incurred by an operator as a result of fulfilling a public service requirement are liable to be examined under Community rules on State aid. It is therefore appropriate for the Community to lay down rules establishing when compensation may be considered not to be excessive. Competitive tendering for the conclusion of contracts is an efficient way of ensuring that compensation is not excessive, provided that the results of the tendering reflect fair and realistic market conditions.
- (57) Regulation (EEC) No 1191/69 exempts compensation paid pursuant to its provisions from the State aid notification procedure laid down in Article 88(3) of the Treaty; this Regulation establishes new and detailed provisions, designed for the specific circumstances of the public passenger transport sector, including modernised requirements for separate accounting, to ensure that compensation is compatible with Community State aid rules. In addition, it establishes new detailed procedures permitting the Commission to monitor these payments. It is therefore appropriate to continue to exempt compensation paid pursuant to the provisions of this Regulation from the State aid notification procedure.
- (58) With a view to improving the operation of this Regulation in the light of experience, the Commission should report on the application of this Regulation. In order to comply with this requirement, it will be necessary for Member States to provide the Commission with certain information.

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(29) As competent authorities in the Member States and operators will need time to adjust to the provisions of this Regulation, provision should be made for the use of transitional arrangements.

(30) As a result of the Community's international obligations, access to the public transport markets of the Member States has, in some circumstances, been granted to certain third-country operators; this Regulation does not restrict this access

(31) Regulation (EEC) No 1191/69 is superseded by this Regulation and should therefore be repealed.

(32) Council Regulation (EEC) No 1107/70 of 4 June 1970 on the grant of aid for transport by rail, road and inland waterway ⁽¹⁾ includes a provision regarding reimbursement for the discharge of obligations arising from the provision of a public service. That provision, which expressly anticipates the entry into force of new Community rules, is now redundant and should be deleted,

HAVE ADOPTED THIS REGULATION:

⁽¹⁾ OJ L 130, 15.6.1970, p. 1; Regulation as last amended by Regulation (EC) No 543/97 (OJ L 84, 26.3.1997, p. 6).

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(59) As competent authorities in the Member States and operators will need time to adjust to the provisions of this Regulation, provision should be made for the use of transitional arrangements. Moreover, there should be provision for long transitional arrangements for existing bus services provided directly by an authority or an operator that it controls.

(60) During the transitional period, it is likely that competent authorities will apply the provisions of this Regulation at different times. It could therefore be possible, during that period, for operators originating in markets not yet affected by the provisions of this Regulation to tender for contracts in markets that had been opened to controlled competition at an earlier stage. To avoid imbalance in the opening of the public transport market, competent authorities should be able to refuse tenders from undertakings operating in markets that will be opened in future but are not yet open, provided that this is applied without discrimination and decided in advance of a call for tenders.

(61) As a result of the Community's international obligations, access to the public transport markets of the Member States has, in some circumstances, been granted to certain third-country operators; this Regulation does not restrict this access. Where the terms of these agreements permit operators from third countries to establish themselves in the Member States, those operators should comply with the legal provisions applicable in the territory in which the service is to be performed, including obligations relating to workforce, materials and management. This Regulation should not grant any additional rights to third country operators.

(62) Regulation (EEC) No 1191/69 is superseded by this Regulation and should therefore be repealed.

(63) Council Regulation (EEC) No 1107/70 of 4 June 1970 on the granting of aids for transport by rail, road and inland waterway ⁽¹⁾ includes a provision regarding reimbursement for the discharge of obligations arising from the provision of a public service. That provision, which expressly anticipates the entry into force of new Community rules, is now redundant and should be deleted,

Unchanged

⁽¹⁾ OJ L 130, 15.6.1970, p. 1; Regulation as last amended by Regulation (EC) No 543/97 (OJ L 84, 26.3.1997, p. 6).

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CHAPTER I

SCOPE AND DEFINITIONS

Article 1

scope

This Regulation shall apply to national and international operation of public passenger transport by rail, road and inland waterway. It lays down the conditions under which competent authorities may compensate transport operators for the cost of fulfilling public service requirements and under which they may grant exclusive rights for the operation of public passenger transport, due regard being had to the pursuit of legitimate public service objectives within a framework of regulated competition.

Article 2

Relationship to public procurement law

This Regulation shall be without prejudice to the obligations on competent authorities which flow from Directives 92/50/EEC, and 93/38/EEC.

Where either of those Directives makes the tendering of a public service contract mandatory, Articles 6(1), 7, 8, 12, 13(1), 13(2), and 14 of this Regulation shall not apply to the award of that contract.

Article 3

Definitions

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

- (a) 'competent authority' means any State body with the power to intervene in public passenger transport markets, or any other body to which such a State power has been assigned;

Purpose and scope

1. The purpose of this Regulation is to improve the efficiency and attractiveness of public passenger transport in the Community as part of an integrated transport policy committed to sustainable mobility, with due consideration for town planning, regional development and the environment, and to promote legal certainty for competent authorities' interventions in public passenger transport.

2. This Regulation shall apply to national and international operation of public passenger transport by rail, road and inland waterway. It lays down the conditions under which competent authorities may compensate transport operators for the cost of fulfilling public service requirements and under which they may grant exclusive rights for the operation of public passenger transport.

3. This Regulation shall not apply to rail services whose principal purpose is historic preservation and the provision of recreational facilities.

Unchanged

This Regulation shall be without prejudice to the obligations on competent authorities which flow from Directives 92/50/EEC, 93/36/EEC, 93/37/EEC and 93/38/EEC.

Where one of those Directives makes the tendering of a public service contract mandatory, Articles 4a(1), 6(a), 7, 7a, 7b, 8, 12, 13(1) and (2), 14 and 17(7) of this Regulation shall not apply to the award of that contract.

The provisions of this Regulation shall apply in full to the award of all other public service contracts, including all public service concessions.

Unchanged

- (a) 'competent authority' means any State body with the power to intervene in public passenger transport markets, or any other body in which such a State power has been invested;

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(b) 'direct award' means the award of a contract to a given operator following a procedure in which no other operator can participate;

(c) 'exclusive right' means the entitlement on the part of an operator to operate a particular type of passenger transport services on a particular route or network or in a particular area, to the exclusion of other potential operators;

(d) 'integrated services' means rail and bus services provided together, directly by an operator, under the terms of a single public service contract; by a single body of employees having the same contractual status; included in a single operating account; and having a single information service, ticketing scheme and timetable;

(e) 'operator' means an undertaking that provides public passenger transport services and that is established under public or private law; or a part, which provides public passenger transport services, of a public administration;

(f) 'payback period' of an asset for an operator means the period during which it is estimated, using appropriate discount rates, that the cost of the asset to the operator, net of any resale value, will exceed the net income that the operator will have received on account of the asset, in particular from passengers and from public authorities;

(g) 'public passenger transport' means transport offered to the general public on a continuing basis;

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Unchanged

(d) 'inland waterway' means rivers, canals and lakes suitable for the passage of vessels;

(e) 'operator' means an undertaking established under public or private law that provides public passenger transport services, or that part of a public administration which provides public passenger transport services;

(f) 'payback period' means the period during which it is estimated, using appropriate discount rates, that the cost of an asset to an operator, taking into account the risks involved in the investment and net of any resale value, will exceed the net income that the operator will have received on account of the asset, in particular from passengers and from public authorities;

(g) 'people with reduced mobility' means anyone who has a particular difficulty when using public transport, including elderly people, disabled people, people with sensory impairment and wheelchair users, pregnant women, people accompanying small children or people with heavy or cumbersome baggage;

(h) 'public passenger transport' means transport offered to the general public on a continuing basis;

(i) 'public service concession' means a public service contract that grants an operator the right to exploit a particular service, together with the associated economic risk. Consequently:

(i) most of the operator's remuneration is obtained from users, particularly by charging fees;

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(h) 'public service contract' means any legally enforceable agreement between a competent authority and an operator for the fulfilment of public service requirements.

- (ii) the operator bears most of the financial consequences of changes in tariffs and of fluctuations in the number of users;
- (iii) where the authority sets maximum tariffs, the operator has a discretion to set tariffs below that level;
- (iv) where the authority sets minimum levels of service, the operator has a discretion to provide higher levels of service;

(j) 'public service contract' means any legally enforceable agreement between a competent authority and an operator for the fulfilment of public service requirements.

For the purposes of this Regulation, a public service contract is also:

Unchanged

(i) an agreement that is embodied in a legally enforceable decision, undertaken with an operator's prior consent, through which a competent authority entrusts the operator with the supply of services; or

(ii) the terms that are attached to a decision taken by a competent authority, to entrust an operator forming part of the same public administration with the supply of services

(ii) the terms that are attached to a decision, taken by a competent authority, to entrust the supply of services to an operator forming part of the same public administration, or an operator over which the authority exercises a control which is similar to that which it exercises over its own departments and which, at the same time, carries out the essential parts of its activities by order of the authority;

(i) 'public service requirement' means a requirement adopted by a competent authority in order to secure adequate public passenger transport services;

(k) 'public service requirement' means a requirement adopted by a competent authority in order to secure adequate public passenger transport services;

(j) 'value' of a public passenger transport service, route, contract, compensation scheme or market means the total remuneration, net of VAT, received by the operator or operators, including in particular financial compensation from the public sector and any income from passengers that is not passed on to the competent authority in question.

(l) 'value' of a service, route, contract, compensation scheme or market for public passenger transport means the total remuneration, net of VAT, received by the operator or operators, including in particular financial compensation from the public sector and any income from passengers that is not passed on to the competent authority in question.

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CHAPTER II

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**ENSURING THE QUALITY OF PUBLIC PASSENGER
TRANSPORT***Article 4*

1. In applying this Regulation, competent authorities shall secure adequate public passenger transport services that are of high quality and availability, by concluding public service contracts in accordance with Chapter III or by laying down minimum criteria for public passenger transport operation in accordance with Chapter IV.

In applying this Regulation, competent authorities shall aim to secure adequate consumer-oriented public passenger transport services that are of high quality and reasonably priced, providing integration, continuity, safety and full social coverage, by concluding public service contracts in accordance with Chapter III or by laying down general rules for public passenger transport operation in accordance with Chapter IV.

Competent authorities' duties*Article 4a***Criteria**

2. In assessing the adequacy of public passenger transport services, in defining selection and award criteria, and in awarding public service contracts, competent authorities shall take into account at least the following criteria:

1. In assessing the adequacy of public passenger transport services, in defining selection and award criteria, and in awarding public service contracts, competent authorities shall take into account at least the following criteria:

- (a) consumer protection factors including the accessibility of the services in terms of their frequency, speed, punctuality, reliability, the extent of the network and the service information that is provided;
- (b) the level of tariffs for different groups of users and the transparency of tariffs;
- (c) integration between different transport services, including integration of information, ticketing, timetables, consumer rights and the use of interchanges
- (d) accessibility for people with reduced mobility;
- (e) environmental factors, including local, national and international standards for the emission of air pollutants, noise and global warming gases;

- (a) the overall quality of the service provided to consumers and specific consumer protection factors including the accessibility of the services in terms of their frequency, speed, punctuality, reliability, the extent and capacity of the network and the service information that is provided;
- (b) the level of tariffs for different groups of users set by the authority or operator and the transparency of tariffs;
- (c) integration between different transport services, including integration of information, ticketing, timetables, consumer rights and the use of interchanges, including integration between different operators and with services for which neighbouring authorities are responsible;

Unchanged

- (e) environmental factors, including rational use of energy and local, national and international standards and norms, notably those pertaining to the emission of air pollutants, noise and global warming gases;
- (f) the specifications and condition of the vehicles, vessels and rolling stock, infrastructure, and other assets to be used in the provision of the service, and the arrangements for the maintenance and renewal of those assets;

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- (f) the balanced development of regions
- (g) the transport needs of people living in less densely populated areas;
- (h) passenger health and safety;
- (i) the qualifications of the staff and;
- (j) how complaints are handled, disputes between passengers and operators are resolved and service shortfalls are redressed

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- (g) the balanced development of regions, including integration between local, regional and long-distance transport systems;
- (h) the transport needs of people living in less densely populated areas;
- (i) the transport needs of people living in border regions including the integration across national borders of information, timetables, ticketing and services in general;
- (j) safety and health of employees and passengers;
- (k) the qualifications of the staff and the internal training provided by operators;
- (l) the pay and other employment and social conditions that are in force in the Member State, region or locality in which the services are to be performed, including any specific conditions that the authority itself has agreed to apply;
- (m) how complaints are handled, disputes between passengers and operators are resolved and service shortfalls are redressed; and
- (n) the cost of providing the services.

2. For the purposes of point (i) of paragraph 1, competent authorities responsible for local and regional public passenger transport services, information services, or ticketing schemes on one side of a national border may make proposals to extend these services and schemes to areas on the other side of the border.

Competent authorities receiving such proposals shall consider them, and shall inform the Commission if they reject them.

*Article 4b***Passenger information**

3. Operators of public passenger transport services shall make available on request, complete and up to date information about the services' timetables, their tariffs and their accessibility for people with different types of mobility handicap. The only charge they shall make shall be to cover the marginal administrative cost of providing the information.

Operators of public passenger transport services shall make available in accessible formats and within a reasonable timescale, on request, complete and up to date information about the services' accessibility for people with reduced mobility, their timetables and their tariffs. The only charge they shall make shall be to cover the marginal administrative cost of providing the information.

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CHAPTER III

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PUBLIC SERVICE CONTRACTS*Article 5***Compulsory use of public service contracts**

A public service contract shall be concluded for the payment of all financial compensation for the cost of complying with public service requirements, including compensation taking the form of the use of assets where such use will be charged below market rates, but excluding compensation paid for compliance with general rules for public passenger transport operation in accordance with Article 10.

A public service contract shall also be concluded for the award of all exclusive rights.

*Article 6***Award of public service contracts**

Where public service contracts are granted under this Regulation, they shall comply with the following requirements:

- (a) Contracts shall be put out for competitive tender except as provided for in Articles 7 and 8.
- (b) Contracts shall provide that the operator is responsible, at least, for the cost of supplying the services to which a public service contract relates, including in particular the costs of staffing; energy; and the maintenance and repair of vehicles and rolling-stock.
- (c) Contracts shall be limited in time and shall last for no longer than five years. However, the duration of the contract may take into account the payback period where:
 - (i) the contract makes the operator responsible for providing railway rolling-stock, other vehicles of a particularly technically advanced nature, or infrastructure, provided that such assets are tied to specific, geographically defined transport services; and
 - (ii) those assets have a payback period for the operator that is longer than five years

Where public service contracts are required to be granted under the provisions of Article 5, they shall comply with the following requirements:

- (a) Contracts shall be put out for competitive tender in accordance with Article 12, except as provided for in Articles 7, 7b and 8.
- (b) Contracts shall provide that the operator shall be responsible, at least, for the cost of supplying the services to which a public service contract relates, including in particular the costs of staffing; energy; and the maintenance and repair of vehicles and rolling-stock.
- (c) Contracts shall be limited in time and shall last for no longer than eight years for bus services and fifteen years for rail and inland waterway services. However, the duration of the contract may take into account the payback period if:
 - (i) the contract makes the operator responsible for providing heavy rail, light rail or metro rolling-stock, other vehicles of a particularly technically advanced nature, vessels, or infrastructure, provided that such assets are tied to specific, geographically defined transport services; and
 - (ii) those assets have a payback period for the operator that is longer than the duration of the contract otherwise permitted under the provisions of this paragraph.

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In such cases, the contract shall also take into account the relative economic importance of the value of the assets in question in comparison with the total estimated value of the services covered by the contract.

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In such cases, the contract duration shall also take into account the relative economic importance of the value of the assets in question in comparison with the total estimated value of the services covered by the contract.

Services subject to contracts may, at the same time, be the subject of financial compensation for the cost of complying with general rules in accordance with Chapter IV.

*Article 6a***Contents of public service contracts**

(d) Contracts shall require operators to furnish competent authorities on an annual basis and separately for each route, with information on the services provided, the tariffs charged and the number of passengers carried, and complaints received

1. Public service contracts shall

- (a) require operators to furnish competent authorities with the information necessary to monitor and evaluate their performance and the performance of the transport network as a whole. In particular, they shall require operators to furnish competent authorities, on an annual basis, with information on the services provided, the tariffs charged, the number of passengers carried, the number of complaints received, and any safety-related problems or incidents. This information shall be provided separately for each route. However neighbouring routes may be grouped together for this purpose provided that the group has an aggregate annual value of less than EUR 3 000 000;
- (b) contain provisions to ensure the maintenance of any public assets made available to operators, including tunnels, railway infrastructure, bus and rail stations and interchanges, depots, workshops, vehicles, vessels and rolling stock. They shall, in particular, specify the obligations of the operator, the competent authority and other agencies regarding the maintenance of these assets;
- (c) clearly specify the penalties that shall be applied in the event of failure to comply with the requirements set out in the contract, and the timetable and procedure for applying them. These penalties may include premature termination of the contract; and
- (d) not cover a wider geographical area than is required by the general interest, and, in particular, by the need to provide services to significant groups of passengers who habitually use more than one link in the public transport network during the same journey.

2. Contracts may include a system of bonuses and penalties based on the operator's performance as measured by quantitative data, customer surveys, independent monitoring and inspection or other means. Contracts may also provide for guarantees from the operator or third parties.

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*Article 7***Direct award of public service contracts**

1. Competent authorities may decide, on a case-by-case basis and subject to paragraph 3, to directly award public service contracts for rail, metro or light rail services if national or international rail safety standards could not be met in any other way.

2. Competent authorities may decide, on a case-by-case basis and subject to paragraph 3, to directly award public service contracts for metro or light rail services if any other arrangement would entail additional costs for maintaining coordination between the operator and the manager of the infrastructure, and if those costs would not be offset by additional benefits.

3. Competent authorities intending to award a contract under the provisions of paragraph 1 or 2 above shall publish, at least one year beforehand and in accordance with Article 13, their preliminary decision to do so and the evidence and analysis on which they have based this preliminary decision.

3. Contracts may make provision for the negotiation or imposition of changes to their content. If such changes lead to higher financial compensation or new exclusive rights, the competent authority shall however initiate a new contract award procedure in accordance with the provisions of this Regulation if the cumulative annual value of all such changes exceeds one fifth of the annual value of the services covered by the original contract.

4. The content of contracts shall not be changed unless their terms provide for this.

Unchanged

1. Competent authorities may decide, on a case-by-case basis and subject to Article 7a, to directly award public service contracts for heavy rail services if national or international rail safety standards could not be met in any other way.

2. Competent authorities may decide, on a case-by-case basis and subject to Article 7a, to directly award public service contracts for metro services either to themselves or to an operator they control if:

- (a) the size or technical uniqueness of the system means that the incumbent operator would have a significant advantage under competitive tendering; or
- (b) this is conducive to greater efficiency in the use of public money or publicly financed assets.

3. Competent authorities may decide, on a case-by-case basis and subject to Article 7a, to directly award public service contracts for light rail services either to themselves or to an operator they control if this is conducive to greater efficiency in the use of public money or publicly financed assets.

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4. Where an operator, on the date on which this Regulation enters into force, directly provides integrated services, and where the conditions in paragraph 1 or 2 are fulfilled, the competent authority may include the operator's non-rail services, including bus services in the public service contract that will be directly awarded to the operator, provided that the Member State in question gives its approval and informs the Commission of this, with reasoned justification including appropriate comparative performance indicators.

5. Competent authorities may decide, on a case-by-case basis, to directly award public service contracts for services with an estimated average annual value of less than EUR 400 000. If a competent authority incorporates all its public service requirements in a single public service contract, it may decide to directly award this public service contract provided that it has an estimated average annual value of less than EUR 800 000.

No requirement for a given amount of services shall be split up in order to avoid tendering.

6. If an operator proposes a new initiative that will provide a service where none exists, the competent authority may award the exclusive right to provide this new service directly to that operator, provided that the service will not be subject to financial compensation under the terms of any public service contract.

No service may be the subject of the direct award of a public service contract under the terms of the first subparagraph more than once.

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4. Competent authorities may decide, on a case-by-case basis, to directly award public service contracts for services having an estimated average annual value of less than EUR 1 000 000. If a competent authority incorporates all its public service requirements in a single public service contract, it may decide to directly award this public service contract provided that it has an estimated average annual value of less than EUR 3 000 000.

Competent authorities shall not split up contracts or networks in order to avoid tendering.

5. If an operator proposes a new initiative that will provide a service where none exists, the competent authority may award the exclusive right to provide this new service directly to that operator, provided that the service will not be subject to financial compensation under the terms of any public service contract.

No service may be the subject of the direct award of a public service contract under the first subparagraph more than once.

6. All financial compensation under the terms of directly awarded contracts shall comply with the rules in Article 16 and Annex I.

*Article 7a***Safeguards for directly awarded contracts**

1. Competent authorities intending to directly award a contract under the provisions of Article 7(1), (2) or (3) shall publish, at least one year beforehand and in accordance with Article 13, their preliminary decision to do so and the evidence and analysis on which they have based this preliminary decision.

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2. In the case of contracts to be directly awarded in accordance with the provisions of Article 7(1), (2) or (3), other potential operators may, during the six months following publication in accordance with paragraph 1, submit to the competent authority an alternative offer to challenge the results previously achieved by the operator to whom the direct award is intended to be made, and to propose alternative ways to achieve the objectives of the new contract. The competent authority shall consider these offers and publish in accordance with Article 13 its reasons for its decision to accept or reject them.

3. Competent authorities shall ensure the efficiency and effectiveness of services included in contracts directly awarded under Article 7(1), (2) or (3).

To this end, they shall, in particular:

- (a) review, at least once every five years, trends in the unit costs and usage rates of these services in relation to the operator's own previous performance, standards of performance in the industry as a whole and the performance of comparable services provided by other operators;
- (b) assess the results of the review and decide whether they justify the decision to award the contract without competition or whether there is clear evidence of significant underperformance;
- (c) in cases of clear evidence of significant underperformance, decide on the steps they will themselves take to bring about an improvement of performance and require the operator, under the terms of the contract, to do the same;
- (d) undertake a new review of cases referred to in point (c) within three years of the initial review. If this new review does not find clear evidence of a significant improvement in performance, the authority shall terminate the contract. It may only award a new contract for the relevant services following a competitive tendering procedure in accordance with Article 12;
- (e) publish, in accordance with Articles 13(1) and (2),
 - (i) the information referred to in Article 13(3);
 - (ii) the results of the reviews;
 - (iii) their assessment of the results;
 - (iv) their own plans, and those of the operator, to improve performance in cases of significant underperformance.

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*Article 7b***Emergency Action**

A competent authority may take emergency action to secure the provision of adequate public passenger transport services if:

- (a) no tenders that meet the specified requirements have been submitted in response to an invitation to tender;
- (b) a judicial decision or a decision of an appeal body concerning the award of a contract prevents a new contract being put in place in accordance with the provisions of this Regulation prior to the expiry of the existing arrangements;
- (c) an operator's consistent failure to meet the standards laid down in a public service contract leads, under the provisions of the contract, to its premature termination;
- (d) an operator cannot fulfil the terms of a public service contract because of insolvency; or
- (e) an operator intends to discontinue the provision of a service that is not the subject of a public service contract.

Competent authorities may require operators to give them up to six months notice before discontinuing the provision of any public passenger transport service they operate.

The emergency action shall take the form of the direct award or agreed extension of a public service contract.

The award or extension of a contract through emergency action shall be for no longer than the competent authority needs in order to organise a new contract award procedure in accordance with the provisions of this Regulation, and for one year at the most, except where emergency action has been taken under subparagraph (a) and the new award procedure once again elicits no tenders that meet the specified requirements.

*Article 8***Award of public service contracts following quality comparison**

A competent authority may, without tendering, award a public service contract for a service that is limited to an individual route and that will not be subject to financial compensation under the terms of any public service contract, provided that,

Unchanged

1. A competent authority may, without tendering, award a public service contract for a service that is limited to an individual route and that will not be subject to financial compensation under the terms of any public service contract, provided that, following the procedures in Article 12:

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- (a) a notice has been published inviting proposals; and
- (b) on that basis the authority has selected, by means of a comparison of the quality of the proposals received, the operator or operators that will provide the best service to the public.

Unchanged

2. An operator awarded a contract under the terms of Article 7(5) or paragraph 1 may receive compensation for complying with general rules that have been laid down in accordance with Article 10 and affect the services covered by the contract. In any one year, the amount of this compensation shall be no more than one-fifth of the value of the services covered by the contract.

Article 9

Unchanged

Safeguards**Safeguards for authorities**

1. a competent authority may require the selected operator to award subcontracts, for a defined proportion of the services covered by the contract, to third parties to which it is not affiliated. This requirement to subcontract may not extend to more than half the value of the services covered by the contract

1. In order to ensure that alternative potential providers of public transport services have a chance to remain in existence or that the implementation of controlled competition does not prevent the participation of small and medium enterprises, a competent authority may require the selected operator to award subcontracts, for a defined proportion of the services covered by the contract, to third parties to which neither the competent authority nor the operator is affiliated. This requirement to subcontract may not extend to more than half the value of the services covered by the contract. The competent authority shall not nominate the subcontractors.

2. A competent authority may decide not to award public service contracts to any operator that would, as a consequence, have more than a quarter of the value of the relevant market for public passenger transport services.

2. A competent authority may decide not to award public service contracts to any operator that already has or would, as a consequence, have more than a quarter of the value of the relevant market for public passenger transport services. Member States may, in particular, lay down for the purposes of this provision that:

- (a) for light rail, metro, inland waterway and local and regional bus services, the relevant market shall be the regional market for public passenger transport; and
- (b) for heavy rail and longer distance bus services, the relevant market shall be the national market for that mode of public passenger transport.

This paragraph shall be without prejudice to the right of competent authorities to decide to award contracts for the whole of the territory for which they are responsible to a single operator, subject to the provisions of Article 6a(1)(d).

This paragraph shall be without prejudice to the procedures and decisions of Community and Member State competition authorities.

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3. Where a public service contract includes an exclusive right, the competent authority may require the selected operator to offer to staff previously engaged in providing the services the rights that they would have enjoyed if a transfer had occurred within the meaning of Directive 77/187/EEC. The authority shall list the staff and give details of their contractual rights.

4. Competent authorities may require the selected operator to establish itself in the Member State in question, except where Community legislation adopted pursuant to Article 71 of the Treaty lays down the freedom to provide services. However, competent authorities awarding public service contracts shall not discriminate against potential operators established in other Member States on the grounds that they are not yet established in the Member State in question or have not yet been granted a licence to operate services.

5. Where competent authorities apply any of the conditions in paragraphs 1 to 4, they shall inform potential operators of all the relevant details at the start of the public service contract award procedure.

CHAPTER IV

MINIMUM CRITERIA FOR PUBLIC PASSENGER TRANSPORT OPERATION*Article 10*

1. Without prejudice to public service contracts concluded in accordance with Chapter III, competent authorities may lay down general rules to be adhered to by all operators. Those rules or criteria shall be applied without discrimination to all transport services of a similar character in the geographical area for which the authority is responsible.

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3. A competent authority may require the selected operator to offer to staff previously engaged in providing the services the rights that they would have enjoyed if a transfer had occurred within the meaning of Directive 2001/23/EC. The authority shall list the staff and give details of their contractual rights.

4. Competent authorities may require the selected operator to establish itself in the Member State in question, except where Community legislation adopted pursuant to Article 71 of the Treaty lays down the freedom to provide services. However, competent authorities awarding public service contracts shall not discriminate against potential operators established in other Member States on the grounds that they are not yet established in the Member State in question or have not yet been granted a licence to operate services. Competent authorities may require potential operators to apply for a licence and to comply with any other reasonable requests to demonstrate that they are in a position to obtain the requisite licences. Competent authorities shall allow sufficient time between the award of contracts and the service commencement date for the selected operator to establish itself and obtain any necessary licence.

Unchanged

GENERAL RULES FOR PUBLIC PASSENGER TRANSPORT OPERATION

Unchanged

1. Competent authorities may lay down general rules to be adhered to by all operators. These rules shall be applied without discrimination to all transport services of a similar character in the geographical area for which the authority is responsible.

2. General rules may include:

(a) requirements for operators to use vehicles, vessels, rolling stock or infrastructure that meet defined standards of quality, environmental impact, accessibility or appearance;

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2. Such General rules or minimum criteria may include compensation for the cost of complying with them, provided that:

- (a) if the rule or criterion limits tariffs, it does so only for certain categories of passengers;
- (b) in any one year, the amount of compensation for complying with general rules or minimum criteria that is received by any operator in the area covered by the rule or criterion in question shall be no more than one-fifth of the value of that operator's services in that area; and
- (c) compensation is available to all operators on a non-discriminatory basis;

(b) requirements for operators to participate in integrated systems of ticketing, timetabling or information; or

(c) restrictions, applied without discrimination between operators, on the total number of vehicles using a particular section of road, for reasons of public safety or environmental protection.

3. General rules may lay down tariff obligations, setting maximum tariffs for some or all trips.

4. General rules may include compensation for the cost of complying with them, calculated in accordance with Article 16 and Annex I, provided that:

- (a) compensation is available to all operators on a non-discriminatory basis;
- and
- (b) the general rule in question refers to quality and reliability standards for the services it affects, and to appropriate penalties that shall be imposed on operators that fail to comply with these standards.

CHAPTER V

Unchanged

PROCEDURAL ISSUES*Article 11***Notification**

Compensation paid in accordance with this Regulation shall be exempt from the notification procedure laid down in Article 88(3) of the Treaty.

*Article 12***Award procedures**

1. The procedure adopted for competitive tendering or quality comparison shall be fair, open and non-discriminatory.

2. The procedure shall include publication in accordance with Article 13.

3. In the case of competitive tendering, the procedure shall include:

- (a) selection criteria, taking into account the criteria in Article 4(2), that define the authority's minimum requirements;

- (a) selection criteria, taking into account the criteria in Article 4a(1), that define the authority's minimum requirements;

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(b) award criteria, taking into account the criteria in Article 4(2), that define the grounds on which the authority will choose among offers meeting the selection criteria; and

(c) technical specifications setting out the public service requirements that the contract will cover and identifying any assets to be placed at the disposal of the successful tenderer, with the relevant terms and conditions.

There shall be an interval of at least 52 days between the despatch of the call for tenders and the latest date for receipt of tenders.

4. Competent authorities shall include in the information which they supply to potential operators the relevant information they hold, under the terms of public service contracts, about operators' services, tariffs and numbers of passengers during the previous five years.

*Article 13***Transparency**

1. Notices decisions and preliminary decisions made in accordance with this Regulation shall be published in an appropriate manner, stating, in the case of decisions and preliminary decisions, the reasons on which they are based.

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(b) award criteria, taking into account the criteria in Article 4a(1), that define the grounds on which the authority will choose among offers meeting the selection criteria; and

Unchanged

5. Competent authorities shall require potential operators to describe how they plan to provide the services being tendered for, including the deployment of personnel and assets.

6. In the case of tenders for contracts having an estimated annual value of more than EUR 3 000 000, competent authorities may negotiate with potential operators on the tenders they have submitted. Authorities may not, as a result of post-tender negotiations, accept an offer that, in relation to the award criteria referred to in paragraph 3(b), is less favourable than an offer that was submitted by any other tenderer and that complies with the selection criteria referred to in paragraph 3(a).

Unchanged

1. Calls for tender, invitations for proposals under quality comparison procedures, information on new general rules and associated compensation payments, preliminary decisions to directly award contracts as required by Article 7a(1), and other notices and decisions made in accordance with this Regulation shall be published in an appropriate manner, stating, in the case of decisions and preliminary decisions, the reasons on which they are based.

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2. Competent authorities shall send to the Office for Official Publications of the European Communities, by the most appropriate channels, notices and decisions relating to public service contracts and compensation schemes having an estimated annual value of, respectively, EUR 400 000 or more, or EUR 800 000 or more, for publication in the *Official Journal of the European Communities*.

The higher threshold value cited in the first subparagraph shall apply only if a competent authority has incorporated all its public service requirements in a single public service contract.

3. Competent authorities shall make available on request:

- (a) the terms of any public service contracts they have awarded;
- (b) the terms of any general rules for public transport operation they have laid down, and
- (c) the information they hold, under the terms of public service contracts, about operators' services, tariff and, numbers of passengers.

4. Authorities shall keep, for at least ten years, a record of every public service contract award procedure sufficient to permit them to justify their decisions at a later date. They shall make available, on request by interested parties, summaries of these records.

5. Member States shall forward to the Commission, by the end of the month of March each year:

- (a) a summary for the previous year of the number, estimated value and duration of the public service contracts that competent authorities have awarded, distinguishing between rail, bus and inland waterway services and between contracts awarded following tendering, quality comparison and direct award; and
- (b) a summary of the scope and content of the general rules or minimum criteria that were in force during the previous year and for which compensation was provided, and of the amount of compensation paid

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2. Competent authorities shall send to the Office for Official Publications of the European Communities, by the most appropriate channels, notices and decisions relating to public service contracts and compensation schemes having an estimated annual value of, respectively, EUR 1 000 000 or more, and EUR 3 000 000 or more, for publication in the *Official Journal of the European Communities*.

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(a) the terms of any public service contracts they have awarded including, for directly awarded contracts, the manner in which compensation is calculated in accordance with Article 16 and Annex I;

(b) the terms of any general rules for public transport operation they have laid down, including details of tariff obligations and the method for determining the rate of compensation; and

(c) the information they hold, under the terms of public service contracts, about operators' services, tariffs, numbers of passengers and the general trend in the quality of service.

Unchanged

5. Member States shall forward to the Commission, by the end of the month of June in every even-numbered year:

- (a) a summary relating to the previous two calendar years of the number, estimated value and duration of the public service contracts that competent authorities have awarded, distinguishing between rail, bus and inland waterway services and between contracts awarded following tendering, quality comparison and direct award; and
- (b) a summary of the scope and content of the general rules that were in force during the previous two calendar years and for which compensation was provided, and of the amount of compensation paid;

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(c) the findings of any performance reviews conducted under the provisions of Article 7a(3) during the previous two calendar years.

6. For the purposes of policy analysis and review, including the report laid down in Article 19(2), the summary referred to in paragraph 5, subparagraph (a) shall provide details of:

(a) usage levels;

(b) customer satisfaction;

(c) workforce numbers and changes in working patterns and employment conditions; and

(d) the cost of providing the services, distinguishing between:

(i) financial compensation provided under the terms of this Regulation, including compensation for compliance with general rules; and

(ii) any other relevant private or public investment, including investment in infrastructure, vehicles, vessels and rolling stock, that is not covered by the terms of this Regulation.

Article 14

Unchanged

Appeals

1. Member States shall ensure that operators and other interested parties have the right to appeal to a public body against decisions and preliminary decisions of competent authorities under this Regulation.

1. Member States shall ensure that operators and other interested parties have the right to appeal to a public or judicial body against decisions and preliminary decisions of competent authorities under this Regulation.

2. This body shall be independent, in its organisation, funding legal structure and decision making, from of any competent authority concerned and from any operator involved and shall have the power to request relevant information from any relevant party, take binding decisions and award damages.

2. The body referred to in paragraph 1 shall be independent of any competent authority concerned and operators involved and shall have the power to request relevant information from any relevant party, take binding decisions and award damages.

3. Appeal bodies shall be required to determine any complaints and to take action to remedy the situation within a maximum period of two months from receipt of all information.

3. Where the body is not judicial in character, its decisions shall be subject to judicial review.

4. Subject to paragraph 5, decisions of appeal bodies shall be binding on all parties covered by such decisions.

4. The provisions for the implementation of the appeals procedure shall be determined by the Member States.

5. Member States shall take measures necessary to ensure that decisions taken by appeal bodies are subject to judicial review.

5. For cross-border services, the competent authorities involved shall agree on the appeal body that shall have jurisdiction.

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Article 15

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Accounting provisions

1. Services subject to public service contracts concluded with a particular competent authority shall be treated as a separate activity for accounting purposes and shall be operated as a separate accounting division, distinct from any other activities in which the undertaking engages, whether or not those activities are related to passenger transport.

2. Individual contracts directly awarded under Articles 7(1), (2) or (3), and any contracts with an annual value of more than EUR 3 000 000, shall each be operated as a separate accounting division.

2. Each accounting division shall meet the following conditions:

3. Each accounting division shall meet the following conditions:

(a) the operating accounts shall be separate;

Unchanged

(b) the proportions of overheads, assets and liabilities pertaining to each activity shall be attributed according to their actual use;

(c) the cost accounting principles according to which separate accounts are maintained shall be clearly established;

(d) for each activity, expenditure shall be balanced by operating revenue from the services in question and payments from public authorities in compensation for the cost of fulfilling the public service requirements in question, without any possibility of transfer to another activity.

(d) for each activity, expenditure shall be balanced by the aggregate of the operating revenue from the services in question and payments from public authorities in compensation for the cost of fulfilling the public service requirements in question, without any possibility of transfer from or to another activity. This compensation may allow for a reasonable profit for the operator.

3. Operators receiving compensation for compliance with minimum criteria for transport operation in accordance with Article 10 shall, in their accounts, identify separately the costs they incur in complying with the general rule or criteria in question; the additional revenue they earn as a result of complying with the rule or criteria; and the compensation paid. The compensation paid and the additional revenue earned shall balance the costs incurred, without any possibility of transfer to an activity not subject to the rule or criteria in question.

4. Operators receiving compensation for compliance with general rules for transport operation in accordance with Article 10 shall, in their accounts, identify separately the costs they incur in complying with the general rule in question; the additional revenue they earn as a result of complying with the rule; and the compensation paid. The compensation paid and the additional revenue earned shall balance the costs incurred, without any possibility of transfer from or to an activity not subject to the rule in question. This compensation may allow for a reasonable profit for the operator.

5. Operators of services for which the contract was directly awarded under the terms of Article 7(1), (2) or (3) or Article 17(3) shall make their accounts public in a form which permits verification of their compliance with the provisions of this Article and with Articles 7a(1) and (3), 8(2) and 16.

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CHAPTER VI

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FINAL PROVISIONS

*Article 16***Compensation**

Except in the case of public service contracts awarded through competitive tendering, competent authorities shall on no account provide more compensation or apply less stringent procedures than are required by the rules in Annex I.

*Article 17***Transitional measures**

1. Member States shall take the necessary measures to ensure that schemes, contracts or arrangements implemented otherwise than in compliance with the provisions of this Regulation cease to be valid within three years of its entry into force.

2. Where an operator, on the date on which this Regulation enters into force, is required by the terms of a public service contract to invest in rail infrastructure, and where the payback period of this infrastructure still has more than three years to run, the competent authority may add up to three years to the transitional period of three years fixed in paragraph 1, taking into account this payback period and the relative economic importance of the assets in question in comparison with the total estimated value of the services covered by the contract.

Member States shall take the necessary measures to ensure that schemes, contracts or arrangements implemented otherwise than in compliance with the provisions of this Regulation cease to be valid.

1. Public service contracts awarded, before this Regulation enters into force, following a procedure consistent with Directives 92/50/EEC, 93/36/EEC, 93/37/EEC or 93/38/EEC, or any other fair competitive procedure, may last for the period laid down in the contract, provided that this is finite and reasonable.

2. A competent authority that provided a given bus service itself, or through an operator it controls, before this Regulation entered into force, may continue to provide this service, without a competitive award procedure, during the eight years following the Regulation's entry into force.

3. In exceptional circumstances, without prejudice to the requirement for a contract in Article 5 and the rules on contract duration in Article 6(c), and subject to the prior approval of the Commission, competent authorities may extend the time limit referred to in paragraph 2, provided that:

- (a) they apply Article 7a;
- (b) the contract does not award an exclusive right;
- (c) any compensation for tariff obligations is applied in accordance with Article 10.

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5. Member States shall take the necessary measures to ensure that schemes, contracts or arrangements implemented otherwise than in compliance with the provisions of this Regulation cease to be valid

3. Until the date on which the schemes, contracts and arrangements referred to in paragraphs 1 and 2 cease to be valid, each of them shall continue to be subject to those provisions of Regulation (EEC) No 1191/69 that applied to it before this Regulation entered into force.

4. Without prejudice to paragraphs 1, 2 and 3, each competent authority shall ensure that:

(a) at least half of its public service contracts, by value, have been awarded in accordance with the provisions of this Regulation within four years of the Regulation's entry into force; and

(b) all its public service contracts within eight years.

In applying the provisions and calculating the proportions referred to in the first sub-paragraph 2, competent authorities shall take no account of either public service contracts that have been directly awarded after 1 February 2003 in accordance with the provisions of Articles 7(1), 7(2), 7(3) and 7(4), or contracts subject to the provisions of paragraphs 1, 2 and 3.

5. Member States and competent authorities shall take the necessary measures to ensure that schemes, contracts or arrangements implemented otherwise than in compliance with the provisions of this Regulation, other than those referred to in paragraph 1, cease to be valid in time to permit competent authorities to comply with the provisions of paragraphs 2 and 4.

6. Until the date on which the schemes, contracts and arrangements referred to in paragraph 4 cease to be valid, each of them shall continue to be subject to those provisions of Regulation (EEC) No 1191/69 that applied to it before this Regulation entered into force.

7. Competent authorities may, during the transition periods defined in paragraph 4, exclude operators that are the beneficiary of exclusive rights or financial compensation for the operation of public transport services, awarded otherwise than in accordance with the provisions of this Regulation, from participating in contract award procedures.

When competent authorities apply the first subparagraph, they shall do so without discrimination, shall exclude all potential operators fulfilling this condition, and shall inform potential operators of their decision at the start of the public service contract award procedure.

They shall inform the Commission of their intention to apply this provision at least two months before the call for tenders or request for proposals under the quality comparison procedure is published.

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*Article 18***Operators from third countries**

For the purposes of this Regulation and without prejudice to Article 9(4), operators from the countries listed in Annex II shall be treated as Community companies, in accordance with the terms and conditions of the agreement between each such country and the Community. The Commission shall update the Annex, as changes in the Community's international obligations require, by publishing a notice in the 'L' series of the *Official Journal of the European Commission*.

*Article 19***Monitoring by Commission**

1. Member States shall consult the Commission on any laws, regulations or administrative provisions that are necessary for the implementation of this Regulation.
2. The Commission shall prepare a report within five years of its entry into force on how this Regulation has been applied in the Member States, and the consequences for passengers, and shall propose amendments to the Regulation if necessary. The report shall include an examination of the operation of the exemptions established in Article 7.

*Article 20***Repeal and amendment**

1. Regulation (EEC) No 1191/69 is repealed.
2. Article 3(2) of Regulation (EEC) No 1107/70 is deleted.

*Article 21***Entry into force**

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

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

Operators shall be exempted from the provisions of the first subparagraph if they can demonstrate that the value of the public transport services that they operate in accordance with this Regulation exceeds the value of those that are the subject of exclusive rights or financial compensation awarded otherwise than in accordance with this Regulation.

Unchanged

For the purposes of this Regulation and without prejudice to Article 9(4), operators from third countries party to agreements with the Community that give operators from those countries the right to establish themselves in the Member States shall be treated as Community undertakings.

Unchanged

1. Member States shall consult the Commission on any laws, regulations or administrative provisions that are necessary for the application of this Regulation.

2. The Commission shall prepare a report within five years of its entry into force on how this Regulation has been applied in the Member States, and the quantitative and qualitative consequences for passengers, staff, public authorities and the communities they serve, and shall propose amendments to the Regulation if necessary. The report shall include an examination of the operation of the exemptions established in Article 7.

Unchanged

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ANNEX I

RULES GOVERNING COMPENSATION IN THE ABSENCE OF COMPETITIVE TENDERING

1. Where a competent authority compensates an operator financially for fulfilling a public service requirement in accordance with this Regulation, and where the compensation is not derived from a public service contract awarded by competitive tendering, the amount of this compensation shall not exceed the net financial effect of fulfilling the public service requirement as calculated in accordance with the rules in this Annex.
 2. The net financial effect shall be the sum of:
 - (i) the effects of fulfilling the public service requirement on the operator's expenditure (costs avoided minus extra expenditure incurred); and
 - (ii) the effects of fulfilling the public service requirement on the operator's income (extra income earned minus income foregone).
 3. The net financial effect shall be determined taking into account the effects of fulfilling the public service requirement on the operator's activities as a whole.
 4. The net financial effect shall be calculated by comparing the situation in which the public service requirement is fulfilled with the situation that would have occurred if the requirement had not been fulfilled and the operation of the services affected by the requirement had instead been determined on a commercial basis.
 5. For the situation that would have occurred if the public service requirement had not been fulfilled (the benchmark case) estimates of tariff rates, passenger figures, and costs should be calculated.
1. The rules in this Annex apply to all financial compensation awarded for the fulfillment of public service requirements in accordance with this Regulation, other than those awarded following competitive tendering. This includes compensation paid for compliance with general rules in accordance with Article 10. The rules do not apply to exceptions from some or all of the financial effect of an excise duty on fuels.
 2. The amount of compensation shall not exceed the difference between the extra cost to the operator of providing the service and the extra income earned by the operator from the service, taking into account the operator's activities as a whole, including profitable services.
 3. The following may be included in the calculation of the extra cost to the operator:
 - (i) the additional direct costs associated with fulfilling the public service requirement;
 - (ii) a proportionate share of the operator's overheads, assets and liabilities drawn on in providing the service;
 - (iii) a reasonable profit;
 - (iv) any income foregone as a result of the application of the public service requirement.
 4. The following shall be included in the calculation of the extra income earned by the operator:
 - (i) additional income earned by the operator from passenger fares and other activities directly connected to the service such as advertising and on-board refreshment facilities;
 - (ii) any costs avoided through the provision of the service.
 5. In the case of compensation for tariff obligations laid down in accordance with Article 10(3) that affect most or all trips, compensation shall be paid at the same rate per trip to all operators of services that have a similar character. This rate shall be based on an estimate of the obligation's average financial effect on all operators affected by it.

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6. The benchmark case may be calculated:

- (i) by using data on the situation before the operator began to fulfil the public service requirement, if circumstances have not changed to a degree that makes it an unreliable guide to present day tariff rates, passenger figures, and costs; or
- (ii) by comparison with data for comparable services that are operated on a commercial basis; or
- (iii) by estimating costs and demand for the services.

The calculation of the benchmark case should take due consideration of trends affecting the relevant transport market.

7. Calculation of the effects on revenues of fulfilling a public service requirement shall take into account, in particular, changes in tariffs and in passenger figures. The calculation shall take into account the effect of fulfilling the requirement, and the resulting changes in the quality, quantity and price of services supplied, on the demand for transport services. This assessment shall not be limited to the impact on the segment of the network on which the requirement is directly fulfilled, but shall include effects on other parts of the network.

8. Calculation of the effects on costs of fulfilling a public service requirement shall be analogous to the calculation of the effects on revenues. Where the requirement covers only some of the services that an operator provides, joint costs such as overheads shall be allocated between these services and the other in proportion to the value of each set of services.

9. Costs resulting from the fulfilment of public service requirements shall be calculated on the basis of efficient management of the operator and the provision of transport services of an adequate quality.

The amount of compensation shall be fixed in advance for the duration of the contract or compensation scheme, with the exception that the contract or scheme may provide for the amount of compensation to be adjusted based on predetermined factors. Compensation amounts shall in any case remain fixed for a period of at least one year.

Compensation for complying with public service requirements may only be given where the operator in question, if it were considering its own commercial interests, would not, in the absence of this compensation, fulfil the requirement or would not fulfil it to the same extent or under the same conditions.

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6. Costs resulting from the fulfillment of public service requirements shall be calculated on the basis of efficient management of the operator and the provision of transport services of an adequate quality.

The amount of compensation shall be fixed in advance for the duration of the contract or compensation scheme. Contracts and schemes may, however, include procedures for the adjustment of the amount of compensation based on specific predetermined factors or circumstances. Compensation amounts shall in any case remain fixed for a period of at least one year.

Compensation for complying with public service requirements may only be given where the operator in question, if it were considering its own commercial interests, would not, in the absence of this compensation, fulfil the requirement or would not fulfil it to the same extent or under the same conditions.

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ANNEX II

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**COUNTRIES FROM WHICH OPERATORS SHALL BE TREATED
AS COMMUNITY COMPANIES FOR THE PURPOSES OF THIS
REGULATION IN ACCORDANCE WITH ARTICLE 18**

Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland,
Romania, Slovakia, Slovenia.

Proposal for a Council Regulation establishing specific access requirements and associated conditions applicable to fishing for deep-sea stocks

(2002/C 151 E/08)

COM(2002) 108 final — 2002/0053(CNS)

(Submitted by the Commission on 1 March 2002)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

(1) Regulation (EEC) No 3760/92 requires the Council to adopt, in the light of the available scientific advice and, in particular, of the report prepared by the Scientific, Technical and Economic Committee for Fisheries, the measures necessary to ensure the rational and responsible exploitation of resources on a sustainable basis, and the conditions of access to resources.

(2) Scientific advice concerning certain stocks of fish found in the deep sea indicates that these stocks are vulnerable to exploitation, and that fishing opportunities for these stocks should be limited or reduced in order to assure their sustainability.

(3) Scientific advice further indicates that management of fishing effort is an appropriate method for securing the precautionary management of the stocks in the deep sea.

(4) It is therefore appropriate to provide for the issuing of a special fishing permit to vessels fishing for deep sea species and to limit the fishing effort for those fish stocks to recent levels.

(5) Accurate information about fishing operations is a prerequisite for provision of high quality scientific advice, and such information can best be collected by trained and independent scientific observers.

(6) Appropriate information for scientific advice about fisheries should be made available to the relevant scientific and management bodies as soon as possible.

(7) In order to ensure effective and precautionary management of fishing effort directed at deep-sea species, it is necessary to identify the vessels fishing for these species, by means of special fishing permits issued in accordance with Council Regulation (EC) No 1627/94 of 27 June 1994 laying down

general provisions concerning special fishing permits ⁽¹⁾ and Commission Regulation (EC) No 2943/95 of 20 December 1995 setting out detailed rules for applying Council Regulation (EC) No 1627/94 laying down general provisions concerning special fishing permits ⁽²⁾.

(8) Control measures additional to those laid down in Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ⁽³⁾ and in Commission Regulation (EC) No 1489/97 of 29 July 1997 laying down detailed rules for the application of Council Regulation (EEC) No 2847/93 as regards satellite-based vessel monitoring systems ⁽⁴⁾ are required to ensure compliance with the measures laid down in this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

The present Regulation applies to Community fishing vessels carrying out fishing activities in ICES sub-areas I to XIV inclusive, CECAF area 34.1.2 and Community waters within CECAF area 34.2 which lead to catches of species listed in Annex I.

Article 2

Definitions

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

(a) 'deep-sea species': means species included in the list in Annex I;

(b) 'deep-sea fishing permit': means a special fishing permit for deep-sea species issued in accordance with Article 7 of Regulation (EC) No 1627/94;

(c) 'power': means the total installed engine power of vessels in kilowatt, measured in accordance with Council Regulation (EEC) No 2930/86 ⁽⁵⁾;

(d) 'capacity': means gross tonnage, measured in accordance with Regulation (EEC) No 2930/86;

⁽¹⁾ OJ L 171, 6.7.1994, p. 7.

⁽²⁾ OJ L 308, 21.12.1995, p. 15.

⁽³⁾ OJ L 261, 20.10.1993, p. 1; Regulation as last amended by Commission Regulation (EC) No 1965/2001 (OJ L 268, 9.10.2001, p. 23).

⁽⁴⁾ OJ L 202, 30.7.1997, p. 18.

⁽⁵⁾ OJ L 274, 25.9.1986, p. 1.

- (e) 'Kilowatt-fishing days': means the product of the power as defined in (c) and the number of days in which a fishing vessel has any item of fishing gear deployed in the water.

Article 3

Deep-sea fishing permit

1. Member States shall ensure that fishing activities which lead to catches of deep-sea species by vessels flying their flag or registered in their territory shall be subject to a deep-sea fishing permit.

2. It shall be prohibited to catch, retain on board, tranship or to land any aggregate quantity of the deep-sea species other than ling or tusk in excess of 50 kg, or any aggregate quantity of ling and tusk in excess of 1 tonne, unless the vessel in question holds a deep-sea fishing permit.

Article 4

Effort restriction

1. Member States shall calculate the aggregate power and the aggregate capacity of its vessels which, in any one of the years 1998, 1999 or 2000, have landed more than 10 tonnes of any mixture of the deep-sea species with the exception of ling and tusk, or more than 100 tonnes of any mixture of ling and tusk.

These aggregate values shall be communicated to the Commission.

Upon written request by the Commission, Member States shall provide within thirty days, documentation of the catch records made by vessels to which deep-sea fishing permits have been granted.

2. Each Member State can only issue deep-sea fishing permits to its vessels if:

- (a) the aggregate power of those vessels does not exceed the aggregate power determined in accordance with paragraph 1, and/or
- (b) the aggregate capacity of those vessels does not exceed the aggregate capacity determined in accordance with paragraph 1.

Article 5

Reporting of fishing gear characteristics and fishing operations

In addition to his obligations under Article 6 of Regulation (EEC) No 2847/93, the master of a Community fishing vessel holding a deep-sea fishing permit shall record in the logbook the information listed in Annex II.

Article 6

Vessel monitoring system

1. By derogation from Article 6(2) of Regulation (EC) No 1489/97⁽¹⁾, in the event of technical failure or non-function of the satellite tracking device fitted on board a fishing vessel, the master of the vessel shall stop fishing activities without delay and steam directly to the nearest of the designated ports

referred to in Article 7 and shall have the device repaired or replaced.

2. The vessel cannot leave the designated port until the satellite tracking device is functioning to the satisfaction of the competent authorities.

3. The flag Member State shall withdraw the deep-sea fishing permit of a vessel which does not comply with its obligations under paragraphs 1 and 2.

Article 7

Designated ports

1. It shall be prohibited to land any quantity of any mixture of deep-sea species other than ling and tusk in excess of 50 kg or any aggregate quantity of ling and tusk in excess of 1 tonne at any place other than the ports which have been designated for landing deep-sea species.

2. Each Member State shall designate ports into which any landing of deep-sea species other than ling and tusk in excess of 50 kg and any landing of any mixture of ling and tusk in excess of 1 tonne shall take place and shall determine the associated inspection and surveillance procedures, including the terms and conditions for recording and reporting the quantities of deep-sea species within each landing.

3. Each Member State shall transmit to the Commission within fifteen days of the date of entry into force of this Regulation a list of designated ports and, within thirty days thereafter, the associated inspection and surveillance procedures referred to in paragraph 2.

The Commission shall transmit this information to all other Member States.

Article 8

Observers

1. Each Member State shall assign scientific observers to the fishing vessels for which a deep-sea fishing permit has been issued in accordance with a sampling plan as provided for in paragraph 2.

2. Each Member State shall prepare a sampling plan for the deployment of observers that shall ensure collection of representative data that are adequate for the assessment and management of the deep-sea fish stocks.

The sampling plan shall be approved by the Commission on the basis of a scientific and statistical evaluation.

3. The scientific observer shall:

- (a) record independently in a logbook the information referred to in Article 5;
- (b) present a report to the competent authorities of the Member State concerned within twenty days following the termination of the observation period. A copy of this report shall be sent to the Commission, within thirty days after receipt of a written request;
- (c) perform additional duties as required in the sampling plan.

⁽¹⁾ OJ L 202, 30.7.1997, p. 18.

4. The scientific observer shall not be any of the following:
- (a) a relative of the master of the vessel or other officer serving on the vessel to which the observer is assigned;
 - (b) an employee of the master of the vessel to which he is assigned;
 - (c) an employee of the master's representative;
 - (d) an employee of a company controlled by the master or his representative;
 - (e) a relative of the master's representative.

Article 9

Scientific information

In addition to the obligations laid down in Articles 15 and 19i of Regulation (EEC) No 2847/93, Member States, on the basis of the information recorded in logbooks and reports presented by the scientific observers, shall communicate for each half

calendar year within three months of the expiry of that half calendar year to the Commission the information about catches of deep-sea species and fishing effort deployed, expressed as kilowatt-fishing days, broken down by quarter of the year, by type of gear, by species and by ICES statistical rectangle or CECAF subdivision.

The Commission shall transmit this information to the relevant scientific bodies without delay.

Article 10

Entry into force

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

Article 9 shall apply from 1 January 2003.

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

ANNEX I

LIST OF DEEP-SEA SPECIES

Scientific name	Common name
<i>Aphanopus carbo</i>	Black scabbardfish
<i>Apristuris</i> spp	Iceland catshark
<i>Argentina silus</i>	Greater silver smelt
<i>Beryx</i> spp.	Alfonsinos
<i>Brosme brosme</i>	Tusk
<i>Centrophorus granulosus</i>	Gulper shark
<i>Centrophorus squamosus</i>	Leafscale gulper shark
<i>Centrosyllium fabricii</i>	Black dogfish
<i>Centroscyrnus coelolepis</i>	Portuguese dogfish
<i>Coryphaenoides rupestris</i>	Roundnose grenadier
<i>Dalatias licha</i>	Kitefin shark
<i>Deania calceus</i>	Birdbeak dogfish
<i>Etmopterus princeps</i>	Greater lanternshark
<i>Etmopterus spinax</i>	Velvet belly
<i>Galeus melastomus</i>	Blackmouth dogfish
<i>Galeus murinus</i>	Mouse catshark
<i>Hoplostethus atlanticus</i>	Orange roughy
<i>Molva dypterygia</i>	Blue ling
<i>Molva molva</i>	Ling
<i>Pagellus bogaraveo</i>	Red Seabream
<i>Phycis</i> spp.	Forkbeards

*ANNEX II***INFORMATION CONCERNING FISHING GEAR CHARACTERISTICS TO BE RECORDED IN THE LOGBOOK**

1. For vessels using long-lines:

- the average number of hooks used on the long-lines,
- the number of long-lines shot in the sea,
- the total time the lines have been in the sea during the day.

2. For vessels using fixed nets:

- the mesh size used in the nets,
- the average length of the nets,
- the average height of the nets,
- the number of nets shot in the sea,
- the total time the nets have been in the sea during the day.

3. For vessels using towed gears:

- the size of the smallest mesh used in the nets,
 - the total time the towed gear has been in the sea during the day.
-

Proposal for a Council Regulation imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001 prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan

(2002/C 151 E/09)

COM(2002) 117 final — 2002/0059(CNS)

(Submitted by the Commission on 3 March 2002)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 60, 301 and 308 thereof,

Having regard to Common Position 2002/.../CFSP concerning restrictive measures against Usama bin Laden, members of the Al-Qaida organisation and the Taliban and other individuals, groups, undertakings and entities associated with them and repealing Common Positions 96/746/CFSP, 1999/727/CFSP, 2001/154/CFSP and 2001/771/CFSP,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

(1) On 16 January 2002, the Security Council of the United Nations adopted Resolution 1390(2002) determining that the Taliban have failed to respond to its demands made in a number of previous resolutions and condemning the Taliban for allowing Afghanistan to be used as a base for terrorist training and activities. The Security Council also condemned the Al-Qaida network and other associated terrorist groups, for their terrorist acts and destruction of property.

(2) In this regard, the Security Council recalled the obligation to implement in full its Resolution 1373(2001) with regard to any member of the Taliban and the Al-Qaida organisation, but also with regard to those who are associated with them and have participated in the financing, planning, facilitation, preparation or perpetration of terrorist acts. By means of that Resolution the Security Council decided that a freezing of funds and other financial assets or economic resources should be implemented as against persons who commit, or attempt to commit, terrorist acts or who participate in or facilitate the commission of such acts, and that measures should be taken to prohibit funds and other financial assets or economic resources from being made available for the benefit of such persons, and to prohibit financial or other related services from being rendered for the benefit of such persons.

(3) The Security Council decided, *inter alia*, that the flight ban and export restrictions imposed on Afghanistan further to its Resolutions 1267(1999) and 1333(2000) should be repealed and that the scope of the freezing of funds and the prohibition on funds being made available, which were imposed further to these Resolutions, should be adjusted. It also decided that a prohibition on providing, to the Taliban and the Al-Qaida organisation, certain services related to military activities should be applied.

(4) These measures fall under the scope of the Treaty and, therefore, notably with a view to avoiding distortion of competition, Community legislation is necessary to implement the relevant decisions of the Security Council as far as the territory of the Community is concerned. For the purpose of this Regulation, the territory of the Community is deemed to encompass the territories of the Member States to which the Treaty is applicable, under the conditions laid down in that Treaty.

(5) In order to create maximum legal certainty within the Community, the names and other relevant data with regard to persons, entities and bodies whose funds should be frozen further to a designation by the UN authorities, should be made publicly known and a procedure should be established within the Community to amend these lists.

(6) The competent authorities of the Member States should, where necessary, be empowered to ensure compliance with the provisions of this Regulation.

(7) UN Security Council Resolution 1267 (1999) provides that the relevant UN Sanctions Committee may grant exemptions to the freezing of funds on grounds of humanitarian need. Therefore, provision needs to be made to render such exemptions applicable throughout the Community.

(8) For reasons of expediency, the Commission should be empowered to amend the Annexes to this Regulation on the basis of pertinent notification or information by the UN Security Council, the relevant UN Sanctions Committee and the Member States, as appropriate.

- (9) The Commission and the Member States should inform each other of the measures taken under this Regulation and of other relevant information at their disposal in connection with this Regulation, and cooperate with the relevant UN Sanctions Committee, in particular by supplying information to it.
- (10) Member States should lay down rules on sanctions applicable to infringements of the provisions of this Regulation and ensure that they are implemented. Those sanctions must be effective, proportionate and dissuasive.
- (11) Taking into account that the freezing of funds is to be adjusted, it is necessary to ensure that sanctions for breaches of this Regulation can be imposed as of the date of entry into force of this Regulation.
- (12) The measures referred to above were imposed by means of Council Regulation (EC) No 467/2001⁽¹⁾. In view of the need to adjust the freezing of funds and to repeal the remaining measures laid down therein, it is considered appropriate to repeal that Regulation and to adopt a new Regulation on the freezing of funds,

HAS ADOPTED THIS REGULATION:

Article 1

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

1. 'Funds, other financial assets and economic resources' means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers' cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit.
2. 'Freezing of funds, other financial assets and economic resources' means the prevention of any move, transfer, alteration, use of or dealing with funds, other financial assets or economic resources, in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds, other financial assets or economic resources to be used, including portfolio management.
3. 'Taliban' means: the Afghan faction which also calls itself the Islamic Emirate of Afghanistan.
4. 'Sanctions Committee' means: the Committee established by United Nations Security Council Resolution 1267(1999).

Article 2

1. All funds, other financial assets or economic resources belonging to, or owned or held by, a natural or legal person, group or entity designated by the Sanctions Committee and listed in Annex I shall be frozen.
2. No funds, other financial assets or economic resources shall be made available, directly or indirectly, to, or for the benefit of, persons, groups or entities designated by the Sanctions Committee and listed in Annex I.
3. Paragraphs 1 and 2 shall not apply to funds, other financial assets and economic resources for which the Sanctions Committee has granted an exemption. Exemptions granted by the Sanctions Committee shall apply throughout the Community.

Article 3

Without prejudice to the powers of Member States in the exercise of their public authority, it shall be prohibited to grant, sell, supply or transfer, directly or indirectly, technical advice, assistance or training related to military activities, including in particular training and assistance related to the manufacture, maintenance and use of arms and related *matériel* of all types, to any natural or legal person, group or entity listed in Annex I.

Article 4

1. The participation, knowingly and intentionally, in activities, the object or effect of which is, directly or indirectly, to circumvent Article 2 or to promote the transactions referred to in Article 3 shall be prohibited.
2. Any information that the provisions of this Regulation are being, or have been, circumvented shall be notified to the Commission.

Article 5

1. Notwithstanding the applicable rules concerning reporting, confidentiality and professional secrecy, natural and legal persons, groups and entities shall:
 - (a) provide immediately to the Commission any information which would facilitate compliance with this Regulation, such as accounts and amounts frozen in accordance with Article 2. In particular information in respect of funds owned or controlled by persons listed in Annex I during the period of 6 months before the entry into force of this Regulation shall be provided.

⁽¹⁾ OJ L 67, 9.3.2001, p. 1.

(b) cooperate with competent authorities in any verification of this information.

(c) inform immediately the Commission on any transaction or activity where there is reasonable doubt about its compatibility with the provisions of this Regulation.

2. Any information provided or received in accordance with this Article shall be used only for the purposes for which it was provided or received.

3. Any information directly received by the Commission shall be made available to the competent authorities of the Member States concerned, as listed in Annex II.

Article 6

The freezing of funds, other financial assets and economic resources, in good faith and in accordance with this Regulation, shall not involve the natural or legal person, group or entity implementing it, or its directors or employees, in liability of any kind.

Article 7

1. The Commission shall be empowered to amend or supplement Annex I on the basis of determinations made by either the United Nations Security Council or the Sanctions Committee.

2. Without prejudice to the rights and obligations of the Member States under the Charter of the United Nations, the Commission shall maintain all necessary contacts with the Sanctions Committee for the purpose of the effective implementation of this Regulation.

Article 8

The Commission and the Member States shall immediately inform each other of the measures taken under this Regulation and shall supply each other with relevant information at their disposal in connection with this Regulation, in particular information received in accordance with Article 5 and in respect of violation and enforcement problems and judgments handed down by national courts.

Article 9

This Regulation shall apply notwithstanding any rights conferred or obligations imposed by any international agreement signed or any contract entered into or any licence or permit granted before the entry into force of this Regulation.

Article 10

1. Each Member State shall determine the sanctions to be imposed where the provisions of this Regulation are infringed. Such sanctions shall be effective, proportionate and dissuasive.

2. Pending the adoption, where necessary, of any legislation to this end, the sanctions to be imposed where the provisions of this Regulation are infringed, shall be those determined by the Member States in accordance with Article 13 of Regulation (EC) No 467/2001.

3. Each Member State shall bring proceedings against any natural or legal person, group or entity under its jurisdiction, in cases of violation of any of the prohibitions laid down in this Regulation by any such person, group or entity.

Article 11

This Regulation shall apply

- within the territory of the Community, including its airspace,
- on board any aircraft or any vessel under the jurisdiction of a Member State,
- to any person elsewhere who is a national of a Member State, and
- to any legal person, group or entity which is incorporated or constituted under the law of a Member State, and
- to any legal person, group or entity doing business within the Community.

Article 12

Regulation (EC) No 467/2001 is hereby repealed and, as regards the measures laid down in its Article 2, replaced by this Regulation.

Article 13

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

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

ANNEX I

LIST OF PERSONS, GROUPS AND ENTITIES REFERRED TO IN ARTICLE 2**Legal persons, groups and entities**

Aaran Money Wire Service, Inc., 1806, Riverside Avenue, Second Floor, Minneapolis, Minnesota, USA.

Abu Sayyaf Group (aka Al Harakat Al Islamiyya)

Afghan Support Committee (ASC), aka Lajnat Ul Masa Eidatul Afghania, Jamiat Ayat-Ur-Rhas Al Islamia, Jamiat Ihya Ul Turath Al Islamia, and Ahya Ul Turas; office locations: Headquarters — G. T. Road (Probably Grand Trunk Road), near Pushtoon Garhi Pabbi, Peshawar, Pakistan; Cheprahar Hadda, Mia Omar Sabaqah School, Jalabad, Afghanistan.

Al Baraka Exchange L.L.C., PO Box 3313, Deira, Dubai, UAE; PO Box 20066, Dubai, UAE.

Al Qaida/Islamic Army (aka 'The Base', Al Qaeda, Islamic Salvation Foundation, The Group for the Preservation of the Holy Sites, The Islamic Army for the Liberation of Holy Places, The World Islamic Front for Jihad Against Jews and Crusaders, Usama Bin Laden Network, Usama Bin Laden Organisation)

Al Rashid Trust (aka Al-Rasheed Trust):

- Kitas Ghar, Nazimabad 4, Dahgel-Iftah, Karachi, Pakistan;
- Jamia Maajid, Sulalman Park, Melgium Pura, Lahore, Pakistan;
- Office Dha'rbi M'unin, Opposite Khyber Bank, Abbottabad Road, Mansehra, Pakistan;
- Office Dha'rbi M'unin ZR Brothers, Katcherry Road, Chowk Yadgaar, Peshawar, Pakistan;
- Office Dha'rbi-M'unin, Rm No 3 Moti Plaza, Near Liaquat Bagh, Muree Road, Rawalpindi, Pakistan;
- Office Dha'rbi-M'unin, Top floor, Dr Dawa Khan Dental Clinic Surgeon, Main Baxae, Mingora, Swat, Pakistan;
- Operations in Afghanistan: Herat, Jalalabad, Kabul, Kandahar, Mazar Sherif;
- Also operations in Kosovo, Chechnya

Al Taqwa Trade, Property and Industry Company Limited (f.k.a. Al Taqwa Trade, Property and Industry) (f.k.a. Al Taqwa Trade, Property and Industry Establishment) (f.k.a. Himmat Establishment), c/o Asat Trust Reg., Altenbach 8, FL-9490 Vaduz, Liechtenstein.

Al-Barakaat Bank, Mogadishu, Somalia.

Al-Barakaat Wiring Service, 2940, Pillsbury Avenue, Suite 4, Minneapolis, Minnesota 55408, USA.

Al-Barakaat, Mogadishu, Somalia; Dubai, UAE.

Al-Barakat Bank of Somalia (BSS) (a.k.a. Barakat Bank of Somalia), Mogadishu, Somalia; Bossasso, Somalia.

Al-Barakat Finance Group, Dubai, UAE; Mogadishu, Somalia.

Al-Barakat Financial Holding Co., Dubai, UAE; Mogadishu, Somalia.

Al-Barakat Global Telecommunications (a.k.a. Barakaat Globetelcompany), PO Box 3313, Dubai, UAE; Mogadishu, Somalia; Hargeysa, Somalia.

Al-Barakat Group of Companies Somalia Limited (a.k.a. Al-Barakat Financial Company), PO Box 3313, Dubai, UAE; Mogadishu, Somalia.

Al-Barakat International (a.k.a. Baraco Co.), PO Box 2923, Dubai, UAE.

Al-Barakat Investments, PO Box 3313, Deira, Dubai, UAE.

Al-Hamati Sweets Bakeries, Al-Mukallah, Hadhramawt Governorate, Yemen

Al-Itihaad Al-Islamiya (AIAI)

Al-Jihad/Egyptian Islamic Jihad (aka Egyptian Al-Jihad, Egyptian Islamic Jihad, Jihad Group, New Jihad)

Al-Nur Honey Press Shops (aka Al-Nur Honey Center), Sanaa, Yemen

Al-Shifa Honey Press For Industry And Commerce, PO Box 8089, Al-Hasabah, Sanaa, Yemen; By the Shrine Next to the Gas Station, Jamal Street, Taiz, Yemen; Al-Arudh Square, Khur Maksar, Aden, Yemen; Al-Nasr Street, Doha, Qatar

Armed Islamic Group (GIA) (aka Al Jamm'ah Al Islamiah Al-Musallah, GIA, Groupement Islamique Armé)

Asat Trust Reg., Altenbach 8, FL-9490 Vaduz, Liechtenstein.

Asbat al-Ansar

Bank Al Taqwa Limited (a.k.a. Al Taqwa Bank) (a.k.a. Bank Al Taqwa), PO Box N-4877, Nassau, Bahamas; c/o Arthur D. Hanna & Company, 10, Deveaux Street, Nassau, Bahamas.

Baraka Trading Company, PO Box 3313, Dubai, UAE.

Barakaat Boston, 266, Neponset Avenue, Apt. 43, Dorchester, Massachusetts 02122-3224, USA.

Barakaat Construction Company, PO Box 3313, Dubai, UAE.

Barakaat Group of Companies, PO Box 3313, Dubai, UAE; Mogadishu, Somalia.

Barakaat International Foundation, Box 4036, Spanga, Stockholm, Sweden; Rinkebytorget 1, 04, Spanga, Sweden.

Barakaat International, Hallbybacken 15, 16370 Spanga, Sweden.

Barakaat International, Inc., 1929, South 5th Street, Suite 205, Minneapolis, Minnesota, USA.

Barakaat North America, Inc., 925, Washington Street, Dorchester, Massachusetts, USA; 2019, Bank Street, Ottawa, Ontario, Canada.

Barakaat Red Sea Telecommunications, Bossaso, Somalia; Nakhiil, Somalia; Huruuse, Somalia; Raxmo, Somalia; Ticis, Somalia; Kowthar, Somalia; Noobir, Somalia; Bubaarag, Somalia; Gufure, Somalia; Xuuxuule, Somalia; Ala Aamin, Somalia; Guureeye, Somalia; Najax, Somalia; Carafaat, Somalia.

Barakaat Telecommunications Co. Somalia, Ltd, PO Box 3313, Dubai, UAE.

Barakaat Wire Transfer Company, 4419, South Brandon Street, Seattle, Washington, USA.

Barakat Banks and Remittances, Mogadishu, Somalia; Dubai, UAE.

Barakat Computer Consulting (BCC), Mogadishu, Somalia.

Barakat Consulting Group (BCG), Mogadishu, Somalia.

Barakat Enterprise, 1762, Huy Road, Columbus, Ohio, USA.

Barakat Global Telephone Company, Mogadishu, Somalia; Dubai, UAE.

Barakat International Companies (BICO), Mogadishu, Somalia; Dubai, UAE.

Barakat Post Express (BPE), Mogadishu, Somalia.

Barakat Refreshment Company, Mogadishu, Somalia; Dubai, UAE.

Barakat Telecommunications Company Limited (a.k.a. BTELCO), Bakara Market, Dar Salaam Buildings, Mogadishu, Somalia; Kievitlaan 16, 't Veld, Noord-Holland, Netherlands.

Barako Trading Company, L.L.C., PO Box 3313, Dubai, UAE.

De Afghanistan Momtaz Bank,

Global Service International, 1929, 5th Street, Suite 204, Minneapolis, Minnesota, USA.

Harakat Ul-Mujahidin/HUM (aka Al-Faran, Al-Hadid, Al-Hadith, Harakat Ul-Ansar, HUA, Harakat Ul-Mujahideen)

Heyatul Ulya, Mogadishu, Somalia.

Islamic Army of Aden

Islamic Movement of Uzbekistan (IMU) (aka IMU)

Jaish-I-Momhammed (aka ARMY OF MOHAMMED), Pakistan

Jamyah Taawun Al-Islamia (aka SOCIETY OF ISLAMIC COOPERATION; aka JAMIYAT AL TAAWUN AL ISLAMIYYA; aka JIT), Qandahar City, Afghanistan

Libyan Islamic Fighting Group

Mamoun Darkazanli Import-Export Company (aka Darkazanli Company, Darkazanli Export-Import Sonderposten). Uhlenhorsterweg 34 11, Hamburg, Germany

Nada Management Organisation S.A. (f.k.a. Al Taqwa Management Organisation S.A.), Viale Stefano Franscini 22, CH-6900 Lugano (TI), Switzerland.

Parka Trading Company, PO Box 3313, Deira, Dubai, UAE.

RABITA TRUST, Room 9A, Second Floor, Wahdat Road, Education Town, Lahore, Pakistan; Wares Colony, Lahore, Pakistan

Red Sea Barakat Company Limited, Mogadishu, Somalia; Dubai, UAE.

Revival Of Islamic Heritage Society (RIHS), aka Jamiat Ihia Al-Turath Al-Islamiya, Revival of Islamic Society Heritage On The African Continent, Jamia Ihya Ul Turath; office locations: Pakistan and Afghanistan. NB: Only the Pakistan and Afghanistan offices of this entity will be designated.

Salafist group for Call and Combat (GSPC) (aka Le Groupe Salafiste pour la Prédiction et le Combat)

Somali International Relief Organization, 1806, Riverside Avenue, 2nd Floor, Minneapolis, Minnesota, USA.

Somali Internet Company, Mogadishu, Somalia.

Somali Network AB, Hallybybacken 15, 16370 Spanga, Sweden.

Wafa Humanitarian Organisation (aka Al Wafa, Al Wafa Organisation, Wafa Al-Igatha Al-Islamia) Jordan house No 125, Street 54, Phase II. Hayatabad, Peshawar, Pakistan. Offices in Saudi Arabia, Kuwait and United Arab Emirates

Youssef M. Nada & Co. Gesellschaft m.b.H., Kaertner Ring 2/2/5/22, A-1010 Vienna, Austria.

Youssef M. Nada, Via Riase 4, CH-6911 Campione d'Italia I, Switzerland.

Natural persons

(functions in brackets are those under the former Taliban regime of Afghanistan)

Aazem, Abdul Haiy, Maulavi (First Secretary, Taliban 'Consulate General', Quetta),

Abd al-Hadi al-Iraqi (aka Abu Abdallah, Abdal Al-Hadi Al-Iraqi)

Abdul Rahman Yasin (aka TAHA, Abdul Rahman S.; aka TAHER, Abdul Rahman S.; aka YASIN, Abdul Rahman Said; aka YASIN, Aboud); born 10.4.1960, Bloomington, Indiana, USA; SSN 156-92-9858 (USA); passport No 27082171 (USA) (issued 21.6.1992 in Amman, Jordan) or passport No M0887925 (Iraq); citizen USA.

Abdullah Ahmed Abdullah (aka ABU MARIAM; aka AL- MASRI, Abu Mohamed; aka SALEH), Afghanistan; born 1963, Egypt; citizen Egypt

Abdulkadir, Hussein Mahamud, Florence, Italy.

Abu Hafs the Mauritanian (aka Mahfouz Ould al-Walid, Khalid Al-Shanqiti, Mafouz Walad Al-Walid, Mahamedou Ouid Slahi). Born 1.1.1975

Abu Zubaydah (aka Abu Zubaida, Abd Al-Hadi Al Wahab, Zain Al-Abidin Muhahhad Husain, Zayn Al-Abidin Muhammad Husain, Tariq). Born 12.3.1971, Riyadh, Saudi Arabia

Aden, Adirisak, Skaftingebacken 8, 16367 Spanga, Sweden, date of birth 1 June 1968.

Agha, Abdul Rahman (Chief Justice of Military Court)

Agha, Haji Abdul Manan (aka Saiyid; Abd Al-Manam), Pakistan

Agha, Saed M. Azim, Maulavi (Passport and Visa Dept.)

Agha, Sayyed Ghiassouddine, Maulavi (Minister of Haj and Religious Affairs)

Ahmadi, Haji M., Mullah (President of Da Afghanistan Bank)

Ahmadulla, Qari (Minister of Security (Intelligence))

Ahmed Khalfan Ghailani (aka AHMED THE TANZANIAN; aka FOOPIE; aka FUPI; aka AHMAD, Abu Bakr; aka AHMED, A; aka AHMED, Abubakar; aka AHMED, Abubakar K.; aka AHMED, Abubakar Khalfan; aka AHMED, Abubakary K.; aka AHMED, Ahmed Khalfan; aka AL TANZANI, Ahmad; aka ALI, Ahmed Khalfan; aka BAKR, Abu; aka GHAILANI, Abubakary Khalfan Ahmed; aka GHAILANI, Ahmed; aka GHILANI, Ahmad Khalafan; aka HUSSEIN, Mahafudh Abubakar Ahmed Abdallah; aka KHABAR, Abu; aka KHALFAN, Ahmed; aka MOHAMMED, Shariff Omar); born 14.3.1974 or 13.4.1974 or 14.4.1974 or 1.8.1970, Zanzibar, Tanzania; citizen Tanzania

Ahmed Mohammed Hamed Ali (aka ABDUREHMAN, Ahmed Mohammed; aka ABU FATIMA; aka ABU ISLAM; aka ABU KHADIJJAH; aka AHMED HAMED; aka Ahmed The Egyptian; aka AHMED, Ahmed; aka AL-MASRI, Ahmad; aka AL-SURIR, Abu Islam; aka ALI, Ahmed Mohammed; aka ALI, Hamed; aka HEMED, Ahmed; aka SHIEB, Ahmed; aka SHUAIB), Afghanistan; born 1965, Egypt; citizen Egypt

Akhund, Ahmed Jan, Mullah (Minister of Water and Electricity)

Akhund, Alhaj Mohammad Essa, Mullah (Minister of Mines and Industries)

Akhund, Attiqullah, Maulavi (Deputy Minister of Agriculture)

Akhund, Dadullah, Maulavi (Minister of Construction)

Akhund, Hadji Ubaidullah, Mullah (Minister of Defence)

Akhund, Mohammad Abbas, Mullah (Minister of Public Health)

Akhundzada, Mohammad Sediq (Deputy Minister of Martyrs and Repatriation)

Al-Hamati, Muhammad (aka AL-AHDAL, Mohammad Hamdi Sadiq; aka AL-MAKKI, Abu Asim), Yemen

Al-Haq, Amin (aka AMIN, Muhammad; aka AH HAQ, Dr Amin; aka UL-HAQ, Dr Amin); born 1960, Nangahar Province, Afghanistan

Ali, Abbas Abdi, Mogadishu, Somalia.

Ali, Abdi Abdulaziz, Drabantvagen 21, 17750 Spanga, Sweden, date of birth 1 January 1955.

Ali, Yusaf Ahmed, Hallbybacken 15, 16370 Spanga, Sweden, date of birth 20 November 1974.

Al-Jadawi, Saqar. Born c. 1965. Thought to be a Yemeni and Saudi national. Aide to Usama Bin Laden.

Al-Jaziri, Abu Bakr; nationality: Algerian; address: Peshawar, Pakistan — affiliated with Afghan Support Committee.

Al-Kadr, Ahmad Said (aka Abu Abd Al-Rahman, Al-Kanadi). Born 1.3.1948, Cairo, Egypt. Thought to be an Egyptian and Canadian national

Allamuddin, Syed (Second Secretary, Taliban 'Consulate General', Peshawar)

Al-Libi Abd Al Mushin, aka Ibrahim Ali Muhammad Abu Bakr — affiliated with Afghan Support Committee and Revival Of Islamic Heritage Society.

Al-Qadi, Yasin (aka Kadi, Shaykh Yassin Abdullah; aka Kahdi, Yasin), Jeddah, Saudi Arabia

Al-Sharif, Sa'd. Born c. 1969, Saudi Arabia. Brother-in-law and close associate of Usama Bin Laden. Said to be head of Usama Bin Laden's financial organisation.

Amin, Aminullah, Maulavi (Governor of Saripul Province)

Aminzai, Shams-us-Safa (Press-Centre, Ministry of Foreign Affairs)

Anafi, Nazirullah, Maulavi, (Commercial Attaché, Taliban 'Embassy', Islamabad)

Anas al-Liby (aka AL-LIBI, Anas; aka AL-RAGHIE, Nazih; aka ALRAGHIE, Nazih Abdul Hamed; aka AL-SABAI, Anas), Afghanistan; born 30.3.1964 or 14.5.1964, Tripoli, Libya; citizen Libya (individual)

Anwari, Mohammad Tahre, Mullah (Administrative Affairs)

Aref, Arefullah, Mullah (Deputy Minister of Finance)

Asem, Esmatullah, Maulavi, SG of Afghan Red Crescent Society (ARCS),

Asem, Sayed Esmatullah, Maulavi (Deputy Minister of Preventing Vice and Propagating Virtue)

Atiqullah, Hadji Molla (Deputy Minister of Public Works)

Aweys, Dahir Ubeidullahi, Via Cipriano Facchinetti 84, Rome, Italy.

Aweys, Hassan Dahir (a.k.a. Ali, Sheikh Hassan Dahir Aweys) (a.k.a. Awes, Shaykh Hassan Dahir), date of birth 1935, citizen of Somalia.

Ayman Al-Zawahiri (aka Ahmed Fuad Salim, Aiman Muhammad Rabi Al-Zawahiri). Operational and Military Leader of Jihad Group. Born 19.6.1951, Giza, Egypt; passport No 1084010 (Egypt); alternative No 19820215

Azizirahman, Mr (Third Secretary, Taliban Embassy, Abu Dhabi)

Baqi, Abdul, Maulavi (Consulate Dept, Ministry of Foreign Affairs)

Baqi, Abdul, Mullah (Vice-Minister of Information and Culture)

Baradar, Mullah (Deputy, Minister of Defence)

Bari, Abdul, Maulavi (Governor of Helmand Province)

Bin Marwan, Bilal; born 1947

Bin Muhammad, Ayadi Chafiq (aka AYADI SHAFIQ, Ben Muhammad; aka AYADI CHAFIK, Ben Muhammad; aka AIADI, Ben Muhammad; aka AIADY, Ben Muhammad), Helene Meyer Ring 10-1415-80809, Munich, Germany; 129 Park Road, London NW8, England; 28 Chaussee De Lille, Mouscron, Belgium; Darvingasse 1/2/58-60, Vienna, Austria; Tunisia; born 21.1.1963, Safais (Sfax), Tunisia

Darkazanli, Mamoun, Uhenhorser Weg 34, Hamburg, 2085 Germany; born 4.8.1958, Aleppo, Syria; Passport No 1310636262 (Germany)

Daud, Mohammad (Administrative Attaché, Taliban 'Embassy', Islamabad)

Delawar, Shahabuddin, Maulavi (Deputy of High Court)

Ehsanullah, Maulavi (Deputy Minister of Security (Intelligence))

Elmi, Mohammad Azam, Maulavi (Deputy Minister of Mines and Industries)

Eshaq M. (Governor of Laghman Province)

Ezatullah, Maulavi (Deputy Minister of Planning)

Fahid Mohammed Ally Msalam (aka AL-KINI, Usama; aka ALLY, Fahid Mohammed; aka MSALAM, Fahad Ally; aka MSALAM, Fahid Mohammed Ali; aka MSALAM, Mohammed Ally; aka MUSALAAM, Fahid Mohammed Ali; aka SALEM, Fahid Muhamad Ali); born 19.2.1976, Mombasa, Kenya; citizen Kenya

Faiz, Maulavi (Information Dept., Ministry of Foreign Affairs)

Faizan, Faiz Mohammad, Maulavi (Deputy Minister of Commerce)

Fauzi, Habibullah (First Secretary/Deputy Head of Mission, Taliban 'Embassy', Islamabad)

Fazul Abdullah Mohammed (aka ABDALLA, Fazul; aka ADBALLAH, Fazul; aka AISHA, Abu; aka AL SUDANI, Abu Seif; aka ALI, Fadel Abdallah Mohammed; aka FAZUL, Abdalla; aka FAZUL, Abdallah; aka FAZUL, Abdallah Mohammed; aka FAZUL, Haroon; aka FAZUL, Harun; aka HAROON; aka HAROUN, Fadhil; aka HARUN; aka LUQMAN, Abu; aka MOHAMMED, Fazul; aka MOHAMMED, Fazul Abdilahi; aka MOHAMMED, Fouad; aka MUHAMAD, Fadel Abdallah); born 25.8.1972 or 25.12.1974 or 25.2.1974, Moroni, Comoros Islands; citizen Comoros or citizen Kenya

Ghafoor, Abdul, Maulavi (Deputy Minister of Agriculture)

Hakimi, Gul Ahmad, Maulavi (Commercial Attaché, Taliban 'Consulate General', Karachi)

Hamdullah, Maulavi (Repatriation Attaché, Taliban 'Consulate General', Quetta),

Hamidi, Zabihullah (Deputy Minister of Higher Education)

Hamidullah, Mullah, Head of Ariana Afghan Airlines,

Hamsudin, Maulavi (Governor of Wardak (Maidan) Province)

Hanafi, Mohammad Nasim, Mullah (Deputy Minister of Education)

Hanif, Qari Din Mohammad (Minister of Planning)

Haqani, Djallalouddine, Maulavi (Minister of Frontier Affairs)

Haqani, Sayeedur Rahman, Maulavi (Deputy Minister of Mines and Industries)

Haqqan, Sayyed, Maulavi (Minister of Administrative Affairs)

Haqqani, Mohammad Salim, Maulavi (Deputy Minister of Preventing Vice and Propagating Virtue)

Haqqani, Moslim, Maulavi (Deputy Minister of Haj and Religious Affairs)

Haqqani, Najibullah, Maulavi (Deputy Minister of Public Works)

Hassan, Hadji Mohammad, Mullah (First Deputy, Council of Ministers, Governor of Kandahar)

HIJAZI, Riad (aka HIJAZI, Raed M.; aka AL-HAWEN, Abu-Ahmad; aka ALMAGHRIBI, Rashid (The Moroccan); aka AL-AMRIKI, Abu-Ahmad (The American); aka AL-SHAHID, Abu-Ahmad), Jordan; born 1968, California, USA; SSN: 548-91-5411

Himmat, Ali Ghaleb, Via Posero 2, CH-6911 Campione d'Italia, Switzerland; date of birth 16 June 1938; place of birth: Damascus, Syria; citizen of Switzerland and Tunisia.

Homayoon, Mohammad, Eng. (Deputy Minister of Water and Electricity)

Hottak, Abdul Rahman Ahmad, Maulavi (Deputy (Cultural) Minister of Information and Culture)

Hottak, M. Musa, Maulavi (Deputy Minister of Planning)

Huber, Albert Friedrich Armand (a.k.a. Huber, Ahmed), Mettmenstetten, Switzerland, date of birth 1927.

Hussein, Liban, 925, Washington Street, Dorchester, Massachussets, USA; 2019, Bank Street, Ontario, Ottawa, Canada.

Ibn Al-Shaykh Al-Libi

Islam, Muhammad (Governor of Bamiyan Province)

Jabbar, Abdul, Maulavi (Governor of Baghlan Province)

Jalal, Noor, Maulavi (Deputy (Administrative) Minister of Interior Affairs)

Jalil, Abdul, Mullah (Deputy Minister of Foreign Affairs)

Jama, Garad (a.k.a. Nor, Garad K.) (a.k.a. Wasrsame, Fartune Ahmed, 2100, Bloomington Avenue, Minneapolis, Minnesota, USA; 1806, Riverside Avenue, 2nd Floor, Minneapolis, Minnesota; date of birth 26 June 1974.

Jamal, Qudratullah, Maulavi (Minister of Information)

Jan, Ahmad, Maulavi (Governor of Zabol Province)

Janan, Mullah (Governor of Fariab),

Jim'ale, Ahmed Nur Ali (a.k.a. Jimale, Ahmed Ali) (a.k.a. Jim'ale, Ahmad Nur Ali) (a.k.a. Jumale, Ahmed Nur) (a.k.a. Jumali, Ahmed Ali), PO Box 3312, Dubai, UAE; Mogadishu, Somalia.

Kabir, A., Maulavi (Governor of Nangarhar Province)

Kabir, Abdul, Maulavi (Second Deputy, Council of Ministers, Governor of Nangahar Province, Head of Eastern Zone)

Kahie, Abdullahi Hussein, Bakara Market, Dar Salaam Buildings, Mogadishu, Somalia.

Kakazada, Rahamatullah, Maulavi (Consul General, Taliban 'Consulate General', Karachi)

Khairkhwah, Khair Mohammad, Maulavi (Governor of Herat Province)

Khaksar, Abdul Samad, Mullah (Deputy (Security) Minister of Interior Affairs)

Kmalzada Shamsalah, Mr (Second Secretary, Taliban Embassy, Abu Dhabi)

Ladehyanoy, Mufti Rashid Ahmad (aka LUDHIANVI, Mufti Rashid Ahmad; aka AHMAD, Mufti Rasheed; aka WADE-HYANOY, Mufti Rashid Ahmad); Karachi, Pakistan

Madani, Jan Mohammad, Mr (Chargé d'Affaires, Taliban Embassy, Abu Dhabi)

Madani, Zia-ur-Rahman, Maulavi (Governor of Logar Province)

Mahmood, Sultan Bashir-Ud-Din (a.k.a. Mahmood, Sultan Bashiruddin; a.k.a. Mehmood, Dr. Bashir Uddin; a.k.a. Mekmud, Sultan Baishiruddin), Street 13, Wazir Akbar Khan, Kabul, Aghanistan (Alt. date of birth 1937; Alt. date of birth 1938; Alt. date of birth 1939; Alt. date of birth 1940; Alt. date of birth 1941; Alt. date of birth 1942; Alt. date of birth 1943; Alt. date of birth 1944; Alt. date of birth 1945; Nationality: Pakistani)

Majeed, Abdul (a.k.a. Majeed Chaudhry Abdul; a.k.a. Majid, Abdul); date of birth: 15 Apr 1939; Alt. date of birth 1938; Nationality: Pakistani)

Makhtab Al-Khidamat/Al Kifah

Manan, Mawlawi Abdul, Mr (Commercial Attaché, Taliban Embassy, Abu Dhabi)

Mansour, Akhtar Mohammad (Minister of Civil Aviation and Transportation)

Mansour, Mohamed (a.k.a. Al-Mansour, dr. Mohamed), Ob. Heslibachstrasse 20, Kusnacht, Switzerland; Zürich, Switzerland; date of birth 1928, place of birth Egypt or UAE.

Mansour-Fattouh, Zeinab, Zürich, Switzerland.

Mansur, Abdul Latif, Maulavi (Minister of Agriculture)

Mati, Mohammadullah, Maulavi (Minister of Public Works)

Matiullah, Mullah, Kabul Custom House,

Mazloom, Fazel M, Mullah (Deputy Chief of Army Staff)

Mohammad, Akhtar, Maulavi (Education Attaché, Taliban 'Consulate General', Peshawar)

Mohammad, Dost, Mullah (Governor of Ghazni Province)

Mohammad, Nazar, Maulavi (Governor of Kunduz Province)

Mohammad, Nik, Maulavi (Deputy Minister of Commerce)

Mohammad, Qari Din (Minister of Higher Education)

Mohammadi, Shafiqullah, Maulavi (Governor of Khost Province)

Momand, Qalamudin, Maulavi (Deputy Minister of Haj Affairs)

Monib, Abdul Hakim, Maulavi (Deputy Minister of Frontier Affairs)

Motaqi, Amir Khan, Mullah (Minister of Education)

Motasem, Abdul Wasay Aghajan, Mullah (Minister of Finance)

Motmaen, Abdulhai (Information and Culture Dept, Kandahar)

Muazen, Samiullah, Maulavi (Deputy of High Court)

Muhammad Atif (aka Subhi Abu Sitta, Abu Hafs Al Masri, Sheik Taysir Abdullah, Mohamed Atef, Abu Hafs Al Masri el Khabir, Taysir). Born 1956, Alexandria, Egypt; alternative date of birth 1951.

Muhammad 'Atif (aka Abu Hafs). Born (probably) 1944, Egypt. Thought to be an Egyptian national. Senior lieutenant to Usama Bin Laden.

Muhammad Salah (aka Nasr Fahmi Nasr Hasanayn)

Muhsin Musa Matwalli Atwah (aka ABDEL RAHMAN; aka ABDUL RAHMAN; aka AL-MUHAJIR, Abdul Rahman; aka AL-NAMER, Mohammed K.A.), Afghanistan; born 19.6.1964, Egypt; citizen Egypt

Mujahid, Abdul Hakim, Taliban envoy to the United Nations,

Murad, Abdullah, Maulavi (Consul General, Taliban 'Consulate General', Quetta)

Mustafa Mohamed Fadhil (aka AL MASRI, Abd Al Wakil; aka AL-NUBI, Abu; aka ALI, Hassan; aka ANIS, Abu; aka ELBISHY, Moustafa Ali; aka FADIL, Mustafa Muhamad; aka FAZUL, Mustafa; aka HUSSEIN; aka JIHAD, Abu; aka KHALID; aka MAN, Nu; aka MOHAMMED, Mustafa; aka YUSSRR, Abu); born 23.6.1976, Cairo, Egypt; citizen Egypt or citizen Kenya; Kenyan ID No 12773667; serial No 201735161

Mustasaed, Mullah (Head of Academy of Sciences)

Mutawakil, Abdul Wakil (Minister of Foreign Affairs)

Muttaqi, Amir Khan (Taliban representative in UN-led talks)

Nada, Youssef (a.k.a. Nada, Youssef M.) (a.k.a. Nada, Youssef Mustafa), Via Arogno 32, 6911 Campione d'Italia, Italy; Via per Arogno 32, CH-6911 Campione d'Italia, Switzerland; Via Riasc 4, CH-6911 Campione d'Italia I, Switzerland; date of birth 17 May 1931 or 17 May 1937; place of birth: Alexandria, Egypt; citizen of Tunisia.

Naim, Mohammad, Mullah (Deputy Minister of Civil Aviation)

Najibullah, Maulavi (Consul General, Taliban 'Consulate General', Peshawar)

Nomani, Hamidullah, Maulavi (High Ranking Official in the Ministry of Higher Education)

Noorani, Mufti Mohammad Aleem (First Secretary, Taliban 'Consulate General', Karachi)

Nuri, Maulavi Nurullah (Governor of Balkh Province, Head of Northern Zone)

Nuristani, Rostam, Maulavi (Deputy Minister of Public Works)

Nyazi, Manan, Mullah (Governor of Kabul Province)

Omar, Mohammed, Mullah, Leader of the Faithful ('Amir ul-Mumineen'), Afghanistan

Omari, Alhaj M. Ibrahim (Deputy Minister of Frontier Affairs)

Paktis, Abdul Satar, Dr, (Protocol Dept., Ministry of Foreign Affairs)

Qadeer, Abdul, General (Military Attaché, Taliban 'Embassy', Islamabad)

Qalamuddin, Maulavi (Head of Olympic Committee)

Qurishi, Abdul Ghafar, Maulavi (Repatriation Attaché, Taliban 'Embassy', Islamabad)

Rabbani, Mohammad, Mullah (Chairman of the Ruling Council, Head of the Council of Ministers)

Rahimi, Yar Mohammad Mullah (Minister of Communication)

Rahmani, Arsalan, Maulavi (Deputy Minister of Higher Education)

Rahmani, M. Hasan, Mullah (Governor of Kandahar Province)

Rasul, M, Mullah (Governor of Nimroz Province)

Rauf, Abdul, Mullah (Commander of Central Corpus)

Razaq, Abdul, Maulavi (Minister of Commerce)

Razaq, Abdul, Mullah (Minister of Interior Affairs)

Reshad, Habibullah, Mullah (Head of Investigation Dept.)

Saddiq, Alhaj Mohammad, Maulavi (Trade Representative, Taliban 'Consulate General', Peshawar)

Sadruddin, Alhaj, Mullah (Mayor of Kabul City)

Safi, Rahmatullah, General (Taliban representative in Europe)

Salek, Abdulhai, Maulavi (Governor of Urouzgan Province)

Sanani, Maulavi, Head of Dar-ul-Efta,

Saqib, Noor Mohammad (Chief Justice of Supreme Court)

Sayed, Alhaj Mullah Sadudin (Mayor of Kabul City)

Sayf al-Adl (aka Saif Al-'Adil). Born c. 1963, Egypt. Thought to be an Egyptian national. Responsible for UBL's security

Sayyed, Saiduddine, Maulavi (Vice-Minister of Work and Social Affairs)

Shafiq, A. Wahed, Maulavi (Deputy Governor of Kabul Province)

Shafiq, M, Mullah (Governor of Samangan Province)

Shaheen, Mohammad Sohail (Second Secretary, Taliban 'Embassy', Islamabad)

Shahidkhel, S. Ahmed, Maulavi (Deputy Minister of Education)

Shams-ur-Rahman, Mullah (Deputy Minister of Agriculture)

Sharif, Mohammad (Deputy Minister of Interior Affairs)

Shaykh Sai'id (aka Mustafa Muhammad Ahmad). Born in Egypt

Sheikh Ahmed Salim Swedan (aka Ahmed the Tall; aka ALLY, Ahmed; aka BAHAMAD; aka BAHAMAD, Sheik; aka BAHAMADI, Sheikh; aka SUWEIDAN, Sheikh Ahmad Salem; aka SWEDAN, Sheikh; aka SWEDAN, Sheikh Ahmed Salem); born 9.4.1969 or 9.4.1960, Mombasa, Kenya; citizen of Kenya

Shenwary, Haji Abdul Ghafar (Third Secretary, Taliban 'Consulate General', Karachi)

Shinwari, Jalaluddine, Maulavi (Deputy Minister of Justice)

Siddiqmal, Mohammad Sarwar (Third Secretary, Taliban 'Embassy', Islamabad)

Stanekzai, Sher Abbas (Deputy Minister of Public Health)

Tahis, Hadji (Deputy Minister of Civil Aviation)

Takhari, Abdul Raqib, Maulavi (Minister of Repatriation)

Tariq Anwar Al-Sayyid Ahmad (aka Hamdi Ahmad Farag, Amr al-Fatih Fathi). Born 15.3.1963, Alexandria, Egypt

Tawana, Maulavi (Governor of Paktia Province)

Tayeb, Haji Alla Dad, Mullah (Deputy Minister of Communication)

Thirwat Salah Shihata (aka Tarwat Salah Abdallah, Salah Shihata Thirwat, Shahata Thirwat). Born 29.6.1960, Egypt

Tufail, Mohammed (a.k.a. Tufail, S.M.; a.k.a. Tufail, Sheik Mohammed); nationality: Pakistani

Turab, Hidayatullah Abu (Deputy Minister of Civil Aviation)

Turabi, Nooruddin, Mullah (Minister of Justice)

Ummah Tameer E-Nau (Utn), Street 13, Wazir Akbar Khan, Kabul, Afghanistan; Pakistan.

Usama Bin Laden (a.k.a. Usama Bin Muhammad Bin Awad, a.k.a. Osama Bin Laden, a.k.a. Abu Abdallah Abd Al-Hakim). Born 30.7.1957, Jeddah, Saudi Arabia. Saudi citizenship withdrawn, now officially an Afghan national.

Uthman, Omar Mahmoud (aka AL-FILISTINI, Abu Qatada; aka TAKFIRI, Abu Umr; aka ABU UMAR, Abu Omar; aka UTHMAN, Al-Samman; aka UMAR, Abu Umar; aka UTHMAN, Umar; aka ABU ISMAIL), London, England; born 30.12.1960 or 13.12.1960

Wahab, Malawi Abdul Taliban (Chargé d'Affaires in Riyadh)

Wahidyar, Ramatullah (Deputy Minister for Martyrs and Repatriation)

Wali, Mohammad, Maulavi (Minister of Department of Preventing Vice and Propagating Virtue)

Wali, Qari Abdul (First Secretary, Taliban 'Consulate General', Peshawar)

Walijan, Maulavi (Governor of Jawzjan Province)

Wasseq, Abdul-Haq-, Maulavi (Deputy Minister of Security (Intelligence))

Waziri, M. Jawaz (UN Dept, Ministry of Foreign Affairs)

Yaqoub, Mohammad, Maulavi (Head of BIA)

Yuldashev, Tohir (aka Yuldashev, Takhir), Uzbekistan

Zaeef, Abdul Salam, Mullah (Ambassador Extraordinary and Plenipotentiary, Taliban 'Embassy', Islamabad)

Zaeef, Abdul Salam (Taliban Ambassador to Pakistan)

Zahed, Abdul Rahman (Deputy Minister of Foreign Affairs)

Zahid, Mohammad, Mullah (Third Secretary, Taliban 'Embassy', Islamabad),

Zaief, Abdul Salam, Mullah (Deputy Minister of Mines and Industries)

Zia, Mohammad (aka Zia, Ahmad); c/o Ahmed Shah s/o Pinda Mohammad al-Karim Set, Peshawar, Pakistan; c/o Alam General Store Shop 17, Awami Market, Peshawar, Pakistan; c/o Zahir Shah s/o Murad Khan Ander Sher, Peshawar, Pakistan

Zurmati, Maulavi Rahimullah (Deputy (Publication) Minister of Information and Culture)

ANNEX II

LIST OF COMPETENT AUTHORITIES REFERRED TO IN ARTICLE 5

(to be completed by the Member States)

Proposal for a Regulation of the European Parliament and of the Council on aid for poverty diseases (HIV/AIDS, malaria and tuberculosis) in developing countries

(2002/C 151 E/10)

COM(2002) 109 final — 2002/0051(COD)

(Submitted by the Commission on 4 March 2002)

THE EUROPEAN PARLIAMENT AND THE COUNCIL
OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 179 thereof,

Having regard to the proposal from the Commission,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

- (1) The right to good health is a fundamental human right recognised by Article 25 of the Universal Declaration of Human Rights. This right is being denied to over a fifth of the world's population.
- (2) Article 35 of the Charter of Fundamental Rights of the European Union calls for a high level of human health protection in the definition and implementation of all Union policies and activities.
- (3) HIV/AIDS, malaria and tuberculosis cause the deaths of more than five and a half million people each year, their greatest impact being on morbidity and life expectancy in developing countries.
- (4) The failure to reduce the burden of these diseases and the evidence of their increasing impact has brought them to the centre of the development debate and has led to calls for urgent action and a series of national, regional and international initiatives, all meant to achieve the Millennium Development Goals which include clear targets to fight HIV/AIDS, malaria and tuberculosis, and to which the European Community and its Member States committed themselves.
- (5) The international community, represented by United Nations Secretary General Kofi Annan, calls for an additional minimal investment of USD 7-10 billion per year for HIV/AIDS, malaria and tuberculosis.
- (6) HIV/AIDS, malaria and tuberculosis require an appropriate structural response, which is both comprehensive and coherent and which is beyond the financial and human resources of most developing countries.
- (7) The effectiveness of programmes to support national strategies to combat HIV/AIDS, malaria and tuberculosis partly depends on the improved coordination of aid at both the European and the international level, including partnerships with the private sector, and on the use of procedures tailored to the specific nature of the strategies and partners concerned.
- (8) For the partner countries and populations in question, the type of assistance provided for by this Regulation is a pre-requisite for development and thus contributes significantly to the Community's development co-operation policy.
- (9) In its Communications to the Council and the European Parliament of 20 September 2000 and 21 February 2001 on Action related to Communicable Diseases in the Context of Poverty Reduction, the Commission outlined the policy principles and strategic priorities needed to enhance the effectiveness of action by the Community and the Member States in this field.
- (10) In its Resolutions of 10 November 2000 and 14 May 2001, the Council emphasised the gravity of the HIV/AIDS, malaria and tuberculosis epidemics and the need to step up efforts to give more support at national, regional and global levels.
- (11) The European Parliament has adopted several Resolutions and reports on this subject, including the Khanbhai report adopted on 4 October 2001 on the Commission's Communications on accelerated action targeted at major communicable diseases within the context of poverty reduction.
- (12) In its Resolutions of September 1998 and October 2000, the ACP-EU Joint Parliamentary Assembly underlined the threat posed by HIV/AIDS to all development efforts and the need for rapid action.
- (13) The present Regulation renders obsolete Council Regulation (EC) No 550/97 of 24 March 1997 on HIV/AIDS-related operations in developing countries, which should therefore be repealed ⁽¹⁾.

⁽¹⁾ OJ L 85, 27.3.1997, p. 1.

(14) The present Regulation lays down, for the entire duration of the programme it establishes, a financial framework constituting the prime reference, within the meaning of point 33 of the Interinstitutional Agreement between the European Parliament, the Council and the Commission of 6 May 1999 on budgetary discipline and improvement of the budgetary procedure⁽¹⁾, for the budgetary authority during the annual budgetary procedure.

(15) Since the measures necessary for the implementation of this Regulation are management measures within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽²⁾, they should be adopted by use of the management procedure provided for in Article 4 of that Decision.

(16) In accordance with the principles of subsidiarity and proportionality set out in Article 5 of the Treaty, the objective of the proposed action, namely to combat the three major communicable diseases within the context of poverty reduction, with particular reference to developing countries, cannot be attained by the Member States acting alone and, by reason of the scale and effects of the proposed action, can therefore only be achieved by the Community. This Regulation confines itself to the minimum required to achieve that objective and does not go beyond what is necessary for that purpose,

(b) action that complements and reinforces both the policies and capacities of developing countries and the assistance provided through other instruments of development cooperation.

Article 2

The purpose of activities carried out under this Regulation shall be to:

(a) optimise the impact of existing interventions, services and commodities targeted at the major communicable diseases affecting the poorest populations;

(b) increase the affordability of key pharmaceuticals;

(c) increase research and development, including vaccines, microbicides and innovative treatments.

Article 3

Community financial support shall be given to specific projects designed to further the objectives described in Article 2(1) and, in particular, to those which aim to:

(a) provide the necessary technical, scientific and normative input in order to prioritise health interventions within the total development cooperation budget and improve health outcomes related to the three major communicable diseases, keeping a balanced approach between prevention, treatment and care, with a primary focus on prevention;

(b) improve the performance of health interventions targeted at the three major communicable diseases within the context of a comprehensive health system;

(c) improve pharmaceutical policies and practice, and help developing countries, at regional or national level, to develop high-quality local production of off-patent and/or licensed key pharmaceuticals;

(d) promote global tiered pricing for key pharmaceuticals for developing countries;

(e) analyse the effects of factors, such as the level of net import price, tariffs, taxes, and importation, distribution and local registration fees, on consumer prices of medical goods in developing countries;

HAVE ADOPTED THIS REGULATION:

CHAPTER I

PURPOSE AND SCOPE

Article 1

1. The Community shall implement the European Community Programme for Action targeting the three major communicable diseases, namely HIV/AIDS, malaria and tuberculosis, in developing countries.

2. Under that Programme the Community shall provide financial assistance and appropriate expertise with a view to promoting investments in health, poverty reduction and equitable economic growth in developing countries.

3. In the allocation of such funding and expertise, priority shall be given to:

(a) the poorest and least developed countries and the most disadvantaged sections of the population within developing countries;

⁽¹⁾ OJ C 172, 18.6.1999, p. 1.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

- (f) provide, where appropriate, technical assistance to developing countries to help them address public health issues in accordance with the provisions of the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs) as clarified in the Doha Declaration on the TRIPs Agreement and Public Health;
- (g) develop an incentive package to encourage more private investment by the Research and Development based industries in new products, particularly vaccines and microbicides, designed to fight the major communicable diseases in developing countries;
- (h) support collaborative clinical, epidemiological, operational and social studies, so as to enable health-related research to be conducted on a sounder basis;
- (i) encourage capacity building in developing countries, to enable them to coordinate, host and conduct large-scale population trials;
- (j) support global initiatives targeting the major communicable diseases in the context of poverty reduction, including the Global Fund to fight HIV/AIDS, tuberculosis and malaria which came into operation on 29 January 2002.

Article 4

1. In the context of the operations referred to in Article 3, Community support may take the form of:

- (a) financial assistance;
- (b) technical assistance, training or other services;
- (c) supplies, such as medical supplies and commodities, and works;
- (d) audits and evaluation and monitoring missions.

Priority shall be given to enhancing national capacity with a view to long-term viability.

2. Community financing may cover both investment expenditure, excluding the purchase of real estate, and, in exceptional and duly substantiated cases, taking into account the fact that the operation must, as far as possible, aim at medium-term viability, recurring expenditure as well (including administrative expenditure, maintenance and running costs), the operation of which temporarily represents a burden for the partner, so that the maximum use is made of the support referred to in paragraph 1.

CHAPTER II

PROCEDURES FOR THE IMPLEMENTATION OF AID

Article 5

1. Community financing under this Regulation shall take the form of grants.
2. A financial contribution from the partners defined in Article 6 shall be sought for each cooperation operation. In specifying the amount of the contribution requested, regard shall be had to the capacity of the partners concerned and the nature of the operation in question. In certain circumstances, the contribution may be made in kind if the partner is either a non-governmental organisation (NGO) or a community-based organisation.
3. The provision of financial assistance under this Regulation may entail co-financing with other donors, in particular with Member States, the United Nations, and international or regional development banks or financial institutions.
4. In the context of the operations referred to in Article 3(1)(g)-(i), financial assistance shall be granted in coordination with the new instruments for product research and development on poverty-related communicable diseases implemented under the Community Framework Programme of Research and Development 2002-2006.

Article 6

1. The partners eligible for financial assistance under this Regulation include:
 - (a) administrative authorities and agencies at national, regional and local government level;
 - (b) local authorities and other decentralised bodies;
 - (c) local communities, NGOs, community-based organisations and other not-for-profit natural and legal persons from the private sector;
 - (d) regional organisations;
 - (e) international organisations, such as the United Nations and its agencies, as well as development banks, financial institutions, global initiatives, international public/private partnerships;
 - (f) research institutes and universities.

2. Without prejudice to paragraph 1(e), Community financial assistance shall be available to partners whose head office is located in a Member State or in a third country that is a beneficiary or potential beneficiary of Community assistance under this Regulation, provided that this office is the actual centre directing business operations. In exceptional cases, this office may be located in another third country.

Article 7

1. Where operations are the subject of financing agreements between the Community and countries which benefit from operations financed under this Regulation, the agreements shall stipulate that the payment of taxes, duties and charges shall not be financed by the Community.

2. Any financing agreement or contract concluded under this Regulation shall stipulate that it is subject to the supervision and financial control of the Commission which may carry out spot-checks and inspections, and to audits by the Court of Auditors, in accordance with the usual arrangements laid down by the Commission under the provisions in force, particularly those in the Financial Regulation applicable to the general budget of the European Communities.

3. The necessary measures shall be taken to emphasise the Community character of aid provided under this Regulation.

Article 8

1. Participation in invitations to tender for the award of contracts shall be open on equal terms to all natural and legal persons in the Member States and in all developing countries. It may be extended, in exceptional cases, to other third countries.

2. Supplies shall originate in the beneficiary country, other developing countries or the Member States. In exceptional cases, supplies may originate from other third countries.

Article 9

1. In order to secure the objectives of consistency and complementarity referred to in the Treaty and to ensure maximum effectiveness of these operations as a whole, the Commission may take all necessary coordination measures, including:

- (a) establishing a system for the systematic exchange and analysis of information on the operations financed and those which the Community and the Member States propose to finance;
- (b) on-the-spot coordination of the implementation of operations through regular meetings and exchanges of information between the representatives of the Commission and the Member States in the recipient country.

2. The Commission, in liaison with the Member States, may take any initiative necessary for ensuring proper coordination with the other donors concerned, in particular those forming part of the United Nations system.

CHAPTER III

DECISION-MAKING PROCEDURES*Article 10*

1. The financial framework for the implementation of this Regulation for the period from 2003 to 2006 is hereby set at ... million euro [to be decided APS 2003].

2. The annual appropriation shall be authorised by the budgetary authority within the limits of the financial perspective.

Article 11

1. The Commission shall be responsible for drafting strategic programming guidelines, defining the Community's co-operation in terms of measurable objectives, priorities, deadlines for specific areas of action, assumptions and expected outcomes. Programming is annual and indicative.

2. An exchange of views with the Member States shall take place on the basis of a presentation by the representative of the Commission of the strategic programming guidelines for the operations to be carried out, within the Committee referred to in Article 13 paragraph 1.

Article 12

1. The Commission shall be responsible for appraising, deciding and administering the operations covered by this Regulation in accordance with the budgetary and other procedures in force, in particular those laid down in the Financial Regulation applicable to the general budget of the European Communities.

2. Decisions concerning operations for which financing under this Regulation exceeds 5 million euro and any changes to these operations that entail a cost overrun of more than 20 % of the amount initially fixed for the operation concerned, shall be adopted in accordance with the procedure referred to in Article 13, paragraph 2.

3. For decisions and changes to these operations amounting to 5 million euro or less, the Commission will inform the Member States.

Article 13

1. The Commission shall be assisted by the geographically determined committee competent for development.

2. Where reference is made to this paragraph, the management procedure laid down in Article 4 of Decision 1999/468/EC shall apply, in compliance with Article 7 and Article 8 thereof.

3. The period provided for in Article 4, paragraph 3, of Decision 1999/468/EC shall be set at 45 days.

CHAPTER IV

REPORTING AND FINANCIAL PROVISIONS*Article 14*

1. After each budget year, the Commission shall submit in its annual report on EC development policy to the European Parliament and to the Council, information on the operations financed in the course of that year and the Commission's conclusions on the implementation of this Regulation over the previous budget year. The summary shall in particular provide information about the strengths and weaknesses of operations, those with whom contracts have been concluded as well as the results of any independent evaluations of specific operations.

2. One year before the expiry of this Regulation, the Commission shall submit an independent appraisal report on the implementation of this Regulation to the European Parliament and the Council with a view to establishing whether its objectives have been achieved and providing guidelines for improving the effectiveness of future operations.

On the basis of this appraisal report the Commission may make proposals for the future of this Regulation and, if necessary, proposals for its amendment.

Article 15

Council Regulation (EC) No 550/97 is hereby repealed. Operations that have been decided under Regulation (EC) No 550/97 shall continue to be implemented under that Regulation.

Article 16

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

2. It shall apply until 31 December 2006.

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

**Proposal for a Decision of the European Parliament and of the Council amending Decision
No 1254/96/EC laying down a series of guidelines for trans-European energy networks**

(2002/C 151 E/11)

(Text with EEA relevance)

COM(2001) 775 final — 2001/0311(COD)

(Submitted by the Commission on 5 March 2002)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE
EUROPEAN UNION,

Having regard to the Treaty establishing the European
Community and in particular the first paragraph of Article
156 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social
Committee,

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

Acting in accordance with the procedure laid down in Article
251 of the Treaty,

Whereas:

(1) Since the adoption of Decision No 1254/96/EC of 5 June 1996 laying down a series of guidelines for trans-European energy networks⁽¹⁾, the need has arisen to incorporate new priorities, to highlight the projects which are particularly important, to update the list of projects, and to adapt the procedure used for identifying projects.

(2) The new priorities stem from the creation of a more open and competitive internal energy market, as a result of the implementation of Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity⁽²⁾ and of Directive 98/30/EC of 22 June 1998 concerning common rules for the internal market in natural gas⁽³⁾. They follow the conclusions of the Stockholm European Council of March 2001 concerning the development of the infrastructures needed for the operation of the energy market, and they are consistent with the objective of making greater use of renewable energy sources as a contribution to furthering a sustainable development policy.

(3) The priorities also stem from the growing importance of the trans-European energy networks for diversifying the Community's gas supplies, incorporating the candidate countries' energy networks, and ensuring the coordinated operation of the electricity grids in Europe and the Mediterranean and Black Sea basins.

(4) Among the projects relating to trans-European energy networks, it is necessary to highlight the priority projects, which are very important for the operation of the internal energy market or the security of energy supply.

(5) It is necessary to adapt the procedure for identifying projects relating to trans-European energy networks in order to ensure the harmonious application of Council Regulation (EC) No 2236/95 of 18 September 1995 laying down general rules for the granting of Community financial aid in the field of trans-European networks⁽⁴⁾.

(6) The procedure for identifying projects relating to trans-European energy networks should be adapted by means of action at two levels: a first level identifying a restricted number of thematically defined projects of common interest, and a second level describing projects in detail, referred to as specifications.

(7) Since the project specifications are liable to change, they are given indicatively. The Commission should therefore continue to be empowered to update them.

(8) The provisions of Decision No 1254/96/EC concerning the committee procedure should be adopted to take account of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽⁵⁾.

(9) The identification of projects of common interest, their specifications and priority projects should be without prejudice to the results of the environmental impact assessment of the projects and of the plans or programmes.

⁽¹⁾ OJ L 161, 29.6.1996, p. 147. Decision as last amended by Decision No 1741/1999/EC (OJ L 207, 6.8.1991, p. 1).

⁽²⁾ OJ L 27, 30.1.1997, p. 20.

⁽³⁾ OJ L 204, 21.7.1998, p. 1.

⁽⁴⁾ OJ L 228, 23.9.1995, p. 1. Regulation as amended by Regulation (EC) No 1655/1999 (OJ L 197, 29.7.1999, p. 1).

⁽⁵⁾ OJ L 184, 17.7.1999, p. 23.

(10) The time-limit within which the Commission has to draw up the periodical report on the implementation of the guidelines under Decision No 1254/96/EC should be extended since, in pursuance of Regulation (EC) No 2236/95, it submits an annual report which contains information on the progress of projects, and in particular that of priority projects.

(11) Decision No 1254/96/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DECISION:

Article 1

Decision No 1254/96/EC is amended as follows:

1. Article 4 is replaced by the following:

‘Article 4

Priorities

The priorities for action by the Community on trans-European energy networks, taking account of the necessity to secure a sustainable development, shall be as follows:

- (a) adapting and developing the energy networks so as to support the operation of the internal energy market, and in particular solving the problems of trans-frontier and other bottlenecks, congestion and missing links, and taking account of the new needs arising from the liberalisation of the markets for electricity and natural gas;
- (b) the connection of renewable energy production;
- (c) the establishment of energy networks in insular, isolated, peripheral and ultra-peripheral regions while promoting the diversification of energy sources and the use of renewable energy sources, together with the connection of those networks, where necessary;
- (d) interoperability of electricity networks within the European Union with those of candidate countries and of other countries in Europe and the Mediterranean and Black Sea basins;
- (e) the development of gas networks in order to meet the Community's demand for natural gas, the control of its gas supply systems and the diversification of natural gas sources and supply routes.’

2. Paragraphs 2, 3 and 4 of Article 6 are replaced by the following:

‘2. The projects of common interest shall be as set out in Annex II.

3. Any modification which changes the description of a project as it appears in Annex II shall be decided upon in accordance with the procedure laid down in Article 251 of the Treaty.

4. The indicative project specifications, comprising the detailed description of the projects and, where appropriate, their geographical description, shall be as set out in Annex III.

These specifications shall be updated in accordance with the procedure referred to in Article 9(2).’

3. A new Article 6a is inserted as follows:

‘Article 6a

Priority projects of European interest

1. Priority shall be given to network developments which are compatible with sustainable development and which meet the following criteria:

- (a) they must have a significant impact on the competitive operation of the internal market; and/or
- (b) they must strengthen security of supply in the Community.

The list of priority axes which meet these criteria shall be as set out in Annex I.

2. Projects of common interest identified in accordance with this Decision which are situated on the priority axes shall be declared “priority projects of European interest”.

3. The Member States concerned and the Commission shall endeavour, each within its own sphere of competence, to further the carrying-out of priority projects of European interest.’

4. Articles 8, 9 and 10 are replaced by the following:

‘Article 8

Restrictions

1. This Decision shall be without prejudice to any financial commitment by a Member State or the Community.

2. This Decision shall be without prejudice to the results of the environmental impact assessment of projects and of the plans or programmes which define the future authorisation framework for such projects. The results of the environmental impact assessments shall be taken into consideration.

Article 9

Committee

1. The Commission shall be assisted by a Committee, to be called the TEN-Energy Committee composed of representatives of the Member States and chaired by the representative of the Commission.

2. Where reference is made to this paragraph, the regulatory procedure laid down in Article 5 of Decision 1999/468/EC shall apply, in compliance with Articles 7 and 8 thereof.

3. The period provided for in Article 5(6) of Decision 1999/468/EC shall be three months.

Article 10

Report

Every four years the Commission shall draw up a report on the implementation of this Decision, which it shall submit

to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.'

5. The Annex is replaced by the text set out in the Annex to this Decision.

Article 2

This Decision shall enter into force on the third day following that of its publication in the *Official Journal of the European Communities*.

Article 3

This Decision is addressed to the Member States.

ANNEX

'ANNEX I

TRANS-EUROPEAN ENERGY NETWORKS

Priority projects of European interest: Priority axes

ELECTRICITY NETWORKS

- EL.1. France — Belgium — Netherlands — Germany: electricity networks reinforcements in order to resolve the frequent problems of congestion through the Benelux.
- EL.2. Borders of Italy with France, Austria and Switzerland: increasing electricity interconnection capacities.
- EL.3. France — Spain — Portugal: increasing electricity interconnection capacities between these countries and for the Iberian peninsula.
- EL.4. Greece — Balkan countries — UCTE System: development of electricity infrastructure to connect Greece to the UCTE System.
- EL.5. United Kingdom — continental Europe and Northern Europe: establishing/increasing electricity interconnection capacities.
- EL.6. Ireland — Northern Ireland — United Kingdom: increasing electricity interconnection capacities.
- EL.7. Denmark — Germany: increasing electricity interconnection capacity.

GAS NETWORKS

- NG.1. United Kingdom — Netherlands — Germany — Russia: gas pipelines connecting the main sources of gas in Europe, improving the interoperability of the networks, and increasing the security of supply.
- NG.2. Algeria — Spain — France: construction of a new gas pipeline from Algeria to Spain and France, and increasing network capacities in Spain and France.
- NG.3. Caspian Sea countries — Middle East — European Union: new gas pipeline networks to the European Union from new sources, including the Greece-Turkey and Italy-Greece gas pipelines.

- NG.4. LNG terminals in France, Spain, Portugal, and Italy: diversifying sources of supply and entry points.
- NG.5. Underground storage in Spain, Portugal, and Greece: increasing capacity in Spain and construction of the first facilities in Portugal and Greece.
-

ANNEX II

TRANS-EUROPEAN ENERGY NETWORKS

Projects of common interest

ELECTRICITY NETWORKS

- (a) Developing electricity networks in island, isolated, peripheral and ultraperipheral regions while promoting the diversification of energy sources and the use of renewable energies, and connection of the electricity networks of those regions, if appropriate.
- (b) Developing electricity connections between the Member States where this is needed for the functioning of the internal market and in order to ensure the reliability and dependability of the operation of electricity networks.
- (c) Developing electricity connections within the Member States where this is needed in order to take advantage of the connections between the Member States, for the functioning of the internal electricity market or the connection of renewable energy sources.
- (d) Developing electricity connections with third countries, and more particularly with the accession candidate countries, thus contributing towards interoperability, the operational reliability and dependability of the electricity grids or the supply of electricity to the European Community.
- (m) Actions for improving the functioning of the interconnected electricity networks within the internal market and, in particular, identifying the bottlenecks and missing links, developing solutions in order to deal with congestion and adapting the methods of forecasting and of operating electricity networks.

GAS NETWORKS

- (e) Introducing natural gas into new regions, mainly island, isolated, peripheral and ultraperipheral regions and developing gas networks in these regions.
 - (f) Developing gas connections in order to meet the needs of the internal market or strengthen the security of supply, including connection of separate gas networks.
 - (g) Developing capacities for receiving liquefied natural gas (LNG) and for storage of natural gas, needed in order to meet demand, control gas supply systems, and diversify sources and supply routes.
 - (h) Developing gas transport capacity (gas supply pipelines) needed in order to meet demand and diversify supplies from internal and external sources, as well as supply routes.
 - (n) Actions for improving the functioning of the interconnected gas networks within the internal market and, in particular, identifying the bottlenecks and missing links, developing solutions in order to deal with congestion and adapting methods of forecasting and of operating gas networks.
-

ANNEX III

TRANS-EUROPEAN ENERGY NETWORKS

Specifications of projects of common interest (*)

ELECTRICITY NETWORKS

Project (a) — Developing electricity networks in island, isolated, peripheral and ultraperipheral regions while promoting the diversification of energy sources and the use of renewable energies, and connection of the electricity networks of those regions, if appropriate

Specifications:

a02 IRELAND — UNITED KINGDOM (Wales)

Connection by submarine cable between the network of Ireland and the network of the United Kingdom (Wales).

a04 GREECE — ITALY

Connection by submarine cable between the Greek network and the Italian network:
Ipiros–Puglia link (strengthening of existing connection)

a09 GREECE

Connections between the islands and between the islands and the mainland:
Connection of the Southern Cyclades.

a10 ULTRAPERIPHERAL REGIONS: FRANCE, SPAIN, PORTUGAL

Connections in ultraperipheral regions.

a11 ITALY (Sardinia) — FRANCE (Corsica) — ITALY (mainland)

Connection by submarine cable between the network of Sardinia and the network of Italy (mainland).
Strengthening the connection with Corsica.

Project (b) — Developing electricity connections between in the Member States needed for the functioning of the internal market and in order to ensure the reliability and dependability of the operation of electricity networks

Specifications:

b04 FRANCE — BELGIUM — THE NETHERLANDS — GERMANY

Moulaine (F)–Aubange (B) line.

b05 FRANCE — GERMANY

Vigy (F)–Marlenheim (F) line.
Vigy (F)–Uchtelfangen (D) line.

b06 FRANCE — ITALY

Grand île–Piosasco line.
La Praz (F) phase transformer.

b07 FRANCE — SPAIN

Cazaril–Aragón line or alternative route/layout, including connection to the Sallente–Sentmenat line.
Pragneres (F) phase transformer.
Eastern Pyrenees connection.

b10 SPAIN — PORTUGAL

Connections between the two countries through the regions of northern Portugal and north-western Spain.
New connection through the southern region of Portugal and the south-west of Spain:
Balboa–Alqueva–Sines line.

b11 FINLAND — SWEDEN

Connections north of the Gulf of Bothnia: New lines parallel to the existing ones.

(*) This list has been established on the basis of projects communicated to the Commission by the Member States and the operators concerned.

b12 AUSTRIA — ITALY

Lienz–Cordignano line.

b13 IRELAND — UNITED KINGDOM (Northern Ireland)

b14 AUSTRIA — GERMANY

St Peter–Isar line.

b15 THE NETHERLANDS — UNITED KINGDOM

Connection by submarine cable between south-eastern England and central Netherlands (Rotterdam area).

b16 DENMARK — GERMANY

Aerial connections between the two countries: Kasso–Flensburg line.

Project (c) — Developing electrical connections within the Member States where this is needed in order to take advantage of the connections between the Member States, the functioning of the internal market or the connection of renewable energy sources

Specifications:

c02 DENMARK

Connections on the North-South axis.

Connections on the East-West axis:

Connections by submarine cable between the country's western (UCTE) and eastern (NORDEL) networks: Fyn–Sjælland link.

c04 FRANCE

Connections in the north of the country, related to the expansion of intra-Community trade in electricity:

Dunkerque–Lille line;

Amiens–Lille line;

Connections in the north-east of the country: Sierrentz–Mulbach line.

c05 ITALY

Connections on the East-West axis:

Vado Ligure–Morigallo line;

Turbigo–Rho line;

Turbigo–Baggio line;

Gorlago–San Fiorano line;

Turbigo–Piedilago line;

Piedilago pumping station;

Chivasso–Magenta line;

Colunga–Calenzano line.

Connections on the North-South axis:

Pietrafitta–Santa Barbara line;

Santa Barbara–Tavarnuzze line;

Matera–Santa Sofia line;

Pian della Speranza/Roma Nord–Montalto/Suvereto line;

Pietrafitta–Villavalle line;

Laino–Rizziconi line.

c06 SPAIN

Connections on the following axes:

North axis;

Mediterranean axis;

Galicia–Centro axis;

Centro–Aragón axis;

Aragón–Levante axis.

Connections in Andalucía.

Connections in the Balearic Islands.

c07 PORTUGAL

Connections needed for the interconnection with Spain:
in the centre of the country: Pego–Rio Maior II line;
in the north of the country: Recarei–Pocinho–Aldeadávila line.

c08 GREECE

Thessaloniki, Lamia and Patras substations and connecting lines.

c09 IRELAND

Connections in the north-west of the country:
Tynagh–Cashla line;
Flagford–East Sligo line.

c10 SPAIN

Connections in the north-east and west of the country, in particular to connect to the network wind-power generation capacities.
Connections in the north-east: in Basque country, Aragón and Navarra.
Connections in the west: in Galicia.

c11 SWEDEN

Connections in central Sweden.
Connections in southern Sweden.

c12 GERMANY

Connections in the north of the country:
Lübeck/Siems–Görries line;
Lübeck/Siems–Krümmel line.

c13 UNITED KINGDOM

Connections in Northern Ireland, in relation to the interconnections with Ireland:
Connections in the north-west.
Connections in Scotland and England, with a view to the greater use of renewable sources in electricity generation.

Project (d) — Developing electricity connections with the non-Member States, and more particularly with the countries candidates for accession, thus contributing towards interoperability, the operational reliability and dependability of the electricity grids or the supply of electricity within the European Community

Specifications:

d02 GERMANY — POLAND

Neuenhagen (D)–Vierraden (D)–Krajnik (PL) line.

d03 GERMANY — NORWAY

Connection by submarine cable between northern Germany (UCTE) and southern Norway (NORDEL): Brunsbüttel–southern Norway link.

d05 ITALY — SWITZERLAND

S. Fiorano–Robbia line.
Piedilago–Airolo line.

d08 GREECE — BALKAN COUNTRIES

Connections between Greece and Albania, Bulgaria and FYROM:

Philippi (GR)–Maritsa 3 (Bulgaria) line;

Amintaio (GR)–Bitola (FYROM) line;

Kardia (GR)–Elbasan (Albania) line.

Connection of Greece to the UCTE system:

Elbasan (Albania)–Podgorica (F.R.Yugoslavia) line;

Mostar (Bosnia-Herzegovina) substation and connecting lines;

Ernestinovo (Croatia) substation and connecting lines.

d09 GREECE — TURKEY

Connections between the two countries through north-eastern Greece:

Philippi–Hamidabad line.

d10 UNITED KINGDOM — NORWAY

Connection by submarine cable between the north-east/east England and southern Norway (NORDEL).

d11 THE NETHERLANDS — NORWAY

Connection by submarine cable between the north-eastern Netherlands (UCTE) and southern Norway (NORDEL): Eemshaven–Feda link.

d13 SPAIN — MOROCCO

Connection by submarine cable between south Spain and Morocco (strengthening of existing connection).

d14 BALTIC ELECTRICITY RING: GERMANY — POLAND — RUSSIA — ESTONIA — LATVIA — LITHUANIA — SWEDEN — FINLAND — DENMARK — BELARUS

Connections between the networks of these countries by aerial lines and/or submarine cables:

southern Finland–Russia links;

Germany–Poland–Lithuania–Belarus–Russia link (East-West High Power Link);

Poland–Lithuania link;

Finland–Estonia link (through submarine cable).

d15 SWEDEN — NORWAY

North Sweden–north Norway lines.

Mid Sweden–mid Norway lines.

Borgvik (S)–Hoesle (NO)–Oslo region line.

d16 EU — BELARUS — RUSSIA — UKRAINE

Connections and interface between the (extended) UCTE network and the networks of third countries in eastern Europe:

connections between the UCTE and CENTREL systems;

connections between the UCTE/CENTREL system and the Balkan countries;

connections and interface between the extended UCTE system and Belarus, Russia and Ukraine, including relocation of HVDC conversion stations operating previously between Austria and Hungary, Austria and the Czech Republic and, Germany and the Czech Republic.

d17 BLACK SEA ELECTRICITY RING: RUSSIA — UKRAINE — ROMANIA — BULGARIA — TURKEY — GEORGIA

Connections in the Black Sea area with a view to interoperability of the extended UCTE system with the networks in the countries concerned.

d18 MEDITERRANEAN ELECTRICITY RING: FRANCE — SPAIN — MOROCCO — ALGERIA — TUNISIA — LIBYA — EGYPT — NEAR-EASTERN COUNTRIES — TURKEY — GREECE — ITALY

Connections in the Mediterranean Sea area with a view to interoperability of the extended UCTE system with the networks in the countries concerned:

Connection by submarine cable between south Spain and north-west Algeria.

d19 NORWAY — SWEDEN — FINLAND — RUSSIA

Connections in the Barents Sea area.

d20 ITALY — SLOVENIA

Installation of flexible alternative current transmission systems.

Project (m) — Actions improving the functioning of the interconnected electricity networks within the internal market and, in particular, identifying the bottlenecks and missing links, developing solutions in order to deal with congestion and adapting the methods of forecasting and of operating electricity networks

Specifications:

m1 ELECTRICITY NETWORK BOTTLENECKS AND MISSING LINKS

Identifying the bottlenecks and missing links, especially cross-border, within electricity networks.

Developing solutions for electricity flow management in order to deal with the problems of congestion within electricity networks.

m2 ELECTRICITY NETWORK FORECASTING AND OPERATING METHODS

Adapting the methods of forecasting and of operating electricity networks required by the functioning of the internal market and the use of a high percentage of renewable energy sources.

NATURAL GAS NETWORKS

Project (e) — Introducing natural gas into new regions, mainly island, isolated, peripheral and ultraperipheral regions and developing gas networks in these regions

Specifications:

e01 UNITED KINGDOM (Northern Ireland) — IRELAND

Developing gas network from Belfast towards the north-west region of Northern Ireland and, if appropriate, to the western coast of Ireland.

e04 SPAIN

Developing gas networks, including LNG terminals, in new regions in the mainland and on the islands:

LNG at Huelva (extending existing terminal);

LNG at Cartagena (extending existing terminal);

LNG in Galicia (new terminal);

LNG at Bilbao (new terminal);

LNG in the Valencia Region (new terminal);

Connection between the Balearic Islands and the mainland.

e05 PORTUGAL

Developing gas networks in the country, including an LNG terminal:

LNG in Sines (new terminal).

e06 GREECE

Developing gas networks in the country, including LNG terminals and storage facilities:
high pressure branch to Thrace;
high pressure branch to Corinth;
high pressure branch to north-west Greece;
compression station on the main pipeline;
storage at south Kavala (conversion of an offshore depleted gas field);
LNG at Revithoussa (extending existing terminal);
construction of a second LNG terminal.

e07 ULTRAPERIPHERAL REGIONS: FRANCE, SPAIN, PORTUGAL

Introduction of natural gas into ultraperipheral regions.

Project (f) — Developing gas connections in order to meet the needs of the internal market or strengthening of the security of supply, including connection of separate gas networks

Specifications:

f01 IRELAND — UNITED KINGDOM

Additional gas interconnection pipeline between Ireland and Scotland.
North-south interconnection, including Dublin–Belfast pipeline.

f05 FRANCE — SPAIN

Interconnection through the western border.
Compression station on the Lumbier–Calahorra pipeline.
Perpignan–Barcelona pipeline.

f06 PORTUGAL — SPAIN

Increasing transport capacity of gas pipelines supplying Portugal through south Spain and Galicia and Asturias through Portugal.

f08 AUSTRIA — GERMANY

Purchkirchen–Burghausen pipeline.
Andorf–Simbach pipeline.

f09 AUSTRIA — HUNGARY

Wiener Neustadt–Sopron pipeline.

f11 AUSTRIA

Connection between gas pipelines linking Austria to Germany and Italy:
Bad Leonfelden–Linz pipeline;
connection of isolated gas transmission networks.

f12 GREECE — ALBANIA

North-west Greece–Elbasan pipeline.

f13 ITALY — GREECE — OTHER BALKAN COUNTRIES

Interconnection pipeline, initially to supply Greece and other Balkan countries through south Italy.

f14 AUSTRIA — CZECH REPUBLIC

Connection between the networks of the two countries.

f17 AUSTRIA — SLOVENIA — CROATIA

Gas transport corridor to south-east Europe, across these countries.

f18 UNITED KINGDOM — THE NETHERLANDS — GERMANY

Interconnecting pipelines, linking the main sources of north-west Europe.

f19 GERMANY — POLAND

Connection between north-east Germany (Berlin area) and north-west Poland (Szczecin area).
Branch from Schmöln to Lubmin (Greifswald area).

f20 DENMARK — UNITED KINGDOM

Connection between offshore facilities in the North Sea.

Project (g) — Developing capacities for receiving liquefied natural gas (LNG) and for storage of natural gas, needed in order to meet demand and control gas supply systems, and diversify sources and supply routes

Specifications:

g01 IRELAND

Developing underground gas storage facilities.

g03 FRANCE

Developing LNG facilities:

LNG at Le Verdon-sur-mer (new terminal) and pipeline to Lussagnet storage;

LNG at Fos-sur-mer (extending existing terminal).

g07 FRANCE

Developing underground gas storage facilities:

storage at Lussagnet (extending existing site);

storage at Pecorade (conversion of a depleted oil field).

g08 SPAIN

Development of underground gas storage facilities:

storage on the north-south axis (new sites) in: Cantabria, Aragon, Castilla y León, Castilla-La Mancha, Andalucía;

storage on the Mediterranean axis (new sites) in: Catalonia, C.A. Valenciana, Murcia.

g09 PORTUGAL

Developing underground gas storage facilities:

storage in Carriço (new site).

g11 BELGIUM

Developing underground gas storage facilities:

storage at Loenhout (extending existing site).

g12 DENMARK

Developing underground gas storage facilities:

storage at Stenlille (extending existing site);

storage at Toender (new site, close to the border with Germany).

g13 AUSTRIA

Developing underground gas storage facilities:

storage at Purchkirchen (extending existing site), including pipeline to the Penta West system near Andorf;

storage at Baumgarten (new site);

storage at Haidach (new site), including pipeline to the European gas grid.

g14 ITALY

Developing LNG facilities:

LNG offshore in the north Adriatic Sea (new terminal);

LNG on the south Adriatic coast (new terminal).

g16 BELGIUM

Developing LNG facilities:

LNG at Zeebrugge/Dudzele (extending existing terminal).

g17 ITALY

Developing underground gas storage facilities.

Project (h) — Developing gas transport capacity (gas supply pipelines) needed in order to meet demand and diversify supplies from internal and external sources, as well as supply routes

Specifications:

h03 NORDIC GAS GRID: NORWAY — DENMARK — GERMANY — SWEDEN — FINLAND — RUSSIA — BALTIC STATES — POLAND

Creation and development of connections between the networks of these countries with a view to setting up an integrated gas network:

the Baltic gas interconnector: Germany, Denmark, Sweden;

the Mid-Nordic gas pipeline: Norway, Sweden, Finland;

Nybro-Dragor gas pipeline, including connecting pipeline to the storage at Stenlille: Denmark;

the north European gas pipeline: Russia, Baltic Sea, Germany;

gas pipeline from Russia to Germany, via Latvia, Lithuania and Poland, including developing underground gas storage facilities in Latvia.

h04 ALGERIA — SPAIN — FRANCE

Developing gas pipelines from Algeria to Spain and France and related capacity increase of the internal networks in these countries:

— Algeria-Morocco-Spain (up to Córdoba) pipeline: increasing transport capacity;

— extension towards north-east Spain:

Córdoba-Ciudad Real pipeline;

Ciudad Real-Madrid pipeline;

Ciudad Real-Mediterranean coast pipeline;

branches in Castilla-La Mancha;

— extension towards north-west Spain: the western pipeline;

— Algeria-Spain submarine pipeline and pipelines for the connection to France.

h06 RUSSIA — UKRAINE — EU

Increasing transport capacity from Russian resources to the European Union, via Ukraine, Slovakia and the Czech Republic:

sections in Czech Republic and Slovakia;

sections in Austria and Italy.

h07 RUSSIA — BELARUS — POLAND — EU

Increasing transport capacity from Russian resources to the European Union, via Belarus and Poland:
section in Germany:

Yagal Sud gas pipeline (between the STEGAL pipeline leading to the D, F, CH triangle);

SUDAL East gas pipeline (between MIDAL pipeline near Heppenheim to Burghausen connection with the PENTA pipeline in Austria).

h09 LIBYA — ITALY

Gas network from Libyan resources to Italy.

h10 CASPIAN SEA COUNTRIES — EU

Gas network from resources in the Caspian Sea countries to the European Union:
Greece–Turkey gas pipeline.

h11 RUSSIA — UKRAINE — MOLDAVIA — ROMANIA — BULGARIA — GREECE — OTHER BALKAN COUNTRIES

Increasing transport capacity from Russian resources to Greece and other Balkan countries, via Ukraine, Romania and Bulgaria:

section in Romania;

section in Bulgaria: St. Zagora–Ihtiman gas pipeline.

h13 GERMANY — CZECH REPUBLIC — AUSTRIA — ITALY

Connecting pipelines between the German, Czech, Austrian and Italian gas networks.

h14 RUSSIA — UKRAINE — SLOVAKIA — HUNGARY — SLOVENIA — ITALY

Gas pipeline from Russian resources to Italy, via Ukraine, Slovakia, Hungary and Slovenia.

h15 THE NETHERLANDS — GERMANY — SWITZERLAND — ITALY

Increasing transport capacity of the TENP gas pipeline running from the Netherlands through Germany to Italy.

h16 BELGIUM — FRANCE — SWITZERLAND — ITALY

Increasing transport capacity from North-western Europe through France to Italy:
Taisnières (F)–Oltingue (CH) gas pipeline.

h17 DENMARK — POLAND

Gas pipeline through Denmark to Poland: Denmark–Poland submarine pipeline.

h18 NORWAY — RUSSIA — EU

Gas network from the Barents Sea resources to the European Union, via Sweden and Finland.

h19 IRELAND

Gas pipeline from the Corrib field (offshore).

h20 ALGERIA — ITALY — FRANCE

Gas pipeline from Algerian resources to Italy, via Sardinia. Branch to Corsica.

h21 MIDDLE EAST — EU

Gas network from resources in the Middle East to the European Union.

Project (n) — Actions improving the functioning of the interconnected gas networks within the internal market and, in particular, identifying the bottlenecks and missing links, developing solutions in order to deal with congestion and adapting methods of forecasting and of operating gas networks

Specifications:

n1 NATURAL GAS NETWORK BOTTLENECKS AND MISSING LINKS

Identifying the bottlenecks and missing links, especially cross-border, within the gas networks.

Developing solutions for natural gas flow management in order to deal with the problems of congestion within the gas networks.

n2 NATURAL GAS NETWORK FORECASTING AND OPERATING METHODS

Adapting the methods of forecasting and operating natural gas networks required by the functioning of the internal market.

Proposal for a Council Decision on the signature on behalf of the Community of an additional Protocol to the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Latvia, of the other part, on Conformity Assessment and Acceptance of Industrial Products

(2002/C 151 E/12)

COM(2002) 111 final — 2002/0057(ACC)

(Submitted by the Commission on 5 March 2002)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133, 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 Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Latvia, of the other part ⁽¹⁾, entered into force on 1 February 1998.
- (2) Article 76 the Europe Agreement provides that cooperation in the fields of standardisation and conformity assessment shall seek to achieve the conclusion of agreements on mutual recognition.
- (3) The Protocol to the Europe Agreement on Conformity Assessment and Acceptance of Industrial Products has been negotiated by the Commission on behalf of the Community.
- (4) Subject to its possible conclusion at a later date, the Protocol to the Europe Agreement on Conformity Assessment and Acceptance of Industrial Products initialled in Brussels on 10 July 2000 and 5 April 2001 should be signed,

HAS DECIDED AS FOLLOWS:

Sole Article

Subject to a possible conclusion at a later date, the President of the Council is hereby authorised to designate the person empowered to sign, on behalf of the Community, the Protocol to the Europe Agreement with the Republic of Latvia on Conformity Assessment and Acceptance of Industrial Products.

⁽¹⁾ OJ L 26, 2.2.1998, p. 3.

Proposal for a Council Decision on the conclusion of an additional Protocol to the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Latvia, of the other part, on Conformity Assessment and Acceptance of Industrial Products (PECA)

(2002/C 151 E/13)

COM(2002) 111 final — 2002/0058(ACC)

(Submitted by the Commission on 5 March 2002)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof, in conjunction with the first sentence of the first subparagraph of Article 300(2), the first sentence of the first subparagraph of Article 300(3) and Article 300(4) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Latvia, of the other part ⁽¹⁾, entered into force on 1 February 1998.

(2) Article 76(2) of the Europe Agreement provides that cooperation in the fields of standardisation and conformity assessment shall seek to achieve the conclusion of agreements on mutual recognition.

(3) Article 114(2) of the Europe Agreement provides that the Association Council may delegate to the Association Committee any of its powers.

(4) Article 2 of Decision 98/98/EC, ECSC, Euratom of the Council and the Commission of 19 December 1997 on the conclusion of the Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Latvia, of the other part ⁽²⁾, provides for the Community decision-making procedures and for the presentation of the Community position in the Association Council and in the Association Committee.

(5) Article 14 of Decision No 1/98 of the Association Council between the European Communities and their Member States, of the one part, and the Republic of Latvia, of the other part of 23 February 1998 on its rules of procedure ⁽³⁾ provides that the Association Committee may set up further subcommittees or groups to assist in carrying out its duties.

(6) The draft Protocol to the Europe Agreement on Conformity Assessment and Acceptance of Industrial Products, has been signed in Brussels on [... 2000], on behalf of the Community, and should be approved.

(7) Certain tasks for implementation have been conferred to the Association Council and in particular the power to amend the Annexes to the Protocol.

(8) The appropriate internal procedures should be established to ensure the proper functioning of the Protocol.

(9) It is necessary to empower the Commission to make certain technical amendments to this Protocol and to take certain decisions for its implementation,

HAS DECIDED AS FOLLOWS:

Article 1

The Protocol to the Europe Agreement with the Republic of Latvia on Conformity Assessment and Acceptance of Industrial Products (hereinafter referred to as 'the Protocol'), as well as the declaration annexed to the Final Act thereto, are hereby approved on behalf of the European Community.

The text of the Protocol, and of the declaration annexed to the Final Act thereto, is attached to this Decision.

Article 2

The President of the Council shall, on behalf of the Community, transmit the diplomatic note provided for in Article 17 of the Protocol ⁽⁴⁾.

Article 3

1. The Commission, after consultation with the special committee appointed by the Council, shall:

(a) carry into effect the notifications, acknowledgements, suspensions and withdrawals of bodies, and appointments of joint team or teams of experts, in accordance with Articles 10, 11 and 14, indent (c) of the Protocol;

⁽¹⁾ OJ L 26, 2.2.1998, p. 3.

⁽²⁾ OJ L 26, 2.2.1998, p. 1.

⁽³⁾ OJ L 73, 12.3.1998, p. 31.

⁽⁴⁾ The date of entry into force of the Protocol will be published in the *Official Journal of the European Communities* by the General Secretariat of the Council.

- (b) bring about the consultations, exchange of information, the requests for verifications and for participation in verifications, in accordance with Articles 3, 12 and 14, indents (d) and (e), and Sections III and IV of the Annexes to the Protocol concerning electrical safety, electromagnetic compatibility, toys and construction products;
 - (c) if necessary, reply to requests in accordance with Article 11, Sections III and IV of the Annexes to the Protocol concerning electrical safety, electromagnetic compatibility, toys and construction products.
2. Following consultation of the special committee referred to in paragraph 1 of this Article, the Commission shall determine the position to be taken by the Community in the Association Council and, where applicable, in the Association Committee, with regard to:
- (a) amendments to the Annexes in accordance with Article 14, point (a) of the Protocol;
 - (b) addition of new Annexes in accordance with Article 14, point (b) of the Protocol;
 - (c) any decisions regarding disagreements on the results of the verifications and the suspensions, in part or totally, of any notified body in accordance with the second and third subparagraphs of Article 11 of the Protocol;
 - (d) any measures taken in the application of the safeguard clauses in Section IV of the Annexes of the Protocol concerning electrical safety, electromagnetic compatibility, toys and construction products;
 - (e) any measures concerning the verification, suspension, or withdrawal of industrial products as having mutual acceptance under Article 4 of the Protocol.
3. In all other cases the position to be taken by the Community in the Association Council and, where applicable, in the Association Committee, with regard to this Protocol shall be determined by the Council, acting by qualified majority on a proposal from the Commission.

ANNEX

Protocol to the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Latvia, of the other part on Conformity Assessment and Acceptance of Industrial Products (PECA)

The European Community and the Republic of Latvia hereinafter referred to as 'the Parties',

Whereas the Republic of Latvia has applied for membership of the European Union and such membership implies the effective implementation of the *acquis* of the European Community,

Recognising that the progressive adoption and implementation of Community law by the Republic of Latvia provides the opportunity to extend certain benefits of the internal market and to ensure its effective operation in certain sectors before accession,

Considering that, in the sectors covered by this Protocol, the Latvian national law substantially takes over the Community law,

Considering their shared commitment to the principles of free movement of goods and to promoting product quality, so as to ensure the health and safety of their citizens and the protection of the environment, including through technical assistance and other forms of cooperation between them,

Desiring to conclude a Protocol to the Europe Agreement on Conformity Assessment and Acceptance of industrial products (hereafter the Protocol) providing for the application of the mutual acceptance of industrial products which fulfil the requirements to be lawfully placed on the market in one of the Parties and of the mutual recognition of the results of conformity assessment of industrial products which are subject to Community or national law, noting that Article 76 of the Europe Agreement provides, where appropriate, for the conclusion of an agreement on mutual recognition,

Noting the close relationship between the European Community and Iceland, Liechtenstein and Norway through the Agreement on the European Economic Area, which makes it appropriate to consider the conclusion of a parallel European Conformity Assessment Agreement between the Republic of Latvia and these countries equivalent to this Protocol,

Bearing in mind their status as Contracting Parties to the Agreement establishing the World Trade Organisation, and conscious in particular of their obligations under the World Trade Organisation Agreement on Technical Barriers to Trade,

HAVE AGREED AS FOLLOWS:

Article 1

Purpose

The purpose of this Protocol is to facilitate the elimination by the Parties of technical barriers to trade in respect of industrial products. The means to this end is the progressive adoption and implementation by the Republic of Latvia of national law, which is equivalent to Community law.

This Protocol provides for:

1. the mutual acceptance of industrial products, listed in the annexes on 'mutual acceptance of industrial products', which fulfil the requirements to be lawfully placed on the market in one of the Parties;
2. the mutual recognition of the results of conformity assessment of industrial products subject to Community law and to the equivalent Latvian national law, both listed in the annexes on 'mutual recognition of results of conformity assessment'.

Article 2

Definitions

For the purpose of this Protocol,

'Industrial products' means products, as specified in Article 9 and in Protocol 2 of the Europe Agreement.

'Community law' means any legal act and implementing practice of the European Community applicable to a particular situation, risk or category of industrial products, as interpreted by the Court of Justice of the European Communities.

'National law' means any legal act and implementing practice by which the Republic of Latvia takes over the Community law applicable to a particular situation, risk or category of industrial products.

The terms used in this Protocol shall have the meaning given in Community law and the Latvian national law.

Article 3

Alignment of legislation

For the purpose of this Protocol, the Republic of Latvia agrees to take appropriate measures, in consultation with the European Commission, to maintain or complete the take-over of Community law, in particular in the fields of standardisation, metrology, accreditation, conformity assessment, market surveillance, general safety of products, and producer's liability.

Article 4

Mutual acceptance of industrial products

The Parties agree that, for the purpose of mutual acceptance, industrial products listed in the annexes on 'mutual acceptance of industrial products', which fulfil the requirements to be lawfully placed on the market of a Party, may be placed on the market of the other Party, without further restriction. This shall be without prejudice to Article 35 of the Europe Agreement.

Article 5

Mutual recognition of the results of conformity assessment procedures

The Parties agree to recognise the results of conformity assessment procedures carried out in accordance with the Community or national law listed in the annexes on 'mutual recognition of the results of conformity assessment'. The Parties shall not require procedures to be repeated, nor shall they impose additional requirements, for the purposes of accepting that conformity.

Article 6

Safeguard clause

Where a Party finds that an industrial product placed on its territory by virtue of the present Protocol, and used in accordance with its intended use, may compromise the safety or health of users or other persons, or any other legitimate concern protected by legislation identified in the annexes, it may take appropriate measures to withdraw such a product from the market, to prohibit its placing on the market, putting into service or use, or to restrict its free movement. The annexes shall provide for the procedure to be applied in such cases.

*Article 7***Extension of coverage**

As the Republic of Latvia adopts and implements further national law taking over Community law, the Parties may amend the annexes or conclude new ones, in accordance with the procedure laid down in Article 14.

*Article 8***Origin**

The provisions of this Protocol shall apply to industrial products irrespective of their origin.

*Article 9***Obligation of Parties as regards their authorities and bodies**

The Parties shall ensure that authorities under their jurisdiction which are responsible for the effective implementation of Community and national law shall continuously apply it. Further, they shall ensure that these authorities are able, where appropriate, to notify, suspend, remove suspension and withdraw notification of bodies, to ensure the conformity of industrial products with Community or national law or to require their withdrawal from the market.

The Parties shall ensure that bodies, notified under their respective jurisdiction to assess conformity in relation to requirements of Community or national law specified in the annexes, continuously comply with the requirements of Community or national law. Further, they shall take all necessary steps to ensure that these bodies maintain the necessary competence to carry out the tasks for which they are notified.

*Article 10***Notified bodies**

Initially, the bodies notified for the purpose of this Protocol will be those included in the lists which the Republic of Latvia and the European Community have exchanged before the completion of the procedures for entry into force

Afterwards, the following procedure shall apply for the notification of bodies to assess conformity in relation to the requirements of Community or national law specified in the annexes:

(a) a Party shall forward its notification to the other Party in writing;

(b) on the acknowledgement of the other Party, given in writing, the body will be considered as notified and as competent to assess conformity in relation to the requirements specified in the annexes from that date.

If a Party decides to withdraw a notified body under its jurisdiction, it shall inform the other Party in writing. The body will cease to assess conformity in relation to the requirements specified in the annexes from the date of its withdrawal at the latest. Nevertheless, conformity assessment carried out before that date shall remain valid, unless otherwise decided by the Association Council.

*Article 11***Verification of notified bodies**

Each Party may request the other Party to verify the technical competence and compliance of a notified body under its jurisdiction. Such request will be justified in order to allow the Party responsible for the notification to carry out the requested verification and report speedily to the other Party. The Parties may also jointly examine the body, with the participation of the relevant authorities. To this end, the Parties shall ensure the full cooperation of bodies under their jurisdiction. The Parties shall take all appropriate steps, and use whatever available means may be necessary, with a view to resolving any problems which are detected.

If the problems cannot be resolved to the satisfaction of both Parties, they may notify the chairman of the Association Council of their dissent, giving their reasons. The Association Council may decide on appropriate action.

Unless and until decided otherwise by the Association Council, the notification of the body and the recognition of its competence to assess conformity in relation to the requirements of Community or national law specified in the annexes shall be suspended in part or totally from the date on which the disagreement of the Parties has been notified to the chairman of the Association Council.

*Article 12***Exchange of information and cooperation**

In order to ensure a correct and uniform application and interpretation of this Protocol, the Parties, their authorities and their notified bodies shall:

(a) exchange all relevant information concerning implementation of law and practice including, in particular, on procedure to ensure compliance of notified bodies;

- (b) take part, as appropriate, in the relevant mechanisms of information, coordination and other related activities of the Parties.
- (c) encourage their bodies to cooperate with a view to establishing mutual recognition arrangements in the voluntary sphere.

Article 13

Confidentiality

Representatives, experts and other agents of the Parties shall be required, even after their duties have ceased, not to disclose information acquired under this Protocol which is of the kind covered by the obligation of professional secrecy. This information may not be used for purposes other than those envisaged by this Protocol.

Article 14

Management of the Protocol

Responsibility for the effective functioning of this Protocol shall be held by the Association Council in conformity with Article 110 of the Europe Agreement. In particular, it shall have the power to take decisions regarding:

- (a) amending the annexes;
- (b) adding new annexes;
- (c) appointing a joint team or teams of experts to verify the technical competence of a notified body and its compliance with the requirements;
- (d) exchanging information on proposed and actual modifications of the Community and national law referred to in the annexes;
- (e) considering new or additional conformity assessment procedures affecting a sector covered by an annex;
- (f) resolving any questions relating to the application of this Protocol.

The Association Council may delegate the above responsibilities set out under this Protocol, in conformity with Articles 114(2) of the Europe Agreement.

Article 15

Technical cooperation and assistance

The European Community may provide technical cooperation and assistance to the Republic of Latvia where necessary in order to support the effective implementation and application of this Protocol.

Article 16

Agreements with other countries

Agreements on conformity assessment concluded by either Party with a country which is not a Party to this Protocol shall not entail an obligation upon the other Party to accept the results of conformity assessment procedures carried out in that third country, unless there is an explicit agreement between the Parties in the Association Council.

Article 17

Entry into force

This Protocol shall enter into force on the first day of the second month following the date on which the Parties have exchanged diplomatic notes confirming the completion of their respective procedures for entry into force of the Protocol.

Article 18

Status of the Protocol

This Protocol constitutes an integral part of the Europe Agreement.

This Protocol is drawn up in two originals in Latvian, Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish and Swedish languages, each text being equally authentic.

ANNEXES ON MUTUAL RECOGNITION OF RESULTS OF CONFORMITY ASSESSMENT

Table of contents

1. Electrical Safety
2. Electromagnetic Compatibility
3. Toys
4. Construction Products

ANNEX

on Mutual Recognition of results of Conformity Assessment

ELECTRICAL SAFETY

SECTION I

COMMUNITY AND NATIONAL LAW

Community law:	Council Directive 73/23/EEC of 19 February 1973 on the approximation of the laws of the Member States relating to electrical equipment designed for use within certain voltage limits (OJ L 77, 26.3.1973, p. 29), as last amended by Directive 93/68/EEC of 22 July 1993 (OJ L 220, 30.8.1993, p. 1).
National law:	Regulations of the Cabinet of Ministers of May 30, 2000 No 187 (Latvijas Vēstnesis No 201/204, 2.6.2000, p. 4).

SECTION II

NOTIFYING AUTHORITIES

European Community:

— Austria:	Bundesministerium für Wirtschaft und Arbeit.
— Belgium:	Ministère des Affaires Économiques/Ministerie van Economische Zaken.
— Denmark:	Økonomi- og Erhvervsministeriet, Elektricetsrådet.
— Finland:	Kauppa- ja teollisuusministeriö/Handels- och industriministeriet.
— France:	Ministère de l'économie, des finances et de l'industrie. Direction Générale de l'Industrie, des Technologies de l'Information et des Postes (DiGITIP) — SQUALPI.
— Germany:	Bundesministerium für Arbeit und Sozialordnung.
— Greece:	Υπουργείο Ανάπτυξης, Γενική Γραμματεία Βιομηχανίας (Ministry of Development, General Secretariat of Industry).
— Ireland:	Department of Enterprise and Employment.
— Italy:	Ministero dell' Industria, del Commercio e dell' Artigianato.
— Luxembourg:	Ministère de l'Économie — Service de l'Énergie de l'État. Ministère du Travail (Inspection du Travail et des Mines).
— Netherlands:	Minister van Volksgezondheid, Welzijn en Sport (consumer goods). Minister van Sociale Zaken en Werkgelegenheid (others).
— Portugal:	Under the authority of the Government of Portugal: Instituto Português da Qualidade.

- Spain: Ministerio de Ciencia y Tecnología.
 - Sweden: Under the authority of the Government of Sweden:
Styrelsen för ackreditering och teknisk kontrol (SWEDAC).
 - United Kingdom: Department of Trade and Industry.
- Latvia:** Ekonomikas ministrija (Ministry of Economy)

SECTION III

NOTIFIED BODIES

European Community:

Bodies which have been notified by the Member States of the Community in accordance with the Community law of Section I and notified to Latvia in accordance with Article 10 of this Protocol.

Latvia:

Bodies which have been authorised by Latvia in accordance with the Latvian national law of Section I and notified to the Community in accordance with Article 10 of this Protocol.

SECTION IV

SPECIFIC ARRANGEMENTS

Safeguard clauses

A. Safeguard clause relating to industrial products

1. Where a Party has taken a measure to deny free access to its market for industrial products bearing the CE marking, subject to this Annex, it shall immediately inform the other Party, indicating the reasons for its decision and how non-compliance has been assessed.
2. The Parties shall consider the matter and the evidence brought to their knowledge, and shall report to each other the results of their investigations.
3. In case of agreement, the Parties shall take appropriate measures to ensure that such products are not placed on the market.
4. In case of disagreement on the outcome of such investigations the matter shall be forwarded to the Association Council who may decide to have an expertise carried out.
5. Where the Association Council finds that the measure is:
 - (a) unjustified, the national authority of the Party who has taken the measure shall withdraw it;
 - (b) justified, the Parties shall take appropriate measures to ensure that such products are not placed on the market.

B. Safeguard clause relating to harmonised standards

1. Where the Republic of Latvia considers that a harmonised standard referred to in the legislation defined in this Annex, does not meet the essential requirements of such legislation, it shall inform the Association Council giving the reasons thereof.
 2. The Association Council shall consider the matter and may request the Community to proceed in accordance with the procedure provided for in the Community legislation identified in this Annex.
 3. The Community shall keep the Association Council and the other Party informed of the proceedings.
 4. The outcome of the procedure shall be notified to the other Party.
-

ANNEX

on Mutual Recognition of results of Conformity Assessment

ELECTROMAGNETIC COMPATIBILITY

SECTION I

COMMUNITY AND NATIONAL LAW

- Community law: Council Directive 89/336/EEC of 3 May 1989 on the approximation of the laws of the Member States relating to electromagnetic compatibility (OJ L 139, 23.5.1989, p. 19), as last amended by Council Directive 93/68/EEC of 22 July 1993 (OJ L 220, 30.8.1993, p. 1).
- National law: Regulations of the Cabinet of Ministers of May 30, 2000 No 188 (Latvijas Vēstnesis No 201/204, 2.6.2000, p. 5), as amended by Regulations No 78 of 20 February 2001 (Latvijas Vēstnesis No 31, 23.2.2001 p. 3).

SECTION II

NOTIFYING AUTHORITIES**European Community:**

- Austria: Bundesministerium für Wirtschaft und Arbeit.
- Belgium: Ministère des Affaires Économiques/Ministerie van Economische Zaken.
- Denmark: Telestyrelsen.
- Finland: Kauppa- ja teollisuusministeriö/Handels- och industriministeriet.
For EMC aspects of telecommunications and radio equipment:
Liikenne- ja viestintäministeriö/Kommunikationsministeriet.
- France: Ministère de l'économie, des finances et de l'industrie. Direction Générale de l'Industrie, des Technologies de l'Information et des Postes (DiGITIP), SQUALPI.
- Germany: Bundesministerium für Arbeit und Sozialordnung.
- Greece: Υπουργείο Ανάπτυξης. Γενική Γραμματεία Βιομηχανίας (Ministry of Development. General Secretariat of Industry).
- Ireland: Department of Enterprise and Employment.
- Italy: Ministero dell' Industria, del Commercio e dell' Artigianato.
- Luxembourg: Ministère de l'Économie — Service de l'Énergie de l'État.
- Netherlands: Minister van Verkeer en Waterstaat.
- Portugal: Ministério do Equipamento Social. Instituto das Comunicações de Portugal.
- Spain: Ministerio de Ciencia y Tecnología.
- Sweden: Under the authority of the Government of Sweden:
Styrelsen för ackreditering och teknisk kontrol (SWEDAC).
- United Kingdom: Department of Trade and Industry.

Latvia: Ekonomikas ministrija (Ministry of Economy)

SECTION III

NOTIFIED AND COMPETENT BODIES**European Community:**

Bodies which have been notified by the Member States of the Community in accordance with the Community law of Section I and notified to Latvia in accordance with Article 10 of this Protocol.

Latvia:

Bodies which have been authorised by Latvia in accordance with the Latvian national law of Section I and notified to the Community in accordance with Article 10 of this Protocol.

SECTION IV

SPECIFIC ARRANGEMENTS**Safeguard clauses***A. Safeguard clause relating to industrial products*

1. Where a Party has taken a measure to deny free access to its market for industrial products bearing the CE marking, subject to this Annex, it shall immediately inform the other Party, indicating the reasons for its decision and how non-compliance has been assessed.
2. The Parties shall consider the matter and the evidence brought to their knowledge, and shall report to each other the results of their investigations.
3. In case of agreement, the Parties shall take appropriate measures to ensure that such products are not placed on the market.
4. In case of disagreement on the outcome of such investigations the matter shall be forwarded to the Association Council who may decide to have an expertise carried out.
5. Where the Association Council finds that the measure is:
 - (a) unjustified, the national authority of the Party who has taken the measure shall withdraw it;
 - (b) justified, the Parties shall take appropriate measures to ensure that such products are not placed on the market.

B. Safeguard clause relating to harmonised standards

1. Where the Republic of Latvia considers that a harmonised standard referred to in the legislation defined in this Annex, does not meet the essential requirements of such legislation, it shall inform the Association Council giving the reasons thereof.
 2. The Association Council shall consider the matter and may request the Community to proceed in accordance with the procedure provided for in the Community legislation identified in this Annex.
 3. The Community shall keep the Association Council and the other Party informed of the proceedings.
 4. The outcome of the procedure shall be notified to the other Party.
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ANNEX

*on Mutual Recognition of results of Conformity Assessment***TOYS**

SECTION I

COMMUNITY AND NATIONAL LAW

Community law:	Council Directive of 3 May 1988 on the approximation of the laws of the Member States concerning the safety of toys (88/378/EEC) (OJ L 187, 16.7.1988, p. 1), as amended by Council Directive 93/68/EEC of 22 July 1993 (OJ L 220, 30.8.1993, p. 1).
National law:	Regulations of the Cabinet of Ministers of 4 April 2000 No 128 'Regulations on safety of toys' (Latvijas Vēstnesis No 125, 7.4.2000, p. 2), as amended by ...

SECTION II

NOTIFYING AUTHORITIES**European Community:**

— Austria:	Bundesministerium für soziale Sicherheit und Generationen.
— Belgium:	Ministère des Affaires Économiques/Ministerie van Economische Zaken.
— Denmark:	Økonomi- og Erhvervsministeriet, Forbrugerstyrelsen.
— Finland:	Kauppa- ja teollisuusministeriö/Handels- och industriministeriet.
— France:	Ministère de l'Économie et des Finances.
— Germany:	Bundesministerium für Arbeit und Sozialordnung.
— Greece:	Υπουργείο Ανάπτυξης. Γενική Γραμματεία Βιομηχανίας (Ministry of Development. General Secretariat of Industry).
— Ireland:	Department of Enterprise and Employment.
— Italy:	Ministero de l'Industria.
— Luxembourg:	Ministère du travail et de l'emploi.
— Netherlands:	General Inspectorate for Health Protection.
— Portugal:	Divisão de Estudos de Produtos do Instituto do Consumidor.
— Spain:	Ministerio de Ciencia y Tecnología. Instituto Nacional de Consumo.
— Sweden:	Under the authority of the Government of Sweden: SWEDAC-Styrelsen för ackreditering och teknisk kontroll.
— United Kingdom:	Department of Trade and Industry.

Latvia: Ekonomikas ministrija (Ministry of Economy)

SECTION III

NOTIFIED BODIES**European Community:**

Bodies which have been notified by the Member States of the Community in accordance with the Community law of Section I and notified to the Latvia in accordance with Article 10 of this Protocol.

Latvia:

Bodies which have been authorised by Latvia in accordance with the Latvian national law of Section I and notified to the Community in accordance with Article 10 of this Protocol.

SECTION IV

SPECIFIC ARRANGEMENTS

1. Information concerning the certificate and the technical file

In accordance with Article 10(4) of Directive 88/378/EEC, the authorities listed in section II may obtain on request a copy of the certificate and, on reasoned request, a copy of the technical file and the reports on the examinations and tests carried out.

2. Notification of grounds for refusal by approved bodies

In accordance with Article 10(5) of Directive 88/378/EEC, the Latvian bodies shall inform the Ministry of Economy when refusing to issue an EC type-examination certificate. The Ministry of Economy shall likewise notify the Commission of the European Communities thereof.

3. Safeguard clauses*A. Safeguard clause relating to products*

1. Where a Party has taken a measure to deny free access to its market for products bearing the CE marking, subject to this Annex, it shall immediately inform the other Party, indicating the reasons for its decision and how non-compliance has been assessed.
2. The Parties shall consider the matter and the evidence brought to their knowledge, and shall report to each other the results of their investigations.
3. In case of agreement, the Parties shall take appropriate measures to ensure that such products are not placed on the market.
4. In case of disagreement on the outcome of such investigations the matter shall be forwarded to the Association Council who may decide to have an expertise carried out.
5. Where the Association Council finds that the measure is:
 - (a) unjustified, the national authority of the Party who has taken the measure shall withdraw it;
 - (b) justified, the Parties shall take appropriate measures to ensure that such products are not placed on the market.

B. Safeguard clause relating to harmonised standards

1. Where the Republic of Latvia considers that a harmonised standard referred to in the legislation defined in the present annex, does not meet the essential requirements of such legislation, it shall inform the Association Council giving the reasons thereof.
 2. The Association Council shall consider the matter and may request the Community to proceed in accordance with the procedure provided for in the Community legislation identified in this Annex.
 3. The Community shall keep the Association Council and the other Party informed of the proceedings.
 4. The outcome of the procedure shall be notified to the other Party.
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ANNEX

*on Mutual Recognition of results of Conformity Assessment***CONSTRUCTION PRODUCTS**

SECTION I

COMMUNITY AND NATIONAL LAW

- Community law: Council Directive 89/106/EEC of 21 December 1988 on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products (OJ L 40, 11.2.1989, p. 12), as amended by Council Directive 93/68/EEC of 22 July 1993 (OJ L 220, 30.8.1993, p. 1).
- National law: Building Law of 10.8.1995 (Latvijas Vēstnesis No 131, 30.8.1995) as amended by Law of 27.2.1997 (Latvijas Vēstnesis No 69/70, 11.3.1997) and Law of 1.10.1997 (Latvijas Vēstnesis No 274/276, 21.10.1997).
- Cabinet Order 313 of 17 June 1998 On authorisation of bodies involved in conformity attestation of building materials and construction products in mandatory area.
- Regulations of the Cabinet of Ministers No 181 'Procedure of conformity attestation of building materials and construction products' (Latvijas Vēstnesis No 52, 30.3.2001).
- Building Code LBN 006-00 'Essential Requirements for construction works' (Latvijas Vēstnesis No 52, 30.3.2001).

SECTION II

NOTIFYING AUTHORITIES**European Community:**

- Austria: Bundesministerium für Wirtschaft und Arbeit.
- Belgium: Ministère des Communications et de l'Infrastructure/Ministerie van Verkeer & Infrastructuur.
- Denmark: Økonomi- og Erhvervsministeriet, Erhvervs- og Boligstyrelsen.
- Finland: Ympäristöministeriö/Miljöministeriet.
- France: Ministère de l'Industrie.
Ministère de l'Équipement.
- Germany: Bundesministerium für Verkehr, Bau- und Wohnungswesen.
- Greece: Υπουργείο Περιβάλλοντος Χωροταξίας και Δημοσίων Έργων (Ministry of Environment Physical Planning and Public Works).
- Ireland: Department of the Environment and the Local Government.
- Italy: . . .
- Luxembourg: Ministère de l'Économie — Service de l'Énergie de l'État.
- Netherlands: Ministerie van Volkshuisvesting, Ruimtelijke Ordening en Milieubeheer. Directoraat Generaal van de Volkshuisvesting.
- Portugal: Ministério da Economia. Direcção-General da Indústria/Instituto Português da Qualidade (IPQ).
- Spain: Ministerio de Fomento.
Ministerio de Ciencia y Tecnología.
- Sweden: Under the authority of the Government of Sweden:
Styrelsen för ackreditering och teknisk kontroll (SWEDAC).
- United Kingdom: Department of Transport, Local Government and the Regions.

Latvia: Ekonomikas ministrija (Ministry of Economy)

SECTION III

NOTIFIED BODIES**European Community:**

Bodies which have been notified by the Member States of the Community in accordance with the Community law of Section I and notified to Latvia in accordance with Article 10 of this Protocol.

Latvia:

Bodies which have been authorised by Latvia in accordance with the Latvian national law of Section I and notified to the Community in accordance with Article 10 of this Protocol.

SECTION IV

SPECIFIC ARRANGEMENTS**1. Scope and coverage**

The provisions of this Annex shall only apply construction products covered by harmonised standards and corresponding Latvian national standards.

2. Safeguard clauses*A. Safeguard clause relating to products*

1. Where a Party has taken a measure to deny free access to its market for products bearing the CE marking, subject to this Annex, it shall immediately inform the other Party, indicating the reasons for its decision and how non-compliance has been assessed.
2. The Parties shall consider the matter and the evidence brought to their knowledge, and shall report to each other the results of their investigations.
3. In case of agreement, the Parties shall take appropriate measures to ensure that such products are not placed on the market.
4. In case of disagreement on the outcome of such investigations the matter shall be forwarded to the Association Council who may decide to have an expertise carried out.
5. Where the Association Council finds that the measure is:
 - (a) unjustified, the national authority of the Party who has taken the measure shall withdraw it;
 - (b) justified, the Parties shall take appropriate measures to ensure that such products are not placed on the market.

B. Safeguard clause relating to harmonised standards

1. Where the Republic of Latvia considers that a harmonised standard referred to in the legislation defined in the present annex, does not meet the essential requirements of such legislation, it shall inform the Association Council giving the reasons thereof.
 2. The Association Council shall consider the matter and may request the Community to proceed in accordance with the procedure provided for in the Community legislation identified in this Annex.
 3. The Community shall keep the Association Council and the other Party informed of the proceedings.
 4. The outcome of the procedure shall be notified to the other Party.
-

DECLARATION BY THE COMMUNITY ON THE ATTENDANCE OF LATVIAN REPRESENTATIVES AT COMMITTEE MEETINGS

In order to ensure a better understanding of the practical aspects of the application of the *acquis communautaire*, the Community declares that the Republic of Latvia is invited, under the following conditions, to the meetings of the committees established or referred to under the Community law on electromagnetic compatibility, electrical safety and construction products.

This participation shall be limited to meetings or parts thereof during which the application of the *acquis* is discussed; it shall not entail attendance at meetings intended to prepare and issue opinions on implementation or management powers delegated to the Commission by the Council.

This invitation may be extended, on a case-by-case basis, to groups of experts convened by the Commission.

Proposal for a Council Decision approving the Protocol (2001) amending the Annex to the Agreement on Trade in Civil Aircraft

(2002/C 151 E/14)

COM(2002) 112 *final* — 2002/0055(ACC)

(Submitted by the Commission on 5 March 2002)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 in conjunction with Article 300(2) first sentence thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Council Decision No 80/271/EEC ⁽¹⁾ approved the conclusion of the GATT Agreement on Trade in Civil Aircraft (the 'Agreement').
- (2) Signatories to the Agreement, through their representatives, agreed on the Protocol (2001) Amending the Annex to the Agreement on Trade in Civil Aircraft (the 'Protocol') in Geneva on the sixth day of June, 2001, transposing into the Annex to the Agreement the changes introduced in the 1992, 1996 and 2002 versions of the Harmonised

Commodity Description and Coding System, as well as extending the product coverage of the Agreement.

(3) The Protocol should therefore be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Protocol (2001) Amending the Annex to the Agreement on Trade in Civil Aircraft is hereby approved. The text of the Protocol is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person empowered to sign the Protocol in order to express the consent of the Community to be bound thereby.

⁽¹⁾ OJ L 71, 17.3.1980, p. 1.

ANNEX

PROTOCOL (2001) AMENDING THE ANNEX TO THE AGREEMENT ON TRADE IN CIVIL AIRCRAFT

Signatories to the Agreement on Trade in Civil Aircraft (hereinafter referred to as 'the Agreement'),

HAVING carried out negotiations with a view to transposing into the Annex to the Agreement the changes introduced in the 1992, 1996 and 2002 versions of the Harmonised Commodity Description and Coding System (hereinafter referred to as 'the Harmonised System'), as well as extending the product coverage of the Agreement,

HAVE, through their representatives, agreed as follows:

1. The Annex attached to this Protocol shall, upon its entry into force pursuant to paragraph 3, replace the Annex to the Agreement as established heretofore by the Protocol (1986) Amending the Annex to the Agreement on Trade in Civil Aircraft.
2. This Protocol shall be open for acceptance by Signatories to the Agreement, by signature or otherwise, until 31 October 2001, or a later date to be decided by the Committee on Trade in Civil Aircraft ⁽¹⁾.
3. This Protocol shall enter into force, for those Signatories who have accepted it, on 1 January 2002. For each other Signatory it shall enter into force on the day following the date of its acceptance.
4. This Protocol shall be deposited with the Director-General of the World Trade Organization who shall promptly furnish to each Signatory and each Member a certified copy thereof and a notification of each acceptance thereof pursuant to paragraph 2.
5. This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.
6. This Protocol deals only with customs duties and charges under Article 2 of the Agreement. Except with respect to requiring duty-free treatment for products covered by this Protocol, nothing in this Protocol or the Agreement, as modified thereby, changes or affects a Signatory's rights and obligations, as they exist on the day prior to the entry into force of this Protocol, under any of the WTO Agreements referenced in Article II of the Marrakesh Agreement Establishing the World Trade Organization.

DONE at Geneva this sixth day of June 2001, in a single copy, in the English, French and Spanish languages, each text being authentic.

⁽¹⁾ On 21 November 2001, the Committee decided to extend the date for acceptance of the Protocol indefinitely (TCA/7).

ANNEX

PRODUCT COVERAGE

The product coverage is defined in Article 1 of the Agreement on Trade in Civil Aircraft.

Signatories agree that products covered by the descriptions listed below and properly classified under the Harmonised System headings and subheadings shown alongside shall be accorded duty-free or duty-exempt treatment, if such products are for use in civil aircraft or ground flying trainers ⁽¹⁾ and for incorporation therein, in the course of their manufacture, repair, maintenance, rebuilding, modification or conversion.

These products shall not include:

an incomplete or unfinished product, unless it has the essential character of a complete or finished part, component, sub-assembly or item of equipment of a civil aircraft or ground flying trainer ⁽¹⁾, (e.g. an article which has a civil aircraft manufacturer's part number),

materials in any form (e.g. sheets, plates, profile shapes, strips, bars, pipes, tubes or other shapes) unless they have been cut to size or shape and/or shaped for incorporation in a civil aircraft or a ground flying trainer ⁽¹⁾ (e.g. an article which has a civil aircraft manufacturer's part number),

raw materials and consumable goods.

For the purpose of this Annex, 'ex' has been included to indicate that the product description referred to does not exhaust the entire range of products within the Harmonised System headings and subheadings listed below.

HS Heading	HS Subheading	Description
ex 3917	ex 3917 21	Tubes, pipes and hoses, rigid, of polymers of ethylene, with attached fittings
ex 3917	ex 3917 22	Tubes, pipes and hoses, rigid, of polymers of propylene, with attached fittings
ex 3917	ex 3917 23	Tubes, pipes and hoses, rigid, of polymers of vinyl chloride, with attached fittings
ex 3917	ex 3917 29	Tubes, pipes and hoses, rigid, of other plastics, with attached fittings
ex 3917	ex 3917 31	Flexible tubes, pipes and hoses, of plastics, having a minimum burst pressure of 27.6 MPa, with attached fittings
ex 3917	ex 3917 33	Flexible tubes, pipes and hoses, of plastics, not reinforced or otherwise combined with other materials, with attached fittings
ex 3917	ex 3917 39	Flexible tubes, pipes and hoses, of plastics, reinforced or otherwise combined with other materials, with attached fittings
ex 3917	ex 3917 40	Fittings for tubes, pipes and hoses, of plastics
ex 3926	ex 3926 90	Other articles of plastics
ex 4008	ex 4008 29	Profile shapes of non-cellular vulcanised rubber other than hard rubber, cut to size

⁽¹⁾ For the purpose of Article 1.1 of this Agreement 'ground flight simulators' are to be regarded as ground flying trainers as provided for under 8805 29 of the Harmonised System.

HS Heading	HS Subheading	Description
ex 4009	ex 4009 12	Tubes, pipes and hoses, of vulcanised rubber other than hard rubber, not reinforced or otherwise combined with other materials, with attached fittings, suitable for conducting gases or liquids
	ex 4009 22	Tubes, pipes and hoses, of vulcanised rubber other than hard rubber, reinforced or otherwise combined only with metal, with attached fittings, suitable for conducting gases or liquids
	ex 4009 32	Tubes, pipes and hoses, of vulcanised rubber other than hard rubber, reinforced or otherwise combined only with textile materials, with attached fittings, suitable for conducting gases or liquids
	ex 4009 42	Tubes, pipes and hoses, of vulcanised rubber other than hard rubber, reinforced or otherwise combined with other materials, with attached fittings, suitable for conducting gases or liquids
ex 4011	ex 4011 30	New pneumatic tyres, of rubber, of a kind used on aircraft
ex 4012	ex 4012 13	Retreaded pneumatic tyres, of rubber, of a kind used on aircraft
	ex 4012 20	Used pneumatic tyres, of rubber
ex 4016	ex 4016 10	Other articles of cellular vulcanised rubber other than hard rubber
ex 4016	ex 4016 93	Gaskets, washers and other seals, of non-cellular vulcanised rubber other than hard rubber
ex 4016	ex 4016 99	Other articles of non-cellular vulcanised rubber other than hard rubber
ex 4017	ex 4017 00	Tubes, pipes and hoses, of hard rubber, with attached fittings, suitable for conducting gases or liquids
ex 4504	ex 4504 90	Gaskets, washers and other seals, of agglomerated cork
ex 4823	ex 4823 90	Gaskets, washers and other seals, of paper or paperboard
ex 6812	ex 6812 90	Other articles of asbestos
ex 6813	ex 6813 10	Brake linings and pads, not mounted, of friction material with a basis of asbestos or of other mineral substances
ex 6813	ex 6813 90	Other articles, not mounted, for clutches or the like, of friction material with a basis of asbestos or other mineral substances
ex 7007	ex 7007 21	Windshields, of laminated safety glass
ex 7304	ex 7304 31	Tubes and pipes, seamless, of circular cross-section, of iron (other than cast iron) or non-alloy steel, cold-drawn or cold-rolled (cold-reduced), with attached fittings, suitable for conducting gases or liquids
ex 7304	ex 7304 39	Tubes and pipes, seamless, of circular cross-section, of iron (other than cast iron) or non-alloy steel, other than cold-drawn or cold-rolled (cold-reduced), with attached fittings, suitable for conducting gases or liquids
ex 7304	ex 7304 41	Tubes and pipes, seamless, of circular cross-section, of stainless steel, cold-drawn or cold-rolled (cold-reduced), with attached fittings, suitable for conducting gases or liquids
ex 7304	ex 7304 49	Tubes and pipes, seamless, of circular cross-section, of stainless steel, other than cold-drawn or cold-rolled (cold-reduced), with attached fittings, suitable for conducting gases or liquids
ex 7304	ex 7304 51	Tubes and pipes, seamless, of circular cross-section, of alloy steel other than stainless steel, cold-drawn or cold-rolled (cold-reduced), with attached fittings, suitable for conducting gases or liquids
ex 7304	ex 7304 59	Tubes and pipes, seamless, of circular cross-section, of alloy steel other than stainless steel, other than cold-drawn or cold-rolled (cold-reduced), with attached fittings, suitable for conducting gases or liquids

HS Heading	HS Subheading	Description
ex 7304	ex 7304 90	Tubes and pipes, seamless, other than of circular cross-section, of iron (other than cast iron) or steel, with attached fittings, suitable for conducting gases or liquids
ex 7306	ex 7306 30	Tubes and pipes, welded, of circular cross-section, of iron or non-alloy steel, with attached fittings, suitable for conducting gases or liquids
ex 7306	ex 7306 40	Tubes and pipes, welded, of circular cross-section, of stainless steel, with attached fittings, suitable for conducting gases or liquids
ex 7306	ex 7306 50	Tubes and pipes, welded, of circular cross-section, of alloy steel other than stainless steel, with attached fittings, suitable for conducting gases or liquids
ex 7306	ex 7306 60	Tubes and pipes, welded, of non-circular cross-section, of iron or steel, with attached fittings, suitable for conducting gases or liquids
ex 7312	ex 7312 10	Stranded wire, ropes and cables, of iron or steel, not electrically insulated, with attached fittings
ex 7312	ex 7312 90	Plaited bands, slings, and the like, of iron or steel, not electrically insulated, with attached fittings
ex 7322	ex 7322 90	Air heaters and hot air distributors, not electrically heated, incorporating a motor-driven fan or blower, of iron or steel, excluding parts thereof
ex 7324	ex 7324 10	Sinks and wash basins, of stainless steel
ex 7324	ex 7324 90	Other sanitary ware, of iron or steel
ex 7326	ex 7326 20	Articles of iron or steel wire
ex 7413	ex 7413 00	Stranded wire, cables, plaited bands and the like, of copper, not electrically insulated, with attached fittings
ex 7608	ex 7608 10	Tubes and pipes, of aluminium not alloyed, with attached fittings, suitable for conducting gases or liquids
ex 7608	ex 7608 20	Tubes and pipes, of aluminium alloys, with attached fittings, suitable for conducting gases or liquids
ex 8108	ex 8108 90	Tubes and pipes, of titanium, with attached fittings, suitable for conducting gases or liquids
ex 8302	ex 8302 10	Hinges, of base metal
ex 8302	ex 8302 20	Castors with mountings of base metal
ex 8302	ex 8302 42	Base metal mountings, fittings and similar articles, suitable for furniture
ex 8302	ex 8302 49	Other base metal mountings, fittings and similar articles
ex 8302	ex 8302 60	Automatic door closers of base metal
ex 8307	ex 8307 10	Flexible tubing, of iron or steel, with attached fittings
ex 8307	ex 8307 90	Flexible tubing, of base metal other than iron or steel, with attached fittings
ex 8407	ex 8407 10	Spark-ignition reciprocating or rotary internal combustion piston aircraft engines
ex 8408	ex 8408 90	Compression-ignition internal combustion piston aircraft engines (diesel or semi-diesel engines)

HS Heading	HS Subheading	Description
ex 8409	ex 8409 10	Parts suitable for use solely or principally with aircraft engines of 8407 10 or 8408 90
ex 8411	ex 8411 11	Turbo-jets of a thrust not exceeding 25 kN
ex 8411	ex 8411 12	Turbo-jets of a thrust exceeding 25 kN
ex 8411	ex 8411 21	Turbo-propellers of a power not exceeding 1 100 kW
ex 8411	ex 8411 22	Turbo-propellers of a power exceeding 1 100 kW
ex 8411	ex 8411 81	Gas turbines, other than turbo-jets or turbo-propellers, of a power not exceeding 5 000 kW
ex 8411	ex 8411 82	Gas turbines, other than turbo-jets or turbo-propellers, of a power exceeding 5 000 kW
ex 8411	ex 8411 91	Parts of turbo-jets or turbo propellers
ex 8411	ex 8411 99	Parts of gas turbines, other than turbo-jets or turbo-propellers
ex 8412	ex 8412 10	Reaction engines other than turbo-jets
ex 8412	ex 8412 21	Hydraulic power engines and motors, linear acting (cylinders)
ex 8412	ex 8412 29	Hydraulic power engines and motors, non-linear acting
ex 8412	ex 8412 31	Pneumatic power engines and motors, linear acting (cylinders)
ex 8412	ex 8412 39	Pneumatic power engines and motors, non-linear acting
ex 8412	ex 8412 80	Non-electric power engines and motors, other than reaction engines, or hydraulic or pneumatic power engines and motors
ex 8412	ex 8412 90	Parts of reaction engines, or of hydraulic, pneumatic, or other non-electric power engines and motors
ex 8413	ex 8413 19	Pumps for liquids, fitted or designed to be fitted with a measuring device
ex 8413	ex 8413 20	Hand pumps for liquids, not fitted or designed to be fitted with a measuring device
ex 8413	ex 8413 30	Fuel, lubricating or cooling medium pumps for internal combustion piston engines
ex 8413	ex 8413 50	Reciprocating positive displacement pumps for liquids, other than pumps of 8413 19, 8413 20 or 8413 30
ex 8413	ex 8413 60	Rotary positive displacement pumps for liquids, other than pumps of 8413 19, 8413 20 or 8413 30
ex 8413	ex 8413 70	Centrifugal pumps for liquids, other than pumps of 8413 19, 8413 20 or 8413 30
ex 8413	ex 8413 81	Pumps for liquids, other than pumps of 8413 19, 8413 20, 8413 30, 8413 50, 8413 60 or 8413 70
ex 8413	ex 8413 91	Parts of pumps for liquids
ex 8414	ex 8414 10	Vacuum pumps
ex 8414	ex 8414 20	Hand- or foot-operated air pumps
ex 8414	ex 8414 30	Air or other gas compressors of a kind used in refrigerating equipment
ex 8414	ex 8414 51	Table, floor, wall, window, ceiling or roof fans, with a self-contained electric motor of an output not exceeding 125 W

HS Heading	HS Subheading	Description
ex 8414	ex 8414 59	Fans, other than fans of 8414 51
ex 8414	ex 8414 80	Other air pumps, air or gas compressors
ex 8414	ex 8414 90	Parts of air or vacuum pumps, air or other gas compressors and fans
ex 8415	ex 8415 81	Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated, incorporating a refrigerating unit and a valve for reversal of the cooling/heat cycle (reversible heat pumps)
ex 8415	ex 8415 82	Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated, incorporating a refrigerating unit but not a valve for reversal of the cooling/heat cycle
ex 8415	ex 8415 83	Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated, not incorporating a refrigerating unit
ex 8415	ex 8415 90	Parts of the air conditioning machines of 8415 81, 8415 82 or 8415 83
ex 8418	ex 8418 10	Combined refrigerator-freezers, fitted with separate external doors
ex 8418	ex 8418 30	Freezers of the chest type, not exceeding 800 l capacity
ex 8418	ex 8418 40	Freezers of the upright type, not exceeding 900 l capacity
ex 8418	ex 8418 61	Compression type refrigerating units whose condensers are heat exchangers
ex 8418	ex 8418 69	Refrigerating or freezing equipment other than household type refrigerators, or refrigerating or freezing equipment of 8418 10, 8418 30, 8418 40 or 8418 61
ex 8419	ex 8419 50	Heat exchange units
ex 8419	ex 8419 81	Apparatus for making hot drinks, or for cooking or heating food
ex 8419	ex 8419 90	Parts of heat exchange units of 8419 50
ex 8421	ex 8421 19	Centrifuges
ex 8421	ex 8421 21	Machinery and apparatus for filtering or purifying water
ex 8421	ex 8421 23	Oil or petrol filters for internal combustion engines
ex 8421	ex 8421 29	Machinery and apparatus for filtering or purifying other liquids than water or beverages, other than those of 8421 23
ex 8421	ex 8421 31	Intake air filters for internal combustion engines
ex 8421	ex 8421 39	Machinery and apparatus for filtering or purifying gases other than intake air filters for internal combustion engines
ex 8424	ex 8424 10	Fire extinguishers, whether or not charged
ex 8425	ex 8425 11	Pulley tackle and hoists, other than skip hoists, powered by electric motor
ex 8425	ex 8425 19	Pulley tackle and hoists, other than skip hoists, powered by other than an electric motor
ex 8425	ex 8425 31	Winches or capstans powered by electric motor

HS Heading	HS Subheading	Description
ex 8425	ex 8425 39	Winches or capstans powered by other than an electric motor
ex 8425	ex 8425 42	Jacks, hydraulic
ex 8425	ex 8425 49	Jacks, other than hydraulic
ex 8426	ex 8426 99	Other cranes
ex 8428	ex 8428 10	Lifts and skip hoists
ex 8428	ex 8428 20	Pneumatic elevators and conveyors
ex 8428	ex 8428 33	Continuous-action elevators and conveyors, for goods or materials, belt type
ex 8428	ex 8428 39	Continuous-action elevators and conveyors, for goods or materials, other than belt type
ex 8428	ex 8428 90	Other lifting, handling, loading or unloading machinery
ex 8471	ex 8471 10	Analogue or hybrid automatic data processing machines
	ex 8471 41	Other digital automatic data processing machines, comprising in the same housing at least a central processing unit and an input and output unit, whether or not combined
	ex 8471 49	Other digital automatic data processing machines, other than those of 8471 41, presented in the form of systems
	ex 8471 50	Digital processing units other than those of 8471 41 or 8471 49, whether or not containing in the same housing one or two of the following types of unit: storage units, input units, output units
	ex 8471 60	Input or output units, whether or not containing storage units in the same housing
	ex 8471 70	Storage units
ex 8479	ex 8479 89	Machines and mechanical appliances having individual functions, not specified or included elsewhere in chapter 84, the following: Non-electric starter motors; Propeller regulators, non-electric; Servo-mechanisms, non-electric; Windshield wipers, non-electric; Hydropneumatic accumulators; Pneumatic starters for turbo-jets, turbo-propellers, or other gas turbines; Toilet units specially designed for aircraft; Mechanical actuators for thrust reversers; Air humidifiers and dehumidifiers
ex 8479	ex 8479 90	Parts of machines and mechanical appliances enumerated under 8479 89
ex 8483	ex 8483 10	Transmission shafts (including cam shafts and crank shafts) and cranks
ex 8483	ex 8483 30	Bearing housings, not incorporating ball or roller bearings; plain shaft bearings
ex 8483	ex 8483 40	Gears and gearing, other than toothed wheels, chain sprockets and other transmission elements presented separately; ball or roller screws; gear boxes and other speed changers, including torque converters
ex 8483	ex 8483 50	Flywheels and pulleys, including pulley blocks
ex 8483	ex 8483 60	Clutches and shaft couplings (including universal joints)
ex 8483	ex 8483 90	Toothed wheels, chain sprockets and other transmission elements presented separately; parts of the articles of 8483 10, 8483 30, 8483 40, 8483 50 or 8483 60
ex 8484	ex 8484 10	Gaskets and similar joints of metal sheeting combined with other material or of two or more layers of metal
ex 8484	ex 8484 90	Sets or assortments of gaskets and similar joints, dissimilar in composition, put up in pouches, envelopes or similar packings

HS Heading	HS Subheading	Description
ex 8501	ex 8501 20	Electric universal AC/DC motors, of an output exceeding 735 W but not exceeding 150 kW
ex 8501	ex 8501 31	Electric DC motors of an output exceeding 735 W, but not exceeding 750 W; electric DC generators of an output not exceeding 750 W
ex 8501	ex 8501 32	Electric DC motors and electric DC generators, of an output exceeding 750 W but not exceeding 75 kW
ex 8501	ex 8501 33	Electric DC motors, other than those of 8501 20, of an output exceeding 75 kW but not exceeding 150 kW; electric DC generators, of an output exceeding 75 kW but not exceeding 375 kW
ex 8501	ex 8501 34	Electric DC generators, of an output exceeding 375 kW
ex 8501	ex 8501 40	Electric AC motors, single phase other than those of 8501 20, of an output exceeding 735 W but not exceeding 150 kW
ex 8501	ex 8501 51	Electric AC motors, multiphase, other than those of 8501 20, of an output exceeding 735 W but not exceeding 750 W
ex 8501	ex 8501 52	Electric AC motors, multiphase, other than those of 8501 20, of an output exceeding 750 W but not exceeding 75 kW
ex 8501	ex 8501 53	Electric AC motors, multiphase, other than those of 8501 20 of an output exceeding 75 kW but not exceeding 150 kW
ex 8501	ex 8501 61	Electric AC generators (alternators), of an output not exceeding 75 kVA
ex 8501	ex 8501 62	Electric AC generators (alternators), of an output exceeding 75 kVA but not exceeding 375 kVA
ex 8501	ex 8501 63	Electric AC generators (alternators), of an output exceeding 375 kVA but not exceeding 750 kVA
ex 8502	ex 8502 11	Electric generating sets with compression-ignition internal combustion piston engines (diesel or semi-diesel engines), of an output not exceeding 75 kVA
ex 8502	ex 8502 12	Electric generating sets with compression-ignition internal combustion piston engines (diesel or semi-diesel engines), of an output exceeding 75 kVA but not exceeding 375 kVA
ex 8502	ex 8502 13	Electric generating sets with compression-ignition internal combustion piston engines (diesel or semi-diesel engines), of an output exceeding 375 kVA
ex 8502	ex 8502 20	Electric generating sets with spark-ignition internal combustion piston engines
ex 8502	ex 8502 31	Other electric generating sets, wind-powered
ex 8502	ex 8502 39	Other electric generating sets, other than those of 8502 31
ex 8502	ex 8502 40	Electric rotary converters
ex 8504	ex 8504 10	Ballasts for discharge lamps or tubes
ex 8504	ex 8504 31	Electrical transformers, other than liquid dielectric transformers, having a power handling capacity not exceeding 1 kVA
ex 8504	ex 8504 32	Electrical transformers, other than liquid dielectric transformers, having a power handling capacity exceeding 1 kVA but not exceeding 16 kVA
ex 8504	ex 8504 33	Electrical transformers, other than liquid dielectric transformers, having a power handling capacity exceeding 16 kVA but not exceeding 500 kVA
ex 8504	ex 8504 40	Electrical static converters
ex 8504	ex 8504 50	Electrical inductors other than ballasts for discharge lamps or tubes

HS Heading	HS Subheading	Description
ex 8507	ex 8507 10	Electric accumulators, lead-acid, of a kind used for starting piston engines
ex 8507	ex 8507 20	Other electric accumulators, lead-acid
ex 8507	ex 8507 30	Electric accumulators, nickel-cadmium
ex 8507	ex 8507 40	Electric accumulators, nickel-iron
ex 8507	ex 8507 80	Other electric accumulators
ex 8507	ex 8507 90	Parts of electric accumulators
ex 8511	ex 8511 10	Sparking plugs
ex 8511	ex 8511 20	Ignition magnetos; magneto-dynamos; magnetic flywheels
ex 8511	ex 8511 30	Distributors; ignition coils
ex 8511	ex 8511 40	Electrical starter motors and dual purpose starter-generators
ex 8511	ex 8511 50	Other electrical generators of a kind used in conjunction with spark-ignition or compression-ignition internal combustion engines
ex 8511	ex 8511 80	Other electrical ignition or starting equipment of a kind used for or in conjunction with spark-ignition or compression-ignition internal combustion engines, and cut-outs of a kind used in conjunction with such engines
ex 8516	ex 8516 80	Electric heating resistors assembled only with a simple insulated former and electrical connections, used for anti-icing or de-icing
ex 8518	ex 8518 10	Microphones and stands therefor
ex 8518	ex 8518 21	Single loudspeakers, mounted in their enclosures
ex 8518	ex 8518 22	Multiple loudspeakers, mounted in the same enclosure
ex 8518	ex 8518 29	Loudspeakers, not mounted in their enclosures
ex 8518	ex 8518 30	Headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers
ex 8518	ex 8518 40	Audio-frequency electric amplifiers
ex 8518	ex 8518 50	Electric sound amplifier sets
ex 8520	ex 8520 90	Magnetic tape recorders and other sound recording apparatus not incorporating a sound reproducing device
ex 8521	ex 8521 10	Video recording or reproducing apparatus, whether or not incorporating a video tuner, magnetic tape-type
ex 8522	ex 8522 90	Assemblies and sub-assemblies consisting of two or more parts or pieces fastened or joined together, for apparatus falling within 8520 90
ex 8525	ex 8525 10	Transmission apparatus for radio-telephony or radio-telegraphy, not incorporating reception apparatus
ex 8525	ex 8525 20	Transmission apparatus for radio-telephony or radio-telegraphy, incorporating reception apparatus
ex 8526	ex 8526 10	Radar apparatus
ex 8526	ex 8526 91	Radio navigational aid apparatus

HS Heading	HS Subheading	Description
ex 8526	ex 8526 92	Radio remote control apparatus
ex 8527	ex 8527 90	Reception apparatus for radio-telephony or radio-telegraphy other than radio-broadcast receivers
ex 8529	ex 8529 10	Aerials and aerial reflectors of all kinds, suitable for use solely or principally with the apparatus of headings 8525 to 8527
ex 8529	ex 8529 90	Assemblies and sub-assemblies of the apparatus of 8526, consisting of two or more parts or pieces fastened or joined together, specially designed for installation in civil aircraft
ex 8531	ex 8531 10	Burglar or fire alarms and similar apparatus
ex 8531	ex 8531 20	Indicator panels incorporating liquid crystal devices (LCD) or light emitting diodes (LED)
ex 8531	ex 8531 80	Electrical sound or visual signalling apparatus other than those of 8531 10 or 8531 20
ex 8539	ex 8539 10	Sealed beam lamp units
ex 8543	ex 8543 89	Flight recorders; electric synchros and transducers; de-frosters and de-misters with electric resistors for aircraft
ex 8543	ex 8543 90	Assemblies and sub-assemblies for flight recorders consisting of two or more parts or pieces fastened or joined together
ex 8544	ex 8544 30	Ignition wiring sets and other wiring sets of a kind used in aircraft
ex 8801	ex 8801 10	Gliders and hang gliders
ex 8801	ex 8801 90	Balloons and dirigibles; non-powered aircraft other than gliders or hang gliders
ex 8802	ex 8802 11	Helicopters of an unladen weight not exceeding 2 000 kg
ex 8802	ex 8802 12	Helicopters of an unladen weight exceeding 2 000 kg
ex 8802	ex 8802 20	Aeroplanes and other powered aircraft, of an unladen weight not exceeding 2 000 kg
ex 8802	ex 8802 30	Aeroplanes and other powered aircraft, of an unladen weight exceeding 2 000 kg but not exceeding 15 000 kg
ex 8802	ex 8802 40	Aeroplanes and other powered aircraft, of an unladen weight exceeding 15 000 kg
ex 8803	ex 8803 10	Propellers and rotors and parts thereof
ex 8803	ex 8803 20	Under-carriages and parts thereof
ex 8803	ex 8803 30	Parts of aeroplanes or helicopters other than those of 8803 10 or 8803 20
ex 8803	ex 8803 90	Other parts of the goods of headings 8801 or 8802
ex 8805	ex 8805 29	Ground flying trainers and parts thereof, other than air combat simulators and parts thereof of 8805 21
ex 9001	ex 9001 90	Lenses, prisms, mirrors and other optical elements, of any material, unmounted, other than such elements of glass not optically worked
ex 9002	ex 9002 90	Lenses, prisms, mirrors and other optical elements, other than objective lenses or filters, of any material, mounted, being parts or fittings for instruments or apparatus, other than such elements of glass not optically worked
ex 9014	ex 9014 10	Direction finding compasses

HS Heading	HS Subheading	Description
ex 9014	ex 9014 20	Instruments and appliances for aeronautical navigation (other than compasses)
ex 9014	ex 9014 90	Parts and accessories for direction finding compasses and for instruments and appliances for aeronautical navigation (other than compasses)
ex 9020	ex 9020 00	Breathing appliances and gas masks, excluding protective masks having neither mechanical parts nor replaceable filters, and excluding parts thereof
ex 9025	ex 9025 11	Thermometers and pyrometers, liquid-filled, for direct reading, not combined with other instruments
ex 9025	ex 9025 19	Other thermometers and pyrometers, not combined with other instruments
ex 9025	ex 9025 80	Other instruments of 9025
ex 9025	ex 9025 90	Parts and accessories of 9025 11, 9025 19 or 9025 80
ex 9026	ex 9026 10	Instruments and apparatus for measuring or checking the flow or level of liquids
ex 9026	ex 9026 20	Instruments and apparatus for measuring or checking pressure of liquids or gases
ex 9026	ex 9026 80	Instruments and apparatus for measuring or checking variables of liquids or gases, other than the instruments and apparatus of 9026 10 or 9026 20
ex 9026	ex 9026 90	Parts of instruments and apparatus of 9026 10, 9026 20 or 9026 80
ex 9029	ex 9029 10	Revolution counters, electric or electronic
ex 9029	ex 9029 20	Speed indicators and tachometers
ex 9029	ex 9029 90	Parts and accessories of revolution counters, speed indicators and tachometers
ex 9030	ex 9030 10	Instruments and apparatus for measuring or detecting ionising radiations
ex 9030	ex 9030 20	Cathode-ray oscilloscopes and cathode-ray oscillographs
ex 9030	ex 9030 31	Multimeters for measuring or checking voltage, current, resistance or power, without a recording device
ex 9030	ex 9030 39	Instruments and apparatus, other than those of 9030 10, 9030 20 or 9030 31, for measuring or checking voltage, current, resistance or power, without a recording device
ex 9030	ex 9030 40	Instruments and apparatus, other than those of 9030 10, 9030 20, 9030 31 or 9030 39, for measuring or checking electrical quantities, specially designed for telecommunications
ex 9030	ex 9030 83	Instruments and apparatus, other than those of 9030 10, 9030 20 or 9030 40, for measuring or checking electrical quantities, with a recording device
ex 9030	ex 9030 89	Instruments and apparatus, other than those of 9030 10, 9030 20, 9030 31, 9030 39, or 9030 40 or 9030 83, for measuring or checking electrical quantities
ex 9030	ex 9030 90	Parts and accessories of instruments and apparatus of 9030 10, 9030 20, 9030 31, 9030 39, 9030 40, 9030 83 or 9030 89
ex 9031	ex 9031 80	Measuring or checking instruments and apparatus not specified or included elsewhere in Chapter 90
ex 9031	ex 9031 90	Parts and accessories of the instruments and apparatus of 9031 80

HS Heading	HS Subheading	Description
ex 9032	ex 9032 10	Thermostats
ex 9032	ex 9032 20	Manostats
ex 9032	ex 9032 81	Hydraulic or pneumatic automatic regulating or controlling instruments and apparatus
ex 9032	ex 9032 89	Other automatic regulating or controlling instruments and apparatus
ex 9032	ex 9032 90	Parts and accessories of automatic regulating or controlling instruments and apparatus of 9032
ex 9104	ex 9104 00	Instrument panel clocks and clocks of a similar type for aircraft
ex 9109	ex 9109 19	Clock movements measuring not over 50 mm in width or diameter, complete and assembled battery, accumulator or mains powered, other than of alarm clocks
ex 9109	ex 9109 90	Clock movements measuring not over 50 mm in width or diameter, complete and assembled, other than battery, accumulator or mains powered, other than of alarm clocks
ex 9401	ex 9401 10	Seats, other than leather covered seats
ex 9403	ex 9403 20	Metal furniture, other than seats
ex 9403	ex 9403 70	Furniture of plastics, other than seats
ex 9405	ex 9405 10	Electric ceiling or wall lighting fittings, of base metal or of plastics
ex 9405	ex 9405 60	Illuminated signs, illuminated name-plates and the like, of base metal or of plastics
ex 9405	ex 9405 92	Parts of the articles of 9405 10 or 9405 60, of plastics
ex 9405	ex 9405 99	Parts of the articles of 9405 10 or 9405 60, of base metal

Proposal for a Decision of the European Parliament, the Council, the Commission, the Court of Justice, the Court of Auditors, the Economic and Social Committee, the Committee of the Regions and the Ombudsman establishing a European Communities Recruitment Office

(2002/C 151 E/15)

COM(2002) 126 final

(Submitted by the Commission on 6 March 2002)

THE EUROPEAN PARLIAMENT, THE COUNCIL OF THE EUROPEAN UNION, THE COMMISSION OF THE EUROPEAN COMMUNITIES, THE COURT OF JUSTICE, THE COURT OF AUDITORS, THE ECONOMIC AND SOCIAL COMMITTEE, THE COMMITTEE OF THE REGIONS AND THE EUROPEAN OMBUDSMAN,

Having regard to the Staff Regulations of officials of the European Communities, and in particular the third paragraph of Article 2 thereof, and to the Conditions of employment of other servants of the European Communities, as laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽¹⁾,

Having regard to the opinion of the Staff Regulations Committee,

Whereas:

- (1) In the interests of making efficient and economic use of resources, a single interinstitutional body should be entrusted with the means of selecting officials and other servants to serve the European Communities.
- (2) The interinstitutional body so established should have the task of drawing up aptitude lists from among candidates in open competitions in line with needs and in compliance with the Staff Regulations, the decisions to appoint successful candidates being taken by each appointing authority.
- (3) On the same terms, the interinstitutional body should also be able to assist the institutions, bodies, offices and agencies established by or in accordance with the Treaties with their internal competitions and the selection of other servants,

HAVE DECIDED AS FOLLOWS:

Article 1

Establishment

A European Communities Recruitment Office (hereinafter referred to as 'the Office') is hereby established.

⁽¹⁾ OJ L 56, 4.3.1968, p. 1.

Article 2

Powers

1. The Office shall exercise the powers of selection conferred under the first paragraph of Article 30 of the Staff Regulations and under Annex III thereto on the appointing authorities of the institutions signing this Decision. In exceptional cases only and with the agreement of the Office, the institutions may hold their own open competitions to meet specific needs for highly specialised staff.

2. Where the powers referred to in paragraph 1 are conferred on the appointing authority of a body, office or agency established by or in accordance with the Treaties, the Office may exercise such powers at the request of the latter.

3. The decisions to appoint successful candidates shall be taken by the appointing authorities of the European Parliament, the Council, the Commission, the Court of Justice, the Court of Auditors, the Economic and Social Committee, the Committee of the Regions and the Ombudsman and by any body, office or agency established by or in accordance with the Treaties which has delegated its powers to, or called on the services of, the Office.

Article 3

Duties

1. In response to requests made to it by the appointing authorities referred to in Article 2, the Office shall draw up aptitude lists from among candidates in open competitions as referred to in the first paragraph of Article 30 of the Staff Regulations and in accordance with Annex III thereto.

2. The Office may assist the institutions, bodies, offices and agencies established by or in accordance with the Treaties with internal competitions and the selection of other servants.

Article 4

Requests, complaints and appeals

In accordance with Article 91a of the Staff Regulations, requests and complaints relating to the exercise of the powers conferred under Article 2(1) and (2) of this Decision shall be lodged with the Office. Any appeal in these areas shall be made against the Commission.

*Article 5***Implementation**

The Secretaries-General of the European Parliament, the Council and the Commission, the Registrar of the Court of Justice, the Secretaries-General of the Court of Auditors, the Economic and Social Committee and the Committee of the Regions and the representative of the Ombudsman shall by

mutual agreement take the measures necessary to implement this Decision.

*Article 6***Effective date**

This Decision shall take effect on ...

DRAFT

Decision of the Secretaries-General of the European Parliament, the Council and the Commission, the Registrar of the Court of Justice, the Secretaries-General of the Court of Auditors, the Economic and Social Committee and the Committee of the Regions, and the representative of the Ombudsman on the organisation and operation of the European Communities Recruitment Office

The Secretaries-General of
the European Parliament,
the Council,
the Commission,
The Registrar of the Court of Justice,
The Secretaries-General of
the Court of Auditors,
the Economic and Social Committee,
the Committee of the Regions,
and the representative of the Ombudsman,

Having regard to the Staff Regulations of officials of the European Communities and the Conditions of employment of other servants of the European Communities, as laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽¹⁾,

Having regard to the Decision of the European Parliament, the Council, the Commission, the Court of Justice, the Court of Auditors, the Economic and Social Committee, the Committee of the Regions and the Ombudsman of ... establishing a European Communities Recruitment Office, and in particular Article 5 thereof,

Whereas:

- (1) Pursuant to Article 27 of the Staff Regulations, the institutions are committed to ensuring that recruitment is directed to securing the services of officials of the highest standard of ability, efficiency and integrity, recruited on the broadest possible geographical basis from among nationals of Member States of the Communities, without distinction as to race, political, philosophical or religious beliefs, sex or sexual orientation and without reference to their marital status or family situation.
- (2) The second subparagraph of Article 1(1) of Annex III to the Staff Regulations sets out the area of responsibility of the common Joint Committee and the second paragraph of Article 3 of that Annex outlines the way the members of the Selection Board are to be appointed for the purpose of organising open competitions,

⁽¹⁾ OJ L 56, 4.3.1968.

HAVE DECIDED AS FOLLOWS:

Article 1

Tasks of the Office

1. The Office shall organise open competitions with a view to securing the services of officials on optimal professional and financial terms for the institutions of the European Communities. The Office shall draw up reserve lists enabling the institutions to recruit highly qualified staff meeting the needs determined by the institutions.
2. More specifically, the Office's tasks shall be to:
 - (a) organise open competitions at the request of individual institutions with a view to drawing up reserve lists of suitable applicants for appointment as officials. The competitions shall be organised in compliance with the Staff Regulations, on the basis of harmonised criteria laid down in accordance with Article 6(c) and in compliance with the work programme approved by the Management Board;
 - (b) cooperate closely with the institutions with a view to assessing future staff needs and preparing and implementing a programme of competitions to meet those needs in a timely manner;
 - (c) develop selection methods and techniques on the basis of best practice and in line with the skills profiles laid down for the various categories of staff of the institutions;
 - (d) administer and check the use of reserve lists;
 - (e) submit annual reports to the institutions on its activities.

Article 2

Responsibilities of the institutions

The Appointing Authority of each institution shall make available to the Office a sufficient number of Selection Board members, examiners and invigilators on the basis of the 'quota' approved by the Management Board as provided for in Article 6(i), to enable the selection procedures to proceed smoothly in accordance with Article 3 of Annex III to the Staff Regulations.

Article 3

Other services

1. Under an agreement between the Head of the Office and any body, office or agency, the Office may organise selection procedures for staff to be recruited by such bodies, offices or agencies. Before concluding such an agreement, the Head of the Office shall seek the approval of the Management Board. Any such agreement shall cover the financial arrangements relating to the services provided by the Office.
2. Where requested, the Office may provide technical support for internal competitions organised by individual institutions, bodies, offices or agencies.
3. At the request of individual institutions, the Office shall organise the selection procedure for other servants with a view to drawing up reserve lists of suitable applicants and/or databases from which the individual institutions may recruit other servants.
4. These activities shall be included in the Office's work programme in accordance with Article 6(f), provided that the request is submitted in a timely manner by the institution in question.

*Article 4***Complaints and requests**

1. The Head of the Office shall exercise the powers conferred on the Appointing Authority under Article 90 of the Staff Regulations in respect of all requests or complaints relating to the tasks of the Office.
2. In the event of any such complaints, the Head of the Office shall consult the Chairman of the Management Board where he or she intends to endorse the original decision.
3. The Office shall answer requests from the European Ombudsman concerning any matter falling within its area of responsibility under this Decision.

*Article 5***Management Board**

1. A Management Board shall be set up for the Office, comprising one member appointed by each institution and three staff representatives with observer status appointed by common assent by the staff committees of the institutions.
2. The Management Board shall elect a Chairman for a two-year term by a simple majority from among its members.
3. The Management Board shall adopt its rules of procedure by a simple majority after submitting them to the institutions.
4. The Management Board shall meet at the initiative of the Chairman or at the request of one of its members.
5. Where the Management Board takes a decision by a simple majority, each institution shall have one vote. Where votes are tied, the Chairman shall have the casting vote.
6. Where the Management Board takes a decision by a qualified majority, the votes allotted to the institutions shall be as follows: Commission, 18 votes; European Parliament, 7 votes; Council, 7 votes; Court of Justice, 3 votes; Court of Auditors, 2 votes; Economic and Social Committee, 2 votes; Committee of the Regions, 2 votes; Ombudsman, 1 vote. A qualified majority shall be 24 votes cast in favour.

*Article 6***Tasks of the Management Board**

In the common interest of the institutions, the Management Board shall:

- (a) acting by a qualified majority, approve the rules governing the running of the Office;
- (b) acting by a simple majority on a proposal from the Head of the Office, approve the organisational structure of the Office;
- (c) acting by a simple majority on proposals from the Head of the Office, approve the principles governing the selection policy to be followed by the Office;
- (d) acting by a simple majority under the budget procedure on the basis of a draft drawn up by the Head of the Office, draw up an estimate of the Office's revenue and expenditure and send it to the Commission with a view to the drawing-up of the estimate of the Commission's revenue and expenditure; at the same time it shall propose to the Commission any adjustments to the Office's establishment plan that it deems necessary;
- (e) acting by a simple majority, approve the type of and the rates chargeable for additional services that the Office may perform against payment for the institutions, bodies, offices and agencies and the conditions under which the Office may perform them;

- (f) acting unanimously on a proposal from the Head of the Office, approve the work programme, and in particular the scheduling of and timetable for competitions to be organised. The work programme shall also cover services not relating to open competitions organised for the institutions, bodies, offices and agencies;
- (g) acting by a qualified majority on the basis of a draft prepared by the Head of the Office, approve an annual management report covering all individual revenue and expenditure headings relating to work performed and services provided by the Office. Before 1 May each year, it shall send the institutions the report on the preceding financial year, drawn up in the light of the analytical accounts;
- (h) acting by a simple majority, approve a fair, balanced breakdown of the variable and direct costs to be charged for analytical purposes to the individual institutions and update it every three years;
- (i) acting by a simple majority on the basis of recruitment needs, agree on rules whereby each institution is to make a suitable number of Selection Board members, examiners and invigilators available to the Office;
- (j) acting by a simple majority, approve the conditions under which the Office may grant agreement to the institutions to organise their own competitions in accordance with Article 2(1) of the Decision of the institutions.

Article 7

Appointment of staff

1. The Office shall be administered by a Head appointed by the Commission after the Management Board has issued a favourable opinion by a simple majority. The Management Board shall be closely involved in any procedures to be followed before the Head of the Office is appointed, and in particular in the drafting of a notice of vacancy and the consideration of the applications.
2. The Head of the Office shall be the Appointing Authority for the staff of the Office.
3. The Commission, as far as the Head of the Office is concerned, and the Head of the Office, as far as the staff for whom the latter is the Appointing Authority are concerned, shall inform the Management Board of appointments made, contracts signed, promotions granted and disciplinary proceedings initiated against officials or other servants.
4. The officials of all Community institutions shall be informed of posts vacant within the Office as soon as the Appointing Authority decides to fill those posts.
5. The Head of the Office shall be appointed for a term of five years, renewable for one further term.

Article 8

Tasks of the Head of the Office; management of staff

1. The Head of the Office shall be responsible for the smooth running of the Office. Within the area of responsibility of the Management Board, he or she shall act under the authority of the latter. He or she shall provide secretarial services for the Management Board, shall report to it on the performance of his or her duties and shall submit to it any suggestion for the smooth running of the Office.
2. Administrative procedures connected with the day-to-day management of personnel, such as salaries, leave, and sickness, accident and retirement insurance, shall be carried out under the same conditions as for the officials and other servants of the Commission. That list shall not be exhaustive and the Office may extend it to cover other areas in agreement with the Commission.

*Article 9***Financial matters**

1. The appropriations allocated to the Office, the total amount of which shall be entered in a separate budget heading within the section of the budget relating to the Commission, shall be set out in detail in an annex to that section. That annex shall take the form of a statement of revenue and expenditure, subdivided in the same way as the sections of the budget.
2. The establishment plan of the Office shall be annexed to the Commission's establishment plan.
3. On the basis of a proposal from the Management Board, the Commission shall, as regards the appropriations for the Office entered in the annex, delegate the powers of authorising officer to the Head of the Office and shall set the limits and conditions applying to that delegation of powers. At the end of the financial year the Management Board shall inform the budget authority of the breakdown of amounts obtained in return for extra services provided by the Office, within the budget heading in the annex.
4. The Office's accounts shall be drawn up in accordance with the accounting rules and methods laid down by the Commission accounting officer. The Office shall keep separate accounts of revenue from payments for services provided.

*Article 10***Review**

This Decision shall be reviewed after a period of three years following the establishment of the Office.

*Article 11***Effective date**

This Decision shall take effect on . . .

DRAFT**Agreement between the Secretaries-General of the European Parliament, the Council and the Commission, the Registrar of the Court of Justice, the Secretaries-General of the Court of Auditors, the Economic and Social Committee and the Committee of the Regions, together with the representative of the mediator setting out the common principles for a shared selection and recruitment policy and the principles for managing reserve lists**

In the context of establishing a Recruitment Office for the European Communities, the Secretaries-General of the Institutions hereby undertake to promote a steady improvement in the staff selection processes of the Union, based on common, transparent and efficient procedures.

In this connection, they call on the members of the Management Board, in collaboration with the Director of the Office, to institute a shared selection system on the basis of the principles set out below.

The Secretaries-General also undertake to cooperate closely in areas involving the preparation of competitions, the management of reserve lists and the harmonisation of classification criteria in line with the principles set out below.

1. PREPARATION OF COMPETITIONS

- The Recruitment Office shall hold regular meetings with the Institutions in order to coordinate the preparation of competitions and the drafting of notices of competition.
- The Recruitment Office shall draw up and implement a programme of open competitions on the basis of the needs and requirements indicated by the Institutions. Appropriate machinery shall be set up between the Recruitment Office and the Institutions to guarantee that the needs of the Institutions in terms of generalist and specialist staff, including linguists and specialists in the field of research, are met in a timely fashion.
- Each Institution shall inform the Office of its recruitment needs for the next three years. The Office shall draw up a rolling three-year forward programme, to be updated at least every six months, with a view to meeting the needs of the Institutions in the best way possible.
- The work programme shall consist of an indicative timetable for each competition to be organised as well as a target length for the reserve list.
- The Institutions hereby commit themselves to improving their forward planning and to providing staff members to sit on selection boards sufficiently early for the Office to be able to programme its tasks, identify priorities and meet its timetable.
- Without prejudice to Article 2(2) of the Decision of the Secretaries-General of [date], all competitions shall be published as inter-institutional competitions even where one or more Institutions have not asked to be able to recruit candidates from the reserve list.

2. SELECTION POLICY AND PROCEDURES**2.1. Transparency for candidates**

- A shared user-friendly website on recruitment and an electronic mailing list for future competitions shall be set up so that potential applicants can be informed regularly about the opportunities available.
- A shared and more streamlined application form and a more straightforward standard notice of competition shall be devised.

- Applicants shall be informed in an appropriate way of the assessment criteria to be applied in competitions.
- Applicants shall be informed clearly about their rights of appeal, in particular recourse to the European Mediator.
- Applicants sitting written multiple-choice tests shall be allowed to keep the test paper on leaving the examination room (unless the contents are protected by copyright) and to obtain a copy of the correct answers on request from the Office.
- The names of selection-board members shall be published in the *Official Journal of the European Communities*, as well as the list of successful applicants at the end of the competition procedure, subject to provisions on the protection of personal data.
- Applicants shall be allowed access on request to their test papers and the assessment of the selection board, subject to provisions on the confidentiality of the board's deliberations.

2.2. Language skills

- Applicants must know one official language other than their native language, but they shall be informed that some positions and some Institutions may demand specific language qualifications when recruiting from the reserve lists and that each Institution will consequently be recruiting on the basis of its own requirements regarding language and other skills. (To ensure proper transparency, where some Institutions have particular language preferences these must be clearly indicated to applicants before they submit their application.)
- Native and second-language skills shall be assessed at the time of the preliminary selection or written tests (as necessary) and at the time of the oral tests (as is current general practice), and any other languages claimed shall be assessed at the time of the oral tests.

2.3. Language(s) of competitions

- The Management Board shall decide whether or not the Office needs to organise specific competitions by language.

2.4. Professional standards in selection procedures

- Constant attention shall be paid to best practice and to developments in recruitment techniques.

2.4.1. Content of competitions

The content of competitions shall be regularly reviewed and modified if necessary to ensure that the selection process continues to identify the applicants who best meet the stipulated profile. A number of examples follow (relating to relevant grades):

- As a minimum during the preliminary selection tests, an assessment shall be made of applicants' proficiency in their second official language and their verbal and numerical reasoning abilities.
- During the written tests, an assessment shall be made of applicants' knowledge in the field covered by the competition and European Union affairs. The tests shall seek to assess the ability of applicants to understand a wide and sometimes contradictory range of data about the European Union and its policies, and to produce clear, well-reasoned analysis and recommendations.

- At interviews, a set of prepared oral questions shall be used enabling a structured approach and objective comparisons to be made between the applicants' answers. Interviews should enable the selection board to assess applicants' suitability for working in a multilingual and multicultural organisation, their ability to adapt to the various tasks which may be assigned to them, their knowledge of their subject area and any relevant professional experience.
- The interview stage should include a component about 'Europe' subject to proper qualitative testing in order to assess applicants' knowledge of European issues and their powers of analysis and reasoning, their ability to consider the different sides of an issue, their capacity for original thinking and their oral communication skills (including in languages other than their native language).

2.4.2. *Selection boards*

- Selection boards shall include outside recruitment experts as assessors.
- Membership of a selection board shall be made conditional on having successfully completed a training programme for selection-board members. This training should cover such aspects as the legal framework, testing and selection techniques and equal opportunities and help to ensure consistent standards for all members of a board throughout the recruitment process.
- In the case of applicants called for interview, the selection board shall not be told their marks in the written tests until the final marks for the interview have been decided.

2.5. **Computer-assisted preliminary selection**

- The possibility shall be investigated of setting up computer-assisted preliminary selection tests and using them where appropriate.

2.6. **Equal treatment**

2.6.1. *General considerations and geographical balance*

- The mix of selection techniques used shall continue to ensure that staff are recruited on a broad geographical basis reflecting the multilingual and multicultural character of the Institutions.
- Future advertising of competitions shall be improved so as to reach all circles in the Member States, with strategic media targeting of circles currently under-represented in the relevant groups and categories within the staff of the Institutions.
- Selection and recruitment procedures shall be actively monitored and regular reports shall be sent to the Institutions (at least every six months) on this subject (including take-up from reserve lists), with a view in particular to identifying emergent trends and following the evolution of recruitment from groups currently under-represented in the relevant groups and categories within the staff of the Institutions.

2.6.2. *Detailed considerations: gender balance and age limits*

- The selection tests, especially preliminary selection tests, shall be so devised and constantly monitored (with the help of experts) as to ensure that there is no statistically significant difference between the success of men and women.
- Both sexes shall be represented on every selection board.
- All decisions concerning the age limits set in notices of competition shall be taken by the Management Board.

3. PRINCIPLES GOVERNING THE USE OF RESERVE LISTS

- All reserve lists shall be available on a database to which the Institutions have on-line access.
- Each reserve list shall remain valid for two years but may be extended on the basis of the needs of the Institutions.
- To ensure that an Institution which has expressed a wish to recruit a number of applicants from a given reserve list will indeed be able to recruit this number, a set of measures to ensure a fair use of reserve lists shall be introduced, namely:
 1. The Office is to function as the clearing house between applicants and the Institutions and play a proactive role in managing and monitoring the use made of the lists.
 2. Each Institution is to centralise its recruitment procedures. While every Directorate-General or other department of an Institution has access to the reserve lists (including *curricula vitae*), information needed in order to contact applicants (telephone numbers, e-mail addresses and postal addresses) will only be available to the administrations of the individual Institutions.
 3. Applicants are to be asked at the application stage about their preferences as to the Institution and geographical location they wish to work in (in order of priority).
 4. Applicants are to be informed about the progress of recruitment procedures.
 5. Reserve lists are to consist, as a general rule, of three or four 'merit classes'. Within each class, applicants will appear in alphabetical order and the Institutions are free to choose any applicant. In principle, the second and following classes will be available for recruitment only once all applicants in the preceding group have been recruited (or have declined a recruitment offer). However, exceptions to this general principle, duly reasoned and demonstrated, will be possible taking into account the specific profiles required by an Institution and the general principles laid down in Article 27 of the Staff Regulations. Exceptions will be decided on by individual Institutions.
 6. The heads of unit responsible for recruitment in the individual Institutions are to meet regularly under the chairmanship of the Office with a view to coordinating the use of reserve lists and identifying specific priorities of the individual Institutions. This process should take into account the institutional and geographical preferences of applicants, their profiles and the needs of different Institutions.
 7. On the basis of the outcome of the meetings referred to above, the following general principles are to apply:
 - In the first six months after a reserve list has become available, an Institution may recruit from this list only the number of applicants originally asked for at the preparatory stage.
 - After six months, the heads of unit responsible for recruitment shall meet with a view to discussing and agreeing whether to maintain these 'quotas' for another six months, taking into account the original requests and numbers actually recruited. At this stage it will also be decided whether Institutions which did not indicate a request at the preparatory stage are to be able to recruit from the list.
 - A reserve list will become available to all Institutions (without quotas) at the latest twelve months after it first becomes available.

8. A system of 'best recruitment practice' is to be introduced. The basic feature is that an Institution and an applicant, having agreed in principle on a recruitment, will sign a 'letter of intent' indicating the applicant's intention of taking up a specific position and the Institution's intention of making an official offer of employment within two months. The Office must receive a copy of this letter and the applicant will be 'blocked' on the reserve list. If, after two months, a final offer of employment has not been made (or has been declined by the applicant), the applicant will again become available on the reserve list. Applicants are to have this system explained to them when they are informed that they are included on a reserve list.

4. **HARMONISATION OF CLASSIFICATION CRITERIA**

The Secretaries-General hereby undertake to harmonise the criteria used by the Institutions for classifying newly recruited staff in order to ensure that the principle of equal treatment is respected and avoid competition between Institutions. Particular attention should be paid to drawing up identical criteria for allocating grade and step to each successful applicant upon recruitment.

5. **REVIEW OF THIS AGREEMENT**

This Agreement shall be reviewed three years after the creation of the Recruitment Office.

Proposal for a Regulation of the European Parliament and of the Council on aid for policies and actions on reproductive and sexual health and rights in developing countries

(2002/C 151 E/16)

COM(2002) 120 final — 2002/0052(COD)

(Submitted by the Commission on 7 March 2002)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 179 thereof,

Having regard to the proposal from the Commission,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

- (1) The European Community is deeply concerned by the reproductive and sexual health conditions of women and men aged 15 to 49 in developing countries. High maternal mortality and morbidity rates and the lack of a full range of safe and reliable reproductive and sexual health services undermine all efforts to increase economic development, expand opportunities and safeguard livelihoods in developing countries.
- (2) Individual freedom of choice for women, men and adolescents through adequate access to information and services in matters concerning their reproductive and sexual health and rights is a significant element of progress and development.
- (3) The right to good health is a fundamental human right recognised by Article 25 of the Universal Declaration of Human Rights. This right is being denied to over a fifth of the world's population.
- (4) Article 35 of the Charter of Fundamental Rights of the European Union calls for a high level of human health protection in the definition and implementation of all Union policies and activities.
- (5) The Community is determined to make a full contribution towards achieving the Millennium Development Goals of reducing by three-quarters the rate of maternal mortality and attaining access to reproductive health world-wide.
- (6) The Community and its Member States have contributed greatly to the wider effort to support policies and

programmes on reproductive and sexual health and rights in developing countries and should continue to play a leading role in this area.

- (7) Both the European Parliament and the Council have called for greater efforts by the Community in the area of reproductive and sexual health and rights in developing countries.
- (8) The International Conference on Population and Development (ICPD) held in Cairo in 1994, followed by the ICPD + 5 in 1999, set out an ambitious agenda for tackling population, reproductive and sexual health and rights issues.
- (9) Since the ICPD, progress has been made, yet there is still much to be done to ensure that every woman has the chance of a healthy pregnancy and of giving birth in safe conditions, that the needs of young people are met and that the violence and abuse suffered by women is stopped.
- (10) The Community upholds the right of individuals to decide freely on the number and spacing of their children; it condemns any violation of human rights in the form of compulsory abortion, compulsory sterilisation, infanticide, or the rejection, abandonment or abuse of unwanted children as a means of curbing population growth.
- (11) No support is to be given under this Regulation to incentives to encourage sterilisation or abortion as a means of family planning nor to the improper testing of contraception methods in developing countries.
- (12) Council Regulation (EC) No 1484/97 of 22 July 1997 on aid for population policies and programmes in developing countries ⁽¹⁾, which is applicable until 31 December 2002, is rendered obsolete by the present Regulation and should therefore be repealed.
- (13) The present Regulation lays down, for the entire duration of the programme it establishes, a financial framework constituting the prime reference, within the meaning of point 33 of the Interinstitutional Agreement between the European Parliament, the Council and the Commission of 6 May 1999 on budgetary discipline and improvement of the budgetary procedure ⁽²⁾, for the budgetary authority during the annual budgetary procedure.

⁽¹⁾ OJ L 202, 30.7.1997.

⁽²⁾ OJ C 172, 18.6.1999, p. 1.

(14) Since the measures necessary for the implementation of this Regulation are management measures within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾, they should be adopted by use of the management procedure provided for in Article 4 of that Decision.

(15) In accordance with the principles of subsidiarity and proportionality set out in Article 5 of the Treaty, the objective of the proposed action, namely to improve sexual and reproductive health and to secure respect for the rights related thereto, with particular reference to developing countries, cannot be attained by the Member States acting alone and, by reason of the scale and effects of the proposed action, can therefore only be achieved by the Community. This Regulation confines itself to the minimum required to achieve that objective and does not go beyond what is necessary for that purpose,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

PURPOSE AND SCOPE

Article 1

1. The Community shall support actions to improve reproductive and sexual health in developing countries and to secure respect for the rights related hereto.

2. The Community shall provide financial assistance and appropriate expertise with a view to promoting the recognition of reproductive and sexual rights, safe motherhood and universal access to a comprehensive range of safe and reliable reproductive and sexual health services.

3. In the allocation of such funding and expertise, priority shall be given to:

- (a) the poorest and least developed countries and the most disadvantaged sections of the population of developing countries;
- (b) action that complements and reinforces both the policies and capacities of developing countries and the assistance provided through other instruments of development cooperation.

Article 2

The purpose of activities carried out under this Regulation shall be:

- (a) Secure the right of women, men and adolescents to good reproductive and sexual health;
- (b) Enable women, men and adolescents to have access to a comprehensive range of safe and reliable reproductive and sexual health care services and products;
- (c) Reduce maternal mortality rates, with particular reference to the countries and populations where these are highest.

Article 3

1. Community financial support shall be given to specific operations designed to attain the objectives described in Article 2(1), and, in particular to those which aim to:

- (a) support and promote policy and operational frameworks and action, tailored to meet specific targets for the progressive realisation of people's rights to adequate basic health services and accountable service providers;
- (b) ensure that poor people have better access to quality reproductive and sexual health services, offering them, in particular, contraceptive choice and the prevention and diagnosis of sexually transmitted infection;
- (c) provide adolescents with the necessary information, services and skills to protect their reproductive and sexual health and avoid unwanted pregnancies;
- (d) fight against harmful practises such as female genital mutilation;
- (e) ensure the availability of more effective, affordable and acceptable methods of contraception and protection from sexually transmitted infection;
- (f) promote comprehensive maternal health programmes, for the provision of ante-natal care and the establishment of a professional body of skilled birth attendants;
- (g) provide emergency obstetric care and post-partum care, with particular attention to the prevention and treatment of haemorrhage, hypertension and infection.

2. In order to implement the above, particular attention shall be given to the need to improve the health systems of developing countries. In addition, with a view to ensuring that improvements in health and well-being are sustainable, all operations shall be conducted in tandem with broad-based investments in the social sector, covering education, community action, equity and gender awareness, environmental improvement, economic well-being, food-security and nutrition.

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

Article 4

1. In the context of the operations referred to in Article 3, Community support may take the form of:

- (a) funding of research and programmes for action (which shall, as far as possible be carried out by or in collaboration with experts or institutions of the partner country);
- (b) technical assistance, training or other services;
- (c) supplies, such as medical supplies, commodities and works;
- (d) audits, evaluation and monitoring missions.

Priority shall be given to enhancing national capacity with a view to long-term viability.

2. Community financing may cover both investment expenditure, excluding the purchase of real estate, and, in exceptional and duly substantiated cases, taking into account the fact that the operation must, as far as possible, aim at medium-term viability, recurring expenditure as well (including administrative expenditure, maintenance and running costs), the operation of which temporarily represents a burden for the partner, so that the maximum use is made of the support referred to in paragraph 1.

CHAPTER II

IMPLEMENTATION OF AID*Article 5*

1. Community financing under this Regulation shall take the form of grants.

2. A financial contribution from the partners defined in Article 6 shall be sought for each cooperation operation. In specifying the amount of the contribution requested, regard shall be had to the capacity of the partners concerned and the nature of the operation in question. In certain circumstances, the contribution may be in kind if the partner is either a non-governmental organisation (NGO) or a community-based organisation.

3. The provision of financial assistance under this Regulation may entail co-financing with other donors, in particular with Member States, the United Nations, and international or regional development banks or financial institutions.

Article 6

1. The partners eligible for financial assistance under this Regulation include:

- (a) administrative authorities and agencies at national, regional and local government levels;
- (b) local authorities and other decentralised bodies;

(c) local communities, NGOs, community-based organisations and other not-for-profit natural and legal persons from the private sector;

(d) regional organisations;

(e) international organisations, such as the United Nations and its agencies, as well as development banks, financial institutions, global initiatives, international public/private partnerships;

(f) research institutes and universities.

2. Without prejudice to paragraph 1(e), Community financial assistance shall be available to partners whose head office is located in a Member State or in a third country that is a beneficiary or potential beneficiary of Community assistance under this Regulation, provided that this office is the actual centre directing business operations. In exceptional cases, this office may be located in another third country.

Article 7

1. Where operations are the subject of financing agreements between the Community and countries, which benefit from operations financed under this Regulation, the agreements shall stipulate that the payment of taxes, duties and charges shall not be financed by the Community.

2. Any financing agreement or contract concluded under this Regulation shall stipulate that it is subject to the supervision and financial control of the Commission which may carry out spot-checks and inspections, and to audits by the Court of Auditors, in accordance with the usual arrangements laid down by the Commission under the provisions in force, particularly those in the Financial Regulation applicable to the general budget of the European Communities.

3. The necessary measures shall be taken to emphasise the Community character of aid provided under this Regulation.

Article 8

1. Participation in invitations to tender for the award of contracts shall be open on equal terms to all natural and legal persons in the Member States and in all developing countries. It may be extended, in exceptional cases, to other third countries.

2. Supplies shall originate in the beneficiary country, other developing countries or the Member States. In exceptional cases, supplies may originate from other third countries.

Article 9

1. In order to secure the objectives of consistency and complementarity referred to in the Treaty and to ensure maximum effectiveness of these operations as a whole, the Commission may take all necessary coordination measures, including:

- (a) establishing a system for the systematic exchange and analysis of information on the operations financed and those which the Community and the Member States propose to finance;
 - (b) on-the-spot coordination of the implementation of operations through regular meetings and exchanges of information between the representatives of the Commission and the Member States in the recipient country.
2. The Commission, in liaison with the Member States, may take any initiative necessary for ensuring proper coordination with the other donors concerned, in particular those forming part of the United Nations system.

CHAPTER III

DECISION-MAKING PROCEDURES

Article 10

1. The financial framework for the implementation of this Regulation for the period from 2003 to 2006 is hereby set at ... million euro [to be decided APS 2003].
2. The annual appropriation shall be authorised by the budgetary authority within the limits of the financial perspective.

Article 11

1. The Commission shall be responsible for drafting strategic programming guidelines, defining the Community's cooperation in terms of measurable objectives, priorities, deadlines for specific areas of action, assumptions and expected outcomes. Programming is annual and indicative.
2. An annual exchange of views with the Member States shall take place on the basis of a presentation by the representative of the Commission of the strategic programming guidelines for the operations to be carried out, within the Committee referred to in Article 13 paragraph 1.

Article 12

1. The Commission shall be responsible for appraising, deciding and administering the operations covered by this Regulation in accordance with the budgetary and other procedures in force, in particular those laid down in the Financial Regulation applicable to the general budget of the European Communities.
2. Decisions concerning operations for which financing under this Regulation exceeds 5 million euro and any changes to these operations that entail a cost overrun of more than 20 % of the amount initially fixed for the operation concerned, shall be adopted in accordance with the procedure referred to in Article 13, paragraph 2.

3. For decisions and changes to these operations amounting to 5 million euro or less, the Commission will inform the Member States.

Article 13

1. The Commission shall be assisted by the geographically determined committee competent for development.
2. Where reference is made to this paragraph, the management procedure laid down in Article 4 of Decision 1999/468/EC shall apply, in compliance with Article 7 and Article 8 thereof.
3. The period provided for in Article 4, paragraph 3, of Decision 1999/468/EC shall be set at 45 days.

CHAPTER IV

REPORTING AND FINANCIAL PROVISIONS

Article 14

1. After each budget year, the Commission shall submit in its annual report on EC development policy to the European Parliament and to the Council, information on the operations financed in the course of that year and the Commission's conclusions on the implementation of this Regulation over the previous budget year. The summary shall in particular provide information about the strengths and weaknesses of operations, those with whom contracts have been concluded as well as the results of any independent evaluations of specific operations.
2. One year before the expiry of this Regulation, the Commission shall submit an independent appraisal report on the implementation of this Regulation to the European Parliament and the Council with a view to establishing whether its objectives have been achieved and providing guidelines for improving the effectiveness of future operations. On the basis of this appraisal report the Commission may make proposals for the future of this Regulation and, if necessary, proposals for its amendment.

Article 15

Regulation (EC) No 1484/97 is hereby repealed. Operations that have been decided under Regulation (EC) No 1484/97 shall continue to be implemented under that Regulation.

Article 16

1. This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Communities*.
 2. It shall apply until 31 December 2006.
- This Regulation shall be binding in its entirety and directly applicable in all Member States.

Proposal for a Council Decision authorising Germany to apply a measure derogating from Article 21 of Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes

(2002/C 151 E/17)

COM(2002) 121 final

(Submitted by the Commission on 8 March 2002)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Sixth Council Directive (77/388/EEC) of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — common system of value-added tax: uniform basis of assessment, and in particular Article 27(1) thereof ⁽¹⁾,

Having regard to the proposal from the Commission,

Whereas:

(1) In a request submitted in the form of two letters addressed to the Commission, registered by the Commission's Secretariat-General on 9 January 2002, Germany sought authorisation to apply a measure derogating from Article 21(1)(a) of Directive 77/388/EEC.

(2) The other Member States were informed of Germany's request by letter of 16 January 2002.

(3) Article 21(1) of Directive 77/388/EEC, as amended by Article 28g thereof, stipulates that, under the internal system, the taxable person supplying taxable goods or services is normally liable to pay value added tax.

(4) The purpose of the derogation requested by Germany is to make the recipient liable for the value added tax due on the supply, outside a judicial liquidation procedure, of goods provided as security by one VAT taxable person to another in execution of that security and the supply of building plots sold at public auction to another VAT taxable person in the course of the judicial liquidation of the enterprise that owned the plots sold.

(5) This derogation is intended to simplify the collection of the tax since, in practice, the person normally liable for the tax is, in the instances for which the derogation is sought, generally prevented by financial difficulties from paying the VAT invoiced.

(6) This state of affairs adversely affects public finances in that the recipient of the goods can deduct the value added tax invoiced to him, even though it has not been paid by the taxable person who supplied the goods.

(7) By designating the recipient of the goods as the person liable for the value added tax, the derogation removes the difficulties encountered without affecting the amount of tax due.

(8) The authorisation should be granted until 31 December 2006, which will enable the derogation to be reviewed in the light of experience.

(9) This derogation does not adversely affect the Communities' own resources from VAT,

HAS ADOPTED THIS DECISION:

Article 1

By derogation from Article 21(1)(a) of Directive 77/388/EEC, as amended by Article 28g thereof, Germany is hereby authorised to designate the recipient of the supplies of goods referred to in Article 2 of this Decision as the person liable to pay value added tax.

Article 2

The recipient of the supply of goods may be designated as the person liable to pay VAT in the following instances:

⁽¹⁾ OJ L 145, 13.6.1977, p. 1. Directive last amended by Directive 2001/115/EC (OJ L 15, 17.1.2002, p. 24).

1. The supply, outside a judicial liquidation procedure, of goods provided as security by one VAT taxable person to another in execution of that security;

Article 3

This Decision shall expire on 31 December 2006.

2. The supply of building plots sold at public auction to another VAT taxable person in the course of the judicial liquidation of the enterprise that owned the plots sold.

Article 4

This Decision is addressed to Germany.

Proposal for a Council Decision on the signature on behalf of the Community of an additional Protocol to the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Lithuania, of the other part, on Conformity Assessment and Acceptance of Industrial Products

(2002/C 151 E/18)

COM(2002) 123 final — 2002/0063(ACC)

(Submitted by the Commission on 8 March 2002)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133, 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 Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Lithuania of the other part ⁽¹⁾, entered into force on 20th February 1998.
- (2) Article 76 the Europe Agreement provides that cooperation in the fields of standardisation and conformity assessment shall seek to achieve the conclusion of agreements on mutual recognition.

(3) The Protocol to the Europe Agreement on Conformity Assessment and Acceptance of Industrial Products has been negotiated by the Commission on behalf of the Community.

(4) Subject to its possible conclusion at a later date, the Protocol to the Europe Agreement on Conformity Assessment and Acceptance of Industrial Products initialled in Brussels on 24th July 2001 should be signed,

HAS DECIDED AS FOLLOWS:

Sole Article

Subject to a possible conclusion at a later date, the President of the Council is hereby authorised to designate the person empowered to sign, on behalf of the Community, the Protocol to the Europe Agreement with the Republic of Lithuania on Conformity Assessment and Acceptance of Industrial Products.

⁽¹⁾ OJ L 26, 2.2.1998, p. 3.

Proposal for a Council Decision on the conclusion of an additional Protocol to the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Lithuania, of the other part, on Conformity Assessment and Acceptance of Industrial Products (PECA)

(2002/C 151 E/19)

COM(2002) 123 final — 2002/0064(ACC)

(Submitted by the Commission on 8 March 2002)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof, in conjunction with the first sentence of the first subparagraph of Article 300(2), the first sentence of the first subparagraph of Article 300(3) and Article 300(4) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Lithuania of the other part ⁽¹⁾, entered into force on 20 February 1998.
- (2) Article 76(2) of the Europe Agreement provides that cooperation in the fields of standardisation and conformity assessment shall seek to achieve the conclusion of agreements on mutual recognition.
- (3) Article 115(2) of the Europe Agreement provides that the Association Council may delegate to the Association Committee any of its powers.
- (4) Article 2 of Decision 98/150/EC, ECSC, Euratom of the Council and the Commission of 19 December 1997 on the conclusion of the Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Lithuania, of the other part ⁽²⁾, provides for the Community decision-making procedures and for the presentation of the Community position in the Association Council and in the Association Committee.
- (5) Article 14 of Decision No 1/98 of the Association Council between the European Communities and their Member States, of the one part, and the Republic of Lithuania, of the other part of 23 February 1998 on its rules of procedure ⁽³⁾ provides that the Association Committee may set up further subcommittees or groups to assist in carrying out its duties.
- (6) The draft Protocol to the Europe Agreement on Conformity Assessment and Acceptance of Industrial Products, has

been signed in Brussels on [... 2002], on behalf of the Community, and should be approved.

- (7) Certain tasks for implementation have been conferred to the Association Council and in particular the power to amend the Annexes to the Protocol.
- (8) The appropriate internal procedures should be established to ensure the proper functioning of the Protocol.
- (9) It is necessary to empower the Commission to make certain technical amendments to this Protocol and to take certain decisions for its implementation,

HAS DECIDED AS FOLLOWS:

Article 1

The Protocol to the Europe Agreement with the Republic of Lithuania on Conformity Assessment and Acceptance of Industrial Products (hereinafter referred to as 'the Protocol'), as well as the declaration annexed to the Final Act thereto, are hereby approved on behalf of the European Community.

The text of the Protocol, and of the declaration annexed to the Final Act thereto, is attached to this Decision.

Article 2

The President of the Council shall, on behalf of the Community, transmit the diplomatic note provided for in Article 17 of the Protocol ⁽⁴⁾.

Article 3

1. The Commission, after consultation with the special committee appointed by the Council, shall:

- (a) carry into effect the notifications, acknowledgements, suspensions and withdrawals of bodies, and appointments of joint team or teams of experts, in accordance with Articles 10, 11 and 14, indent (c) of the Protocol;

⁽¹⁾ OJ L 26, 2.2.1998, p. 3.

⁽²⁾ OJ L 26, 2.2.1998, p. 1.

⁽³⁾ OJ L 73, 12.3.1998, p. 31.

⁽⁴⁾ The date of entry into force of the Protocol will be published in the *Official Journal of the European Communities* by the General Secretariat of the Council.

- (b) bring about the consultations, exchange of information, the requests for verifications and for participation in verifications, in accordance with Articles 3, 12 and 14, indents (d) and (e), and Sections III and IV of the Annexes to the Protocol concerning machinery, lifts, personal protective equipment, electrical safety, electromagnetic compatibility and simple pressure vessels;
 - (c) if necessary, reply to requests in accordance with Article 11, Sections III and IV of the Annexes to the Protocol concerning machinery, lifts, personal protective equipment, electrical safety, electromagnetic compatibility and simple pressure vessels.
2. Following consultation of the special committee referred to in paragraph 1 of this Article, the Commission shall determine the position to be taken by the Community in the Association Council and, where applicable, in the Association Committee, with regard to:
- (a) amendments to the Annexes in accordance with Article 14, point (a) of the Protocol;
 - (b) addition of new Annexes in accordance with Article 14, point (b) of the Protocol;
 - (c) any decisions regarding disagreements on the results of the verifications and the suspensions, in part or totally, of any notified body in accordance with the second and third subparagraphs of Article 11 of the Protocol;
 - (d) any measures taken in the application of the safeguard clauses in Section IV of the Annexes of the Protocol concerning machinery, lifts, personal protective equipment, electrical safety, electromagnetic compatibility and simple pressure vessels;
 - (e) any measures concerning the verification, suspension, or withdrawal of industrial products as having mutual acceptance under Article 4 of the Protocol.
3. In all other cases the position to be taken by the Community in the Association Council and, where applicable, in the Association Committee, with regard to this Protocol shall be determined by the Council, acting by qualified majority on a proposal from the Commission.

ANNEX

Protocol to the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Lithuania, of the other part, on Conformity Assessment and Acceptance of Industrial Products (PECA)

THE EUROPEAN COMMUNITY AND THE REPUBLIC OF LITHUANIA hereinafter referred to as 'the Parties',

WHEREAS the Republic of Lithuania has applied for membership of the European Union and such membership implies the effective implementation of the *acquis* of the European Community,

RECOGNISING that the progressive adoption and implementation of Community law by the Republic of Lithuania provides the opportunity to extend certain benefits of the internal market and to ensure its effective operation in certain sectors before accession,

CONSIDERING THAT, in the sectors covered by this Protocol, Lithuanian national law substantially takes over the Community law,

CONSIDERING their shared commitment to the principles of free movement of goods and to promoting product quality, so as to ensure the health and safety of their citizens and the protection of the environment, including through technical assistance and other forms of cooperation between them,

DESIRING to conclude a Protocol to the Europe Agreement on Conformity Assessment and Acceptance of industrial products (hereinafter referred to as 'this Protocol') providing for the application of the mutual acceptance of industrial products which fulfil the requirements to be lawfully placed on the market in one of the Parties and of the mutual recognition of the results of conformity assessment of industrial products which are subject to Community or national law, noting that Article 76 of the Europe Agreement provides, where appropriate, for the conclusion of an agreement on mutual recognition,

NOTING the close relationship between the European Community and Iceland, Liechtenstein and Norway through the Agreement on the European Economic Area, which makes it appropriate to consider the conclusion of a parallel European Conformity Assessment Agreement between the Republic of Lithuania and these countries equivalent to this Protocol,

BEARING IN MIND their status as Contracting Parties to the Agreement establishing the World Trade Organisation, and conscious in particular of their obligations under the World Trade Organisation Agreement on Technical Barriers to Trade,

HAVE AGREED AS FOLLOWS:

Article 1

Purpose

The purpose of this Protocol is to facilitate the elimination by the Parties of technical barriers to trade in respect of industrial products. The means to this end is the progressive adoption and implementation by the Republic of Lithuania of national law, which is equivalent to Community law.

This Protocol provides for:

1. the mutual acceptance of industrial products, listed in the Annexes on mutual acceptance of industrial products, which fulfil the requirements to be lawfully placed on the market in one of the Parties;
2. the mutual recognition of the results of conformity assessment of industrial products subject to Community law and to the equivalent Lithuanian national law, both listed in the Annexes on mutual recognition of results of conformity assessment.

Article 2

Definitions

For the purpose of this Protocol,

- 'Industrial products' means products, as specified in Article 9 of the Europe Agreement and in Protocol 2 thereto,
- 'Community law' means any legal act and implementing practice of the European Community applicable to a particular situation, risk or category of industrial products, as interpreted by the Court of Justice of the European Communities,
- 'National law' means any legal act and implementing practice by which the Republic of Lithuania takes over the Community law applicable to a particular situation, risk or category of industrial products.

The terms used in this Protocol shall have the meaning given in Community law and Lithuanian national law.

Article 3

Alignment of legislation

For the purpose of this Protocol, the Republic of Lithuania agrees to take appropriate measures, in consultation with the Commission of the European Communities, to maintain or complete the take-over of Community law, in particular in the fields of standardisation, metrology, accreditation, conformity assessment, market surveillance, general safety of products, and producer's liability.

Article 4

Mutual acceptance of industrial products

The Parties agree that, for the purpose of mutual acceptance, industrial products listed in the Annexes on mutual acceptance of industrial products, which fulfil the requirements to be lawfully placed on the market of a Party, may be placed on the market of the other Party, without further restriction. This shall be without prejudice to Article 35 of the Europe Agreement.

Article 5

Mutual recognition of the results of conformity assessment procedures

The Parties agree to recognise the results of conformity assessment procedures carried out in accordance with the Community or national law listed in the Annexes on mutual recognition of the results of conformity assessment. The Parties shall not require procedures to be repeated, nor shall they impose additional requirements, for the purposes of accepting that conformity.

*Article 6***Safeguard clause**

Where a Party finds that an industrial product placed on its territory by virtue of the present Protocol, and used in accordance with its intended use, may compromise the safety or health of users or other persons, or any other legitimate concern protected by legislation identified in the Annexes, it may take appropriate measures to withdraw such a product from the market, to prohibit its placing on the market, putting into service or use, or to restrict its free movement. The Annexes shall provide for the procedure to be applied in such cases.

*Article 7***Extension of coverage**

As the Republic of Lithuania adopts and implements further national law taking over Community law, the Parties may amend the Annexes or conclude new Annexes, in accordance with the procedure laid down in Article 14.

*Article 8***Origin**

The provisions of this Protocol shall apply to industrial products irrespective of their origin.

*Article 9***Obligation of Parties as regards their authorities and bodies**

The Parties shall ensure that authorities under their jurisdiction which are responsible for the effective implementation of Community and national law shall continuously apply it. Further, they shall ensure that these authorities are able, where appropriate, to notify, suspend, remove suspension and withdraw notification of bodies, to ensure the conformity of industrial products with Community or national law or to require their withdrawal from the market.

The Parties shall ensure that bodies, notified under their respective jurisdiction to assess conformity in relation to requirements of Community or national law specified in the Annexes, continuously comply with the requirements of Community or national law. Further, they shall take all necessary steps to ensure that these bodies maintain the necessary competence to carry out the tasks for which they are notified.

*Article 10***Notified bodies**

Initially, the bodies notified for the purpose of this Protocol shall be those included in the lists which the Republic of Lithuania and the Community have exchanged before the completion of the procedures for entry into force

Afterwards, the following procedure shall apply for the notification of bodies to assess conformity in relation to the requirements of Community or national law specified in the Annexes:

- (a) a Party shall forward its notification to the other Party in writing;
- (b) on the acknowledgement of the other Party, given in writing, the body shall be considered as notified and as competent to assess conformity in relation to the requirements specified in the Annexes from that date.

If a Party decides to withdraw a notified body under its jurisdiction, it shall inform the other Party in writing. The body will cease to assess conformity in relation to the requirements specified in the annexes from the date of its withdrawal at the latest. Nevertheless, conformity assessment carried out before that date shall remain valid, unless otherwise decided by the Association Council.

*Article 11***Verification of notified bodies**

Each Party may request the other Party to verify the technical competence and compliance of a notified body under its jurisdiction. Such request will be justified in order to allow the Party responsible for the notification to carry out the requested verification and report speedily to the other Party. The Parties may also jointly examine the body, with the participation of the relevant authorities. To this end, the Parties shall ensure the full cooperation of bodies under their jurisdiction. The Parties shall take all appropriate steps, and use whatever available means may be necessary, with a view to resolving any problems which are detected.

If the problems cannot be resolved to the satisfaction of both Parties, they may notify the chairman of the Association Council of their dissent, giving their reasons. The Association Council may decide on appropriate action.

Unless and until decided otherwise by the Association Council, the notification of the body and the recognition of its competence to assess conformity in relation to the requirements of Community or national law specified in the Annexes shall be suspended in part or totally from the date on which the disagreement of the Parties has been notified to the chairman of the Association Council.

Article 12

Exchange of information and cooperation

In order to ensure a correct and uniform application and interpretation of this Protocol, the Parties, their authorities and their notified bodies shall:

- (a) exchange all relevant information concerning implementation of law and practice including, in particular, on procedure to ensure compliance of notified bodies;
- (b) take part, as appropriate, in the relevant mechanisms of information, coordination and other related activities of the Parties;
- (c) encourage their bodies to cooperate with a view to establishing mutual recognition arrangements in the voluntary sphere.

Article 13

Confidentiality

Representatives, experts and other agents of the Parties shall be required, even after their duties have ceased, not to disclose information acquired under this Protocol which is of the kind covered by the obligation of professional secrecy. This information may not be used for purposes other than those envisaged by this Protocol.

Article 14

Management of the Protocol

Responsibility for the effective functioning of this Protocol shall be held by the Association Council in conformity with Article 111 of the Europe Agreement. In particular, it shall have the power to take decisions regarding:

- (a) amending the annexes;
- (b) adding new annexes;
- (c) appointing a joint team or teams of experts to verify the technical competence of a notified body and its compliance with the requirements;

- (d) exchanging information on proposed and actual modifications of the Community and national law referred to in the annexes;
- (e) considering new or additional conformity assessment procedures affecting a sector covered by an annex;
- (f) resolving any questions relating to the application of this Protocol.

The Association Council may delegate the above responsibilities set out under this Protocol, in conformity with Article 115(2) of the Europe Agreement.

Article 15

Technical cooperation and assistance

The Community may provide technical cooperation and assistance to the Republic of Lithuania where necessary in order to support the effective implementation and application of this Protocol.

Article 16

Agreements with other countries

Agreements on conformity assessment concluded by either Party with a country which is not a Party to this Protocol shall not entail an obligation upon the other Party to accept the results of conformity assessment procedures carried out in that third country, unless there is an explicit agreement between the Parties in the Association Council.

Article 17

Entry into force

This Protocol shall enter into force on the first day of the second month following the date on which the Parties have exchanged diplomatic notes confirming the completion of their respective procedures for entry into force of the Protocol.

Article 18

Status of the Protocol

This Protocol constitutes an integral part of the Europe Agreement.

This Protocol is drawn up in two originals in Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Lithuanian languages, each text being equally authentic.

ANNEXES ON MUTUAL RECOGNITION OF RESULTS OF CONFORMITY ASSESSMENT

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1. Machinery
2. Lifts
3. Personal Protective Equipment
4. Electrical Safety
5. Electromagnetic Compatibility
6. Simple Pressure Vessels

ANNEX

on Mutual Recognition of results of Conformity Assessment

MACHINERY

SECTION I

COMMUNITY AND NATIONAL LAW

- Community law: European Parliament and Council Directive 98/37/EC of 22 June 1998 on the approximation of the laws of the Member States relating to machinery (OJ L 207, 23.7.1998, p. 1), as amended by European Parliament and Council Directive 98/79/EC of 27 October 1998 (OJ L 331, 7.12.1998, p. 1).
- National law: Order of the Minister of Social Security and Labour No 28 of 6 March 2000 on the Approval of the Technical Regulation concerning Machinery's Safety (OJ 'Valstybės Žinios' No 23-601 of 17 March 2000, p. 43), amended by the Order of the Minister of Social Security and Labour No 53 of 23 April 2001 (OJ 'Valstybės Žinios' No 37-1267 of 2 May 2001, p. 62).

SECTION II

NOTIFYING AUTHORITIES

European Community:

- Austria: Bundesministerium für Wirtschaft und Arbeit
- Belgium: Ministère des Affaires Économiques/Ministerie van Economische Zaken
- Denmark: Direktoratet for Arbejdstilsynet
- Finland: Sosiaali- ja terveysministeriö/Social- och hälsovårdsministeriet
- France: Ministère de l'emploi et de la solidarité, Direction des relations du travail, Bureau CT 5
- Germany: Bundesministerium für Arbeit und Sozialordnung
- Greece: Ministry of Development. General Secretariat of Industry
- Ireland: Department of Enterprise and Employment
- Italy: Ministero dell'Industria, del Commercio e dell'Artigianato
- Luxembourg: Ministère du Travail (Inspection du travail et des Mines)
- Netherlands: Minister van Sociale Zaken en Werkgelegenheid
- Portugal: Under the authority of the Government of Portugal:
Instituto Português da Qualidade

- Spain: Ministerio de Ciencia y Tecnología
- Sweden: Under the authority of the Government of Sweden:
Styrelsen för ackreditering och teknisk kontroll (SWEDAC)
- United Kingdom: Department of Trade and Industry
- Lithuania:** Socialinės apsaugos ir darbo ministerija (Ministry of Social Security and Labour)

SECTION III

NOTIFIED BODIES

European Community:

Bodies which have been notified by the Member States of the Community in accordance with the Community law of Section I and notified to Lithuania in accordance with Article 10 of this Protocol.

Lithuania:

Bodies which have been designated by Lithuania in accordance with the Lithuanian national law of Section I and notified to the Community in accordance with Article 10 of this Protocol.

SECTION IV

SPECIFIC ARRANGEMENTS

Safeguard clauses

A. Safeguard clause relating to industrial products

1. Where a Party has taken a measure to deny free access to its market for industrial products bearing the CE marking, subject to this Annex, it shall immediately inform the other Party, indicating the reasons for its decision and how non-compliance has been assessed.
2. The Parties shall consider the matter and the evidence brought to their knowledge, and shall report to each other the results of its investigations.
3. In case of agreement, the Parties shall take appropriate measures to ensure that such products are not placed on the market.
4. In case of disagreement on the outcome of such investigations the matter shall be forwarded to the Association Council who may decide to have an expertise carried out.
5. Where the Association Council finds that the measure is:
 - (a) unjustified, the national authority of the Party who has taken the measure shall withdraw it;
 - (b) justified, the Parties shall take appropriate measures to ensure that such products are not placed on the market.

B. Safeguard clause relating to harmonised standards

1. Where Lithuania considers that a harmonised standard referred to in the legislation defined in this Annex, does not meet the essential requirements of such legislation, it shall inform the Association Council giving the reasons thereof.
 2. The Association Council shall consider the matter and may request the Community to proceed in accordance with the procedure provided for in the Community legislation identified in this Annex.
 3. The Community shall keep the Association Council and the other Party informed of the proceedings.
 4. The outcome of the procedure shall be notified to the other Party.
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ANNEX

on Mutual Recognition of results of Conformity Assessment

LIFTS

SECTION I

COMMUNITY AND NATIONAL LAW

- Community law: European Parliament and Council Directive 95/16/EC of 29 June 1995 on the approximation of the laws of the Member States relating to lifts (OJ L 213, 7.9.1995, p. 1).
- National law: Order of the Minister of Social Security and Labour No 106 of 28 December 1999 on the Approval of the Technical Regulation on Lifts (OJ 'Valstybės Žinios' No 28-785 of 5 April 2000, p. 30), amended by the Order of the Minister of Social Security and Labour No 54 of 23 April 2001 (OJ 'Valstybės Žinios' No 37-1268 of 2 May 2001, p. 63) and Order No 83 of 27 June 2001 (OJ 'Valstybės Žinios' No 58-2103 of 7 July 2001, p. 68).

SECTION II

NOTIFYING AUTHORITIES

European Community:

- Austria: Bundesministerium für Wirtschaft und Arbeit
- Belgium: Ministère des Affaires Économiques/Ministerie van Economische Zaken
- Denmark: Direktoratet for Arbejdstilsynet
- Finland: Kauppa- ja teollisuusministeriö/Handels- och industriministeriet
- France: Ministère de l'équipement, des transports et du logement, Direction générale de l'urbanisme, de l'habitat et de la construction
- Germany: Bundesministerium für Arbeit und Sozialordnung
- Greece: Ministry of Development. General Secretariat of Industry
- Ireland: Department of Enterprise and Employment
- Italy: Ministero dell'Industria, del Commercio e dell'Artigianato
- Luxembourg: Ministère du Travail (Inspection du travail et des Mines)
- Netherlands: Minister van Sociale Zaken en Werkgelegenheid
- Portugal: Under the authority of the Government of Portugal:
Instituto Português da Qualidade
- Spain: Ministerio de Ciencia y Tecnología
- Sweden: Under the authority of the Government of Sweden:
Styrelsen för ackreditering och teknisk kontroll (SWEDAC)
- United Kingdom: Department of Trade and Industry

Lithuania: Socialinės apsaugos ir darbo ministerija (Ministry of Social Security and Labour)

SECTION III

NOTIFIED BODIES

European Community:

Bodies which have been notified by the Member States of the Community in accordance with the Community law of Section I and notified to Lithuania in accordance with Article 10 of this Protocol.

Lithuania:

Bodies which have been designated by Lithuania in accordance with the Lithuanian national law of Section I and notified to the Community in accordance with Article 10 of this Protocol.

SECTION IV

SPECIFIC ARRANGEMENTS**Safeguard clauses***A. Safeguard clause relating to industrial products*

1. Where a Party has taken a measure to deny free access to its market for industrial products bearing the CE marking, subject to this Annex, it shall immediately inform the other Party, indicating the reasons for its decision and how non-compliance has been assessed.
2. The Parties shall consider the matter and the evidence brought to their knowledge, and shall report to each other the results of its investigations.
3. In case of agreement, the Parties shall take appropriate measures to ensure that such products are not placed on the market.
4. In case of disagreement on the outcome of such investigations the matter shall be forwarded to the Association Council who may decide to have an expertise carried out.
5. Where the Association Council finds that the measure is:
 - (a) unjustified, the national authority of the Party who has taken the measure shall withdraw it;
 - (b) justified, the Parties shall take appropriate measures to ensure that such products are not placed on the market.

B. Safeguard clause relating to harmonised standards

1. Where Lithuania considers that a harmonised standard referred to in the legislation defined in this Annex, does not meet the essential requirements of such legislation, it shall inform the Association Council giving the reasons thereof.
 2. The Association Council shall consider the matter and may request the Community to proceed in accordance with the procedure provided for in the Community legislation identified in this Annex.
 3. The Community shall keep the Association Council and the other Party informed of the proceedings.
 4. The outcome of the procedure shall be notified to the other Party.
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ANNEX

*on Mutual Recognition of results of Conformity Assessment***PERSONAL PROTECTIVE EQUIPMENT**

SECTION I

COMMUNITY AND NATIONAL LAW

- Community law: Council Directive 89/686/EEC of 21 December 1989 on the approximation of the laws of the Member States relating to personal protective equipment (OJ L 399, 30.12.1989, p. 18), as last amended by Parliament and Council Directive 96/58/EC of 3 September 1996 (OJ L 236, 18.9.1996, p. 44).
- National law: Order of the Minister of Social Security and Labour No 69 of 3 July 2000 on the Approval of the Technical Regulation on Personal Protective Equipment (OJ 'Valstybės Žinios' No 65-1967 of 2 August 2000, p. 42), amended by the Order of the Minister of Social Security and Labour No 52 of 23 April 2001 (OJ 'Valstybės Žinios' No 37-1266 of 2 May 2001, p. 62).

SECTION II

NOTIFYING AUTHORITIES**European Community:**

- Austria: Bundesministerium für Wirtschaft und Arbeit
- Belgium: Ministère des Affaires Économiques/Ministerie van Economische Zaken
- Denmark: Direktoratet for Arbejdstilsynet
- Finland: Sosiaali- ja terveystieteiden ministeriö/Social- och hälsovårdsministeriet
- France: Ministère de l'emploi et de la solidarité. Direction des relations du travail, Bureau CT 5
Ministère de l'économie, des finances et de l'industrie, Direction générale de l'industrie, des technologies de l'information et des postes (DiGITIP) — SQUALPI
- Germany: Bundesministerium für Arbeit und Sozialordnung
- Greece: Ministry of Development. General Secretariat of Industry
- Ireland: Department of Enterprise and Employment
- Italy: Ministero dell'Industria, del Commercio e dell'Artigianato
- Luxembourg: Ministère du Travail (Inspection du travail et des Mines)
- Netherlands: Minister van Volksgezondheid, Welzijn en Sport
- Portugal: Under the authority of the Government of Portugal:
Instituto Português da Qualidade
- Spain: Ministerio de Ciencia y Tecnología
- Sweden: Under the authority of the Government of Sweden:
Styrelsen för ackreditering och teknisk kontroll (SWEDAC)
- United Kingdom: Department of Trade and Industry

Lithuania: Socialinės apsaugos ir darbo ministerija (Ministry of Social Security and Labour)

SECTION III

NOTIFIED BODIES**European Community:**

Bodies which have been notified by the Member States of the Community in accordance with the Community law of Section I and notified to Lithuania in accordance with Article 10 of this Protocol.

Lithuania:

Bodies which have been designated by Lithuania in accordance with the Lithuanian national law of Section I and notified to the Community in accordance with Article 10 of this Protocol.

SECTION IV

SPECIFIC ARRANGEMENTS**Safeguard clauses***A. Safeguard clause relating to industrial products*

1. Where a Party has taken a measure to deny free access to its market for industrial products bearing the CE marking, subject to this Annex, it shall immediately inform the other Party, indicating the reasons for its decision and how non-compliance has been assessed.
2. The Parties shall consider the matter and the evidence brought to their knowledge, and shall report to each other the results of their investigations.
3. In case of agreement, the Parties shall take appropriate measures to ensure that such products are not placed on the market.
4. In case of disagreement on the outcome of such investigations the matter shall be forwarded to the Association Council who may decide to have an expertise carried out.
5. Where the Association Council finds that the measure is:
 - (a) unjustified, the national authority of the Party who has taken the measure shall withdraw it;
 - (b) justified, the Parties shall take appropriate measures to ensure that such products are not placed on the market.

B. Safeguard clause relating to harmonised standards

1. Where Lithuania considers that a harmonised standard referred to in the legislation defined in this Annex, does not meet the essential requirements of such legislation, it shall inform the Association Council giving the reasons thereof.
 2. The Association Council shall consider the matter and may request the Community to proceed in accordance with the procedure provided for in the Community legislation identified in this Annex.
 3. The Community shall keep the Association Council and the other Party informed of the proceedings.
 4. The outcome of the procedure shall be notified to the other Party.
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ANNEX

*on Mutual Recognition of results of Conformity Assessment***ELECTRICAL SAFETY**

SECTION I

COMMUNITY AND NATIONAL LAW

- Community law: Council Directive 73/23/EEC of 19 February 1973 on the approximation of the laws of the Member States relating to electrical equipment designed for use within certain voltage limits (OJ L 77, 26.3.1973, p. 29), as last amended by Directive 93/68/EEC of 22 July 1993 (OJ L 220, 30.8.1993, p. 1).
- National law: Joint Order of the Minister of Economy and Director of the Standardisation Department No 200/57 of 20 June 2001 on the Amendment of the Technical Regulation on Safety of Electrical Equipment approved by the Joint Order of the Minister of Economy and Director of the Standardisation Department No 351/61 of 19 October 1999 (OJ 'Valstybės Žinios' No 54-1932 of 26 June 2001, p. 88).

SECTION II

NOTIFYING AUTHORITIES**European Community:**

- Austria: Bundesministerium für Wirtschaft und Arbeit
- Belgium: Ministère des Affaires Économiques/Ministerie van Economische Zaken
- Denmark: Økonomi- og Erhvervsministeriet, Elektricitetsrådet
- Finland: Kauppa- ja teollisuusministeriö/Handels- och industriministeriet
- France: Ministère de l'économie, des finances et de l'industrie, Direction générale de l'industrie, des technologies de l'information et des postes (DIGITIP) — SQUALPI
- Germany: Bundesministerium für Arbeit und Sozialordnung
- Greece: Ministry of Development. General Secretariat of Industry
- Ireland: Department of Enterprise and Employment
- Italy: Ministero dell'Industria, del Commercio e dell'Artigianato
- Luxembourg: Ministère de l'Économie — Service de l'Énergie de l'État
Ministère du Travail (Inspection du Travail et des Mines)
- Netherlands: Minister van Volksgezondheid, Welzijn en Sport (consumer goods)
Minister van Sociale Zaken en Werkgelegenheid (others)
- Portugal: Under the authority of the Government of Portugal:
Instituto Português da Qualidade
- Spain: Ministerio de Ciencia y Tecnología
- Sweden: Under the authority of the Government of Sweden:
Styrelsen för ackreditering och teknisk kontroll (SWEDAC)
- United Kingdom: Department of Trade and Industry

Lithuania: Ūkio ministerija (Ministry of Economy)

SECTION III

NOTIFIED BODIES**European Community:**

Bodies which have been notified by the Member States of the Community in accordance with the Community law of Section I and notified to Lithuania in accordance with Article 10 of this Protocol.

Lithuania:

Bodies which have been designated by Lithuania in accordance with the Lithuanian national law of Section I and notified to the Community in accordance with Article 10 of this Protocol.

SECTION IV

SPECIFIC ARRANGEMENTS**Safeguard clauses***A. Safeguard clause relating to industrial products*

1. Where a Party has taken a measure to deny free access to its market for industrial products bearing the CE marking, subject to this Annex, it shall immediately inform the other Party, indicating the reasons for its decision and how non-compliance has been assessed.
2. The Parties shall consider the matter and the evidence brought to their knowledge, and shall report to each other the results of their investigations.
3. In case of agreement, the Parties shall take appropriate measures to ensure that such products are not placed on the market.
4. In case of disagreement on the outcome of such investigations the matter shall be forwarded to the Association Council who may decide to have an expertise carried out.
5. Where the Association Council finds that the measure is:
 - (a) unjustified, the national authority of the Party who has taken the measure shall withdraw it;
 - (b) justified, the Parties shall take appropriate measures to ensure that such products are not placed on the market.

B. Safeguard clause relating to harmonised standards

1. Where Lithuania considers that a harmonised standard referred to in the legislation defined in this Annex, does not meet the essential requirements of such legislation, it shall inform the Association Council giving the reasons thereof.
 2. The Association Council shall consider the matter and may request the Community to proceed in accordance with the procedure provided for in the Community legislation identified in this Annex.
 3. The Community shall keep the Association Council and the other Party informed of the proceedings.
 4. The outcome of the procedure shall be notified to the other Party.
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ANNEX

*on Mutual Recognition of results of Conformity Assessment***ELECTROMAGNETIC COMPATIBILITY**

SECTION I

COMMUNITY AND NATIONAL LAW

- Community law: Council Directive 89/336/EEC of 3 May 1989 on the approximation of the laws of the Member States relating to electromagnetic compatibility (OJ L 139, 23.5.1989, p. 19), as last amended by Council Directive 93/68/EEC of 22 July 1993 (OJ L 220, 30.8.1993, p. 1).
- National law: Joint Order of the Minister of Transport and Communications and Minister of Economy No 184/183 of 30 May 2001 on the Approval of the Technical Regulation on Electromagnetic Compatibility (OJ 'Valstybės Žinios' No 47-1637 of 1 June 2001, p. 36), amended by the Joint Order of the Minister of Transport and Communications and Minister of Economy No 201/193 of 14 June 2001 (OJ 'Valstybės Žinios' No 52-1850 of 20 June 2001, p. 62).

SECTION II

NOTIFYING AUTHORITIES**European Community:**

- Austria: Bundesministerium für Wirtschaft und Arbeit
- Belgium: Ministère des Affaires Économiques/Ministerie van Economische Zaken
- Denmark: Telestyrelsen
- Finland: Kauppa- ja teollisuusministeriö/Handels- och industriministeriet
For EMC aspects of telecommunications and radio equipment:
Liikenne- ja viestintäministeriö/Kommunikationsministeriet
- France: Ministère de l'économie, des finances et de l'industrie, Direction générale de l'industrie, des technologies de l'information et des postes (DiGITIP) — SQUALPI
- Germany: Bundesministerium für Wirtschaft und Technologie
- Greece: Ministry of Development. General Secretariat of Industry
- Ireland: Department of Enterprise and Employment
- Italy: Ministero dell'Industria, del Commercio e dell'Artigianato
- Luxembourg: Ministère de l'Économie — Service de l'Énergie de l'État
- Netherlands: Minister van Verkeer en Waterstaat
- Portugal: Under the authority of the Government of Portugal:
Instituto Português da Qualidade
Ministério do Equipamento Social. Instituto das Comunicações de Portugal
- Spain: Ministerio de Ciencia y Tecnología
- Sweden: Under the authority of the Government of Sweden:
Styrelsen för ackreditering och teknisk kontroll (SWEDAC)
- United Kingdom: Department of Trade and Industry
- Lithuania:** Susisiekimo ministerija (Ministry of Transport and Communications)

SECTION III

NOTIFIED AND COMPETENT BODIES**European Community:**

Bodies which have been notified by the Member States of the Community in accordance with the Community law of Section I and notified to Lithuania in accordance with Article 10 of this Protocol.

Lithuania:

Bodies which have been designated by Lithuania in accordance with the Lithuanian national law of Section I and notified to the Community in accordance with Article 10 of this Protocol.

SECTION IV

SPECIFIC ARRANGEMENTS**Safeguard clauses***A. Safeguard clause relating to industrial products*

1. Where a Party has taken a measure to deny free access to its market for industrial products bearing the CE marking, subject to this Annex, it shall immediately inform the other Party, indicating the reasons for its decision and how non-compliance has been assessed.
2. The Parties shall consider the matter and the evidence brought to their knowledge, and shall report to each other the results of their investigations.
3. In case of agreement, the Parties shall take appropriate measures to ensure that such products are not placed on the market.
4. In case of disagreement on the outcome of such investigations the matter shall be forwarded to the Association Council who may decide to have an expertise carried out.
5. Where the Association Council finds that the measure is:
 - (a) unjustified, the national authority of the Party who has taken the measure shall withdraw it;
 - (b) justified, the Parties shall take appropriate measures to ensure that such products are not placed on the market.

B. Safeguard clause relating to harmonised standards

1. Where Lithuania considers that a harmonised standard referred to in the legislation defined in this Annex, does not meet the essential requirements of such legislation, it shall inform the Association Council giving the reasons thereof.
 2. The Association Council shall consider the matter and may request the Community to proceed in accordance with the procedure provided for in the Community legislation identified in this Annex.
 3. The Community shall keep the Association Council and the other Party informed of the proceedings.
 4. The outcome of the procedure shall be notified to the other Party.
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ANNEX

*on Mutual Recognition of results of Conformity Assessment***SIMPLE PRESSURE VESSELS**

SECTION I

COMMUNITY AND NATIONAL LAW

Community law:	Council Directive 87/404/EEC of 25 June 1987 on the approximation of the laws of the Member States relating to simple pressure vessels (OJ L 220, 8.8.1987, p. 48), as last amended by Council Directive 93/68/EEC of 22 July 1993 (OJ L 220, 30.8.1993, p. 1).
National law:	Order of the Minister of Economy No 199 of 20 June 2001 on the Amendment to the Technical Regulation on Simple Pressure Vessels' Safety (OJ 'Valstybės Žinios' No 54-1931 of 26 June 2001, p. 77).

SECTION II

NOTIFYING AUTHORITIES**European Community:**

— Austria:	Bundesministerium für Wirtschaft und Arbeit
— Belgium:	Ministère des Affaires Économiques/Ministerie van Economische Zaken
— Denmark:	Direktoratet for Arbejdstilsynet
— Finland:	Kauppa- ja teollisuusministeriö/Handels- och industriministeriet
— France:	Ministère de l'économie, des finances et de l'industrie, Direction de l'action régionale et de la petite et moyenne industrie (DARPMI). Sous-direction de la sécurité industrielle
— Germany:	Bundesministerium für Arbeit und Sozialordnung
— Greece:	Ministry of Development. General Secretariat of Industry
— Ireland:	Department of Enterprise and Employment
— Italy:	Ministero dell'Industria, del Commercio e dell'Artigianato
— Luxembourg:	Ministère du Travail et de l'Emploi
— Netherlands:	Minister van Sociale Zaken en Werkgelegenheid
— Portugal:	Under the authority of the Government of Portugal: Instituto Português da Qualidade
— Spain:	Ministerio de Ciencia y Tecnología
— Sweden:	Under the authority of the Government of Sweden: Styrelsen för ackreditering och teknisk kontroll (SWEDAC)
— United Kingdom:	Department of Trade and Industry

Lithuania: Ūkio ministerija (Ministry of Economy)

SECTION III

NOTIFIED BODIES**European Community:**

Bodies which have been notified by the Member States of the Community in accordance with the Community law of Section I and notified to Lithuania in accordance with Article 10 of this Protocol.

Lithuania:

Bodies which have been designated by Lithuania in accordance with the Lithuanian national law of Section I and notified to the Community in accordance with Article 10 of this Protocol.

SECTION IV

SPECIFIC ARRANGEMENTS**Safeguard clauses***A. Safeguard clause relating to industrial products*

1. Where a Party has taken a measure to deny free access to its market for industrial products bearing the CE marking, subject to this Annex, it shall immediately inform the other Party, indicating the reasons for its decision and how non-compliance has been assessed.
2. The Parties shall consider the matter and the evidence brought to their knowledge, and shall report to each other the results of their investigations.
3. In case of agreement, the Parties shall take appropriate measures to ensure that such products are not placed on the market.
4. In case of disagreement on the outcome of such investigations the matter shall be forwarded to the Association Council who may decide to have an expertise carried out.
5. Where the Association Council finds that the measure is:
 - (a) unjustified, the national authority of the Party who has taken the measure shall withdraw it;
 - (b) justified, the Parties shall take appropriate measures to ensure that such products are not placed on the market.

B. Safeguard clause relating to harmonised standards

1. Where Republic of Lithuania considers that a harmonised standard referred to in the legislation defined in this Annex, does not meet the essential requirements of such legislation, it shall inform the Association Council giving the reasons thereof.
 2. The Association Council shall consider the matter and may request the Community to proceed in accordance with the procedure provided for in the Community legislation identified in this Annex.
 3. The Community shall keep the Association Council and the other Party informed of the proceedings.
 4. The outcome of the procedure shall be notified to the other Party.
-

DECLARATION BY THE COMMUNITY ON THE ATTENDANCE OF LITHUANIAN REPRESENTATIVES AT COMMITTEE MEETINGS

In order to ensure a better understanding of the practical aspects of the application of the *acquis communautaire*, the Community declares that the Republic of Lithuania is invited, under the following conditions, to the meetings of the committees established or referred to under the Community law on machinery, lifts, personal protective equipment, electromagnetic compatibility, electrical safety and simple pressure vessels.

This participation shall be limited to meetings or parts thereof during which the application of the *acquis* is discussed; it shall not entail attendance at meetings intended to prepare and issue opinions on implementation or management powers delegated to the Commission by the Council.

This invitation may be extended, on a case-by-case basis, to groups of experts convened by the Commission.

Proposal for a Regulation of the European Parliament and of the Council concerning protection against subsidisation and unfair pricing practices in the supply of airline services from countries not members of the European Community

(2002/C 151 E/20)

COM(2002) 110 final — 2002/0067(COD)

(Submitted by the Commission on 13 March 2002)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

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

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

- (1) There is reason to believe that the competitive participation of Community air carriers in providing air services to or from the Community is adversely affected by certain unfair practices of non-Community air carriers providing like air services.
- (2) Such unfair practices may result from a subsidy granted by a government of a country which is not a member of the Community or from certain pricing practices by a non-Community air carrier which is State-controlled.
- (3) Within the Community there are strict rules regarding the granting of government aid to airlines, and for Community airlines not to be placed at a competitive disadvantage there is a need for an instrument to offer protection against subsidised non-Community air carriers or those receiving other benefits from governments.
- (4) The Community should be able to take action to redress such unfair practices resulting from subsidies granted by the government of a country which is not a member of the Community.
- (5) The Community should also be able to address unfair pricing practices when the air carrier is controlled by a government of a country which is not a member of the Community.
- (6) It should be explained when a subsidy shall be deemed to exist and according to which principles it shall be countervailable (in particular whether the subsidy has been targeted at certain enterprises or sectors or is contingent upon service supply to third countries).
- (7) In determining the existence of a subsidy, it is necessary to demonstrate that there has been a financial contribution by a government or that government revenue that is otherwise due is foregone or not collected, and that a benefit has thereby been conferred on the recipient enterprise.
- (8) It should be explained when an unfair pricing practice is deemed to exist.
- (9) It is desirable to lay down clear and detailed guidance as to the factors which may be relevant for the determination of whether the subsidised or unfairly priced air services provided by non-Community air carriers have caused material injury or are threatening to cause injury; in demonstrating that the price levels of the supply of such air services are responsible for injury sustained by the Community industry, attention should be given to the effect of other factors and in particular prevailing market conditions in the Community.
- (10) It is advisable to define the terms 'Community air carrier', 'Community industry', 'like air service' and 'State-controlled'.
- (11) It is necessary to lay down who may lodge a complaint, and the information on countervailable subsidies or unfair pricing practice, injury and causation which such complaint should contain.
- (12) It is necessary to lay down the manner in which interested parties should be given notice of the information which the authorities require; and interested parties should have ample opportunity to present all relevant evidence and to defend their interests; it is also desirable to set out the rules and procedures to be followed during the investigation, in particular the rules whereby interested parties are to make themselves known, present their views and submit information within specified time limits, if such views and information are to be taken into account; it is necessary to provide that, where parties do not cooperate satisfactorily, other information may be used to establish findings and that such information may be less favourable to the parties than if they had cooperated.

(13) It is necessary to lay down the conditions under which provisional measures may be imposed; such measures may in all cases be imposed by the Commission only for a six-month period.

(14) An investigation or proceeding should be terminated whenever there is no need to take measures, for example if the amount of subsidisation, the degree of unfair pricing or the injury is negligible; a proceeding shall not be terminated unless such a decision is duly motivated; that measures should be less than the amount of countervailable subsidies or the degree of unfair pricing if such lesser amount would remove the injury.

(15) It is necessary to provide that measures should not exceed the value of subsidies or the non-commercial advantages granted as the case may be.

(16) It is necessary to provide that measures are to remain in force only for as long as it is necessary to counteract the subsidies or unfair pricing practices causing injury.

(17) It is necessary to specify procedures for the acceptance of undertakings eliminating or offsetting the countervailable subsidies or unfair pricing practices and injury in lieu of the imposition of provisional or definitive measures; it is also appropriate to lay down the consequences of breach or withdrawal of undertakings.

(18) It is necessary to provide, in cases where sufficient evidence is submitted of changed circumstances, for review of existing measures.

(19) In accordance with Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission, measures for the implementation of this Regulation should be adopted by use of the advisory procedure provided for in Article 3 of that Decision,

HAVE ADOPTED THIS REGULATION:

Article 1

Principles

A redressive measure may be imposed for the purpose of:

1. offsetting any subsidy granted, directly or indirectly to a non-Community air carrier, or

2. offsetting the unfair pricing practices by State-controlled non-Community air carriers

concerning the supply of air services on certain routes to and from the Community which cause injury to the Community industry.

Article 2

Subsidisation

1. A subsidy shall be deemed to exist if:

- (a) there is a financial contribution by a government of a country not member of the European Community, that is to say,

- (i) where a government practice involves a direct transfer of funds, potential direct transfer of funds or liabilities;

- (ii) government revenue that is otherwise due is foregone or not collected;

- (iii) a government provides goods or services other than general infrastructure, or purchases goods or services;

- (iv) a government makes payments to a funding mechanism or entrusts or directs a private body to carry out one or more of the type of functions illustrated above which would normally be vested in the government and, in practice, in no real sense, differs from practices normally followed by governments; and

- (b) a benefit is thereby conferred.

2. Subsidies shall be subject to redressive measures only if the subsidies are limited, in law or in fact, to an enterprise or industry or group of enterprises or industries within the jurisdiction of the granting authority, including subsidies contingent upon export performance.

Article 3

Unfair pricing practices

1. Unfair pricing practices shall be deemed to exist where State-controlled non-Community air carriers benefiting from a non-commercial advantage continuously charge on a particular air service to or from a Community, air fares which are lower than the normal fare rate.

2. The term 'normal fare rate' means

- (a) the comparable rate actually charged during a period of at least 6 months in the ordinary course of air transport for the like air service on the same or comparable route by an established and representative air carrier which is not a government-controlled air carrier; or where such rate cannot be determined;
- (b) the constructed rate which is determined by the costs of a comparable air carrier plus a reasonable margin of profit. This cost shall be computed on the basis of all costs incurred in the ordinary course of trade, both fixed and variable, plus a reasonable amount for overhead expenses.

3. A non-Community air carrier shall be deemed to be 'State-controlled' if the Government or any other public body within the territory of a third country owns more than 50 per cent of the equity interest in it, or have the power to name a majority of its directors or otherwise legally direct its actions.

Article 4

Determination of injury

1. For the purposes of this Regulation:

- (a) the term 'injury' shall be taken to mean material injury to the Community industry, or threat of material injury to the Community industry;
- (b) the term 'Community industry' shall be interpreted as referring to the Community air carriers supplying like air services as a whole or those of them whose collective share constitutes a major proportion of the total Community supply of those services;
- (c) the term 'Community air carrier' shall be taken to mean an air carrier with a valid operating licence granted by a Member State in accordance with Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers⁽¹⁾;
- (d) the term 'like air service' shall be interpreted to mean air services which are supplied on the same route or routes as the air services under consideration or such air services that are supplied on a route or routes closely resembling the route or routes on which the air service under consideration is supplied.

2. A determination of injury shall be based on positive evidence and shall involve an objective examination of both:

- (a) the level of fares of the air services under consideration, and the effect of such air services on fares offered by Community air carriers; and
- (b) the consequent impact of those air services on the Community industry as indicated by trends in a number of economic indicators such as number of flights, utilisation of capacity, passenger bookings, market share, profits, return on capital, investment, employment.

No one or more of these factors can necessarily give decisive guidance.

3. It must be demonstrated, from all the relevant evidence presented in relation to paragraph 2, that the air services under consideration are causing injury within the meaning of this Regulation.

4. Known factors other than the air services under consideration which are injuring the Community industry at the same time shall also be examined to ensure the injury caused by these other factors is not attributed to the air services under consideration.

5. A determination of threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstance which would create a situation in which the subsidy would cause injury must be clearly foreseen and imminent.

Article 5

Initiation of proceedings

1. An investigation under this Regulation shall be initiated upon a written complaint by any person or association acting on behalf of the Community industry, or on the Commission's own initiative, if there is sufficient evidence of the existence of countervailable subsidies (including, if possible, of their amount) or unfair pricing practices within the meaning of this Regulation, injury and a causal link between the allegedly subsidised air services and the alleged injury.

2. When it is apparent that there is sufficient evidence to justify initiating a proceeding, the Commission shall, acting in accordance with the procedure laid down in Article 12(2), initiate the proceeding within 45 days of the lodging of the complaint and shall publish a notice in the *Official Journal of the European Communities*. Where insufficient evidence has been presented, the Commission shall, acting in accordance with the procedure laid down in Article 12(2), inform the complainant within 45 days of the date on which the complaint has been lodged with the Commission.

⁽¹⁾ OJ L 240, 24.8.1992, p. 1.

3. The notice of initiation of the proceedings shall announce the initiation of an investigation, indicate the scope of the investigation, the airline services on the routes concerned, the countries whose governments allegedly granted the subsidies or control the air carriers allegedly engaged in unfair pricing practices and the period within which interested parties may make themselves known, present their views in writing and submit information, if such views are to be taken into account during the investigation; it shall also state the period within which interested parties may apply to be heard by the Commission.

4. The Commission shall inform the air carriers supplying the air services under consideration, the government concerned and the complainants of the initiation of the proceedings.

5. The Commission may, at any time before initiation of the proceedings and thereafter, invite the foreign government concerned for consultations with the aim of clarifying the situation as to the matters referred to in paragraph 2 and arriving at a mutually agreed solution.

Article 6

The investigation

1. Following the initiation of the proceeding, the Commission shall commence an investigation which shall cover both subsidisation or unfair pricing practices of airline services supplied by non-Community carriers on certain routes, and injury.

2. The interested parties which have made themselves known in accordance with time limits set forth in the notice of initiation, shall be heard if they have made a timely request for a hearing showing that they are an interested party likely to be affected by the result of the proceeding and that there are particular reasons why they should be heard.

3. In cases in which an interested party refuses access to, or otherwise does not provide, necessary information within the appropriate time limits, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made on the basis of facts available. Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of the facts available.

Article 7

Provisional measures

1. Provisional measures may be imposed if a provisional affirmative determination has been made that the air carriers under consideration benefit from subsidies or are engaged in unfair pricing practices and consequent injury to the Community industry and that the Community interest calls for intervention to prevent such injury.

2. Provisional action may be taken in accordance with the procedure laid down in Article 12(2).

3. Provisional measures shall be imposed for a maximum of six months.

Article 8

Termination without measures

1. Where the complaint is withdrawn, the proceeding may be terminated by the Commission unless such termination would not be in the Community interest.

2. Where protective measures are unnecessary the proceeding shall be terminated in accordance with the procedure laid down in Article 12(2). Any decision to terminate a proceeding must be duly motivated.

Article 9

Imposition of definitive measures

1. Where the facts as finally established show the existence of subsidies or unfair pricing practices and injury caused thereby, and the Community interest calls for intervention in accordance with Article 13, a definitive measure shall be imposed in accordance with the procedure laid down in Article 12(2).

2. The level of measures imposed to offset subsidies shall not exceed the amount of subsidies, calculated in terms of benefit conferred on the recipient, from which the non-Community carriers have been found to benefit, and should be less than the total amount of subsidies, if such lesser level were to be adequate to remove the injury to the Community industry.

3. The level of measures imposed to offset unfair pricing practices benefiting from a non-commercial advantage, shall not exceed the difference between the fares charged by the non-Community air carrier concerned and the normal fare rate established in accordance with Article 3 but should be less if a such lesser level would be adequate to remove injury to Community industry. In any event, the level of measures should not exceed the value of the non-commercial advantage granted to the non-Community air carrier.

4. A redressive measure shall be imposed in the appropriate amounts in each case, on a non-discriminatory basis on air services supplied by all non-Community air carriers found to benefit from subsidies or engaged in unfair pricing practices on the respective routes, except as to air services supplied by those non-Community air carriers for which undertakings under the terms of this Regulation have been accepted.

5. A measure shall remain in force only as long as, and to the extent that, it is necessary to counteract the subsidies or unfair pricing practices which are causing injury.

Article 10

Undertakings

1. Investigations may be terminated without the imposition of provisional or definitive measures upon receipt of satisfactory voluntary undertakings under which:

- (a) the government granting the subsidy or non-commercial advantage agrees to eliminate or limit the subsidy or non-commercial advantage or take other measures concerning its effects; or
- (b) any non-Community air carrier undertakes to revise its prices or to cease the supply of airline service to the route in question so that the injurious effect of the subsidy or non-commercial advantage is eliminated.

2. Undertakings shall be accepted in accordance with the procedure laid down in Article 12(2).

3. In case of breach or withdrawal of undertakings by any party, a definitive measure shall be imposed in accordance with Article 9, on the basis of the facts established within the context of the investigation which led to the undertaking, provided that such investigation was concluded with a final determination as to subsidisation and that the non-Community air carrier concerned, or the government granting the subsidy, has, except in the case of withdrawal of the undertaking by the non-Community air carrier or such government, been given an opportunity to comment.

Article 11

Reviews

1. The need for the continued imposition of measures in their initial form may be reviewed, where warranted, on the initiative of the Commission or upon the request of a Member State or, provided that a reasonable time of at least one year has elapsed since the imposition of the definitive measure, upon a request by non-Community air carriers subject to measures or by Community air carriers.

2. Reviews shall be initiated by the Commission acting in accordance with the procedure laid down in Article 12(2). The relevant provisions of Articles 5 and 6 shall apply to reviews under paragraph 1. Where warranted by reviews, measures shall be repealed, amended or maintained, as appropriate in accordance with the procedure laid down in Article 12(2).

Article 12

Committee

1. The Commission shall be assisted by the Committee instituted by Article 11 of Regulation (EEC) 2408/92.

2. Where reference is made to this paragraph, the advisory procedure laid down in Article 3 of Decision 1999/468/EC shall apply, in compliance with Article 7 and Article 8 thereof.

Article 13

Community interest

A determination as to whether the Community interest calls for intervention should be based on an appraisal of all the various interests taken as a whole. In such an examination the need to eliminate the trade-distorting effects of injurious subsidisation or unfair pricing practices and to restore effective competition shall be given special consideration. Measures may not be applied where the authorities can clearly conclude that it is not in the Community interest to apply such measures.

Article 14

General provisions

1. Provisional or definitive redressive measures shall be imposed by Regulation, and enforced by Member States in the form, at the rate specified and according to the other criteria laid down in the Regulation imposing such measures. If measures other than duties are imposed, the Regulation shall define the precise form of the measures in accordance with the provisions of this Regulation.

2. Regulations imposing provisional or definitive redressive measures, and Regulations or Decisions accepting undertakings or suspending or terminating investigations or proceedings, shall be published in the *Official Journal of the European Communities*.

3. This Regulation shall not preclude the application of any special rules laid down in agreements concluded between the Community and third countries.

Article 15

Entry into force

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

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

Proposal for a Council Regulation amending Regulation (EC) No 3050/95 temporarily suspending the autonomous Common Customs Tariff duties on a number of products intended for the construction, maintenance and repair of aircraft

(2002/C 151 E/21)

COM(2002) 131 final

(Submitted by the Commission on 13 March 2002)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 26 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) By Council Regulation (EC) No 3050/95⁽¹⁾ Common Customs Tariff duties for a number of products intended for the construction, maintenance and repair of aircraft were suspended in full. However, import duties for these products are only suspended when they are subject to an end-use control in accordance with the provisions of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽²⁾ (hereinafter: 'Customs Code') and of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code⁽³⁾, that is to say, when they are used for civil aircraft only.
- (2) Similar tariff suspensions combined with the same end-use provisions of the Customs Code were introduced in Section II, B, of the Preliminary Provisions of the Combined Nomenclature in connection with the GATT aircraft agreement. The end-use for these products was the manufacture, repair, maintenance, rebuilding, modification or conversion, not only of civil aircraft, but also of ground flying trainers for civil use.
- (3) In view of the above it is appropriate to amend Regulation (EC) No 3050/95 in order to align its end-use provision

with the provisions of the Combined Nomenclature and to extend the autonomous tariff suspension introduced by Regulation (EC) No 3050/95 to ground flying trainers for civil use. The extension will also simplify the administration and control of the end-use for the economic operators and the customs authorities,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 1 of Regulation (EC) No 3050/95, the first sentence is replaced by the following:

'The autonomous Common Customs Tariff duties for the products listed in the Annex shall be totally suspended, provided that those products are intended for the construction, maintenance and repair of aircraft of an unladen weight exceeding 2 000 kilograms and of ground flying trainers for civil use.'

Article 2

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

It shall apply from 1 April 2002.

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

⁽¹⁾ OJ L 320, 31.12.1995, p. 1.

⁽²⁾ OJ L 302, 19.10.1992, p. 1. The Regulation as last amended by Regulation (EC) No 2700/2000 (OJ L 311, 12.12.2000, p. 17).

⁽³⁾ OJ L 253, 11.10.1993, p. 1. The Regulation as last amended by Regulation (EC) No 993/2001 (OJ L 141, 28.5.2001, p. 1).

Amended proposal ⁽¹⁾ for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 2236/95 laying down general rules for the granting of Community financial aid in the field of trans-European networks ⁽²⁾

(2002/C 151 E/22)

(Text with EEA relevance)

COM(2002) 134 final — 2001/0226(COD)

(Submitted by the Commission pursuant to Article 250(2) of the EC Treaty on 13 March 2002)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

of energy infrastructure. Priority projects on the energy networks should therefore also qualify for higher financial aid.

Having regard to the Treaty establishing the European Community, and in particular the first paragraph of Article 156 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

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

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

(1) Traffic growth over the past decade — in particular heavy lorry traffic — has led to increased congestion and pollution throughout the territory of the Community. The current capacity of the road network as well as of the rail infrastructure is far from optimal and the weakest points are the cross-border sections. The major delays in implementation of the trans-European transport network relate to cross-border rail projects requiring the construction of infrastructure such as tunnels or bridges of significant length. Owing to these constraints, the financial viability of such projects is often extremely low.

(2) Cross-border connections between energy networks are important for ensuring smooth operation of the internal market, security of supply and optimum use

(3) Provision should be made for an increased level of support of up to 20 % of total investment cost for projects concerning cross-border bottlenecks and projects at borders with candidate countries which contribute strongly to the improvement of the trans-European network, as established by Decision No 1692/96/EC of the European Parliament and of the Council of 23 July 1996 on Community guidelines for the development of the trans-European transport network ⁽³⁾.

(4) Since projects with candidate countries may prove difficult to implement due to financial constraints, additional funding should be made available for the most urgently needed improvements related to transport infrastructure at borders with candidate countries. The potential economic viability of the projects should be assessed. The funds devoted to these specific projects should cover the whole financing period 2003-2006 irrespective of the date of accession of the new Member States.

(5) The provisions of Council Regulation (EC) No 2236/95 ⁽⁴⁾ should be adapted to take account of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁵⁾.

(6) The financial framework for the implementation of Regulation (EC) No 2236/95 should be increased in order to fund the most urgently needed improvements related to transport infrastructure at borders with candidate countries.

(7) Regulation (EC) No 2236/95 should therefore be amended accordingly,

⁽¹⁾ Compared with the proposal for amending Regulation 2236/95 contained in document COM(2001) 545 only the text marked in bold type has changed.

⁽²⁾ OJ C 75 E, 26.3.2002, p. 316.

⁽³⁾ OJ L 228, 9.9.1996, p. 1; Decision as amended by Decision No 1346/2001/EC (OJ L 185, 6.7.2001, p. 1).

⁽⁴⁾ OJ L 228, 23.9.1995, p. 1; Regulation as amended by Regulation (EC) No 1655/1999 of the European Parliament and of the Council (OJ L 197, 29.7.1999, p. 1).

⁽⁵⁾ OJ L 184, 17.7.1999, p. 23.

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2236/95 is amended as follows:

1. In Article 5, paragraph 3 is replaced by the following:

‘3. Regardless of the form of intervention chosen, the total amount of Community aid under this Regulation shall not exceed 10 % of the total investment cost. **However, the total amount of Community aid may exceptionally reach 20 % of the total investment cost in the following cases:**

- (a) projects which concern cross-border rail bottlenecks and/or missing links located in areas where natural barriers represent obstacles to the free circulation of goods and passengers and which strongly contribute to the reduction of imbalance between modes of transport and to the improvement of rail transport within the trans-European transport network as established by Decision No 1692/96/EC of the European Parliament and of the Council (*);
- (b) other projects which concern bottlenecks at borders with candidate countries where added value is particularly high in terms of safety improvement and congestion reduction within the trans-European transport network as established by Decision No 1692/96/EC of the European Parliament and of the Council;
- (c) projects concerning satellite positioning and navigation systems as provided for in Article 17 of Decision No 1692/96/EC; and
- (d) priority projects on the energy networks.**

(*) OJ L 228, 9.9.1996, p. 1.’

2. Article 17 is replaced by the following:

‘Article 17

Committee

1. The Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the representative of the Commission.

2. Where reference is made to the procedure specified in this Article, the management procedure laid down in Article 4 of Council Decision 1999/468/EC (*) shall apply, in compliance with Article 7 and Article 8 thereof.

3. The period provided for in Article 4(3) of Decision 1999/468/EC shall be two months.

(*) OJ L 184, 17.7.1999, p. 23.’

3. In Article 18, the first paragraph is replaced by the following:

‘The financial framework for the implementation of this Regulation for the period 2000 to 2006 shall be EUR 4 700 million.’

Article 2

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

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

Proposal for a Council Regulation amending Regulation (EEC) No 3677/90 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances

(2002/C 151 E/23)

COM(2002) 98 final — 2002/0068(ACC)

(Submitted by the Commission on 14 March 2002)

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 Commission proposal,

Whereas:

(1) Council Regulation (EEC) No 3677/90⁽¹⁾ laid down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances.

(2) In the interests of clarity and in order to comply with Article 12(10) of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 19 December 1988, and with Resolution 20/4 of the 1998 Special Session on drugs of the United Nations General Assembly, the provisions on export authorisation for the scheduled substances listed in Category 1 of the Annex to Regulation (EEC) No 3677/90 should be separated from those on pre-export notification.

(3) Regulation (EEC) No 3677/90 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3677/90 is amended as follows:

1. In Article 2, point (1), the third indent is replaced by the following:

‘— the names and addresses of the exporter, the importer, the distributor and, in accordance with Articles 4 to 5a, the ultimate consignee.’

⁽¹⁾ OJ L 357, 20.12.1990, p. 1. Regulation last amended by Regulation (EC) No 1116/2001 (OJ L 153, 8.6.2001, p. 4). The corrected version is in OJ L 215, 9.8.2001, p. 57.

2. Article 4 is replaced by the following:

‘Article 4

Export authorisation — Scheduled substances listed in Category 1 of the Annex

1. The exportation of scheduled substances listed in Category 1 of the Annex shall be subject to authorisation in the form of individual export authorisations issued by the competent authorities of the Member State in which the customs export declaration is to be lodged in accordance with the provisions in force.

2. Applications for authorisations referred to in paragraph 1 shall contain the following information:

- (a) the names and addresses of the exporter, the importer in the third country and any other operator involved in the export operation or shipment, and also the ultimate consignee;
- (b) the name of the scheduled substance as given in Category 1 in the Annex;
- (c) the quantity and weight of the scheduled substance and, where a mixture is concerned, the quantity and weight of the mixture as well as the quantity and weight, or the percentage, of any substance listed in the Annex which is contained in the mixture;
- (d) details as to the transport arrangements, and in particular the expected date of dispatch, method of transport, name of the customs office where the customs export declaration is to be lodged and, in so far as such information is available at this stage, identification of the means of transport, itinerary, expected point of exit from Community customs territory and the point of entry into the importing country.

In the cases referred to in paragraph 9, a copy of the import permit issued by the country of destination shall be attached to the application.

3. A decision on the application shall be taken within a period of fifteen working days from the date on which the competent authority considers the file to be complete. This period shall be extended if, in the cases referred to in paragraph 9, the competent authorities are obliged to make further enquiries in order to satisfy themselves that the importation of the substances has been properly authorised.

4. Without prejudice to any possible implementation of technical enforcement measures, the export authorisation referred to in paragraph 1 shall be refused if:

- (a) there are reasonable grounds for suspecting that the information supplied in compliance with paragraph 2 is false or incorrect;
- (b) in the cases referred to in paragraph 9, it is established that the importation of the scheduled substances has not been properly authorised by the competent authorities of the country of destination;
- (c) there are reasonable grounds for suspecting that the substances in question are intended for the illicit manufacture of narcotic drugs or psychotropic substances.

5. If the particulars concerning the itinerary and means of transport were not provided in the application referred to in paragraph 2, the export authorisation shall state that the operator must furnish those particulars to the customs authority or other competent authority at the point of exit from the Community customs territory before the physical departure of the consignment. In such cases the export authorisation shall be annotated accordingly at the time of issue.

6. In all cases, the export authorisation shall be presented to the customs authorities when the customs export declaration is lodged. A copy of the authorisation shall, furthermore, accompany the consignment to the customs office at the point of exit of the scheduled substances from the Community customs territory. That office shall insert, where appropriate, the particulars referred to in paragraph 5 and any other necessary particulars and affix its stamp to the copy of the authorisation before returning it to the issuing authority.

7. The issue of an export authorisation shall not preclude any possible administrative or other liability of the holder of the authorisation.

8. An export authorisation may be suspended or revoked by the competent authorities whenever there are reasonable grounds for suspecting that the substances might be diverted to the illicit manufacture of narcotic drugs or psychotropic substances.

9. Whenever, under an agreement between the Community and a third country, exports are not to be authorised unless an import permit has been issued by the competent authorities of the latter country for the substances in question, the Commission shall communicate to the competent authorities of the Member States the name and address of the competent authority of the third country, together with any operational information obtained from that country.

The competent authorities in the Member States shall satisfy themselves that any importation has been properly authorised, if necessary by requesting confirmation from the competent authority of the third country.'

3. The following Article 4a is inserted:

'Article 4a

Pre-export notification — Scheduled substances listed in Category 1 of the Annex

1. Any exportation of scheduled substances listed in Category 1 of the Annex shall be preceded by pre-export notification sent to the country of destination in accordance with the provisions of Article 12(10) of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 19 December 1988, and with Resolution 20/4 of the 1998 Special Session on drugs of the United Nations General Assembly.

The country of destination shall be allowed a fixed period of time in which to reply, at the end of which the export operation shall be authorised unless advice to the contrary is received.

2. The competent authorities of the Member State concerned shall, prior to any export of scheduled substances to the country of destination, supply the information specified in Article 4(2) to the competent authorities of that country.

The authority furnishing such information shall require the authority in the third country receiving the information to keep confidential any trade, business, commercial or professional secret or any trade process referred to therein.'

4. In Article 5, paragraph 2 is replaced by the following:

'2. Articles 4 and 4a shall apply *mutatis mutandis* to exports referred to in paragraph 1 wherever they appear to be intended, directly or indirectly, for any third country which has been identified as being concerned by the illicit manufacture of narcotic drugs or psychotropic substances through the use of the scheduled substances in question. The said identification shall be based, in particular, on a reasoned request to the Commission from the third country concerned.

Article 4 shall also apply whenever an open individual authorisation cannot be issued under paragraph 3.'

5. In Article 5a, paragraph 2 is replaced by the following:

'2. Exports of substances referred to in paragraph 1 shall be subject *mutatis mutandis* to the provisions of Articles 4 and 4a wherever, under specific arrangements agreed with the third countries concerned, an export authorisation and a pre-export notification are required for each operation.

Article 4 shall also apply whenever an open individual authorisation cannot be issued in accordance with paragraph 3.'

6. In Article 6, paragraphs 1 and 2 are replaced by the following:

‘1. In order to ensure the correct application of Article 2 and Articles 4 to 5a, each Member State shall adopt within the framework of its domestic law the measures necessary to enable the competent authorities:

- (a) to obtain information on any orders for or operations involving scheduled substances;
- (b) to enter operators' business premises in order to obtain evidence of irregularities.

2. Without prejudice to the provisions laid down in Articles 4 to 5a and in paragraph 1 of this Article, the

competent authorities of each Member State may prohibit the introduction of scheduled substances into Community customs territory or their departure from it, if there are reasonable grounds for suspecting that the substances are intended for the illicit manufacture of narcotic drugs or psychotropic substances.’

Article 2

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

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

Proposal for a Council Regulation adopting autonomous measures concerning the importation of fish and fishery products originating in the Slovak Republic

(2002/C 151 E/24)

COM(2002) 140 final — 2002/0065(ACC)

(Submitted by the Commission on 15 March 2002)

THE COUNCIL OF THE EUROPEAN UNION,

provided for in the new Additional Protocol to the Europe Agreement,

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

HAS ADOPTED THIS REGULATION:

Having regard to the proposal from the Commission,

Article 1

Whereas:

1. The arrangements for the importation into the Community of fish and fishery products originating in the Slovak Republic, as set out in Articles 2 and 3 below, shall modify the Europe Agreement with the Slovak Republic.

(1) The Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Slovak Republic, of the other part ⁽¹⁾, provides for certain concessions for fish and fishery products, which are listed in its Annex XV.

2. From the date of entry into force of the new Additional Protocol to the Europe Agreement with Slovakia, the concessions provided therein shall apply taking account of the implementation measures already adopted by both Parties, in a reciprocal manner, in advance of that date. Accordingly, on the date of entry into force of the Additional Protocol, its provisions shall replace and supersede the relevant provisions of this Regulation.

(2) Annex XV of the Europe Agreement has been replaced by the text contained in Annex I to the Protocol for the adaptation of the trade aspects of the Europe Agreement ⁽²⁾.

Article 2

(3) In accordance with the directives issued by the Council on 29 May 2000, negotiations with Slovakia on a new Additional Protocol to the Europe Agreement were concluded on 25 January 2001.

As from 1 January 2002, the Community shall eliminate the tariff duties applied to all the products covered by Annex XV of the Europe Agreement, as replaced by Annex I of the Protocol for the adaptation of the trade aspects of the Europe Agreement with the Slovak Republic.

(4) The new Additional Protocol, based on Article 21(5) and Article 24 of the Europe Agreement, provides for concessions on fish and fishery products.

Article 3

(5) A swift implementation of the agreement forms an essential part of the results of the negotiations for the conclusion of a new Additional Protocol to the Europe Agreement with Slovakia.

As from 1 January 2002, the Community shall apply a one-third reduction of the tariff duties on all other fish and fishery products, as defined in Article 1 of Council Regulation (EC) No 104/2000 ⁽³⁾.

(6) Slovakia will take all useful legislative provisions, on an autonomous basis, in order to enable the reciprocal and simultaneous implementation of concessions to the Community provided for in the Additional Protocol.

As from 1 January 2003, the Community shall apply a further one-third reduction of the tariff duties as they were at the time this Regulation became applicable.

(7) It is therefore appropriate for the Community to adopt autonomous measures introducing the concessions

Article 4

The calculation of the reductions mentioned in Article 3 will be carried out using common mathematical principles.

⁽¹⁾ OJ L 359, 31.12.1994, p. 2.

⁽²⁾ OJ L 306, 16.11.1998.

⁽³⁾ OJ L 17, 21.1.2000, p. 22.

In particular, the following rules shall apply:

- (a) all the figures which have less than 50 (included) after the decimal point shall be rounded down to the nearest whole number;
- (b) all the figures which have more than 50 after the decimal point shall be rounded up to the nearest whole number;
- (c) all the tariffs below 2 % shall automatically be fixed at 0 %.

Article 5

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

It shall apply from 1 January 2002.

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

Proposal for a Council Directive on the control of high activity sealed radioactive sources

(2002/C 151 E/25)

(Text with EEA relevance)

COM(2002) 130 final

(Submitted by the Commission on 18 March 2002)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 31(2) and 32 thereof,

Having regard to the proposal from the Commission, drawn up after obtaining the opinion of a group of persons appointed by the Scientific and Technical Committee, from among scientific experts in the Member States, in accordance with Article 31 of the Treaty establishing the European Atomic Energy Community and, having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the European Parliament,

Whereas:

- (1) Article 30 of the Euratom Treaty requires basic standards to be laid down within the Community for the protection of the health of workers and the general public against the dangers arising from ionising radiation.
- (2) Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation ⁽¹⁾, continues the line of directives laying down basic safety standards since 1959.
- (3) Council Directive 96/29/Euratom in Article 4(1)(e) requires prior authorisation for, amongst other practices, the use of radioactive sources for industrial radiography or processing of products or research or the exposure of persons for medical treatment. It is appropriate to extend this requirement to all practices involving high activity radioactive sources.
- (4) Shipments of sealed sources between Member States are subject to the procedure established by Council Regulation (Euratom) No 1493/93 of 8 June 1993 on shipments of radioactive substances between Member States ⁽²⁾.
- (5) Although the legal requirements deriving from existing legislation ensure basic protection, high activity sources still imply considerable potential risks for human health

and for the environment and therefore need to be subject to a strict control from the moment they are manufactured to the moment they are conferred to a recognised installation for their long-term storage or disposal.

- (6) Prevention of radiological accidents and injuries requires that location of each high activity source is known, recorded and verified from the moment the source is manufactured or imported into the Community to the moment it is transferred to a recognised installation for its long-term storage or its disposal or it is exported from the Community. Physical or financial obstacles should not hinder an appropriate reuse, recycling or disposal of such sources when disused under any reasonably foreseeable circumstances.
- (7) Movements within the Community of high activity sources make it necessary to harmonise the control of such sources through the application of minimum criteria.
- (8) The experience shows that, despite the existence of an appropriate regulatory framework, high activity sources may nevertheless get out of control. Furthermore, the existence of orphan sources resulting from past activities (the historical legacy) requires that specific initiatives be undertaken.
- (9) Accordingly, it is necessary to provide for the identification, marking and record-keeping of each high activity source as well as for specific training and information of all those involved in activities related to the use of sources. It is advisable to provide also appropriate training and information to those who may deal accidentally with orphan sources.
- (10) It is also necessary to provide for suitable means of dealing with orphan high activity sources, for international cooperation and exchange of information in this area, for inspection and, finally, for making financial provision for the circumstances in which the original holder either cannot be identified or, even if identified, is found to be insolvent.
- (11) The IAEA issues regulations for the safe transport of radioactive material ⁽³⁾ that include activity limits for the requirements of the regulations.

⁽¹⁾ OJ L 159, 29.6.1996, p. 1.

⁽²⁾ OJ L 148, 19.6.1993, p. 1.

⁽³⁾ IAEA Safety Standards Series No TS-R-1 (ST-1, Revised), Vienna, 2000.

(12) The Member States should lay down rules on penalties applicable to infringements of the provisions of this Directive and ensure that they are implemented; those penalties must be effective, proportionate and dissuasive,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Purpose and scope

1. The purpose of this Directive is to prevent exposure to ionising radiation arising from inadequate control of high activity sealed radioactive sources and to harmonise controls in place in the Member States by setting out specific requirements ensuring that each such source is kept under control.

2. The Directive applies to high activity sources as defined in Article 2.

3. This Directive supplements Council Directive 96/29/Euratom laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation.

Article 2

Definitions

For the purpose of this Directive, the following definitions shall apply:

- (a) *High activity source* or *source* means a sealed source containing a radionuclide whose activity at the time of fabrication or of the first placing on the market is equal to or exceeds the relevant activity level specified in Annex I.
- (b) *Authorisation* means a permission granted in a document by competent authorities, on application, to carry out a practice involving a high activity source;
- (c) *Competent authority* means any authority designated by a Member State to carry out tasks under this directive;
- (d) *Disused source* means a source which is no longer intended to be used for the practice for which an authorisation was granted;
- (e) *Holder* means any natural or legal person who is in possession of a source;
- (f) *Manufacturer* means any natural or legal person who manufactures a source;

(g) *Orphan source* means a source which is not under regulatory control, either because it has never been under regulatory control, or because it has been abandoned, lost, misplaced, stolen or transferred without proper authorisation;

(h) *Recognised installation* means a facility located in the territory of a Member State authorised by the competent authorities of that Member State in accordance with national law for the long-term storage or disposal of high activity sources;

(i) *Reused source* means a source which is used by another user for the same or another practice;

(j) *Sealed source* has the meaning given to it by Directive 96/29/Euratom;

(k) *Supplier* means any natural or legal person who supplies or makes available a high activity source;

(l) *User* means any natural or legal person who uses a high activity source;

(m) *Transfer* of a high activity source means a transfer of a high activity source from one holder to another one.

Article 3

Authorisation

1. Member States shall require prior authorisation for any practice involving a high activity source.

2. Member States shall ensure that, before issuing an authorisation:

- (a) arrangements have been made for the safe management of high activity sources, including when they become disused sources;
- (b) financial provision has been made for the safe management of high activity sources when they become disused sources.

3. Member States shall ensure that the authorisation covers:

- (a) responsibilities;
- (b) minimum staff competencies;
- (c) minimum equipment performance criteria;
- (d) requirements for emergency procedures and communication links;
- (e) work procedures to be followed;

- (f) maintenance of equipment and high activity sources;
- (g) adequate management of disused high activity sources, including agreements regarding the possible transfer of disused sources to a supplier or a recognised installation.

Article 4

Transfers

Member States shall set up a system for the adequate control of individual transfers of high activity sources.

Article 5

Records

1. Member States shall require the competent authority to maintain appropriate records of holders of authorisations, with a clear indication of the type(s) of such sources that they are authorised to hold. They shall also require the competent authority to maintain appropriate records of the transfer and disposal of high activity sources on termination of authorisation.

2. Member States shall require that the holder keeps records of all high activity sources in his possession, their location and their transfer. The records shall be drawn up in compliance with the standard record sheet set out in Annex II as regards both the information contained and the format.

3. Member States shall require the holder to notify forthwith the competent authority a copy of the records referred to in paragraph 2

— at the time of opening of such records;

— at intervals of 12 months thereafter,

— at the closing of such records, when he no longer holds any sources and

— whenever so requested by the competent authority.

The holder's records shall be available for inspection by the competent authority.

4. The Commission shall update the standard record sheet for the records set out in Annex II.

Article 6

Requirements for holders

Member States shall require each holder of high activity sources:

- (a) to ensure that leak tests are undertaken regularly to check the integrity of each high activity source;
- (b) to regularly verify that each high activity source is present at its place of use or of storage;
- (c) to ensure that each fixed and mobile high activity source is subject to adequate measures to prevent unauthorised access to or loss, theft, fire and unlawful use of the source;
- (d) to promptly notify to the competent authority loss, theft, unlawful use of a high activity source and any event, including fire, that may have damaged the source;
- (e) to return or transfer each disused high activity source to a supplier or to a recognised installation unless otherwise agreed by the competent authority, without undue delay after termination of the use.

Article 7

Identification and marking

1. Member States shall require:

- (a) The manufacturer to identify each high activity source by a unique number. Where practicable, the number shall be marked on the source.
- (b) The manufacturer to mark and label both high activity sources, where practicable, and their container with an appropriate sign to warn people of the radiation hazard. Where this is not practicable, as a minimum the container must be so marked and labelled.

2. Member States shall ensure that each high activity source is accompanied by written information that the source is identified and marked in compliance with paragraphs 1 and 2. The information shall include photographs of source, source container, transport packaging, device and equipment as appropriate.

Article 8

Training and information

1. When arranging training in the field of radiation protection in compliance with Article 22 of Directive 96/29/Euratom, the holder shall ensure that this training includes specific requirements on the safe management of high activity sources.

The training shall give particular emphasis to the necessary safety culture and it shall contain specific information on possible consequences of loss of adequate control on high activity sources.

The training shall be repeated at regular intervals.

2. Member States shall encourage that the management and the workers of installations where orphan high activity sources are most likely to be found or processed like large metal scrap yards and major metal scrap recycling plants, and the management and the workers of significant nodal transit points like custom posts, are

- (a) informed of the possibility that they may be confronted with a high activity source;
- (b) advised on the visual detection of high activity sources and of their containers;
- (c) informed on basic facts about radioactivity and its effects;
- (d) informed on the actions to be taken in the event of the detection or suspected detection of a high activity source.

Article 9

Orphan high activity sources

1. Member States shall ensure that the competent authorities are prepared, or have established provisions, including assignment of responsibilities, to recover orphan high activity sources and to deal with radiological emergencies and have established appropriate response plans and measures.

2. Member States shall ensure that specialised technical advice and assistance is promptly available to the persons, not normally involved in operations subject to radiation protection requirements, that suspect the presence of an orphan high activity source. The primary aim of advice and assistance shall be the radiation protection of workers and members of the public and the safety of the source.

3. Member States shall ensure the establishment of controls aimed at detecting orphan high activity sources. Such controls should be performed in places where orphan sources may be encountered, like large metal scrap yards and major metal scrap recycling installations or at significant nodal transit points, like customs posts.

4. Member States shall ensure the organisation of campaigns for recovering orphan high activity sources, which are part of the historical legacy.

The campaigns may include financial participation of Member States in the costs of recovering, managing and disposing of the sources and surveys of historical records of authorities, like customs, and of holders, such as research institutes, material testing institutes or hospitals.

Article 10

International cooperation and information exchange

Each Member State shall exchange information and cooperate with other Member States or non-Member States and with relevant international organisations as regards losses, removal, theft and discovery of high activity sources and as regards related investigations.

Article 11

Guarantee

Member States shall ensure the establishment of a system of guarantee for damage to human health caused by high activity sources as well as for the costs of interventions relating to them, in particular those intervention costs which may result from implementation of the requirements set out in Article 9, so as to apprehend such situations as may arise from the impossibility of identifying a holder or where the holder is found to be insolvent.

Article 12

Inspections

Member States shall establish a system of inspection to enforce the provisions introduced in compliance with this Directive.

Article 13

Competent authority

1. Member States shall designate the competent authority to carry out tasks under this Directive.

2. Member States shall forward to the Commission by . . . at the latest (within two years from the entry into force of this Directive) the name and the address of the competent authority and all necessary information for rapidly communicating with such authorities.

3. In the event that within a Member State several authorities are competent, Member States shall designate one point of contact to act as an interface with correspondents in other Member States.

4. Member States shall forward to the Commission any changes to data referred to in paragraphs 2 and 3.

5. The Commission shall communicate the information referred to in paragraphs 2, 3 and 4 to all competent authorities in the Community and shall publish it in the *Official Journal of the European Communities*.

*Article 14***Report on experience**

Five years after the date referred to in Article 17(1), the Member States shall report to the Commission on the experience gained in the implementation of this Directive.

On that basis, the Commission shall present a report to the European Parliament, the Council and the Economic and Social Committee.

*Article 15***Penalties**

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by the date specified in Article 16(1) at the latest and shall notify it without delay of any subsequent amendment affecting them.

*Article 16***Implementation**

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

Directive by ... at the latest (within two years from the adoption of this Directive). They shall forthwith inform the Commission thereof.

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

2. Member States shall communicate to the Commission the text of the main laws, regulations or administrative provisions, which they adopt in the field covered by this Directive.

*Article 17***Entry into force**

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

2. Articles 3, 4, 5 and 6 shall apply as from 24 months from the date referred in Article 16(1) for high activity sources put on the market before that date.

Article 18

This Directive is addressed to the Member States.

ANNEX I

ACTIVITY LEVELS

For radionuclides not listed in the table below, the relevant activity level is one hundredth of the corresponding A1 value given in the IAEA Regulations for the safe transport of radioactive materials, no TS-R-1 (ST-1, Revised) — International Atomic Energy Agency, Vienna 2000.

Element (Atomic number)	Radionuclide	Activity level (Bq)
Iron (26)	Fe-55	4×10^{11}
Cobalt (27)	Co-60	4×10^9
Selenium (34)	Se-75	3×10^{10}
Krypton (36)	Kr-85	1×10^{11}
Strontium (38)	Sr-90 ^(a)	3×10^9
Palladium (40)	Pd-103 ^(a)	4×10^{11}
Iodine (53)	I-125	2×10^{11}
Caesium (55)	Cs-137 ^(a)	2×10^{10}
Promethium (61)	Pm-147	4×10^{11}
Gadolinium (64)	Gd-153	1×10^{11}
Thulium (69)	Tm-170	3×10^{10}
Iridium (77)	Ir-192	1×10^{10}
Thallium (81)	Tl-204	1×10^{11}
Radium (88)	Ra-226 ^(b)	2×10^9
Plutonium (94)	Pu-238 ^(a)	1×10^{11}
Americium (95)	Am-241 ^(b)	1×10^{11}
Californium (98)	Cf-252	5×10^8

^(a) The activity level includes contributions from daughter nuclides with half-lives less than 10 days.

^(b) Includes neutron sources with beryllium.

Proposal for a Council Regulation terminating the anti-dumping proceeding concerning imports of peroxodisulphates originating in the People's Republic of China

(2002/C 151 E/26)

COM(2002) 150 final

(Submitted by the Commission on 19 March 2002)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, and in particular Articles 9 and 11(2) thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) Following the publication of a notice of impending expiry of the anti-dumping measures in force on imports of peroxodisulphates originating in the People's Republic of China ('PRC') ⁽²⁾, the Commission received on 20 September 2000 a request to review these measures pursuant to Article 11(2) of Council Regulation (EC) No 384/96 ('Basic Regulation').
- (2) The request was lodged by the European Chemical Industry Council ('CEFIC') on behalf of Community producers representing the total Community production of peroxodisulphates.
- (3) The request contained *prima facie* evidence showing that there would be a continuation or recurrence of injurious dumping should measures be allowed to lapse, which was considered sufficient to justify the initiation of an expiry review.
- (4) Accordingly, the Commission, after consultation of the Advisory Committee, initiated by a notice published in the *Official Journal of the European Communities* ⁽³⁾ an expiry review concerning imports into the Community of peroxodisulphates, currently classifiable within CN code ex 2833 40 00 and originating in the PRC.
- (5) The Commission officially advised the exporting producers, importers known to be concerned, the representatives of the exporting country, the representative users and the Community producers. Interested parties were given the opportunity to make their views known in writing and

to request a hearing within the time limit set out in the notice of initiation.

B. WITHDRAWAL OF THE REQUEST AND TERMINATION OF THE PROCEEDING

- (6) By a letter of 25 January 2002 to the Commission, CEFIC formally withdrew its request concerning imports of peroxodisulphates originating in the PRC.
- (7) In accordance with Articles 9(1) and 11(2) of the Basic Regulation, the proceeding may be terminated where the request is withdrawn, unless such termination would not be in the Community interest.
- (8) It was considered that the present proceeding should be terminated since the investigation had not brought to light any considerations showing that such termination would not be in the Community interest. Interested parties were informed accordingly and were given the opportunity to comment. However, no comments were received from any party. Consequently, there is no indication that the termination of the measures would not be in the Community interest.
- (9) It was therefore concluded that the anti-dumping proceeding concerning imports into the Community of peroxodisulphates originating in the PRC should be terminated and that the existing measures should be allowed to expire,

HAS ADOPTED THIS REGULATION:

Article 1

The anti-dumping measures concerning imports of peroxodisulphates, currently classifiable within CN code ex 2833 40 00 and originating in the People's Republic of China, are hereby repealed and the proceeding concerning these imports is terminated.

Article 2

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

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

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2238/2000 (OJ L 257, 11.10.2000, p. 2).

⁽²⁾ OJ C 167, 16.6.2000, p. 4.

⁽³⁾ OJ C 366, 20.12.2000, p. 5.