

Official Journal

of the European Union

L 191

English edition

Legislation

Volume 48

22 July 2005

Contents

I Acts whose publication is obligatory

- ★ **Regulation (EC) No 1158/2005 of the European Parliament and of the Council of 6 July 2005 amending Council Regulation (EC) No 1165/98 concerning short-term statistics** 1
- ★ **Regulation (EC) No 1159/2005 of the European Parliament and of the Council of 6 July 2005 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** 16
- ★ **Regulation (EC) No 1160/2005 of the European Parliament and of the Council of 6 July 2005 amending the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders, as regards access to the Schengen Information System by the services in the Member States responsible for issuing registration certificates for vehicles ⁽¹⁾** 18
- ★ **Regulation (EC) No 1161/2005 of the European Parliament and of the Council of 6 July 2005 on the compilation of quarterly non-financial accounts by institutional sector** 22
- ★ **Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of ecodesign requirements for energy-using products and amending Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC of the European Parliament and of the Council** 29
- ★ **Directive 2005/33/EC of the European Parliament and of the Council of 6 July 2005 amending Directive 1999/32/EC** 59

II Acts whose publication is not obligatory

Commission

2005/516/EC:

- ★ **Commission decision of 22 April 2005 establishing the European Security Research Advisory Board** 70

Price: 18 EUR

(¹) Text with EEA relevance.



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

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

I

(Acts whose publication is obligatory)

**REGULATION (EC) No 1158/2005 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 6 July 2005
amending Council Regulation (EC) No 1165/98 concerning short-term statistics**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 285(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Central Bank ⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

(1) Regulation (EC) No 1165/98 ⁽³⁾ established a common basic framework for the collection, compilation, transmission and evaluation of Community business statistics for the purpose of the analysis of the economic cycle.

(2) The implementation of Regulation (EC) No 1165/98 effected by Commission Regulations (EC) No 586/2001 ⁽⁴⁾, (EC) No 588/2001 ⁽⁵⁾, and (EC) No 606/2001 ⁽⁶⁾, concerning respectively the definition of Main Industrial Groupings, the definition of variables and the granting of derogations to Member States, has created a body of practical experience that allows measures for further improvements in short-term statistics to be identified.

(3) In its Action Plan on EMU Statistical Requirements and in subsequent progress reports on the implementation of that plan, the Ecofin Council identified additional fundamental aspects for improving the statistics covered by Regulation (EC) No 1165/98.

(4) For its monetary policy, the European Central Bank (ECB) needs short-term statistics to be further developed, as is stated in its document ECB Statistical Requirements in the field of General Economic Statistics, and, in particular, it needs timely, reliable and meaningful aggregates for the euro zone.

(5) The Statistical Programme Committee, established by Council Decision 89/382/EEC, Euratom ⁽⁷⁾, has identified Principal European Economic Indicators (PEEI) that go beyond the scope of Regulation (EC) No 1165/98.

⁽¹⁾ OJ C 158, 15.6.2004, p. 3.

⁽²⁾ Opinion of the European Parliament of 22 February 2005 (not yet published in the Official Journal). Council Decision of 6 June 2005.

⁽³⁾ OJ L 162, 5.6.1998, p. 1. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

⁽⁴⁾ OJ L 86, 27.3.2001, p. 11.

⁽⁵⁾ OJ L 86, 27.3.2001, p. 18.

⁽⁶⁾ OJ L 92, 2.4.2001, p. 1.

⁽⁷⁾ OJ L 181, 28.6.1989, p. 47.

- (6) It is therefore necessary to amend Regulation (EC) No 1165/98 in areas of particular importance to monetary policy and to the study of the business cycle.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Statistical Programme Committee.
- (8) The implementation of the Lisbon strategy for growth and employment includes the reduction of unnecessary burdens on businesses and the dissemination of new technologies,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1165/98 shall be amended as follows:

1. Article 4(2) shall be amended as follows:

- (a) the following point shall be added to the sole subparagraph:
- '(d) participation in European sample schemes coordinated by Eurostat in order to produce European estimates.

The details of the schemes referred to in the first subparagraph shall be as specified in the Annexes. Their approval and implementation shall be governed by the procedure laid down in Article 18.

European sample schemes shall be established when national sample schemes do not meet the European requirements. Furthermore, Member States may opt to take part in European sample schemes when such schemes create possibilities for substantial reductions in the cost of the statistical system or the burden on business which meeting the European requirements entails. Participation in a European sample scheme shall satisfy the conditions of a Member State for the supply of the variable concerned according to the objective of such a scheme. European sample schemes may target the conditions, the level of detail and the deadlines for data transmission.'

(b) the following subparagraph shall be added:

'Compulsory surveys shall be used to obtain information that is not already available (within

the required timelines) in other sources, such as registers. Surveys shall be performed using electronic questionnaires and web-questionnaires where applicable.'

2. Article 10 shall be amended as follows:

(a) paragraph 3 shall be replaced by the following:

'3. The quality of the variables shall be tested regularly by comparing them with other statistical information, such comparison to be effected by each Member State and the Commission (Eurostat). In addition they shall be checked for internal consistency.'

(b) paragraph 4 shall be replaced by the following:

'4. Quality evaluation shall be carried out comparing the benefits of the availability of the data with the costs of collection and the burden on businesses, especially on small enterprises. For the purpose of this evaluation, Member States shall transmit to the Commission, at its request, the necessary information according to a common European methodology developed by the Commission in close cooperation with the Member States.'

3. Article 12(1) shall be replaced by the following:

'1. The Commission, after consulting the Statistical Programme Committee, shall publish by 11 February 2006 an advisory methodological manual which explains the rules set out in the Annexes and also contains guidance concerning short-term statistics.'

4. Article 14(2) shall be replaced by the following:

'2. The Commission shall, by 11 August 2008 and again every three years thereafter, submit a report to the European Parliament and the Council on the statistics compiled pursuant to this Regulation and in particular on their relevance and quality and the revision of indicators. The report shall also specifically address the cost of the statistical system and the burden on business arising from this Regulation in relation to its benefits. It shall report on best practices for lessening the burden on business and shall indicate ways of reducing the burden and costs.'

5. The following point shall be added to Article 17:

Article 2

'(j) the establishment of European sample schemes
(Article 4)';

6) Annexes A to D shall be amended as shown in the
Annex.

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

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

Done at Strasbourg, 6 July 2005.

For the European Parliament
The President
J. BORRELL FONTELLES

For the Council
The President
J. STRAW

—

ANNEX

PART (A)

Annex A to Regulation (EC) No 1165/98 is amended as follows:

Scope

The text under heading (a) (Scope) is replaced by the following:

'This Annex applies to all activities listed in Sections C to E of NACE, or as the case may be, to all products listed in Sections C to E of the CPA.'

List of variables

The text under heading (c) (List of variables) is hereby amended as follows:

1. the following variable is added to paragraph 1:

'Variable	Name
340	Import prices';

2. paragraph (2) is replaced by the following:

'2. The information on output prices for non-domestic markets (No 312) and import prices (No 340) may be compiled using unit values for products originating from foreign trade or other sources only if there is no significant deterioration in quality compared to specific price information. The Commission shall determine, in accordance with the procedure laid down in Article 18, the conditions for assuring the necessary data quality.'

3. paragraph (9) is replaced by the following:

'9. The information on output prices and import prices (Nos 310, 311, 312 and 340) is not required for the following groups of NACE respectively CPA: 12.0, 22.1, 23.3, 29.6, 35.1, 35.3, 37.1, 37.2. The list of groups may be revised until 11 August 2008 in accordance with the procedure laid down in Article 18.'

4. the following paragraph is added:

'10. The variable on import prices (No 340) is calculated on the basis of CPA products. The importing kind-of-activity units may be classified outside the activities of Sections C to E of NACE.'

Form

The text under heading (d) (Form) is replaced by the following:

1. All of the variables are to be transmitted in unadjusted form, if available.
2. In addition, the production variable (No 110) and the hours-worked variable (No 220) are to be transmitted in working-day adjusted form. Wherever other variables show working-day effects, Member States may also transmit those variables in working-day adjusted form. The list of variables to be transmitted in working-day adjusted form may be amended in accordance with the procedure laid down in Article 18.
3. In addition, Member States may transmit the variables seasonally adjusted and may also transmit the variables in the form of trend cycles. Only if data are not transmitted in these forms, may the Commission (Eurostat) produce and publish seasonally adjusted and trend-cycle series for these variables.
4. Variables Nos 110, 310, 311, 312 and 340 are to be transmitted as an index. All other variables are to be transmitted either as an index or as absolute figures.'

Reference period

Under heading (e) (Reference period), the following variable is added:

'Variable	Reference period
340	month'

Level of detail

The text under heading (f) (Level of detail), is amended as follows:

1. paragraphs 1 and 2 are replaced by the following:
 1. All variables, except the import price variable (No 340), are to be transmitted at the Section (one letter), Sub-section (two letter) and Division two-digit level of NACE. The variable 340 is to be reported at the Section (one letter), Sub-section (two letter) and Division two-digit level of CPA.
 2. In addition, for Section D of NACE, the index of production (No 110) and the index of output prices (Nos 310, 311, 312) are to be transmitted at the three-digit and four-digit levels of NACE. The transmitted indices for production and output prices at the three-digit and four-digit levels must represent at least 90 % of the total value added for each Member State of Section D of NACE in a given base year. The variables need not be transmitted at these detailed levels by those Member States whose total value added of Section D of NACE in a given base year represents less than 4 % of the European Community total.;

2. paragraph 4 is replaced by the following:

- ‘4. In addition, all variables except for the turnover and new orders variables (Nos 120, 121, 122, 130, 131, 132) are to be transmitted for total industry defined as NACE Sections C to E and the main industrial groupings (MIGs) as defined in Commission Regulation (EC) No 586/2001 (*).

(*) OJ L 86, 27.3.2001, p. 11.’

3. the following paragraphs are added:

- ‘5. The turnover variables (Nos 120, 121, 122) are to be transmitted for total industry defined as NACE Sections C and D and the MIGs with the exception of the main industrial grouping defined for energy-related activities.
6. The new orders variables (Nos 130, 131, 132) are to be transmitted for total manufacturing, Section D of NACE and a reduced set of MIGs calculated from covering the list of NACE Divisions defined in paragraph 8 under heading (c) (“List of variables”) of this Annex.
7. The import price variable (No 340) is to be transmitted for total industrial products, Sections C to E of CPA and MIGs defined in accordance with Regulation (EC) No 586/2001 from product groups of the CPA. This variable does not need to be transmitted by those Member States that have not adopted the euro as their currency.
8. For the import price variable (No 340), the Commission may determine, in accordance with the procedure laid down in Article 18, the terms for applying a European sample scheme as defined in point (d) of the first subparagraph of Article 4(2).
9. The variables on the non-domestic markets (Nos 122, 132 and 312) are to be transmitted according to the distinction into euro-zone and non-euro-zone. The distinction is to be applied to the total industry defined as NACE Sections C to E, the MIGs, the Section (one letter), Sub-section (two letter) and Division two-digit level of NACE. The information on NACE E is not required for variable 122. In addition, the import price variable (No 340) is to be transmitted according to the distinction into euro-zone and non-euro-zone. The distinction is to be applied to the total industry defined as CPA Sections C to E, the MIGs, the Section (one letter), Sub-section (two letter) and Division two-digit level of CPA. For the distinction into the euro-zone and non-euro-zone, the Commission may determine, in accordance with the procedure laid down in Article 18, the terms for applying European sample schemes as defined in point (d) of the first subparagraph of Article 4(2). The European sample scheme may limit the scope of the import price variable to the import of products from non-euro-zone countries. The distinction into the euro-zone and non-euro-zone for the variables 122, 132, 312 and 340 does not need to be transmitted by those Member States that have not adopted the euro as their currency.
10. Those Member States whose value added in Sections C, D and E of NACE in a given base year represents less than 1 % of the European Community total only need to transmit data for total industry, MIGs, and NACE Section level, or CPA Section level.’

Deadlines for data transmission

The text under heading (g) (Deadlines for data transmission) is amended as follows:

1. in paragraph 1, certain variables are amended, or added, as follows:

Variable	Deadlines
110	1 month and 10 calendar days
(...)	(...)
210	2 months
(...)	(...)
340	1 month and 15 calendar days;

2. paragraph 2 is replaced by the following:

- ‘2. The deadline may be up to 15 calendar days longer for data on the NACE Group and Class levels or the CPA Group and Class levels.

For those Member States whose value added in Sections C, D and E of NACE in a given base year represents less than 3 % of the European Community total, the deadline may be up to 15 calendar days longer for data on total industry, MIGs, NACE Section and Division level or CPA Section and Division level.’

Pilot studies

Under heading (h) (Pilot Studies), items 2 and 3 are deleted.

First reference period

Under heading (i) (First reference period) the following paragraphs are added:

‘The first reference period for the transmission of the distinction of the variables on the non-domestic markets into euro-zone and non-euro-zone is not later than January 2005.

The first reference period for the variable 340 is not later than January 2006 on condition that a base year not later than 2005 is applied.’

Transition period

Under heading (j) (‘Transition period’), the following paragraphs are added:

- ‘3. A transition period ending on 11 August 2007 may be granted for the variable 340 and the distinction into the euro-zone and non-euro-zone for the variables 122, 132, 312 and 340 in accordance with the procedure laid down in Article 18.

4. A transition period ending on 11 August 2007 may be granted for the changing of the deadlines for data transmission for variable 110 in accordance with the procedure laid down in Article 18.
5. A transition period ending on 11 August 2006 may be granted for the changing of the deadlines for data transmission for variable 210 in accordance with the procedure laid down in Article 18.'

PART (B)

Annex B to Regulation (EC) No 1165/98 is amended as follows:

List of variables

The text under heading (c) (List of variables) is hereby amended as follows:

1. paragraph 5 is replaced by the following text:
 - '5. Only if construction costs variables (Nos 320, 321, 322) are not available, may they be approximated by the output prices variable (No 310). This practice shall be permitted until 11 August 2010.;
2. the following paragraph is added:
 - '6. Member States shall carry out studies instituted by the Commission and set up in consultation with the Member States. The studies shall be carried out taking into account the benefits of collecting the data in relation to the cost of collection and burden on business, in order to:
 - (a) assess the feasibility of a quarterly variable of output prices (No 310) in construction;
 - (b) define a suitable methodology for data collection and index calculation.

The Commission shall no later than 11 August 2006 propose a definition to be applied to the output price variable.

Member States shall submit a report to the Commission on the results of the studies no later than 11 August 2007.

Acting in accordance with the procedure laid down in Article 18, the Commission shall decide no later than 11 August 2008 whether to invoke Article 17(b) to replace the construction costs variable with the output price variable with effect from base year 2010.'

Form

The text under heading (d) (Form) is replaced by the following:

- '1. All of the variables are to be transmitted in an unadjusted form, if available.
2. In addition, the variables on production (Nos 110, 115, 116) and the hours worked variable (No 220) are to be transmitted in working-day adjusted form. Wherever other variables show working-day effects, Member States

may also transmit those variables in working-day adjusted form. The list of variables to be transmitted in working-day adjusted form may be amended in accordance with the procedure laid down in Article 18.

3. In addition, Member States may transmit the variables seasonally adjusted and may also transmit the variables in the form of trend cycles. Only if data are not transmitted in these forms, may the Commission (Eurostat) produce and publish seasonally adjusted and trend-cycle series for the variables.
4. Variables 110, 115, 116, 320, 321 and 322 are to be transmitted as an index. Variables 411 and 412 are to be transmitted as absolute values. All other variables are to be transmitted either as an index or as absolute figures.'

Reference period

The text under heading (e) (Reference period) is replaced by the following:

'A reference period of a month shall apply to variables 110, 115 and 116. A reference period of at least a quarter shall apply to all other variables in this Annex.

Those Member States whose value added in Section F of NACE in a given base year represents less than 1 % of the European Community total need only supply variables 110, 115 and 116 with a reference period of a quarter.'

Level of detail

Under heading (f) (Level of detail), the following paragraph is added:

- '6. Those Member States whose value added in Section F of NACE in a given base year represents less than 1 % of the European Community total only need to transmit data for total construction (NACE Section level).'

Deadlines for data transmission

Under heading (g) (Deadlines for data transmission) the variables 110, 115, 116 and 210 are replaced by the following:

Variable	Deadlines
110	1 month and 15 calendar days
115	1 month and 15 calendar days
116	1 month and 15 calendar days
(...)	(...)
210	2 months'

Pilot studies

Under heading (h) (Pilot studies), items 1 and 3 are deleted.

First reference period

Under heading (i) (First reference period), the following text is added:

‘The first reference period for the transmission of variables 110, 115, and 116 with a monthly reference period is not later than January 2005.’

Transition period

Under heading (j) (Transition period), the following paragraphs are added:

- ‘3. A transition period ending on 11 August 2007 may be granted for the amendment of the reference period for variables 110, 115, and 116 in accordance with the procedure laid down in Article 18.
4. A transition period ending on 11 August 2007 may be granted for the changing of the deadlines for data transmission for variables 110, 115, 116 and 210 in accordance with the procedure laid down in Article 18.’

PART (C)

Annex C to Regulation (EC) No 1165/98 is amended as follows:

List of variables

Under heading (c) (List of variables), the following paragraph is added:

- ‘4. Member States shall carry out studies instituted by the Commission and set up in consultation with the Member States. The studies shall be carried out taking into account the benefits of collecting the data in relation to the cost of collection and burden on business, in order to:
 - (a) assess the feasibility of transmitting a quarterly variable of hours worked (No 220) for retail trade and repair;
 - (b) assess the feasibility of transmitting a quarterly variable of gross wages and salaries (No 230) for retail trade and repair;
 - (c) define a suitable methodology for data collection and index calculation.

Member States shall submit a report on the results of the studies to the Commission no later than 11 August 2007.

Acting in accordance with the procedure laid down in Article 18, the Commission shall decide no later than 11 August 2008 whether to invoke Article 17(b), so as to include the variable hours worked (No 220) and the variable gross wages and salaries (No 230) with effect from the base year 2010.’

Form

Under heading (d) (Form), paragraphs 1 and 2 are replaced by the following:

1. All of the variables are to be transmitted in an unadjusted form, if available.
2. The turnover variable (No 120) and the volume of sales variable (No 123) are also to be transmitted in a working-day adjusted form. Wherever other variables show working-day effects, Member States may also transmit those variables in working-day adjusted form. The list of variables to be transmitted in working-day adjusted form may be amended in accordance with the procedure laid down in Article 18.'

Level of detail

The text under heading (f) (Level of detail) is amended as follows:

1. paragraph 1 is replaced by the following:
 - '1. The turnover variable (No 120) and the deflator of sales/volume of sales variables (No 330/123) are to be transmitted according to the levels of detail defined in paragraphs 2, 3 and 4. The number of persons employed variable (No 210) is to be transmitted according to the level of detail defined in paragraph 4.;
2. the following paragraph is added:
 - '5. Those Member States whose turnover in Division 52 of NACE in a given base year represents less than 1 % of the European Community total, need only transmit the turnover variable (No 120) and the deflator of sales/volume of sales variables (No 330/123) according to the levels of detail defined in paragraphs 3 and 4.'

Deadlines for data transmission

The text under heading (g) (Deadlines for data transmission) is replaced by the following:

1. The variables shall be transmitted for turnover (No 120) and the deflator of sales/volume of sales (No 330/123) within two months at the levels of detail specified in paragraph 2 under heading (f) of this Annex. The deadline may be up to 15 days longer for those Member States whose turnover in Division 52 in a given base year represents less than 3 % of the European Community total.
2. The variables shall be transmitted for turnover (No 120) and the deflator of sales/volume of sales (No 330/123) within one month for the level of detail specified in paragraphs 3 and 4 under heading (f) of this Annex. Member States may choose to participate for the turnover and deflator of sales/volume of sales variables Nos 120 and 330/123 with contributions according to the allocation of a European sample scheme as defined in point (d) of the first subparagraph of Article 4(2). The terms of the allocation are to be determined in accordance with the procedure laid down in Article 18.
3. The number of persons employed variable shall be transmitted within 2 months after the end of the reference period. The deadline may be up to 15 days longer for those Member States whose turnover in Division 52 in a given base year represents less than 3 % of the European Community total.'

Pilot studies

Under heading (h) (Pilot studies), items 2 and 4 are deleted.

Transition period

Under heading (j) (Transition period), the following paragraph is added:

- ‘4. A transition period ending no later than 11 August 2006 may be granted for the changing of the deadlines for data transmission of the variable 210 in accordance with the procedure laid down in Article 18.’

PART (D)

Annex D to Regulation (EC) No 1165/98 is amended as follows:

List of variables

The text under heading (c) (List of variables) is hereby amended as follows:

1. in paragraph 1 the following variable is added:

‘Variable	Name
310	Output prices’;

2. the following paragraphs are added:

- ‘3. The output price variable (No 310) covers services delivered to customers that are enterprises or persons representing enterprises.
4. Member States shall carry out studies instituted by the Commission and set up in consultation with the Member States. The studies shall be carried out taking into account the benefits of collecting the data in relation to the cost of collection and burden on business, in order to:
- (a) assess the feasibility of transmitting a quarterly variable of hours worked (No 220) for other services;
 - (b) assess the feasibility of transmitting a quarterly variable of gross wages and salaries (No 230) for other services;
 - (c) define a suitable methodology for data collection and index calculation;

- (d) define a suitable level of detail. The data shall be broken down by economic activities defined by NACE Sections and by further dis-aggregations, not beyond the level of NACE Divisions (two-digit level) or groupings of Divisions.

Member States shall submit a report on the results of the studies to the Commission not later than 11 August 2007.

Acting in accordance with the procedure laid down in Article 18, the Commission shall decide no later than 11 August 2008 whether to invoke Article 17(b) so as to include the variable hours worked (No 220) and the variable gross wages and salaries (No 230) with effect from base year 2010.'

Form

The text under heading (d) (Form) is hereby amended as follows:

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

- '1. All of the variables are to be transmitted in unadjusted form, if available.
2. The turnover variable (No 120) is also to be transmitted in working-day adjusted form. Wherever other variables show working-day effects, Member States may also transmit those variables in working-day adjusted form. The list of variables to be transmitted in working-day adjusted form may be amended in accordance with the procedure laid down in Article 18.;

2. paragraph 4 is replaced by the following:

- '4. The output price variable (No 310) is to be transmitted as an index. All other variables are to be transmitted as an index or as absolute figures.'

Reference period

Under heading (e) (Reference period), the following subparagraphs are added:

'Member States shall carry out studies instituted by the Commission and set up in consultation with the Member States. The studies shall be carried out taking into account the benefits of a reduced reference period in relation to the cost of collection and burden on business in order to assess the feasibility of reducing the reference period of a quarter for the turnover variable (No 120) to a reference period of a month.

Member States shall submit a report on the results of the studies to the Commission no later than 11 August 2007.

Acting in accordance with the procedure laid down in Article 18, the Commission shall decide no later than 11 August 2008 whether to invoke Article 17(d) in connection with a revision of the frequency of compilation of the turnover variable.'

Level of detail

The text under heading (f) (Level of detail) is hereby amended as follows:

1. paragraphs 3 and 4 are replaced by the following:

- '3. For Divisions 50, 51, 64 and 74 of NACE, the turnover variable need only be transmitted at the two-digit level by those Member States whose turnover in those divisions of NACE in a given base year represents less than 4 % of the European Community total.
4. For Section I of NACE, the number of persons employed variable (No 210) need only be transmitted at Section level by those Member States whose total value added in Section I in a given base year represents less than 4 % of the European Community total.'

2. The following paragraphs are added:

- '5. the output price variable (No 310) is to be transmitted according to the following activities and groupings of NACE:

60.24, 63.11, 63.12, 64.11, 64.12 at four digits;

61.1, 62.1, 64.2 at three digits;

72.1 to 72.6 at three digits;

sum of 74.11 to 74.14;

sum of 74.2 and 74.3;

74.4 to 74.7 at three digits.

NACE 74.4 may be indicated approximately by advertising placements.

NACE 74.5 covers the total price of labour recruited and personnel provided.

6. The list of activities and groupings may be amended no later than 11 August 2008 in accordance with the procedure laid down in Article 18.
7. For Division 72, the output price variable (No 310) need only be transmitted at the two-digit level by those Member States whose turnover in those divisions of NACE in a given base year represents less than 4 % of the European Community total.'

Deadlines for data transmission

The text under heading (g) (Deadlines for data transmission) is hereby replaced by the following:

'The variables shall, after the end of the reference period, be transmitted within the following deadlines:

Variable	Deadlines
120	2 months
210	2 months
310	3 months'.

First reference period

Under heading (i) (First reference period), the following text is added:

'The first reference period for transmission of the output price variable No 310 is not later than the first quarter of 2006. A derogation of a further year may be granted for the first reference period in accordance with the procedure laid down in Article 18, on condition that a base year not later than 2006 is applied.'

Transition period

Under heading (j) (Transition period) the following paragraphs are added:

'A transition period ending no later than 11 August 2008 may be granted for variable No 310 in accordance with the procedure laid down in Article 18. A further transition period of one year may be granted for the implementation of variable No 310 for the NACE Divisions 63 and 74 in accordance with the procedure laid down in Article 18. In addition to those transition periods, a further transition period of one year may be granted, in accordance with the procedure laid down in Article 18, to those Member States whose turnover in the NACE activities referred to under heading (a) "Scope" in a given base year represents less than 1 % of the European Community total.

A transition period ending no later than 11 August 2006 may be granted for the changing of the deadlines for data transmission for the variables 120 and 210 in accordance with the procedure laid down in Article 18.'

REGULATION (EC) No 1159/2005 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 6 July 2005

**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**

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 European Economic and Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

(1) Regulation (EC) No 2236/95 ⁽³⁾ provides, *inter alia*, for the co-financing of studies related to projects of common interest for an amount which may normally not exceed 50 % of the total cost, while the maximum contribution to projects in the area of telecommunications may not exceed 10 % of the total investment cost.

⁽¹⁾ OJ C 234, 30.9.2003, p. 23.

⁽²⁾ Opinion of the European Parliament of 18 November 2003 (OJ C 87 E, 7.4.2004, p. 22), Council Decision of 6 June 2005.

⁽³⁾ OJ L 228, 23.9.1995, p. 1. Regulation as last amended by Regulation (EC) No 807/2004 of the European Parliament and of the Council (OJ L 143, 30.4.2004, p. 46).

(2) Decision No 1336/97/EC of the European Parliament and of the Council of 17 June 1997 on a series of guidelines for trans-European telecommunications networks ⁽⁴⁾ identifies projects of common interest. Experience in implementing that Decision has shown that less than one project in twenty involves the deployment of a service, the remainder being deployment-related studies. As a result, the direct impact of aid granted for trans-European telecommunications networks is limited.

(3) The cost of deploying a trans-European service based on electronic data communications networks is significantly greater than the cost of a comparable service in a single Member State because of barriers of language, culture, legislation and administration.

(4) The cost of a preparatory study for a service in the telecommunications sector has been found to be a high proportion of the total investment required to deploy the service, and as a result the maximum contribution allowable under Regulation (EC) No 2236/95 is applied to such studies, precluding the grant of aid to the deployment of services. Consequently, grant of aid under that Regulation has had little direct effect in stimulating the deployment of services.

(5) Community aid should be granted in preference to projects which aim to stimulate the deployment of services and thus make the greatest contribution to the development of the information society. It is necessary therefore to increase the maximum contribution in proportion to the actual costs arising from the trans-European nature of a service. An increase in the Community contribution should, however, be applied only to services of public interest which must overcome the barriers of language, culture, legislation and administration,

⁽⁴⁾ OJ L 183, 11.7.1997, p. 12. Decision as amended by Decision No 1376/2002/EC (OJ L 200, 30.7.2002, p. 1).

HAVE ADOPTED THIS REGULATION:

Article 1

The following subparagraph shall be added to Article 5(3) of Regulation (EC) No 2236/95:

'In the case of projects of common interest identified in Annex I to Decision No 1336/97/EC of the European Parliament and of the Council of 17 June 1997 on a series

of guidelines for trans-European telecommunications networks (*), the total amount of Community aid granted under this Regulation may reach 30 % of the total investment cost.

(*) OJ L 183, 11.7.1997, p. 12. Decision as amended by Decision No 1376/2002/EC (OJ L 200, 30.7.2002, p. 1).'

Article 2

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

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

Done at Strasbourg, 6 July 2005.

For the European Parliament
The President
J. BORRELL FONTELLES

For the Council
The President
J. STRAW

REGULATION (EC) No 1160/2005 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 6 July 2005****amending the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders, as regards access to the Schengen Information System by the services in the Member States responsible for issuing registration certificates for vehicles****(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71(1)(d) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

(1) Article 9 of Council Directive 1999/37/EC of 29 April 1999 on the registration documents for vehicles ⁽³⁾ provides that Member States are to assist one another in the implementation of that Directive and may exchange information at bilateral or multilateral level in particular so as to check, before any registration of a vehicle, the latter's legal status, where necessary in the Member State in which it was previously registered. Such checking may in particular involve the use of an electronic network.

⁽¹⁾ OJ C 110, 30.4.2004, p. 1.

⁽²⁾ Opinion of the European Parliament of 1 April 2004 (OJ C 103 E, 29.4.2004, p. 794), Council Common Position of 22 December 2004 (OJ C 111 E, 11.5.2005, p. 19), Position of the European Parliament of 28 April 2005 (not yet published in the Official Journal) and Council Decision of 2 June 2005.

⁽³⁾ OJ L 138, 1.6.1999, p. 57. Directive as last amended by Commission Directive 2003/127/EC (OJ L 10, 16.1.2004, p. 29).

(2) The Schengen Information System (or the SIS), set up under Title IV of the Convention of 1990 implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders ⁽⁴⁾ (hereinafter 'the 1990 Schengen Convention') and integrated into the framework of the European Union pursuant to the Protocol annexed to the Treaty on European Union and the Treaty establishing the European Community, constitutes an electronic network between the Member States and contains, *inter alia*, data on motor vehicles with a cylinder capacity exceeding 50 cc which have been stolen, misappropriated or lost. Pursuant to Article 100 of the 1990 Schengen Convention, data on such motor vehicles sought for the purposes of seizure or use as evidence in criminal proceedings are entered in the SIS.

(3) Council Decision 2004/919/EC of 22 December 2004 on tackling vehicle crime with cross-border implications ⁽⁵⁾ includes the use of the SIS as an integral part of the law enforcement strategy against vehicle crime.

(4) Pursuant to Article 101(1) of the 1990 Schengen Convention, access to data entered in the SIS and the right to search such data directly is reserved exclusively to the authorities responsible for border checks and other police and customs checks carried out within the country, and the coordination of such checks.

(5) Article 102(4) of the 1990 Schengen Convention provides that data may not, in principle, be used for administrative purposes.

⁽⁴⁾ OJ L 239, 22.9.2000, p. 19. Convention as last amended by Council Regulation (EC) No 871/2004 (OJ L 162, 30.4.2004, p. 29).

⁽⁵⁾ OJ L 389, 30.12.2004, p. 28.

- (6) Services responsible in the Member States for issuing registration certificates for vehicles and clearly identified for this purpose should have access to data entered in the SIS concerning motor vehicles with a cylinder capacity exceeding 50cc, trailers and caravans with an unladen weight exceeding 750 kg and vehicle registration certificates and vehicle number plates which have been stolen, misappropriated, lost or invalidated, in order to enable them to check whether the vehicles presented to them for registration have been stolen, misappropriated or lost. To that end it is necessary to adopt rules granting those services access to those data, and to allow them to use those data for the administrative purpose of properly issuing registration certificates for vehicles.
- (7) Member States should take the necessary measures to ensure that, in case of a hit, the measures provided for under Article 100(2) of the 1990 Schengen Convention are taken.
- (8) The European Parliament recommendation to the Council of 20 November 2003 on the second-generation Schengen Information System (SIS II) outlines a number of important concerns and considerations in relation to the development of the SIS, particularly as regards access to the SIS by private bodies such as vehicle registration services.
- (9) To the extent that services in the Member States responsible for issuing registration certificates for vehicles are not government services, access to the SIS should be granted indirectly, that is to say through the intermediary of an authority as referred to in Article 101 (1) of the 1990 Schengen Convention responsible for ensuring compliance with the measures taken by these Member States pursuant to Article 118 of that Convention.
- (10) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data⁽¹⁾, and the specific rules on data protection in the provisions of the 1990 Schengen Convention, which supplement or clarify the principles set out in that Directive, apply to the processing of personal data by the services responsible in the Member States for issuing registration certificates for vehicles.
- (11) Since the objective of this Regulation, namely granting access to the SIS to services in the Member States responsible for issuing registration certificates for vehicles, in order to facilitate their tasks under Directive 1999/37/EC, cannot be sufficiently achieved by the Member States by reason of the very nature of the SIS as a joint information system, and can therefore only be 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 Regulation does not go beyond what is necessary in order to achieve that objective.
- (12) Member States should have a sufficient period within which to take the practical measures necessary to apply this Regulation.
- (13) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen *acquis* which fall within the area referred to in Article 1, point G, of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis*⁽²⁾.
- (14) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement signed between the European Union, the European Community and the Swiss Confederation concerning the association of the Swiss Confederation with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in Article 1, point G, of Decision 1999/437/EC read in conjunction with Article 4 (1) of Council Decision 2004/860/EC of 25 October 2004⁽³⁾ on the signing, on behalf of the European Community, and on the provisional application of certain provisions of that Agreement.
- (15) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.
- (16) This Regulation constitutes an act building on the Schengen *acquis* or otherwise related to it within the meaning of Article 3(2) of the 2003 Act of Accession,

⁽¹⁾ OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

⁽²⁾ OJ L 176, 10.7.1999, p. 31.

⁽³⁾ OJ L 370, 17.12.2004, p. 78.

HAVE ADOPTED THIS REGULATION:

Article 1

The following Article shall be inserted in Title IV of the 1990 Schengen Convention:

'Article 102A

1. Notwithstanding Articles 92(1), 100(1), 101(1) and (2), 102(1), (4) and (5), the services in the Member States responsible for issuing registration certificates for vehicles, as referred to in Council Directive 1999/37/EC of 29 April 1999 on the registration documents for vehicles (*), shall have the right to have access to the following data entered into the Schengen Information System, for the sole purpose of checking whether vehicles presented to them for registration have been stolen, misappropriated or lost:

- (a) data concerning motor vehicles with a cylinder capacity exceeding 50 cc which have been stolen, misappropriated or lost;
- (b) data concerning trailers and caravans with an unladen weight exceeding 750 kg which have been stolen, misappropriated or lost;
- (c) data concerning registration certificates for vehicles and vehicle number plates which have been stolen, misappropriated, lost or invalidated.

Subject to paragraph 2, the national law of each Member State shall govern access to those data by those services.

2. The services referred to in paragraph 1 that are government services shall be entitled to search directly the data entered in the Schengen Information System referred to in that paragraph.

The services referred to in paragraph 1 that are not government services shall have access to data entered in the Schengen Information System referred to in that paragraph only through the intermediary of an authority as referred to in Article 101(1). That authority shall be entitled to search directly the data and to pass them on to those services. The Member State concerned shall ensure that those services and their employees are obliged to respect any limitations on the permissible use of data passed on to them by the authority.

3. Article 100(2) shall not apply to a search made in accordance with this Article. The communication by services as referred to in paragraph 1 to the police or judicial authorities of information brought to light by a search of the Schengen Information System which gives rise to suspicion of a criminal offence shall be governed by national law.

4. Each year, after seeking the opinion of the joint supervisory authority set up pursuant to Article 115 on the data protection rules, the Council shall submit a report to the European Parliament on the implementation of this Article. That report shall include information and statistics on the use made of the provisions of this Article and the results obtained in their implementation and shall state how the data protection rules have been applied.

(*) OJ L 138, 1.6.1999, p. 57. Directive as last amended by Commission Directive 2003/127/EC (OJ L 10, 16.1.2004, p. 29).'

Article 2

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

2. It shall apply from 11 January 2006.

3. For those Member States in which the provisions of the Schengen *acquis* relating to the SIS do not yet apply, this Regulation shall apply within six months after the date on which those provisions are put into effect for them, as specified in the Council Decision adopted to that effect in accordance with the applicable procedures.

4. The content of this Regulation shall become binding for Norway 270 days after the date of its publication in the *Official Journal of the European Union*.

5. Notwithstanding the notification requirements laid down in Article 8(2)(c) of the Schengen Association Agreement with Norway and Iceland ⁽¹⁾, Norway shall, before the date referred to in paragraph 4, notify the Council and the Commission that the constitutional requirements for becoming bound by the contents of this Regulation have been fulfilled.

⁽¹⁾ OJ L 176, 10.7.1999, p. 36.

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

Done at Strasbourg, 6 July 2005.

For the European Parliament
The President
J. BORRELL FONTELLES

For the Council
The President
J. STRAW

REGULATION (EC) No 1161/2005 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 6 July 2005****on the compilation of quarterly non-financial accounts by institutional sector**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 285(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Central Bank ⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

- (1) The Action Plan on Economic and Monetary Union (EMU) Statistical Requirements endorsed by the Ecofin Council in September 2000 specifies that a limited set of quarterly sector accounts is urgently needed, and that these should be available within 90 days of the end of the quarter concerned.
- (2) The Joint Report of the Ecofin Council and the Commission to the European Council on Eurozone statistics and indicators, as adopted by the Ecofin Council on 18 February 2003, emphasises that high priority actions in several fields, including quarterly national accounts by institutional sector, should be fully implemented by 2005.
- (3) The analysis of cyclical movements in the European Union economy and the conduct of monetary policy within the EMU require macroeconomic statistics on the economic behaviour and the interrelationship of individual institutional sectors which are impossible to identify in data compiled at the level of the economy as a whole.

There is, therefore, a need to produce quarterly accounts by institutional sector, for the European Union as a whole and for the euro area.

- (4) Production of these accounts is part of the overall aim to compile a system of annual and quarterly accounts for the European Union and for the euro area. The system includes the main macroeconomic aggregates and the financial and non-financial accounts by institutional sector. The aim is to achieve consistency across all these accounts and, with regard to the rest of the world accounts, between the balance of payments and the national accounts data.
- (5) The compilation of European accounts by institutional sector, in accordance with the principles of the European system of national and regional accounts in the Community as set out in Council Regulation (EC) No 2223/96 ⁽³⁾, requires the transmission by Member States of quarterly national accounts by institutional sector. However, the European accounts must reflect the economy of the European area as a whole and may differ from the simple aggregation of Member States' accounts. In particular, the objective is to take account of the transactions of the institutions and bodies of the European Union in the accounts of the area concerned (the European Union or the euro-zone, whichever is applicable).
- (6) The production of specific Community statistics is governed by the rules set out in Council Regulation (EC) No 322/97 of 17 February 1997 on Community Statistics ⁽⁴⁾.

⁽¹⁾ OJ C 42, 18.2.2004, p. 23.

⁽²⁾ Opinion of the European Parliament of 30 March 2004 (OJ C 103 E, 29.4.2004, p. 141), Council Common Position of 8 March 2005 (not yet published in the Official Journal) and Position of the European Parliament of 26 May 2005 (not yet published in the Official Journal).

⁽³⁾ OJ L 310, 30.11.1996, p. 1. Regulation as last amended by Regulation (EC) No 1267/2003 of the European Parliament and of the Council (OJ L 180, 18.7.2003, p. 1).

⁽⁴⁾ OJ L 52, 22.2.1997, p. 1. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

- (7) Since the objective of this Regulation, namely the compilation of quarterly non-financial accounts by institutional sector for the European Union and the euro area, cannot be achieved satisfactorily by the Member States and can therefore, by reason of the scale and 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 Regulation does not go beyond what is necessary to achieve that objective. In particular, where Member States make a negligible contribution to the European totals, they should not be required to report the full detail of data.
- (8) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾.
- (9) The Statistical Programme Committee set up by Council Decision 89/382/EEC, Euratom ⁽²⁾ and the Committee on Monetary, Financial and Balance of Payments Statistics set up by Council Decision 91/115/EEC ⁽³⁾ have been consulted,

HAVE ADOPTED THIS REGULATION:

Article 1

Purpose

This Regulation provides a common framework for the contributions of the Member States to the compilation of quarterly European non-financial accounts by institutional sector.

Article 2

Transmission of quarterly non-financial accounts by institutional sector

1. Member States shall transmit to the Commission quarterly non-financial accounts by institutional sector, as specified in the Annex, except, in the first instance, items P.1, P.2, D.42, D.43, D.44, D.45 and B.4G.

2. A timetable for the transmission of items P.1, P.2, D.42, D.43, D.44, D.45, and B.4G, respectively, and any decision to require a breakdown of the transactions listed in the Annex by counterpart sector shall be adopted in accordance with the procedure referred to in Article 8(2). Any such decision shall not be adopted before the Commission has reported to the European Parliament and the Council on the implementation of this Regulation pursuant to Article 9.

3. The quarterly data referred to in paragraph 1 shall be delivered to the Commission at the latest 90 calendar days after the end of the quarter to which the data relate. During a transitional period of three years from the entry into force of this Regulation the quarterly data referred to in paragraph 1 shall be delivered to the Commission at the latest 95 calendar days after the end of the quarter to which the data relate. Any revision of the data for previous quarters shall be transmitted at the same time.

4. The time of transmission specified in paragraph 3 may be adjusted, by a maximum of five days, in accordance with the procedure referred to in Article 8(2).

5. The first transmission of quarterly data shall relate to data for the third quarter of 2005. Member States shall deliver these data no later than 3 January 2006. This first transmission shall include back data for the periods from the first quarter of 1999.

Article 3

Reporting obligations

1. All Member States shall transmit the data described in the Annex, with respect to the rest of the world sector (S.2) and the general government sector (S.13). A Member State for which gross domestic product at current prices normally represents more than 1 % of the corresponding Community total shall transmit the data described in the Annex for all institutional sectors.

2. The Commission shall determine the percentage of Community total gross domestic product at current prices that a Member State's gross domestic product normally represents, as specified in paragraph 1, on the basis of the arithmetic mean of the latest three years' annual data transmitted by Member States.

3. The proportion (1 %) of the Community total referred to in paragraph 1 may be adjusted in accordance with the procedures referred to in Article 8(2).

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

⁽²⁾ OJ L 181, 28.6.1989, p. 47.

⁽³⁾ OJ L 59, 6.3.1991, p. 19.

4. Derogations from this Regulation may be accepted by the Commission if national statistical systems require major adaptation. Such derogations shall last not more than three years from the date of entry into force of this Regulation, or that of the implementing measures adopted in accordance with the procedure referred to in Article 8(2).

Article 4

Definitions and standards

The standards, definitions, classifications, and accounting rules for data transmitted for the purposes of this Regulation shall be those laid down in Regulation (EC) No 2223/96 (hereinafter referred to as the ESA Regulation).

Article 5

Data sources and consistency requirements

1. Member States shall compile the information requested in this Regulation using all sources they consider relevant, giving priority to direct information such as administrative sources or surveys of enterprises and households.

When such direct information cannot be collected, in particular for the back data required under Article 2(5), best estimates may be transmitted.

2. Data transmitted by Member States for the purposes of this Regulation shall be consistent with the quarterly non-financial accounts of the general government and the quarterly main aggregates of the total economy, transmitted to the Commission under the data transmission programme of the ESA Regulation.

3. The quarterly data transmitted by Member States for the purposes of this Regulation shall be aligned with the corresponding annual data transmitted under the data transmission programme of the ESA Regulation.

Article 6

Quality standards and reports

1. Member States shall take all measures necessary to ensure that the quality of the data transmitted improves over time to meet the common quality standards to be defined in accordance with the procedure referred to in Article 8(2).

2. Member States shall supply the Commission with an up-to-date description of the sources, methods and statistical treatments used within a year of their first transmission of data.

3. Member States shall inform the Commission of major methodological or other changes that would affect the data transmitted not later than three months after such change takes effect.

Article 7

Implementing measures

The implementing measures shall be laid down in accordance with the procedure referred to in Article 8(2). Such measures shall include:

- (a) determining the timetable for the transmission of the items P.1, P.2, D.42, D.43, D.44, D.45 and B.4G pursuant to Article 2(2);
- (b) requiring the transactions shown in the Annex to be broken down by counterpart sector in accordance with Article 2(2);
- (c) revising the timetable of quarterly transmissions pursuant to Article 2(4);
- (d) adjusting the proportion (1 %) of the Community total to determine the obligation to transmit data for all institutional sectors pursuant to Article 3(3);
- (e) defining data quality standards in accordance with Article 6(1).

Article 8

Committee procedure

1. The Commission shall be assisted by the Statistical Programme Committee.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period referred to in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

*Article 9***Report on implementation**

Within five years of the entry into force of this Regulation, the Commission shall submit a report to the European Parliament and the Council on its implementation.

In particular, this report shall:

- (a) provide information on the quality of the statistics produced;

- (b) assess the benefits accruing to the Community, the Member States and the providers and users of statistical information of the statistics produced in relation to their costs;
- (c) identify areas for potential improvement and amendments considered necessary in light of the results obtained.

*Article 10***Entry into force**

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

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

Done at Strasbourg, 6 July 2005.

For the European Parliament
For the President
J. BORRELL FONTELLES

For the Council
The President
J. STRAW

	Balancing items							
	S1 Total economy	S1N Unspecified total economy	S11 Non-financial corporations	S12 Financial corporations	S13 General government	S14_S15 Households and NPSH	S2 Rest of the world	
B.1G Gross value added	X	X	X	X	X	X		
B.1N Net value added	X	X	X	X	X	X		
B.2G Operating surplus (gross)	X		X	X	X	X		
B.3G Mixed income (gross)	X					X		
B.4G Entrepreneurial income (gross)	X		X	X		X		
B.5G Balance of primary incomes (gross)	X		X	X	X	X		
B.6G Disposable income (gross)	X		X	X	X	X		
B.7G Adjusted disposable income (gross)	X				X	X		
B.8G Saving (gross)	X		X	X	X	X		
B.9 Net lending/net borrowing	X		X	X	X	X	X	
B.11 External balance of goods and services							X	
B.12 Current external balance							X	

DIRECTIVE 2005/32/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 6 July 2005****establishing a framework for the setting of ecodesign requirements for energy-using products and amending Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC of the European Parliament and of the Council**

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 European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

- (1) The disparities between the laws or administrative measures adopted by the Member States in relation to the ecodesign of energy-using products can create barriers to trade and distort competition in the Community and may thus have a direct impact on the establishment and functioning of the internal market. The harmonisation of national laws is the only means to prevent such barriers to trade and unfair competition.
- (2) Energy-using products (EuPs) account for a large proportion of the consumption of natural resources and energy in the Community. They also have a number of other important environmental impacts. For the vast majority of product categories available on the Community market, very different degrees of environmental impact can be noted though they provide similar functional performances. In the interest of sustainable development, continuous improvement in the overall

environmental impact of those products should be encouraged, notably by identifying the major sources of negative environmental impacts and avoiding transfer of pollution, when this improvement does not entail excessive costs.

- (3) The ecodesign of products is a crucial factor in the Community strategy on Integrated Product Policy. As a preventive approach, designed to optimise the environmental performance of products, while maintaining their functional qualities, it provides genuine new opportunities for manufacturers, for consumers and for society as a whole.
- (4) Energy efficiency improvement — with one of the available options being more efficient end use of electricity — is regarded as contributing substantially to the achievement of greenhouse gas emission targets in the Community. Electricity demand is the fastest growing energy end use category and is projected to grow within the next 20 to 30 years, in the absence of any policy action to counteract this trend. A significant reduction in energy consumption as suggested by the Commission in its European Climate Change Programme (ECCP) is possible. Climate change is one of the priorities of the Sixth Community Environment Action Programme, laid down by Decision No 1600/2002/EC of the European Parliament and of the Council ⁽³⁾. Energy saving is the most cost-effective way to increase security of supply and reduce import dependency. Therefore, substantial demand side measures and targets should be adopted.

⁽¹⁾ OJ C 112, 30.4.2004, p. 25.

⁽²⁾ Opinion of the European Parliament of 20 April 2004 (OJ C 104 E, 30.4.2004, p. 319), Council Common Position of 29 November 2004 (OJ C 38 E, 15.2.2005, p. 45), Position of the European Parliament of 13 April 2005, and Council Decision of 23 May 2005.

⁽³⁾ OJ L 242, 10.9.2002, p. 1.

- (5) Action should be taken during the design phase of EuPs, since it appears that the pollution caused during a product's life cycle is determined at that stage, and most of the costs involved are committed then.
- (6) A coherent framework for the application of Community ecodesign requirements for EuPs should be established with the aim of ensuring the free movement of those products which comply and of improving their overall environmental impact. Such Community requirements should respect the principles of fair competition and international trade.
- (7) Ecodesign requirements should be set bearing in mind the goals and priorities of the Sixth Community Environment Action Programme, including as appropriate applicable goals of the relevant thematic strategies of that Programme.
- (8) This Directive seeks to achieve a high level of protection for the environment by reducing the potential environmental impact of EuPs, which will ultimately be beneficial to consumers and other end-users. Sustainable development also requires proper consideration of the health, social and economic impact of the measures envisaged. Improving the energy efficiency of products contributes to the security of the energy supply, which is a precondition of sound economic activity and therefore of sustainable development.
- (9) A Member State deeming it necessary to maintain national provisions on grounds of major needs relating to the protection of the environment, or to introduce new ones based on new scientific evidence relating to the protection of the environment on grounds of a problem specific to that Member State arising after the adoption of the applicable implementing measure, may do so following the conditions laid down in Article 95(4), (5) and (6) of the Treaty, that provides for a prior notification to and approval from the Commission.
- (10) In order to maximise the environmental benefits from improved design it may be necessary to inform consumers about the environmental characteristics and performance of EuPs and to advise them about how to use products in a manner which is environmentally friendly.
- (11) The approach set out in the Green Paper on Integrated Product Policy, which is a major innovative element of the Sixth Community Environment Action Programme, aims to reduce the environmental impacts of products across the whole of their life cycle. Considering at the design stage a product's environmental impact throughout its whole life cycle has a high potential to facilitate environmental improvement in a cost-effective way. There should be sufficient flexibility to enable this factor to be integrated in product design whilst taking account of technical, functional and economic considerations.
- (12) Although a comprehensive approach to environmental performance is desirable, greenhouse gas mitigation through increased energy efficiency should be considered a priority environmental goal pending the adoption of a working plan.
- (13) It may be necessary and justified to establish specific quantified ecodesign requirements for some products or environmental aspects thereof in order to ensure that their environmental impact is minimised. Given the urgent need to contribute to the achievement of the commitments in the framework of the Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC), and without prejudice to the integrated approach promoted in this Directive, some priority should be given to those measures with a high potential for reducing greenhouse gas emissions at low cost. Such measures can also contribute to a sustainable use of resources and constitute a major contribution to the 10-year framework of programmes on sustainable production and consumption agreed at the World Summit on Sustainable Development in Johannesburg in September 2002.
- (14) As a general principle, the energy consumption of EuPs in stand-by or off-mode should be reduced to the minimum necessary for their proper functioning.
- (15) While the best-performing products or technologies available on the market, including on international markets, should be taken as reference, the level of ecodesign requirements should be established on the basis of technical, economic and environmental analysis. Flexibility in the method for establishing the level of requirements can make swift improvement of environmental performance easier. Interested parties involved should be consulted and cooperate actively in this analysis. The setting of mandatory measures requires proper consultation of the parties involved. Such

consultation may highlight the need for a phased introduction or transitional measures. The introduction of interim targets increases the predictability of the policy, allows for accommodating product development cycles and facilitates long term planning for interested parties.

- (16) Priority should be given to alternative courses of action such as self-regulation by the industry where such action is likely to deliver the policy objectives faster or in a less costly manner than mandatory requirements. Legislative measures may be needed where market forces fail to evolve in the right direction or at an acceptable speed.
- (17) Self-regulation, including voluntary agreements offered as unilateral commitments by industry, can provide for quick progress due to rapid and cost-effective implementation, and allows for flexible and appropriate adaptation to technological options and market sensitivities.
- (18) For the assessment of voluntary agreements or other self-regulation measures presented as alternatives to implementing measures, information on at least the following issues should be available: openness of participation, added value, representativeness, quantified and staged objectives, involvement of civil society, monitoring and reporting, cost-effectiveness of administering a self-regulatory initiative, sustainability.
- (19) Chapter 6 of the Commission's 'Communication on Environmental Agreements at Community level within the Framework of the Action Plan on the Simplification and Improvement of the Regulatory Environment' could provide useful guidance when assessing self-regulation by industry in the context of this Directive.
- (20) This Directive should also encourage the integration of ecodesign in small and medium-sized enterprises (SMEs) and very small firms. Such integration could be facilitated by wide availability of and easy access to information relating to the sustainability of their products.
- (21) EuPs complying with the ecodesign requirements laid down in implementing measures to this Directive should bear the 'CE' marking and associated information, in order to enable them to be placed on the internal market and move freely. The rigorous enforcement of implementing measures is necessary to reduce the environmental impact of regulated EuPs and to ensure fair competition.
- (22) When preparing implementing measures and its working plan the Commission should consult Member States' representatives as well as interested parties concerned with the product group, such as industry, including SMEs and craft industry, trade unions, traders, retailers, importers, environmental protection groups and consumer organisations.
- (23) When preparing implementing measures, the Commission should also take due account of existing national environmental legislation, in particular concerning toxic substances, which Member States have indicated that they consider should be preserved, without reducing the existing and justified levels of protection in the Member States.
- (24) Regard should be given to the modules and rules intended for use in technical harmonisation Directives set out in Council Decision 93/465/EEC of 22 July 1993 concerning the modules for the various phases of the conformity assessment procedures and the rules for the affixing and use of the CE conformity marking, which are intended to be used in the technical harmonisation directives ⁽¹⁾.
- (25) Surveillance authorities should exchange information on the measures envisaged within the scope of this Directive with a view to improving surveillance of the market. Such cooperation should make the utmost use of electronic means of communication and relevant Community programmes. The exchange of information on environmental life cycle performance and on the achievements of design solutions should be facilitated. The accumulation and dissemination of the body of knowledge generated by the ecodesign efforts of manufacturers is one of the crucial benefits of this Directive.
- (26) A competent body is usually a public or private body, designated by the public authorities, and presenting the necessary guarantees for impartiality and availability of technical expertise for carrying out verification of the product with regard to its compliance with the applicable implementing measures.

⁽¹⁾ OJ L 220, 30.8.1993, p. 23.

- (27) Noting the importance of avoiding non-compliance, Member States should ensure that the necessary means are available for effective market surveillance.
- (28) In respect of training and information on ecodesign for SMEs, it may be appropriate to consider accompanying activities.
- (29) It is in the interest of the functioning of the internal market to have standards which have been harmonised at Community level. Once the reference to such a standard has been published in the *Official Journal of the European Union*, compliance with it should raise a presumption of conformity with the corresponding requirements set out in the implementing measure adopted on the basis of this Directive, although other means of demonstrating such conformity should be permitted.
- (30) One of the main roles of harmonised standards should be to help manufacturers in applying the implementing measures adopted under this Directive. Such standards could be essential in establishing measuring and testing methods. In the case of generic ecodesign requirements harmonised standards could contribute considerably to guiding manufacturers in establishing the ecological profile of their products in accordance with the requirements of the applicable implementing measure. These standards should clearly indicate the relationship between their clauses and the requirements dealt with. The purpose of harmonised standards should not be to fix limits for environmental aspects.
- (31) For the purpose of definitions used in this Directive it is useful to refer to relevant international standards such as ISO 14040.
- (32) This Directive is in accordance with certain principles for the implementation of the new approach as set out in the Council Resolution of 7 May 1985 on a new approach to technical harmonisation and standards ⁽¹⁾ and of making reference to harmonised European standards. The Council Resolution of 28 October 1999 on the role of standardisation in Europe ⁽²⁾ recommended that the Commission should examine whether the New Approach principle could be extended to sectors not yet covered as a means of improving and simplifying legislation wherever possible.
- (33) This Directive is complementary to existing Community instruments such as Council Directive 92/75/EEC of 22 September 1992 on the indication by labelling and standard product information of the consumption of energy and other resources by household appliances ⁽³⁾, Regulation (EC) No 1980/2000 of the European Parliament and of the Council of 17 July 2000 on a revised Community eco-label award scheme ⁽⁴⁾, Regulation (EC) No 2422/2001 of the European Parliament and of the Council of 6 November 2001 on a Community energy efficiency labelling programme for office equipment ⁽⁵⁾, Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE) ⁽⁶⁾, Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment ⁽⁷⁾ and Council Directive 76/769/EEC of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations ⁽⁸⁾. Synergies between this Directive and the existing Community instruments should contribute to increasing their respective impacts and building coherent requirements for manufacturers to apply.
- (34) Since Council Directive 92/42/EEC of 21 May 1992 on efficiency requirements for new hot-water boilers fired with liquid or gaseous fuels ⁽⁹⁾, Directive 96/57/EC of the European Parliament and of the Council of 3 September 1996 on energy efficiency requirements for household electric refrigerators, freezers and combinations thereof ⁽¹⁰⁾ and Directive 2000/55/EC of the European Parliament and of the Council of 18 September 2000 on energy efficiency requirements for ballasts for fluorescent lighting ⁽¹¹⁾ already contain provisions for the revision of the energy efficiency requirements, they should be integrated into the present framework.
-
- ⁽¹⁾ OJ C 136, 4.6.1985, p. 1.
- ⁽²⁾ OJ C 141, 19.5.2000, p. 1.
- ⁽³⁾ OJ L 297, 13.10.1992, p. 16. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).
- ⁽⁴⁾ OJ L 237, 21.9.2000, p. 1.
- ⁽⁵⁾ OJ L 332, 15.12.2001, p. 1.
- ⁽⁶⁾ OJ L 37, 13.2.2003, p. 24. Directive as amended by Directive 2003/108/EC (OJ L 345, 31.12.2003, p. 106).
- ⁽⁷⁾ OJ L 37, 13.2.2003, p. 19.
- ⁽⁸⁾ OJ L 262, 27.9.1976, p. 201. Directive as last amended by Commission Directive 2004/98/EC (OJ L 305, 1.10.2004, p. 63).
- ⁽⁹⁾ OJ L 167, 22.6.1992, p. 17. Directive as last amended by Directive 2004/8/EC of the European Parliament and of the Council (OJ L 52, 21.2.2004, p. 50).
- ⁽¹⁰⁾ OJ L 236, 18.9.1996, p. 36.
- ⁽¹¹⁾ OJ L 279, 1.11.2000, p. 33.

- (35) Directive 92/42/EEC provides for a star rating system intended to ascertain the energy performance of boilers. Since Member States and the industry agree that the star rating system has proved not to deliver the expected result, Directive 92/42/EEC should be amended to open the way for more effective schemes.
- (36) The requirements laid down in Council Directive 78/170/EEC of 13 February 1978 on the performance of heat generators for space heating and the production of hot water in new or existing non-industrial buildings and on the insulation of heat and domestic hot-water distribution in new non-industrial buildings⁽¹⁾ have been superseded by provisions of Directive 92/42/EEC, Council Directive 90/396/EEC of 29 June 1990 on the approximation of the laws of the Member States relating to appliances burning gaseous fuels⁽²⁾ and Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002 on the energy performance of buildings⁽³⁾. Directive 78/170/EEC should therefore be repealed.
- (37) Council Directive 86/594/EEC of 1 December 1986 on airborne noise emitted by household appliances⁽⁴⁾ lays down the conditions under which publication of information on the noise emitted by such appliances may be required by Member States, and defines a procedure to determine the level of noise. For harmonisation purposes noise emissions should be included in an integrated assessment of environmental performance. Since this Directive provides for such an integrated approach, Directive 86/594/EEC should be repealed.
- (38) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽⁵⁾.
- (39) Member States should determine the penalties to be applied in the event of infringements of the national provisions adopted pursuant to this Directive. Those penalties should be effective, proportionate and dissuasive.
- (40) It should be remembered that paragraph 34 of the Interinstitutional agreement on better law-making⁽⁶⁾ states that the Council 'will encourage the Member States to draw up, for themselves and in the interests of the Community, their own tables which will, as far as possible, illustrate the correlation between directives and the transposition measures and to make them public.'
- (41) Since the objective of the proposed action, namely to ensure the functioning of the internal market by requiring products to reach an adequate level of environmental performance, cannot be sufficiently achieved by Member States acting alone and can therefore, by reason of its scale and effects, 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 in order to achieve this objective.
- (42) The Committee of the Regions was consulted but did not deliver an opinion,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter and scope

1. This Directive establishes a framework for the setting of Community ecodesign requirements for energy-using products with the aim of ensuring the free movement of those products within the internal market.
2. This Directive provides for the setting of requirements which the energy-using products covered by implementing measures must fulfil in order for them to be placed on the market and/or put into service. It contributes to sustainable development by increasing energy efficiency and the level of protection of the environment, while at the same time increasing the security of the energy supply.
3. This Directive shall not apply to means of transport for persons or goods.
4. This Directive and the implementing measures adopted pursuant to it shall be without prejudice to Community waste management legislation and Community chemicals legislation, including Community legislation on fluorinated greenhouse gases.

⁽¹⁾ OJ L 52, 23.2.1978, p. 32. Directive as amended by Directive 82/885/EEC (OJ L 378, 31.12.1982, p. 19).

⁽²⁾ OJ L 196, 26.7.1990, p. 15. Directive as amended by Directive 93/68/EEC (OJ L 220, 30.8.1993, p. 1).

⁽³⁾ OJ L 1, 4.1.2003, p. 65.

⁽⁴⁾ OJ L 344, 6.12.1986, p. 24. Directive as amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

⁽⁵⁾ OJ L 184, 17.7.1999, p. 23.

⁽⁶⁾ OJ C 321, 31.12.2003, p. 1.

*Article 2***Definitions**

For the purposes of this Directive the following definitions shall apply:

1. 'Energy-using product' or 'EuP' means a product which, once placed on the market and/or put into service, is dependent on energy input (electricity, fossil fuels and renewable energy sources) to work as intended, or a product for the generation, transfer and measurement of such energy, including parts dependent on energy input and intended to be incorporated into an EuP covered by this Directive which are placed on the market and/or put into service as individual parts for end-users and of which the environmental performance can be assessed independently;
2. 'Components and sub-assemblies' means parts intended to be incorporated into EuPs, and which are not placed on the market and/or put into service as individual parts for end-users or the environmental performance of which cannot be assessed independently;
3. 'Implementing measures' means measures adopted pursuant to this Directive laying down ecodesign requirements for defined EuPs or for environmental aspects thereof;
4. 'Placing on the market' means making an EuP available for the first time on the Community market with a view to its distribution or use within the Community whether for reward or free of charge and irrespective of the selling technique;
5. 'Putting into service' means the first use of an EuP for its intended purpose by an end-user in the Community;
6. 'Manufacturer' means the natural or legal person who manufactures EuPs covered by this Directive and is responsible for their conformity with this Directive in view of their being placed on the market and/or put into service under the manufacturer's own name or trademark or for the manufacturer's own use. In the absence of a manufacturer as defined in the first sentence or of an importer as defined in point 8, any natural or legal person who places on the market and/or puts into service EuPs covered by this Directive shall be considered a manufacturer;
7. 'Authorised representative' means any natural or legal person established in the Community who has received a written mandate from the manufacturer to perform on his behalf all or part of the obligations and formalities connected with this Directive;
8. 'Importer' means any natural or legal person established in the Community who places a product from a third country on the Community market in the course of his business;
9. 'Materials' means all materials used during the life cycle of an EuP;
10. 'Product design' means the set of processes that transform legal, technical, safety, functional, market or other requirements to be met by an EuP into the technical specification for that EuP;
11. 'Environmental aspect' means an element or function of an EuP that can interact with the environment during its life cycle;
12. 'Environmental impact' means any change to the environment wholly or partially resulting from an EuP during its life cycle;
13. 'Life cycle' means the consecutive and interlinked stages of an EuP from raw material use to final disposal;
14. 'Reuse' means any operation by which an EuP or its components, having reached the end of their first use, are used for the same purpose for which they were conceived, including the continued use of an EuP which

is returned to a collection point, distributor, recycler or manufacturer, as well as reuse of an EuP following refurbishment;

15. 'Recycling' means the reprocessing in a production process of waste materials for the original purpose or for other purposes but excluding energy recovery;
16. 'Energy recovery' means the use of combustible waste as a means to generate energy through direct incineration with or without other waste but with recovery of the heat;
17. 'Recovery' means any of the applicable operations provided for in Annex II B to Council Directive 75/442/EEC of 15 July 1975 on waste ⁽¹⁾;
18. 'Waste' means any substance or object in the categories set out in Annex I to Directive 75/442/EEC which the holder discards or intends or is required to discard;
19. 'Hazardous waste' means any waste which is covered by Article 1(4) of Council Directive 91/689/EEC of 12 December 1991 on hazardous waste ⁽²⁾;
20. 'Ecological profile' means a description, in accordance with the implementing measure applicable to the EuP, of the inputs and outputs (such as materials, emissions and waste) associated with an EuP throughout its life cycle which are significant from the point of view of its environmental impact and are expressed in physical quantities that can be measured;
21. 'Environmental performance' of an EuP means the results of the manufacturer's management of the environmental aspects of the EuP, as reflected in its technical documentation file;
22. 'Improvement of the environmental performance' means the process of enhancing the environmental performance of an EuP over successive generations, although not necessarily in respect of all environmental aspects of the product simultaneously;
23. 'Ecodesign' means the integration of environmental aspects into product design with the aim of improving the environmental performance of the EuP throughout its whole life cycle;
24. 'Ecodesign requirement' means any requirement in relation to an EuP, or the design of an EuP, intended to improve its environmental performance, or any requirement for the supply of information with regard to the environmental aspects of an EuP;
25. 'Generic ecodesign requirement' means any ecodesign requirement based on the ecological profile as a whole of an EuP without set limit values for particular environmental aspects;
26. 'Specific ecodesign requirement' means a quantified and measurable ecodesign requirement relating to a particular environmental aspect of an EuP, such as energy consumption during use, calculated for a given unit of output performance;
27. 'Harmonised standard' means a technical specification adopted by a recognised standards body under a mandate from the Commission, in accordance with the procedure laid down in Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations ⁽³⁾, for the purpose of establishing a European requirement, compliance with which is not compulsory.

Article 3

Placing on the market and/or putting into service

1. Member States shall take all appropriate measures to ensure that EuPs covered by implementing measures may be placed on the market and/or put into service only if they

⁽¹⁾ OJ L 194, 25.7.1975, p. 39. Directive as last amended by Regulation (EC) No 1882/2003.

⁽²⁾ OJ L 377, 31.12.1991, p. 20. Directive as amended by Directive 94/31/EC (OJ L 168, 2.7.1994, p. 28).

⁽³⁾ OJ L 204, 21.7.1998, p. 37. Directive as last amended by the 2003 Act of Accession.

comply with those measures and bear the CE marking in accordance with Article 5.

Article 5

Marking and declaration of conformity

2. Member States shall designate the authorities responsible for market surveillance. They shall arrange for such authorities to have and use the necessary powers to take the appropriate measures incumbent upon them under this Directive. Member States shall define the tasks, powers and organisational arrangements of the competent authorities which shall be entitled:

- (i) to organise appropriate checks on EuP compliance, on an adequate scale, and to oblige the manufacturer or its authorised representative to recall non-compliant EuPs from the market in accordance with Article 7;
- (ii) to require the provision of all necessary information by the parties concerned, as specified in implementing measures;
- (iii) to take samples of products and subject them to compliance checks.

3. Member States shall keep the Commission informed about the results of the market surveillance, and where appropriate the Commission shall pass on such information to the other Member States.

4. Member States shall ensure that consumers and other interested parties are given an opportunity to submit observations on product compliance to the competent authorities.

1. Before an EuP covered by implementing measures is placed on the market and/or put into service, a CE conformity marking shall be affixed and a declaration of conformity issued whereby the manufacturer or its authorised representative ensures and declares that the EuP complies with all relevant provisions of the applicable implementing measure.

2. The CE conformity marking consists of the initials 'CE' as shown in Annex III.

3. The declaration of conformity shall contain the elements specified in Annex VI and shall refer to the appropriate implementing measure.

4. The affixing of markings on an EuP which are likely to mislead users as to the meaning or form of the CE marking shall be prohibited.

5. Member States may require the information to be supplied pursuant to Annex I, Part 2 to be in their official language(s) when the EuP reaches the end-user.

Member States shall also authorise the provision of this information in one or more other official Community language(s).

When applying the first subparagraph, Member States shall take into account in particular:

- (a) whether the information can be supplied by harmonised symbols or recognised codes or other measures;
- (b) the type of user anticipated for the EuP and the nature of the information which is to be provided.

Article 4

Responsibilities of the importer

Where the manufacturer is not established within the Community and in the absence of an authorised representative, the obligation:

- to ensure that the EuP placed on the market or put into service complies with this Directive and the applicable implementing measure,
- to keep the declaration of conformity and the technical documentation available,

shall lie with the importer.

Article 6

Free movement

1. Member States shall not prohibit, restrict or impede the placing on the market and/or putting into service, within their territories, on grounds of ecodesign requirements relating to those ecodesign parameters referred to in Annex I, Part 1 which are covered by the applicable implementing measure, of an EuP that complies with all the relevant provisions of the applicable implementing measure and bears the CE marking in accordance with Article 5.

2. Member States shall not prohibit, restrict or impede the placing on the market and/or putting into service, within their territories, of an EuP bearing the CE marking in accordance with Article 5 on grounds of ecodesign requirements relating to those ecodesign parameters referred to in Annex I, Part 1 for which the applicable implementing measure provides that no ecodesign requirement is necessary.

3. Member States shall not prevent the display, for example at trade fairs, exhibitions and demonstrations, of EuPs which are not in conformity with the provisions of the applicable implementing measure, provided that there is a visible indication that they may not be placed on the market and/or put into service until brought into conformity.

Article 7

Safeguard clause

1. Where a Member State ascertains that an EuP bearing the CE marking referred to in Article 5 and used in accordance with its intended use does not comply with all the relevant provisions of the applicable implementing measure, the manufacturer or its authorised representative shall be obliged to make the EuP comply with the provisions of the applicable implementing measure and/or with the CE marking and to end the infringement under conditions imposed by the Member State.

Where there is sufficient evidence that an EuP might be non-compliant, the Member State shall take the necessary measures which, depending on the gravity of the non-compliance, can go as far as the prohibition of the placing on the market of the EuP until compliance is established.

Where non-compliance continues, the Member State shall take a decision restricting or prohibiting the placing on the market and/or putting into service of the EuP in question or ensure that it is withdrawn from the market.

In cases of prohibition or withdrawal from the market, the Commission and the other Member States shall be immediately informed.

2. Any decision by a Member State pursuant to this Directive which restricts or prohibits the placing on the market and/or the putting into service of an EuP shall state the grounds on which it is based.

Such decision shall be notified forthwith to the party concerned, who shall at the same time be informed of the legal remedies available under the laws in force in the Member State concerned and of the time limits to which such remedies are subject.

3. The Member State shall immediately inform the Commission and the other Member States of any decision taken pursuant to paragraph 1, indicating the reasons therefore, and, in particular, whether non-compliance is due to:

- (a) failure to satisfy the requirements of the applicable implementing measure;
- (b) incorrect application of harmonised standards as referred to in Article 10(2);
- (c) shortcomings in harmonised standards as referred to in Article 10(2).

4. The Commission shall enter into consultation with the parties concerned without delay and may draw upon technical advice from independent external experts.

Following that consultation, the Commission shall immediately inform the Member State which took the decision and the other Member States of its views.

Where the Commission considers that the decision is unjustified, it shall immediately inform the Member States to that effect.

5. Where the decision referred to in paragraph 1 is based on a shortcoming in a harmonised standard, the Commission shall immediately initiate the procedure set out in Article 10 (2), (3) and (4). The Commission shall at the same time inform the Committee referred to in Article 19(1).

6. The Member States and the Commission shall take the necessary measures to guarantee confidentiality with regard to information provided during that procedure, where justified.

7. The decisions taken by Member States pursuant to this Article shall be made public, in a transparent way.

8. The Commission's opinion on those decisions shall be published in the *Official Journal of the European Union*.

Article 8

Conformity assessment

1. Before placing an EuP covered by implementing measures on the market and/or putting such an EuP into service, the manufacturer or its authorised representative shall ensure that an assessment of the EuP's conformity with all the relevant requirements of the applicable implementing measure is carried out.

2. The conformity assessment procedures shall be specified by the implementing measures and shall leave to manufacturers the choice between the internal design control set out in Annex IV and the management system set out in Annex V. When duly justified and proportionate to the risk, the conformity assessment procedure shall be specified among relevant modules as described in Decision 93/465/EEC.

If a Member State has strong indications of probable non-compliance of an EuP, that Member State shall as soon as possible publish a substantiated assessment of the EuP's compliance which may be conducted by a competent body in order to allow timely corrective action, if any.

If an EuP covered by implementing measures is designed by an organisation registered in accordance with Regulation (EC) No 761/2001 of the European Parliament and of the Council of 19 March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) ⁽¹⁾ and the design function is included within the scope of that registration, the management system of that organisation shall be presumed to comply with the requirements of Annex V to this Directive.

If an EuP covered by implementing measures is designed by an organisation having a management system which includes the product design function and which is implemented in accordance with harmonised standards the reference numbers of which have been published in the *Official Journal of the European Union*, that management system shall be presumed to comply with the corresponding requirements of Annex V.

3. After placing an EuP covered by implementing measures on the market or putting it into service, the manufacturer or its authorised representative shall keep relevant documents relating to the conformity assessment performed and declarations of conformity issued available for inspection by Member States for a period of 10 years after the last of that EuP has been manufactured.

The relevant documents shall be made available within 10 days upon receipt of a request by the competent authority of a Member State.

4. Documents relating to the conformity assessment and declaration of conformity referred to in Article 5 shall be drawn up in one of the official languages of the Community.

Article 9

Presumption of conformity

1. Member States shall regard an EuP bearing the CE marking referred to in Article 5 as conforming to the relevant provisions of the applicable implementing measure.

2. Member States shall regard an EuP for which harmonised standards have been applied, the reference numbers of which have been published in the *Official Journal of the European Union*, as conforming to all the relevant requirements of the applicable implementing measure to which such standards relate.

3. EuPs which have been awarded the Community eco-label pursuant to Regulation (EC) No 1980/2000 shall be presumed to comply with the ecodesign requirements of the applicable implementing measure insofar as those requirements are met by the eco-label.

4. For the purposes of the presumption of conformity in the context of this Directive, the Commission, acting in accordance with the procedure referred to in Article 19(2), may decide that other eco-labels fulfil equivalent conditions to the Community eco-label pursuant to Regulation (EC) No 1980/2000. EuPs which have been awarded such other eco-labels shall be presumed to comply with the ecodesign requirements of the applicable implementing measure, insofar as those requirements are met by that eco-label.

Article 10

Harmonised standards

1. Member States shall, to the extent possible, ensure that appropriate measures are taken to enable interested parties to be consulted at national level on the process of preparing and monitoring harmonised standards.

2. Where a Member State or the Commission considers that harmonised standards the application of which is presumed to satisfy specific provisions of an applicable implementing measure do not entirely satisfy those provisions, the Member State concerned or the Commission shall inform the Standing Committee set up under Article 5 of Directive 98/34/EC to that effect, giving the reasons. The Committee shall issue an opinion as a matter of urgency.

3. In the light of that Committee's opinion, the Commission shall decide to publish, not to publish, to publish with restriction, to maintain or to withdraw the references to the harmonised standards concerned in the *Official Journal of the European Union*.

⁽¹⁾ OJ L 114, 24.4.2001, p. 1.

4. The Commission shall inform the European standardisation body concerned and, if necessary, issue a new mandate with a view to revision of the harmonised standards concerned.

Article 11

Requirements for components and sub-assemblies

Implementing measures may require manufacturers or their authorised representatives placing components and sub-assemblies on the market and/or putting them into service to provide the manufacturer of an EuP covered by implementing measures with relevant information on the material composition and the consumption of energy, materials and/or resources of the components or sub-assemblies.

Article 12

Administrative cooperation and exchange of information

1. Member States shall ensure that appropriate measures are taken in order to encourage the authorities responsible for implementing this Directive to cooperate with each other and provide each other and the Commission with information in order to assist the operation of this Directive and in particular, assist in the implementation of Article 7.

The administrative cooperation and exchange of information shall take utmost advantage of electronic means of communication and may be supported by relevant Community programmes.

Member States shall inform the Commission of the authorities responsible for applying this Directive.

2. The precise nature and structure of the exchange of information between the Commission and Member States shall be decided in accordance with the procedure referred to in Article 19(2).

3. The Commission shall take appropriate measures in order to encourage and contribute to the cooperation between Member States referred to in this Article.

Article 13

Small and medium-sized enterprises

1. In the context of programmes from which SMEs and very small firms can benefit, the Commission shall take into account initiatives which help SMEs and very small firms to integrate environmental aspects including energy efficiency when designing their products.

2. Member States shall ensure, in particular by strengthening support networks and structures, that they encourage SMEs and very small firms to adopt an environmentally sound approach as early as at the product design stage and to adapt to future European legislation.

Article 14

Consumer information

In accordance with the applicable implementing measure, manufacturers shall ensure, in the form they deem appropriate, that consumers of EuPs are provided with:

- the requisite information on the role that they can play in the sustainable use of the product;
- when required by the implementing measures, the ecological profile of the product and the benefits of ecodesign.

Article 15

Implementing measures

1. When an EuP meets the criteria listed under paragraph 2, it shall be covered by an implementing measure or by a self-regulation measure in accordance with paragraph 3(b). When the Commission adopts implementing measures, it shall act in accordance with the procedure referred to in Article 19(2).

2. The criteria referred to in paragraph 1 are as follows:

- (a) the EuP shall represent a significant volume of sales and trade, indicatively more than 200 000 units a year within the Community according to most recently available figures;
- (b) the EuP shall, considering the quantities placed on the market and/or put into service, have a significant environmental impact within the Community, as specified in Community strategic priorities as set out in Decision No 1600/2002/EC;

- (c) the EuP shall present significant potential for improvement in terms of its environmental impact without entailing excessive costs, taking into account in particular:

- the absence of other relevant Community legislation or failure of market forces to address the issue properly;

- a wide disparity in the environmental performance of EuPs available on the market with equivalent functionality.
3. In preparing a draft implementing measure the Commission shall take into account any views expressed by the Committee referred to in Article 19(1) and shall further take into account:
- (a) Community environmental priorities, such as those set out in Decision No 1600/2002/EC or in the Commission's European Climate Change Programme (ECCP);
 - (b) relevant Community legislation and self-regulation, such as voluntary agreements, which, following an assessment in accordance with Article 17, are expected to achieve the policy objectives more quickly or at lesser expense than mandatory requirements.
4. In preparing a draft implementing measure the Commission shall:
- (a) consider the life cycle of the EuP and all its significant environmental aspects, *inter alia*, energy efficiency. The depth of analysis of the environmental aspects and of the feasibility of their improvement shall be proportionate to their significance. The adoption of ecodesign requirements on the significant environmental aspects of an EuP shall not be unduly delayed by uncertainties regarding the other aspects;
 - (b) carry out an assessment, which will consider the impact on environment, consumers and manufacturers, including SMEs, in terms of competitiveness including on markets outside the Community, innovation, market access and costs and benefits;
 - (c) take into account existing national environmental legislation that Member States consider relevant;
 - (d) carry out appropriate consultation with stakeholders;
 - (e) prepare an explanatory memorandum of the draft implementing measure based on the assessment referred to in point (b);
 - (f) set implementing date(s), any staged or transitional measure or periods, taking into account in particular possible impacts on SMEs or on specific product groups manufactured primarily by SMEs.
5. Implementing measures shall meet all the following criteria:
- (a) there shall be no significant negative impact on the functionality of the product, from the perspective of the user;
 - (b) health, safety and the environment shall not be adversely affected;
 - (c) there shall be no significant negative impact on consumers in particular as regards the affordability and the life-cycle cost of the product;
 - (d) there shall be no significant negative impact on industry's competitiveness;
 - (e) in principle, the setting of an ecodesign requirement shall not have the consequence of imposing proprietary technology on manufacturers;
 - (f) no excessive administrative burden shall be imposed on manufacturers.
6. Implementing measures shall lay down ecodesign requirements in accordance with Annex I and/or Annex II.
- Specific ecodesign requirements shall be introduced for selected environmental aspects which have a significant environmental impact.
- Implementing measures may also provide that no ecodesign requirement is necessary for certain specified ecodesign parameters referred to in Annex I, Part 1.
7. The requirements shall be formulated so as to ensure that market surveillance authorities can verify the conformity of the EuP with the requirements of the implementing measure. The implementing measure shall specify whether verification can be achieved directly on the EuP or on the basis of the technical documentation.
8. Implementing measures shall include the elements listed in Annex VII.
9. Relevant studies and analyses used by the Commission in preparing implementing measures should be made publicly available, taking into account in particular easy access and use by interested SMEs.
10. Where appropriate, an implementing measure laying down ecodesign requirements shall be accompanied by guidelines, to be adopted by the Commission in accordance with Article 19(2), on the balancing of the various environmental aspects; these guidelines will cover specificities of the SMEs active in the product sector affected by the

implementing measure. If necessary and in accordance with Article 13(1), further specialised material may be produced by the Commission for facilitating implementation by SMEs.

Article 16

Working plan

1. In accordance with the criteria set out in Article 15 and having consulted the Consultation Forum referred to in Article 18, the Commission shall not later than 6 July 2007 establish a working plan which shall be made publicly available.

The working plan shall set out for the following three years an indicative list of product groups which will be considered as priorities for the adoption of implementing measures.

The working plan shall be amended periodically by the Commission after consultation with the Consultation Forum.

2. However, during the transitional period, while the first working plan referred to in paragraph 1 is being established, and, in accordance with the procedure laid down in Article 19 (2) and the criteria set out in Article 15, and after consulting the Consultation Forum, the Commission shall as appropriate introduce by anticipation:

- implementing measures starting with those products which have been identified by the ECCP as offering a high potential for cost-effective reduction of greenhouse gas emissions, such as heating and water heating equipment, electric motor systems, lighting in both the domestic and tertiary sectors, domestic appliances, office equipment in both the domestic and tertiary sectors, consumer electronics and HVAC (heating ventilating air conditioning) systems;
- a separate implementing measure reducing stand-by losses for a group of products.

Article 17

Self-regulation

Voluntary agreements or other self-regulation measures presented as alternatives to implementing measures in the

context of this Directive shall be assessed at least on the basis of Annex VIII.

Article 18

Consultation Forum

The Commission shall ensure that in the conduct of its activities it observes, in respect of each implementing measure, a balanced participation of Member States' representatives and all interested parties concerned with the product/product group in question, such as industry, including SMEs and craft industry, trade unions, traders, retailers, importers, environmental protection groups and consumer organisations. These parties shall contribute, in particular, to defining and reviewing implementing measures, to examining the effectiveness of the established market surveillance mechanisms, and to assessing voluntary agreements and other self-regulation measures. These parties shall meet in a Consultation Forum. The rules of procedure of the Forum shall be established by the Commission.

Article 19

Committee procedure

1. The Commission shall be assisted by a Committee.
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its Rules of Procedure.

Article 20

Penalties

The Member States shall determine the penalties applicable to breaches of the national provisions adopted pursuant to this Directive. The penalties shall be effective, proportionate and dissuasive, taking into account the extent of non-compliance and the number of units of non-complying products placed on the Community market.

Article 21

3. Directive 2000/55/EC is hereby amended as follows:

Amendments

The following Article shall be inserted:

1. Directive 92/42/EEC is hereby amended as follows:

'Article 9a

1. Article 6 shall be deleted;
2. the following Article shall be inserted:

'Article 10a

This Directive constitutes an implementing measure within the meaning of Article 15 of Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of ecodesign requirements for energy-using products (*), with regard to energy efficiency during use, in accordance with that Directive, and may be amended or repealed in accordance with Article 19(2) of Directive 2005/32/EC.

This Directive constitutes an implementing measure within the meaning of Article 15 of Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of ecodesign requirements for energy-using products (*), with regard to energy efficiency during use, in accordance with that Directive, and may be amended or repealed in accordance with Article 19 (2) of Directive 2005/32/EC.

(*) OJ L 191, 22.7.2005, p. 29.'

(*) OJ L 191, 22.7.2005, p. 29.'

Article 22

Repeals

Directives 78/170/EEC and 86/594/EEC are repealed. Member States may continue to apply existing national measures adopted under Directive 86/594/EEC until such time as implementing measures for the products concerned are adopted under this Directive.

3. Annex I, point 2, shall be deleted;

Article 23

4. Annex II shall be deleted.

Review

2. Directive 96/57/EC is hereby amended as follows:

Not later than 6 July 2010 the Commission shall review the effectiveness of this Directive and of its implementing measures, the threshold for implementing measures, market surveillance mechanisms and any relevant self-regulation stimulated, after consultation of the Consultation Forum referred to in Article 18, and, as appropriate, present proposals to the European Parliament and the Council for amending this Directive.

The following Article shall be inserted:

'Article 9a

This Directive constitutes an implementing measure within the meaning of Article 15 of Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of ecodesign requirements for energy-using products (*), with regard to energy efficiency during use, in accordance with that Directive, and may be amended or repealed in accordance with Article 19 (2) of Directive 2005/32/EC.

Article 24

Confidentiality

Requirements relating to the supply of information referred to in Article 11 and Annex I, Part 2, by the manufacturer and/or its authorised representative shall be proportionate and shall take into account the legitimate confidentiality of commercially sensitive information.

(*) OJ L 191, 22.7.2005, p. 29.'

*Article 25***Implementation**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 11 August 2007.

They shall forthwith inform the Commission thereof.

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

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

*Article 26***Entry into force**

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

*Article 27***Addressees**

This Directive is addressed to the Member States.

Done at Strasbourg, 6 July 2005.

For the European Parliament
The President
J. BORRELL FONTELLES

For the Council
The President
J. STRAW

ANNEX I

Method for setting generic Eco-design requirements

(referred to in Article 15)

Generic ecodesign requirements aim at improving the environmental performance of EuPs, focusing on significant environmental aspects thereof without setting limit values. The method according to this Annex will be applied when it is not appropriate to set limit values for the product group under examination. The Commission shall, when preparing a draft implementing measure to be submitted to the Committee referred to in Article 19, identify significant environmental aspects which shall be specified in the implementing measure.

In preparing implementing measures laying down generic ecodesign requirements pursuant to Article 15 the Commission will identify, as appropriate to the EuP covered by the implementing measure, the relevant ecodesign parameters from among those listed in Part 1, the information supply requirements from among those listed in Part 2 and the requirements for the manufacturer listed in Part 3.

Part 1. Ecodesign parameters for EuPs

1.1. In so far as they relate to product design, significant environmental aspects are identified with reference to the following phases of the life cycle of the product:

- (a) raw material selection and use;
- (b) manufacturing;
- (c) packaging, transport, and distribution;
- (d) installation and maintenance;
- (e) use;
- (f) end-of-life, meaning the state of an EuP having reached the end of its first use until its final disposal.

1.2. For each phase, the following environmental aspects are to be assessed where relevant:

- (a) predicted consumption of materials, of energy and of other resources such as fresh water;
- (b) anticipated emissions to air, water or soil;

- (c) anticipated pollution through physical effects such as noise, vibration, radiation, electromagnetic fields;
- (d) expected generation of waste material;
- (e) possibilities for reuse, recycling and recovery of materials and/or of energy, taking into account Directive 2002/96/EC.

1.3. In particular, the following parameters will be used, as appropriate, and supplemented by others, where necessary, for evaluating the potential for improving the environmental aspects mentioned in the previous paragraph:

- (a) weight and volume of the product;
- (b) use of materials issued from recycling activities;
- (c) consumption of energy, water and other resources throughout the life cycle;
- (d) use of substances classified as hazardous to health and/or the environment according to Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packing and labelling of dangerous substances⁽¹⁾ and taking into account legislation on the marketing and use of specific substances, such as Directives 76/769/EEC or 2002/95/EC;
- (e) quantity and nature of consumables needed for proper use and maintenance;
- (f) ease for reuse and recycling as expressed through: number of materials and components used, use of standard components, time necessary for disassembly, complexity of tools necessary for disassembly, use of component and material coding standards for the identification of components and materials suitable for reuse and recycling (including marking of plastic parts in accordance with ISO standards), use of easily recyclable materials, easy access to valuable and other recyclable components and materials; easy access to components and materials containing hazardous substances;
- (g) incorporation of used components;
- (h) avoidance of technical solutions detrimental to reuse and recycling of components and whole appliances;
- (i) extension of lifetime as expressed through: minimum guaranteed lifetime, minimum time for availability of spare parts, modularity, upgradeability, reparability;
- (j) amounts of waste generated and amounts of hazardous waste generated;

⁽¹⁾ OJ 196, 16.8.1967, p. 1. Directive as last amended by Commission Directive 2004/73/EC (OJ L 152, 30.4.2004, p. 1).

- (k) emissions to air (greenhouse gases, acidifying agents, volatile organic compounds, ozone depleting substances, persistent organic pollutants, heavy metals, fine particulate and suspended particulate matter) without prejudice to Directive 97/68/EC of the European Parliament and of the Council of 16 December 1997 on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery ⁽¹⁾;
- (l) emissions to water (heavy metals, substances with an adverse effect on the oxygen balance, persistent organic pollutants);
- (m) emissions to soil (especially leakage and spills of dangerous substances during the use phase of the product, and the potential for leaching upon its disposal as waste).

Part 2. Requirements relating to the supply of information

Implementing measures may require information to be supplied by the manufacturer that may influence the way the EuP is handled, used or recycled by parties other than the manufacturer. This information may include, where applicable:

- information from the designer relating to the manufacturing process;
- information for consumers on the significant environmental characteristics and performance of a product, accompanying the product when it is placed on the market to allow consumers to compare these aspects of the products;
- information for consumers on how to install, use and maintain the product in order to minimise its impact on the environment and to ensure optimal life expectancy, as well as on how to return the product at end-of-life, and, where appropriate, information on the period of availability of spare parts and the possibilities of upgrading products;
- information for treatment facilities concerning disassembly, recycling, or disposal at end-of-life.

Information should be given on the product itself wherever possible.

This information will take into account obligations under other Community legislation, such as Directive 2002/96/EC.

Part 3. Requirements for the manufacturer

1. Addressing the environmental aspects identified in the implementing measure as capable of being influenced in a substantial manner through product design, manufacturers of EuPs will be required to perform an assessment of the EuP model throughout its lifecycle, based upon realistic assumptions about normal conditions and purposes of use. Other environmental aspects may be examined on a voluntary basis.

On the basis of this assessment manufacturers will establish the EuP's ecological profile. It will be based on environmentally relevant product characteristics and inputs/outputs throughout the product life cycle expressed in physical quantities that can be measured.

⁽¹⁾ OJ L 59, 27.2.1998, p. 1. Directive as last amended by Directive 2004/26/EC (OJ L 146, 30.4.2004, p. 1).

2. Manufacturers will make use of this assessment to evaluate alternative design solutions and the achieved environmental performance of the product against benchmarks.

The benchmarks will be identified by the Commission in the implementing measure on the basis of information gathered during the preparation of the measure.

The choice of a specific design solution will achieve a reasonable balance between the various environmental aspects and between environmental aspects and other relevant considerations, such as safety and health, technical requirements for functionality, quality, and performance, and economic aspects, including manufacturing costs and marketability, while complying with all relevant legislation.

ANNEX II

Method for setting specific ecodesign requirements

(referred to in Article 15)

Specific ecodesign requirements aim at improving a selected environmental aspect of the product. They may take the form of requirements for reduced consumption of a given resource, such as a limit on the use of a resource in the various stages of an EuP's life cycle, as appropriate (such as a limit on water consumption in the use phase or on the quantities of a given material incorporated in the product or a requirement for minimum quantities of recycled material).

In preparing implementing measures laying down specific ecodesign requirements pursuant to Article 15, the Commission will identify, as appropriate to the EuP covered by the implementing measure, the relevant ecodesign parameters from among those referred to in Annex I, Part 1, and set the levels of these requirements, in accordance with the procedure referred to in Article 19(2), as follows:

1. A technical, environmental and economic analysis will select a number of representative models of the EuP in question on the market and identify the technical options for improving the environmental performance of the product, keeping sight of the economic viability of the options and avoiding any significant loss of performance or of usefulness for consumers.

The technical, environmental and economic analysis will also identify, for the environmental aspects under consideration, the best-performing products and technology available on the market.

The performance of products available on international markets and benchmarks set in other countries' legislation should be taken into consideration during the analysis as well as when setting requirements.

On the basis of this analysis and taking into account economic and technical feasibility as well as potential for improvement, concrete measures are taken with a view to minimising the product's environmental impact.

Concerning energy consumption in use, the level of energy efficiency or consumption will be set aiming at the life-cycle cost minimum to end-users for representative EuP models, taking into account the consequences on other environmental aspects. The life-cycle cost analysis method uses a real discount rate on the basis of data provided from the European Central Bank and a realistic lifetime for the EuP; it is based on the sum of the variations in purchase price (resulting from the variations in industrial costs) and in operating expenses, which result from the different levels of technical improvement options, discounted over the lifetime of the representative EuP models considered. The operating expenses cover primarily energy consumption and additional expenses in other resources (such as water or detergent).

A sensitivity analysis covering the relevant factors (such as the price of energy or other resource, the cost of raw materials or production costs, discount rates) and, where appropriate, external environmental costs, including avoided greenhouse gas emissions, will be carried out to check if there are significant changes and if the overall conclusions are reliable. The requirement will be adapted accordingly.

A similar methodology could be applied to other resources such as water.

2. For the development of the technical, environmental and economic analyses, information available in the framework of other Community activities could be used.

The same applies for information available from existing programmes applied in other parts of the world for setting the specific ecodesign requirement of EuPs traded with the EU's economic partners.

3. The date of entry into force of the requirement will take the redesign cycle for the product into account.
-

*ANNEX III***CE marking**

(referred to in Article 5(2))



The CE marking must have a height of at least 5 mm. If the CE marking is reduced or enlarged the proportions given in the above graduated drawing must be respected.

The CE marking must be affixed to the EuP. Where this is not possible, it must be affixed to the packaging and to the accompanying documents.

—

ANNEX IV

Internal design control

(referred to in Article 8)

1. This Annex describes the procedure whereby the manufacturer or its authorised representative who carries out the obligations laid down in point 2 of this Annex ensures and declares that the EuP satisfies the relevant requirements of the applicable implementing measure. The declaration of conformity may cover one or more products and must be kept by the manufacturer.

2. A technical documentation file making possible an assessment of the conformity of the EuP with the requirements of the applicable implementing measure will be compiled by the manufacturer.

The documentation will specify, in particular:

- (a) a general description of the EuP and of its intended use;
 - (b) the results of relevant environmental assessment studies carried out by the manufacturer, and/or references to environmental assessment literature or case studies, which are used by the manufacturer in evaluating, documenting and determining product design solutions;
 - (c) the ecological profile, if required by the implementing measure;
 - (d) elements of the product design specification relating to environmental design aspects of the product;
 - (e) a list of the appropriate standards referred to in Article 10, applied in full or in part, and a description of the solutions adopted to meet the requirements of the applicable implementing measure where the standards referred to in Article 10 have not been applied or where these standards do not cover entirely the requirements of the applicable implementing measure;
 - (f) a copy of the information concerning the environmental design aspects of the product provided in accordance with the requirements specified in Annex I, Part 2;
 - (g) the results of measurements on the ecodesign requirements carried out, including details of the conformity of these measurements as compared with the ecodesign requirements set out in the applicable implementing measure.
3. The manufacturer must take all measures necessary to ensure that the product will be manufactured in compliance with the design specifications referred to in point 2 and with the requirements of the measure which apply to it.

—

ANNEX V

Management system for assessing conformity

(referred to in Article 8)

1. This Annex describes the procedure whereby the manufacturer who satisfies the obligations of point 2 of this Annex ensures and declares that the EuP satisfies the requirements of the applicable implementing measure. The declaration of conformity may cover one or more products and must be kept by the manufacturer.
2. A management system may be used for the conformity assessment of an EuP provided that the manufacturer implements the environmental elements specified in point 3 of this Annex.
3. Environmental elements of the management system

This point specifies the elements of a management system and the procedures by which the manufacturer can demonstrate that the EuP complies with the requirements of the applicable implementing measure.

3.1. The environmental product performance policy

The manufacturer must be able to demonstrate conformity with the requirements of the applicable implementing measure. The manufacturer must also be able to provide a framework for setting and reviewing environmental product performance objectives and indicators with a view to improving the overall environmental product performance.

All the measures adopted by the manufacturer to improve the overall environmental performance of and to establish the ecological profile of an EuP, if required by the implementing measure, through design and manufacturing, must be documented in a systematic and orderly manner in the form of written procedures and instructions.

These procedures and instructions must contain, in particular, an adequate description of:

- the list of documents that must be prepared to demonstrate the EuP's conformity, and — if relevant — that have to be made available;
- the environmental product performance objectives and indicators and the organisational structure, responsibilities, powers of the management and allocation of resources with regard to their implementation and maintenance;
- the checks and tests to be carried out after manufacture to verify product performance against environmental performance indicators;
- procedures for controlling the required documentation and ensuring that it is kept up to date;
- the method of verifying the implementation and effectiveness of the environmental elements of the management system.

3.2. Planning

The manufacturer will establish and maintain

- (a) procedures for establishing the ecological profile of the product;
- (b) environmental product performance objectives and indicators, which consider technological options taking into account technical and economic requirements;
- (c) a programme for achieving these objectives.

3.3. Implementation and documentation

3.3.1. The documentation concerning the management system should cover the following, in particular:

- (a) responsibilities and authorities will be defined and documented in order to ensure effective environmental product performance and reporting on its operation for review and improvement;
- (b) documents will be established indicating the design control and verification techniques implemented and processes and systematic measures used when designing the product;
- (c) the manufacturer will establish and maintain information to describe the core environmental elements of the management system and the procedures for controlling all documents required.

3.3.2. The documentation concerning the EuP will specify, in particular:

- (a) a general description of the EuP and of its intended use;
- (b) the results of relevant environmental assessment studies carried out by the manufacturer, and/or references to environmental assessment literature or case studies, which are used by the manufacturer in evaluating, documenting and determining product design solutions;
- (c) the ecological profile, if required by the implementing measure;
- (d) documents describing the results of measurements on the ecodesign requirements carried out including details of the conformity of these measurements as compared with the ecodesign requirements set out in the applicable implementing measure;
- (e) the manufacturer will establish specifications indicating, in particular, standards which have been applied; where standards referred to in Article 10 are not applied or where they do not cover entirely the requirements of the relevant implementing measure, the means used to ensure compliance;
- (f) a copy of the information concerning the environmental design aspects of the product provided in accordance with the requirements specified in Annex I, Part 2.

3.4. Checking and corrective action

- (a) the manufacturer must take all measures necessary to ensure that the EuP is manufactured in compliance with its design specification and with the requirements of the implementing measure which applies to it;
 - (b) the manufacturer will establish and maintain procedures to investigate and respond to non-conformity, and implement changes in the documented procedures resulting from corrective action;
 - (c) the manufacturer will carry out at least every three years a full internal audit of the management system with regard to its environmental elements.
-

ANNEX VI

Declaration of conformity

(referred to in Article 5(3))

The EC declaration of conformity must contain the following elements:

1. the name and address of the manufacturer or of its authorised representative;
 2. a description of the model sufficient for unambiguous identification;
 3. where appropriate, the references of the harmonised standards applied;
 4. where appropriate, the other technical standards and specifications used;
 5. where appropriate, the reference to other Community legislation providing for the affixing of the CE mark that is applied;
 6. identification and signature of the person empowered to bind the manufacturer or its authorised representative.
-

ANNEX VII

Contents of the implementing measures

(referred to in Article 15(8))

The implementing measure will specify, in particular:

1. the exact definition of the type(s) of EuP(s) covered;
2. the ecodesign requirement(s) for the EuP(s) covered, implementing date(s), staged or transitional measures or periods;
 - in the case of generic ecodesign requirement(s), the relevant phases and aspects selected from those mentioned in Annex I, points 1.1 and 1.2, accompanied by examples of parameters selected from those mentioned in Annex I, point 1.3 as guidance when evaluating improvements regarding identified environmental aspects;
 - in the case of specific ecodesign requirement(s), its (their) level(s);
3. the ecodesign parameters referred to in Annex I, Part 1 relating to which no ecodesign requirement is necessary;
4. the requirements on installation of the EuP where it has a direct relevance to the EuP's environmental performance considered;
5. the measurement standards and/or measurement methods to be used; when available, harmonised standards the reference numbers of which have been published in the *Official Journal of the European Union* will be used;
6. the details for conformity assessment under Decision 93/465/EEC;
 - where the module(s) to be applied is (are) different from Module A; the factors leading to the selection of that specific procedure;
 - where relevant the criteria for approval and/or certification of the third parties;

where different modules are laid down in other CE requirements for the same EuP, the module defined in the implementing measure will prevail for the requirement concerned;
7. requirements on information to be provided by manufacturers notably on the elements of the technical documentation which are needed for facilitating the checking of the compliance of the EuP with the implementing measure;
8. the duration of the transitional period during which Member States must permit the placing on the market and/or putting into service of EuPs which comply with the regulations in force in their territory on the date of adoption of the implementing measure;
9. the date for the evaluation and possible revision of the implementing measure, taking into account speed of technological progress.

ANNEX VIII

In addition to the basic legal requirement that self-regulatory initiatives shall comply with all provisions of the Treaty (in particular internal market and competition rules), as well as with the international engagements of the Community, including multilateral trade rules, the following non-exhaustive list of indicative criteria may be used to evaluate the admissibility of self-regulatory initiatives as an alternative to an implementing measure in the context of this Directive:

1. Openness of participation

Self-regulatory initiatives shall be open to the participation of third country operators, both in the preparatory and in the implementation phases.

2. Added value

Self-regulatory initiatives shall deliver added value (more than 'business as usual') in terms of the improved overall environmental performance of the EuP covered.

3. Representativeness

Industry and their associations taking part in a self-regulatory action shall represent a large majority of the relevant economic sector, with as few exceptions as possible. Care shall be taken to ensure respect for competition rules.

4. Quantified and staged objectives

The objectives defined by the stakeholders shall be set in clear and unambiguous terms, starting from a well-defined baseline. If the self-regulatory initiative covers a long time-span, interim targets shall be included. It must be possible to monitor compliance with objectives and (interim) targets in an affordable and credible way using clear and reliable indicators. Research information and scientific and technological background data shall facilitate the development of these indicators.

5. Involvement of civil society

With a view to ensuring transparency, self-regulatory initiatives shall be publicised, including through the use of the Internet and other electronic means of disseminating information.

The same shall apply to interim and final monitoring reports. Stakeholders including Member States, industry, environmental NGOs and consumers' associations shall be invited to comment on a self-regulatory initiative.

6. Monitoring and reporting

Self-regulatory initiatives shall contain a well-designed monitoring system, with clearly identified responsibilities for industry and independent inspectors. The Commission services, in partnership with the parties to the self-regulatory initiative, shall be invited to monitor the achievement of the objectives.

The plan for monitoring and reporting shall be detailed, transparent and objective. It shall remain for the Commission services, assisted by the Committee referred to in Article 19(1), to consider whether the objectives of the voluntary agreement or other self-regulatory measures have been met.

7. Cost-effectiveness of administering a self-regulatory initiative

The cost of administering self-regulatory initiatives, in particular as regards monitoring, shall not lead to a disproportionate administrative burden, as compared to their objectives and to other available policy instruments.

8. Sustainability

Self-regulatory initiatives shall respond to the policy objectives of this Directive including the integrated approach and shall be consistent with the economic and social dimensions of sustainable development. The protection of consumers' interests (health, quality of life and economic interests) shall be integrated.

9. Incentive compatibility

Self-regulatory initiatives are unlikely to deliver the expected results if other factors and incentives — market pressure, taxes, and legislation at national level — send contradictory signals to participants in the commitment. Policy consistency is essential in this regard and shall be taken into consideration when assessing the effectiveness of the initiative.

DIRECTIVE 2005/33/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 6 July 2005

amending Directive 1999/32/EC

as regards the sulphur content of marine fuels

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 ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

(1) The Community's environmental policy, as set out in the action programmes on the environment and, in particular, in the Sixth Community Environment Action Programme adopted by Decision No 1600/2002/EC of the European Parliament and of the Council ⁽⁴⁾, on the basis of Article 174 of the Treaty, aims to achieve levels of air quality that do not give rise to unacceptable impacts on, and risks to, human health and the environment.

(2) Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels ⁽⁵⁾ lays down the maximum permitted sulphur content of heavy fuel oil, gas oil and marine gas oil used in the Community.

(3) Directive 1999/32/EC requires the Commission to consider what measures could be taken to reduce the contribution to acidification of the combustion of marine fuels other than marine gas oils and, if appropriate, make a proposal.

(4) Emissions from shipping due to the combustion of marine fuels with high sulphur content contribute to air pollution in the form of sulphur dioxide and particulate matter, harming human health, damaging the environment, public and private property and cultural heritage and contributing to acidification.

(5) Human beings and the natural environment in coastal areas and in the vicinity of ports are particularly affected by pollution from ships with high sulphur fuels. Specific measures are therefore required in this regard.

(6) The measures in this Directive complement Member States' national measures to comply with emission ceilings for atmospheric pollutants set out in Directive 2001/81/EC of the European Parliament and of the Council ⁽⁶⁾.

(7) Reducing the sulphur content of fuels has certain advantages for ships, in terms of operating efficiency and maintenance costs, and facilitates the effective use of certain emission abatement technologies such as selective catalytic reduction.

⁽¹⁾ OJ C 45 E, 25.2.2003, p. 277.

⁽²⁾ OJ C 208, 3.9.2003, p. 27.

⁽³⁾ Opinion of the European Parliament of 4 June 2003 (OJ C 68 E, 18.3.2004, p. 311), Council Common Position of 9 December 2004 (OJ C 63 E, 15.3.2005, p. 26), Position of the European Parliament of 13 April 2005 (not yet published in the Official Journal) and Council Decision of 23 May 2005.

⁽⁴⁾ OJ L 242, 10.9.2002, p. 1.

⁽⁵⁾ OJ L 121, 11.5.1999, p. 13. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

⁽⁶⁾ OJ L 309, 27.11.2001, p. 22. Directive as amended by the 2003 Act of Accession.

- (8) The Treaty requires consideration to be given to the special characteristics of the outermost regions of the Community, namely the French overseas departments, the Azores, Madeira and the Canary Islands.
- (9) In 1997, a diplomatic conference adopted a Protocol to amend the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (hereinafter MARPOL). This Protocol adds a new Annex VI to MARPOL, containing regulations for the prevention of air pollution from ships. The 1997 Protocol, and consequently Annex VI to MARPOL, entered into force on 19 May 2005.
- (10) Annex VI to MARPOL makes provision for certain areas to be designated as Sulphur Oxide Emission Control Areas (hereinafter SOx Emission Control Areas). It already designates the Baltic Sea as such an area. Discussions within the International Maritime Organisation (IMO) have resulted in agreement on the principle of the designation of the North Sea, including the English Channel, as a SOx Emission Control Area following the entry into force of Annex VI.
- (11) Given the global nature of maritime shipping, every effort should be made to find international solutions. Both the Commission and the Member States should endeavour to secure within the IMO a worldwide reduction in the maximum authorised sulphur content of marine fuels, including by examining the merits of designating new sea areas as SOx Emission Control Areas in accordance with Annex VI to MARPOL.
- (12) Enforcement of the obligations with regard to the sulphur content of marine fuels is necessary to achieve the aims of this Directive. Effective sampling and dissuasive penalties throughout the Community are necessary to ensure credible implementation of this Directive. Member States should take enforcement action with respect to vessels flying their flag and to vessels of all flags while in their ports. It is also appropriate for Member States to cooperate closely to take additional enforcement action with respect to other vessels in accordance with international maritime law.
- (13) To allow sufficient time for the maritime industry to bring about technical adaptation to a maximum limit of 0,1 % sulphur by weight for marine fuels used by inland waterway vessels and ships at berth in Community ports, the date on which this requirement is to be applied should be 1 January 2010. Since this deadline might present Greece with technical problems, a temporary derogation is appropriate for some specific vessels operating within the territory of the Hellenic Republic.
- (14) This Directive should be seen as the first step in an ongoing process to reduce marine emissions, offering prospects for further emission reductions through lower fuel sulphur limits and abatement technologies, and for economic instruments to be developed as an incentive to achieve significant reductions.
- (15) It is essential to reinforce Member States' positions in IMO negotiations, in particular to promote, in the revision phase of Annex VI to MARPOL, the consideration of more ambitious measures as regards tighter sulphur limits for heavy fuel oils used by ships and the use of equivalent alternative emission abatement measures.
- (16) In its resolution A.926(22), the IMO Assembly invited Governments, particularly those in regions where SOx Emission Control Areas have been designated, to ensure the availability of low sulphur bunker fuel oil in areas within their jurisdiction and to call on the oil and shipping industries to facilitate the availability and use of low sulphur bunker fuel oil. Member States should take action as appropriate to ensure that local marine fuel suppliers make compliant fuel available, in sufficient quantities to meet demand.
- (17) The IMO has adopted guidelines for the sampling of fuel oil for determining compliance with Annex VI to MARPOL, and is due to develop guidelines on exhaust gas cleaning systems and other technological methods to limit SOx emissions in SOx Emission Control Areas.
- (18) Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants ⁽¹⁾ recasts Council Directive 88/609/EEC ⁽²⁾. Directive 1999/32/EC should be revised accordingly, as provided for in Article 3(4) thereof.
-
- (1) OJ L 309, 27.11.2001, p. 1. Directive as amended by the 2003 Act of Accession.
- (2) OJ L 336, 7.12.1988, p. 1.

- (19) It is appropriate for the existing Committee on Safe Seas and the Prevention of Pollution from Ships established by Regulation (EC) No 2099/2002 of the European Parliament and of the Council ⁽¹⁾ to assist the Commission in the context of the approval of emission abatement technologies.
- (20) Emission abatement technologies, provided they have no adverse effect on ecosystems and are developed subject to appropriate approval and control mechanisms, can provide emission reductions at least equivalent to, or even greater than, those achievable using low sulphur fuel. It is essential that the correct conditions exist to promote the emergence of new emission abatement technologies.
- (21) The European Maritime Safety Agency should provide assistance to the Commission and Member States, as appropriate, in monitoring the implementation of this Directive.
- (22) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾.
- (23) Directive 1999/32/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 1999/32/EC is amended as follows:

1. Article 1(2) shall be replaced by the following:

'2. Reductions in emissions of sulphur dioxide resulting from the combustion of certain petroleum-derived liquid fuels shall be achieved by imposing limits on the sulphur content of such fuels as a condition for their use within Member States' territory, territorial seas and exclusive economic zones or pollution control zones.'

The limitations on the sulphur content of certain petroleum-derived liquid fuels as laid down in this Directive shall not, however, apply to:

- (a) fuels intended for the purposes of research and testing;
- (b) fuels intended for processing prior to final combustion;
- (c) fuels to be processed in the refining industry;
- (d) fuels used and placed on the market in the outermost regions of the Community provided that the relevant Member States ensure that, in those regions:
 - air quality standards are respected,
 - heavy fuel oils are not used if their sulphur content exceeds 3 % by mass;
- (e) fuels used by warships and other vessels on military service. However, each Member State shall endeavour to ensure, by the adoption of appropriate measures not impairing the operations or operational capability of such ships, that these ships act in a manner consistent, so far as is reasonable and practical, with this Directive;
- (f) any use of fuels in a vessel necessary for the specific purpose of securing the safety of a ship or saving life at sea;
- (g) any use of fuels in a ship necessitated by damage sustained to it or its equipment, provided that all reasonable measures are taken after the occurrence of the damage to prevent or minimise excess emissions and that measures are taken as soon as possible to repair the damage. This shall not apply if the owner or master acted either with intent to cause damage, or recklessly;
- (h) fuels used on board vessels employing approved emission abatement technologies in accordance with Article 4c.;

⁽¹⁾ OL L 324, 29.11.2002, p. 1. Regulation as amended by Commission Regulation (EC) No 415/2004 (OJ L 68, 6.3.2004, p. 10).

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

2. Article 2 shall be amended as follows:

(a) the first indent in point 1 shall be replaced by the following:

‘ any petroleum-derived liquid fuel, excluding marine fuel, falling within CN code 2710 19 51 to 2710 19 69, or’;

(b) the first subparagraph of point 2 shall be replaced by the following:

gas oil means:

— any petroleum-derived liquid fuel, excluding marine fuel, falling within CN code 2710 19 25, 2710 19 29, 2710 19 45 or 2710 19 49, or

— any petroleum-derived liquid fuel, excluding marine fuel, of which less than 65 % by volume (including losses) distils at 250 °C and of which at least 85 % by volume (including losses) distils at 350 °C by the ASTM D86 method.’;

(c) point 3 shall be replaced by the following:

‘3. *marine fuel* means any petroleum-derived liquid fuel intended for use or in use on board a vessel, including those fuels defined in ISO 8217.’

(d) the following points shall be inserted:

‘3a. *marine diesel oil* means any marine fuel which has a viscosity or density falling within the ranges of viscosity or density defined for DMB and DMC grades in Table I of ISO 8217;

3b. *marine gas oil* means any marine fuel which has a viscosity or density falling within the ranges of viscosity or density defined for DMX and DMA grades in Table I of ISO 8217;

3c. MARPOL means the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto;

3d. *Annex VI to MARPOL* means the annex, entitled “Regulations for the Prevention of Air Pollution from Ships”, that the Protocol of 1997 adds to MARPOL;

3e. *Ox Emission Control Areas* means sea areas defined as such by the IMO under Annex VI to MARPOL;

3f. *passenger ships* means ships that carry more than 12 passengers, where a passenger is every person other than:

(i) the master and the members of the crew or other person employed or engaged in any capacity on board a ship on the business of that ship, and

(ii) a child under one year of age;

3g. *regular services* means a series of passenger ship crossings operated so as to serve traffic between the same two or more ports, or a series of voyages from and to the same port without intermediate calls, either:

(i) according to a published timetable, or

(ii) with crossings so regular or frequent that they constitute a recognisable schedule;

3h. *warship* means a ship belonging to the armed forces of a State bearing the external marks distinguishing such ships of its nationality, under the command of an officer duly commissioned by the government of the State and whose name appears in the appropriate service list or its equivalent, and manned by a crew which is under regular armed forces discipline;

- 3i. *ships at berth* means ships which are securely moored or anchored in a Community port while they are loading, unloading or hotelling, including the time spent when not engaged in cargo operations;
- 3j. *inland waterway vessel* means a vessel particularly intended for use on an inland waterway as defined in Council Directive 82/714/EEC of 4 October 1982 laying down technical requirements for inland waterway vessels (*), including all vessels which carry:
- (i) a Community inland navigation certificate, as defined in Directive 82/714/EEC,
- (ii) a certificate issued pursuant to Article 22 of the Revised Convention for the Navigation of the Rhine;
- 3k. *placing on the market* means supplying or making available to third persons, against payment or free of charge, anywhere within Member States' jurisdictions, marine fuels for on-board combustion. It excludes supplying or making available marine fuels for export in ships' cargo tanks;
- 3l. *outermost regions* means the French overseas departments, the Azores, Madeira and the Canary Islands, as set out in Article 299 of the Treaty;
- 3m. *emission abatement technology means* an exhaust gas cleaning system, or any other technological method that is verifiable and enforceable;

(*) OJ L 301, 28.10.1982, p. 1. Directive as last amended by the 2003 Act of Accession.

(e) point 6 shall be deleted;

3. Article 3 shall be replaced by the following:

Article 3

Maximum sulphur content of heavy fuel oil

1. Member States shall take all necessary steps to ensure that, as from 1 January 2003, heavy fuel oils are

not used within their territory if their sulphur content exceeds 1 % by mass.

2. (i) Subject to appropriate monitoring of emissions by competent authorities this requirement shall not apply to heavy fuel oils used:

(a) in combustion plants which fall within the scope of Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants (*), which are considered new in accordance with the definition given in Article 2(9) thereof and which comply with the sulphur dioxide emission limits for such plants set out in Annex IV to that Directive and applied in accordance with Article 4 thereof;

(b) in combustion plants which fall within the scope of Directive 2001/80/EC, which are considered existing in accordance with the definition given in Article 2(10) thereof, where the sulphur dioxide emissions from these combustion plants are equal to or less than 1 700 mg/Nm³ at an oxygen content in the flue gas of 3 % by volume on a dry basis, and where, from 1 January 2008, the emissions of sulphur dioxide from combustion plants subject to Article 4(3)(a) of Directive 2001/80/EC are equal to or less than those resulting from compliance with the emission limit values for new plants contained in Part A of Annex IV to that Directive and where appropriate applying Articles 5, 7 and 8 thereof;

(c) in other combustion plants which do not fall under (a) or (b), where the sulphur dioxide emissions from those combustion plants do not exceed 1 700 mg/Nm³ at an oxygen content in the flue gas of 3 % by volume on a dry basis;

(d) for combustion in refineries, where the monthly average of emissions of sulphur dioxide averaged over all plants in the refinery, irrespective of the type of fuel or fuel combination used, is within a limit to be set by each Member State, which shall not exceed 1 700 mg/Nm³. This shall not apply to combustion plants which fall under (a) or, from 1 January 2008, to those which fall under (b).

(ii) Member States shall take the necessary measures to ensure that any combustion plant using heavy fuel oil with a sulphur concentration greater than that referred to in paragraph 1 is not operated without a permit issued by a competent authority, which specifies the emission limits.

3. The provisions of paragraph 2 shall be reviewed and, if appropriate, amended in the light of any future amendment of Directive 2001/80/EC.

(*) OJ L 309, 27.11.2001, p. 1. Directive as amended by the 2003 Act of Accession.

4. Article 4 shall be amended as follows:

(a) with effect from 1 January 2010:

(i) in paragraph 1, the words 'including marine gas oils' shall be deleted;

(ii) paragraph 2 shall be deleted;

(b) with effect from 11 August 2005, paragraphs 3 and 4 shall be deleted;

5. The following Articles shall be inserted:

'Article 4a

Maximum sulphur content of marine fuels used in SOx Emission Control Areas and by passenger ships operating on regular services to or from Community ports

1. Member States shall take all necessary measures to ensure that marine fuels are not used in the areas of their

territorial seas, exclusive economic zones and pollution control zones falling within SOx Emission Control Areas if the sulphur content of those fuels exceeds 1,5 % by mass. This shall apply to all vessels of all flags, including vessels whose journey began outside the Community.

2. The application dates for paragraph 1 shall be as follows:

(a) for the Baltic Sea area referred to in regulation 14(3) (a) of Annex VI to MARPOL, 11 August 2006;

(b) for the North Sea:

— 12 months after entry into force of the IMO designation, according to established procedures, or

— 11 August 2007,

whichever is the earlier;

(c) for any other sea areas, including ports, that the IMO subsequently designates as SOx Emission Control Areas in accordance with regulation 14(3) (b) of Annex VI to MARPOL: 12 months after the date of entry into force of the designation.

3. Member States shall be responsible for the enforcement of paragraph 1 at least in respect of:

— vessels flying their flag, and

— in the case of Member States bordering SOx Emission Control Areas, vessels of all flags while in their ports.

Member States may also take additional enforcement action in respect of other vessels in accordance with international maritime law.

4. From the date referred to in paragraph 2(a), Member States shall take all necessary measures to ensure that marine fuels are not used in their territorial seas, exclusive economic zones and pollution control zones by passenger ships operating on regular services to or from any Community port if the sulphur content of

those fuels exceeds 1,5 % by mass. Member States shall be responsible for the enforcement of this requirement at least in respect of vessels flying their flag and vessels of all flags while in their ports.

Article 4b

Maximum sulphur content of marine fuels used by inland waterway vessels and ships at berth in Community ports

5. From the date referred to in paragraph 2(a), Member States shall require the correct completion of ships' logbooks, including fuel-changeover operations, as a condition of ships' entry into Community ports.

1. With effect from 1 January 2010, Member States shall take all necessary measures to ensure that the following vessels do not use marine fuels with a sulphur content exceeding 0,1 % by mass:

6. From the date referred to in paragraph 2(a), and in accordance with Regulation 18 of Annex VI to MARPOL, Member States shall:

(a) inland waterway vessels; and

— maintain a register of local suppliers of marine fuel,

(b) ships at berth in Community ports, allowing sufficient time for the crew to complete any necessary fuel-changeover operation as soon as possible after arrival at berth and as late as possible before departure.

— ensure that the sulphur content of all marine fuels sold in their territory is documented by the supplier on a bunker delivery note, accompanied by a sealed sample signed by the representative of the receiving ship,

Member States shall require the time of any fuel-changeover operation to be recorded in ships' logbooks.

— take action as appropriate against marine fuel suppliers that have been found to deliver fuel that does not comply with the specification stated on the bunker delivery note,

2. Paragraph 1 shall not apply:

— ensure that remedial action as appropriate is taken to bring any non-compliant marine fuel discovered into compliance.

(a) whenever, according to published timetables, ships are due to be at berth for less than two hours;

(b) to inland waterway vessels that carry a certificate proving conformity with the International Convention for the Safety of Life at Sea, 1974, as amended, while those vessels are at sea;

7. From the date referred to in paragraph 2(a), Member States shall ensure that marine diesel oils are not placed on the market in their territory if the sulphur content of those marine diesel oils exceeds 1,5 % by mass.

(c) until 1 January 2012 for the vessels listed in the Annex and operating exclusively within the territory of the Hellenic Republic;

(d) to ships which switch off all engines and use shore-side electricity while at berth in ports.

8. The Commission shall notify Member States of the application dates mentioned in paragraph 2(b) and publish them in the *Official Journal of the European Union*.

3. With effect from 1 January 2010, Member States shall ensure that marine gas oils are not placed on the market in their territory if the sulphur content of those marine gas oils exceeds 0,1 % by mass.

Article 4c

Trials and use of new emission abatement technologies

1. Member States may, in cooperation with other Member States, as appropriate, approve trials of ship emission abatement technologies on vessels flying their flag, or in sea areas within their jurisdiction. During these trials the use of marine fuels meeting the requirements of Articles 4a and 4b shall not be mandatory, provided that:

- the Commission and any port State concerned are notified in writing at least six months before trials begin,
- permits for trials do not exceed 18 months in duration,
- all ships involved install tamper-proof equipment for the continuous monitoring of funnel gas emissions and use it throughout the trial period,
- all ships involved achieve emission reductions which are at least equivalent to those which would be achieved through the limits on sulphur in fuel specified in this Directive,
- there are proper waste management systems in place for any waste generated by the emission abatement technologies throughout the trial period,
- there is an assessment of impacts on the marine environment, particularly ecosystems in enclosed ports, harbours and estuaries throughout the trial period, and
- full results are provided to the Commission, and made publicly available, within six months of the end of the trials.

2. Emission abatement technologies for ships flying the flag of a Member State shall be approved in accordance with the procedure referred to in Article 3(2) of Regulation (EC) No 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) (*), taking into account:

- guidelines to be developed by the IMO,

- results of any trials conducted under paragraph 1,
- effects on the environment, including achievable emission reductions, and impacts on ecosystems in enclosed ports, harbours and estuaries,
- feasibility of monitoring and verification.

3. Criteria shall be established for the use of emission abatement technologies by ships of all flags in enclosed ports, harbours and estuaries in the Community in accordance with the procedure referred to in Article 9(2). The Commission shall communicate these criteria to the IMO.

4. As an alternative to using low sulphur marine fuels meeting the requirements of Articles 4a and 4b, Member States may allow ships to use an approved emission abatement technology, provided that these ships:

- continuously achieve emission reductions which are at least equivalent to those which would be achieved through the limits on sulphur in fuel specified in this Directive,
- are fitted with continuous emission monitoring equipment, and
- document thoroughly that any waste streams discharged into enclosed ports, harbours and estuaries have no impact on ecosystems, based on criteria communicated by the authorities of port States to the IMO.¹

(*) OJ L 324, 29.11.2002, p. 1. Regulation as amended by Commission Regulation (EC) No 415/2004 (OJ L 68, 6.3.2004, p. 10).

6. Article 6 shall be amended as follows:

- (a) the following paragraph shall be inserted:

‘1a. Member States shall take the necessary measures to ensure that the sulphur content of marine fuels complies with the relevant provisions of Articles 4a and 4b.

Each of the following means of sampling, analysis and inspection shall be used as appropriate:

- sampling of the marine fuel for on-board combustion while being delivered to ships, following IMO guidelines, and analysis of its sulphur content;
- sampling and analysis of the sulphur content of marine fuel for on-board combustion contained in tanks, where feasible, and in sealed bunker samples on board ships;
- inspection of ships' log books and bunker delivery notes.

Sampling shall commence on the date on which the relevant limit for maximum sulphur content in the fuel comes into force. It shall be carried out with sufficient frequency, in sufficient quantities, and in such a way that the samples are representative of the fuel examined, and of the fuel being used by ships while in relevant sea areas, ports and inland waterways.

Member States shall also take reasonable measures, as appropriate, to monitor the sulphur content of marine fuels other than those to which Articles 4a and 4b apply.;

- (b) in paragraph 2, point (a) shall be replaced by the following:

'(a) ISO method 8754 (1992) and PrEN ISO 14596 for heavy fuel oil and marine fuels;'

7. Article 7 shall be replaced by the following:

'Article 7

Reporting and review

1. On the basis of the results of the sampling, analysis and inspections carried out in accordance with Article 6, Member States shall by 30 June of each year provide the Commission with a short report on the sulphur content of the liquid fuels falling within the scope of this Directive and used within their territory during the preceding calendar year. That report shall include a record of the total number of samples tested by fuel type

and shall indicate the corresponding quantity of fuel used, and the calculated average sulphur content. Member States shall also report the number of inspections made on board ships, and record the average sulphur content of marine fuels used in their territory which do not fall within the scope of this Directive on 11 August 2005.

2. On the basis, *inter alia*, of:

- (a) annual reports submitted in accordance with paragraph 1;
- (b) observed trends in air quality, acidification, fuel costs and modal shift;
- (c) progress in reducing emissions of sulphur oxides from ships through IMO mechanisms following Community initiatives in this regard;
- (d) a new cost-effectiveness analysis, including direct and indirect environmental benefits, of measures contained in Article 4a(4) and of possible further emission reduction measures; and
- (e) the implementation of Article 4c,

the Commission shall, by 2008, submit a report to the European Parliament and to the Council.

The Commission may submit with its report proposals for amending this Directive, in particular as regards:

- a second stage of sulphur limit values laid down for each fuel category, and
- taking account of work within the IMO, the sea areas where low sulphur marine fuels are to be used.

The Commission shall give particular consideration to proposals for:

- (a) the designation of additional SO_x Emission Control Areas;
- (b) the reduction of sulphur limits for marine fuel used in SO_x Emission Control Areas possibly down to 0,5 %;
- (c) alternative or complementary measures.

3. By 31 December 2005, the Commission shall report to the European Parliament and to the Council on the possible use of economic instruments, including mechanisms such as differentiated dues and kilometre charges, tradable emission permits and offsetting.

The Commission may consider submitting proposals on economic instruments as alternative or complementary measures in the context of the 2008 review, provided that environmental and health benefits can be clearly demonstrated.

4. Any amendments necessary to make technical adaptations to Article 2, points 1, 2, 3, 3a, 3b and 4 or Article 6(2) in the light of scientific and technical progress shall be adopted in accordance with the procedure referred to in Article 9(2). Such adaptations shall not result in any direct changes to the scope of this Directive or to limits on sulphur in fuel specified in this Directive.;

8. Article 9 shall be replaced by the following:

'Article 9

Committee procedure

1. The Commission shall be assisted by a committee.
2. Where reference is made to this paragraph, Articles 5 and 7 of Council Decision 1999/468/EC (*) shall apply, having regard to the provisions of Article 8 thereof.

Done at Strasbourg, 6 July 2005.

For the European Parliament
The President
J. BORRELL FONTELLES

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its Rules of Procedure.'

(*) OJ L 184, 17.7.1999, p. 23

9. The text set out in the Annex to this Directive shall be added.

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 11 August 2006. They shall forthwith inform the Commission thereof.

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

Article 3

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

Article 4

This Directive is addressed to the Member States.

For the Council
The President
J. STRAW

ANNEX

ANNEX

GREEK VESSELS

VESSEL'S NAME	DELIVERY YEAR	IMO No
ARIADNEPALACE	2002	9221310
IKARUSPALACE	1997	9144811
KNOSSOPALACE	2001	9204063
OLYMPIAPALACE	2001	9220330
PASIPHAEPALACE	1997	9161948
FESTOSPALACE	2001	9204568
EUROPAPALACE	2002	9220342
BLUESTAR I	2000	9197105
BLUESTAR II	2000	9207584
BLUE STAR ITHAKI	1999	9203916
BLUE STAR NAXOS	2002	9241786
BLUE STAR PAROS	2002	9241774
HELLENIC SPIRIT	2001	9216030
OLYMPIC CHAMPION	2000	9216028
LEFKAORI	1991	9035876
SOPHOKLISVENIZELOS	1990	8916607

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 22 April 2005

establishing the European Security Research Advisory Board

(2005/516/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Whereas:

(1) In 2003, the Commission set up a Group of Personalities in the field of security research whose primary mission was to propose principles and priorities of a European Security Research Programme (ESRP).

(2) Following the report 'Research for a Secure Europe' presented by the Group of Personalities in 2004, the Commission Communication of 7 September 2004 entitled 'Security Research: the Next Steps' ⁽¹⁾, proposed the setting-up of a European Security Research Advisory Board (ESRAB).

(3) It is necessary to set up ESRAB and define its tasks and its structure.

(4) ESRAB should contribute to the content and implementation of the ESRP.

(5) ESRAB should include experts from various stakeholder groups, namely: users, industry and research organisations. According to the fields in which they operate, ESRAB should be composed of two groups having distinct but complementary roles.

(6) Rules on disclosure of information by members of ESRAB should be provided for, without prejudice to the Commission's rules on security as set out in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom ⁽²⁾.

(7) It is appropriate to fix a period for the application of this Decision. The Commission will, in due time, consider the advisability of an extension,

HAS DECIDED AS FOLLOWS:

Article 1

Advisory Board

An advisory board called 'European Security Research Advisory Board' (ESRAB), attached to the Commission, is hereby set up with effect from 1 July 2005.

⁽¹⁾ COM(2004) 590 final.

⁽²⁾ OJ L 317, 3.12.2001, p. 1. Decision as last amended by Decision 2005/94/EC, Euratom (OJ L 31, 4.2.2005, p. 66).

Article 2

Tasks

The Commission may consult ESRAB on any questions relating to the content and implementation of the European Security Research Programme (ESRP), to be effected through the EC framework programme for research.

ESRAB shall carry out its work in full knowledge of the European policy context, in particular of the research activities carried out at the national level and in support of European research policy initiatives.

More specifically, but not exclusively, ESRAB shall make recommendations to the Commission in the following areas:

- (a) the strategic missions, focus areas and priorities setting for ESRP, on the basis of the report 'Research for a Secure Europe' of the Group of Personalities while taking into account the establishment of the European Defence Agency as well as national and inter-governmental activities;
- (b) the technological capabilities to be put in place among the European stakeholders; it shall recommend a strategy to improve the European industry's technological base, so as to improve its competitiveness;
- (c) the strategic and operational aspects of the ESRP taking into account the experience and results obtained from the Preparatory Action on the enhancement of the European industrial potential in the field of security research ⁽¹⁾, from Commission services with an active interest in the field of security including research covered by the EC framework programme for research and from other expert or advisory groups;
- (d) the implementation issues such as the exchange of classified information and intellectual property rights;
- (e) optimising the use of publicly owned research and evaluation infrastructures in ESRP;
- (f) a communications strategy to promote awareness of the ESRP as well as for providing information on stakeholders' research programmes.

The Chairpersons of either ESRAB group, as defined in Article 4(1), may indicate to the Commission that it is desirable to consult the ESRAB on other questions.

⁽¹⁾ COM(2004) 72 final.

Article 3

Membership of ESRAB — Nomination

1. Members of ESRAB shall be nominated by the Commission from among high-level specialists and strategists having expertise in the subject areas indicated in Article 2.
2. Members shall be nominated *ad personam* and no substitutes shall be appointed. Members shall serve in a personal capacity and shall advise the Commission independently of any outside instructions. They shall not disseminate information obtained by ESRAB in the course of its activities, if the Commission is of the opinion that such information is confidential.
3. Members shall be nominated for a period not exceeding the expiry date of this Decision. They shall remain in function until their replacement or until the end of their term of office.
4. Members who are no longer capable of contributing usefully to the work of ESRAB, who resign, or who do not respect the conditions contained in paragraph 2 of this Article or in Article 287 of the Treaty, may be replaced by the Commission, for the remainder of their term of office.
5. The list of ESRAB members and subsequent appointments thereto shall be published by the Commission in the 'C' Series of the *Official Journal of the European Union* for information.

Article 4

Functioning

1. ESRAB shall be composed of two groups:
 - (a) a group addressing the security research demand requirements;
 - (b) a group addressing the technology supply chain requirements;
2. The ESRAB members shall elect a chairperson for each group.
3. In agreement with the Commission, ad hoc subgroups may be set up to examine specific issues, based on a mandate defined by one, or both, ESRAB groups. They shall be dissolved as soon as their mandates are fulfilled.

4. For the handling of specific agenda items, the Commission may invite experts or observers, including persons from Commission services having a specific competence, to guide the work of ESRAB or to participate in ad hoc sub-groups if this is deemed useful or necessary.

5. The ESRAB groups shall normally meet at the Commission's offices according to the modalities and the calendar fixed by the Commission. Both ESRAB groups may avail themselves of the secretarial services of the Commission. They may hold joint meetings so as to ensure consistency of approach and greater co-ordination. Such joint meetings shall be co-chaired by the chairpersons of the ESRAB groups.

6. The ESRAB groups shall adopt agreed terms of reference, including rules of procedure, on the basis of a Commission proposal.

7. A restricted intranet shall be established to circulate working documents, conclusions, minutes, or any other relevant documents.

Done at Brussels, 22 April 2005.

Article 5

Expenses

Travel expenses incurred by members and selected experts in connection with the activities of ESRAB, shall be reimbursed by the Commission according to Commission rules. Members and selected experts shall not be remunerated for the services they render.

Article 6

Disclosure of information

Rules on disclosure of information by members of ESRAB shall be laid down in the rules of procedure of ESRAB.

Any persons participating in the activities of ESRAB shall refrain from disclosing information to which they have thereby gained access.

Article 7

Applicability

This Decision shall expire on 31 December 2006.

For the Commission
Günter VERHEUGEN
Vice-President
