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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.

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[1] Text with EEA relevance

I

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

REGULATIONS

COUNCIL REGULATION (EC) No 1260/2007

of 9 October 2007

amending Regulation (EC) No 318/2006 on the common organisation of the markets in the sugar sector

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

(1) In order to maintain the structural balance of the market, the Commission may decide to withdraw sugar from the market. In the case where a preventive withdrawal is decided, it is necessary to limit the scope of the obligation provided for in Article 6(5) of Council Regulation (EC) No 318/2006 [1], so as to avoid imposing on sugar undertakings an obligation to pay the minimum price for quantities of beet corresponding to their entire quota, including those quantities which may be produced beyond the withdrawal threshold.

(2) In accordance with Article 10(2) of Regulation (EC) No 318/2006, the Commission is to decide by the end of February 2010 on carrying out a linear reduction of national and regional quotas, with a view to adjusting these quotas to a sustainable level after the expiry of the restructuring scheme established by Council Regulation (EC) No 320/2006 of 20 February 2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community [2].

In order to encourage an increased participation in that restructuring scheme, it is considered appropriate to reduce the percentage referred to in Article 10(2) of Regulation (EC) No 318/2006, taking into account the total renunciation of quota per Member State under the restructuring scheme, as well as to modulate this percentage for each undertaking according to its individual restructuring effort.

(3) The outermost regions referred to in Article 299(2) of the Treaty do not fall under the scope of Regulation (EC) No 320/2006. Consequently those regions should be excluded from the final cut by which the Commission is entitled to adjust quotas after the expiry of the restructuring scheme.

(4) Article 4a of Regulation (EC) No 320/2006 provides the possibility for growers of beet and cane intended for quota production to submit a direct application for restructuring aid provided that they cease to deliver sugar to the undertakings to which they were bound by delivery contracts in the previous marketing year. As a result of the acceptance of such applications, Member States are to reduce the quota of the undertakings concerned within the limit of the 10 % referred to in the second indent of Article 11(1) of Regulation (EC) No 318/2006. It is in this context necessary to amend that Article, so as to allow for the definitive reduction of quotas allocated to the undertakings.

(5) A sound management of sugar in public intervention means that sugar should be resold on the market as soon as market trends allow for it in order to avoid a long storage period with risks of deterioration of quality. It is considered appropriate to allow the possibility of resale as industrial sugar.

(6) Article 19 of Regulation (EC) No 318/2006 provides the possibility to withdraw sugar from the market where it is necessary in order to maintain the structural level of the markets at a price level close to the reference price. The application of this measure is currently based on a percentage, common to all Member States and applicable to all production under quota. Recent experience has shown that such a linear application may be counterproductive, since producers are encouraged to produce above their contractual needs as a precaution against a possible compulsory storage of the quantities withdrawn.

[1] OJ L 58, 28.2.2006, p. 1. Regulation as last amended by Commission Reglation (EC) No 247/2007 (OJ L 69, 9.3.2007. p. 3).

[2] OJ L 58, 28.2.2006, p. 42. Regulation as amended by Regulation (EC) No 1261/2007 (See page 8 of this Oficial Journal).

It is therefore considered appropriate to adapt the withdrawal instrument by replacing the linear percentage by a threshold, to be determined by applying a coefficient to the quota allocated to each undertaking, above which the quantities produced under quota should be withdrawn. In this way, undertakings should be able to avoid the consequences of a withdrawal by adjusting their production so that it does not exceed the level of the threshold.

(7) It is considered that the objective of withdrawal will be better achieved if the withdrawal coefficient can be preventively fixed by mid March of the previous marketing year, since this will enable beet growers to adapt their sowings to the forecast balance sheet. Regulation (EC) No 320/2006 opens the possibility of renouncing quotas against payment of restructuring aid in two steps. The amounts that may be renounced in the second step cannot be taken into account for the fixing of the coefficient for the preventive withdrawal in respect of the marketing year 2008/2009 because the respective figures will only be known after 16 March 2008 which is the deadline for the fixing of the coefficient. It should therefore be clarified that that coefficient needs to be applied to the quotas still available at that moment.

(8) In order to take into account updated market data on production, provision should be made for the preventive withdrawal coefficient fixed in March to be adjusted if necessary for the marketing year concerned.

(9) Article 19(3) of Regulation (EC) No 318/2006 provides that withdrawn quantities which are not marketed as industrial sugar or isoglucose are to be treated as the first quantities produced under quota for the following marketing year. This rule could mean that undertakings wishing to participate in the restructuring scheme in the 2008/2009 and 2009/2010 marketing years are prevented from benefiting fully from that scheme. In order to avoid hampering the restructuring of the sugar sector, it is considered necessary to provide for an exemption, at the request of the undertaking, from the withdrawal in the 2007/2008 marketing year or from a possible withdrawal in the 2008/2009 marketing year for those undertakings which in the marketing year of withdrawal concerned have successfully applied for restructuring aid under Regulation (EC) No 320/2006 and which as a result are going to renounce their total quota in the following marketing year.

(10) In order to encourage an increased participation in the restructuring scheme, it is considered appropriate to provide for an increase of the coefficient in relation to the total renunciation of quota per Member State under the restructuring scheme.

(11) Import licences under certain preferential arrangements are to be issued only to full-time refiners within the limit of the traditional supply need provided for in Article 29 of Regulation (EC) No 318/2006. This prerogative should not be reduced in relation to the application of a withdrawal, considering that refiners do not have the same possibility as sugar producers to adapt their production to the withdrawal thresholds.

(12) Article 6 of Regulation (EC) No 318/2006 lays down rules applicable to interprofessional agreements. In accordance with paragraph 6 of that Article, agreements within the trade may derogate from some of these rules. The possibility of derogating from the obligation for sugar undertakings which have not signed pre-sowing contracts for a quantity equivalent to their quota sugar to pay the minimum price for all beet processed into sugar should be provided for, as was the case until the application of Regulation (EC) No 318/2006.

(13) Article 10(1) of Regulation (EC) No 318/2006 provides for a yearly adjustment of the national and regional quotas set out in Annex III to that Regulation, as a result of the application of different mechanisms through which the quotas allocated to individual undertakings are either increased or reduced. Article 10(1) of Regulation (EC) No 318/2006 also refers to Articles 14 and 19 of that Regulation, which concern respectively the carry forward of surplus sugar and the withdrawal of sugar from the market. However, the application of those Articles does not result in either an increase or a reduction of quota. The reference in question should therefore be deleted.

(14) Regulation (EC) No 318/2006 should therefore be amended accordingly.

(15) Account should be taken in this Regulation of the fact that the total quota for production of inulin syrup was renounced in the 2006/2007 marketing year under the restructuring scheme established by Regulation (EC) No 320/2006,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 318/2006 is hereby amended as follows:

1. in Article 6, paragraphs 5 and 6 shall be replaced by the following:

‘5. Sugar undertakings which have not signed pre-sowing delivery contracts at the minimum price for quota beet for a quantity of beet equivalent to the sugar for which they hold a quota, adjusted, as the case may be, by the coefficient for a preventive withdrawal fixed in accordance with the first subparagraph of Article 19(2), shall be required to pay at least the minimum price for quota beet for all the sugar beet they process into sugar.

6. Subject to the approval of the Member State concerned, agreements within the trade may derogate from paragraphs 3, 4 and 5.';

2. Article 10 shall be replaced by the following:

'*Article 10*

Quota management

1. In accordance with the procedure referred to in Article 39(2), the quotas set out in Annex III of this Regulation shall be adjusted by 30 April 2008 for the 2008/2009 marketing year and by the end of February 2009 and 2010 respectively for the 2009/2010 and 2010/2011 marketing years. The adjustments shall result from the application of Articles 8 and 9 of this Regulation, of paragraph 2 of this Article, and of Articles 3 and 4a(4) of Regulation (EC) No 320/2006.

2. Taking into account the results of the restructuring scheme provided for in Regulation (EC) No 320/2006, the Commission shall decide by the end of February 2010 at the latest, in accordance with the procedure referred to in Article 39(2) of this Regulation, the common percentage needed to reduce the existing quotas for sugar and isoglucose per Member State or region with a view to avoiding market imbalances in the marketing years as from the 2010/2011 marketing year. The Member States shall adjust the quota of each undertaking accordingly.

By way of derogation from the first subparagraph of this paragraph, for Member States for which the national quota has been reduced as a result of renunciations of quota in accordance with Articles 3 and 4a(4) of Regulation (EC) No 320/2006, the percentage shall be fixed, in accordance with the procedure referred to in Article 39(2) of this Regulation, by way of application of Annex VIII to this Regulation. Such Member States shall adjust, for each undertaking in their territory holding a quota, the percentage in accordance with Annex IX of this Regulation.

The first and second subparagraphs of this paragraph shall not apply to the outermost regions referred to in Article 299(2) of the Treaty.';

3. Article 11 shall be amended as follows:

(a) the title shall be replaced by the following:

'*Article 11*

National quota reallocation and reduction of quotas';

(b) paragraph 1 shall be replaced by the following:

'1. A Member State may reduce the sugar or isoglucose quota allocated to an undertaking established on its territory by up to 10 % for the marketing year 2008/2009 and following, whilst respecting the freedom of undertakings to participate in the mechanisms established by Regulation (EC) No 320/2006. In doing so, the Member States shall apply objective and non discriminatory criteria.';

(c) the following paragraph shall be added:

'4. By way of derogation from paragraph 3 of this Article, where Article 4a of Regulation (EC) No 320/2006 is applied, Member States shall adjust the sugar quota allocated to the undertaking concerned by applying the reduction defined under paragraph 4 of that Article, within the limit of the percentage fixed in paragraph 1 of this Article.';

4. in Article 15(1), point (c) shall be replaced by the following:

'(c) sugar and isoglucose withdrawn from the market in accordance with Articles 19 and 19a and for which the obligations provided for in Article 19(3) are not met.';

5. in point a of Article 18(3), the following indent shall be added:

'or

— for industrial use referred to in Article 13.';

6. Article 19 shall be replaced by the following:

'*Article 19*

Withdrawal of sugar

1. In order to preserve the structural balance of the market at a price level which is close to the reference price, taking into account the commitments of the Community resulting from agreements concluded in accordance with Article 300 of the Treaty, the Commission may decide to withdraw from the market, for a given marketing year, those quantities of sugar or isoglucose produced under quotas which exceed the threshold calculated in accordance with paragraph 2 of this Article.

2. The withdrawal threshold referred to in paragraph 1 of this Article shall be calculated, for each undertaking holding a quota, by multiplying its quota by a coefficient, which shall be fixed in accordance with the procedure referred to in Article 39(2) by 16 March at the latest of the previous marketing year, on the basis of expected market trends. For the marketing year 2008/2009, that coefficient shall be applied to the quota after renunciations in accordance with Regulation (EC) No 320/2006 granted on 15 March 2008 at the latest.

On the basis of updated market trends, the Commission, in accordance with the procedure referred to in Article 39(2), may decide by 31 October of the marketing year concerned either to adjust or, in the case where no such decision has been taken in accordance with the first subparagraph of this paragraph, to fix a coefficient.

3. Each undertaking provided with a quota shall store at its own expense until the beginning of the following marketing year the sugar produced under quota beyond the threshold calculated in accordance with paragraph 2. The sugar or isoglucose quantities withdrawn during a marketing year shall be treated as the first quantities produced under quota for the following marketing year.

By way of derogation from the first subparagraph of this paragraph, taking into account the expected sugar market trends, it may be decided, in accordance with the procedure referred to in Article 39(2), to consider, for the current and/or the following marketing year, all or part of the withdrawn sugar or isoglucose as:

(a) surplus sugar or surplus isoglucose available to become industrial sugar or industrial isoglucose; or

(b) temporary quota production of which a part may be reserved for export respecting the commitments of the Community resulting from agreements concluded in accordance with Article 300 of the Treaty.

4. If sugar supply in the Community is inadequate, it may be decided, in accordance with the procedure referred to in Article 39(2) that a certain quantity of withdrawn sugar may be sold on the Community market before the end of the period of withdrawal.

5. In the case where withdrawn sugar is treated as the first sugar production of the following marketing year, the minimum price of that marketing year shall be paid to beet growers.

In the case where withdrawn sugar becomes industrial sugar or is exported according to points (a) and (b) of paragraph 3 of this Article, the requirements of Article 5 on the minimum price shall not apply.

In the case where withdrawn sugar is sold on the Community market before the end of the period of withdrawal according to paragraph 4, the minimum price of the on going marketing year shall be paid to beet growers.';

7. the following Article shall be inserted:

'Article 19a

Withdrawal of sugar in the 2007/2008, 2008/2009 and 2009/2010 marketing years

1. By way of derogation from Article 19(2)of this Regulation, for Member States for which the national sugar quota has been reduced as a result of renunciations of quota in accordance with Articles 3 and 4a(4) of Regulation (EC) No 320/2006, the coefficient shall be fixed, in accordance with the procedure referred to in Article 39(2) of this Regulation, for the 2007/2008, 2008/2009 and 2009/2010 marketing years by way of application of Annex X to this Regulation.

2. An undertaking which, in accordance with points (a) or (b) of Article 3(1) of Regulation (EC) No 320/2006, renounces, with effect from the following marketing year, the total quota assigned to it shall, at its request, not be submitted to the application of the coefficients referred to in Article 19(2) of this Regulation. That request shall be submitted before the end of the marketing year to which the withdrawal applies.';

8. in Article 29(1), the first subparagraph shall be replaced by the following:

'1. A traditional supply need of sugar for refining is fixed for the Community at 2 324 735 tonnes per marketing year, expressed in white sugar.';

9. In Annex V point VI, the reference to Article 10(3) shall be replaced by a reference to Article 10(2);

10. The text set out in the Annex to this Regulation shall be added as Annexes VIII, IX and X.

Article 2

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

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

Done at Luxembourg, 9 October 2007.

For the Council
The President
F. TEIXEIRA DOS SANTOS

ANNEX

'ANNEX VIII

CALCULATION OF THE PERCENTAGE TO BE ESTABLISHED IN ACCORDANCE WITH THE SECOND SUBPARAGRAPH OF ARTICLE 10(2)

1. For the purpose of the calculation set out in point 2, the following definitions shall apply:

   (a) "percentage at Member State level" means the percentage to be established in accordance with point 2 for the purpose of determining the total quantity to be reduced at the level of the Member State concerned;

   (b) "common percentage" means the common percentage established by the Commission in accordance with the first subparagraph of Article 10(2);

   (c) "reduction" means the figure obtained by dividing the total renunciation of quotas in the Member State by the national quotas as fixed in Annex III to this Regulation in the version applicable on 1 July 2006. For those Member States which were not members of the Community on 1 July 2006, the reference to Annex III concerns the version applicable on the date of their accession to the Community.

2. The percentage at Member State level is equal to the common percentage multiplied by 1 − [(1/0,6) × the reduction].

   When the result is below zero, the applicable percentage is equal to zero.

ANNEX IX

CALCULATION OF THE PERCENTAGE APPLICABLE TO UNDERTAKINGS IN ACCORDANCE WITH THE THIRD SUBPARAGRAPH OF ARTICLE 10(2)

1. For the purpose of the calculation set out in point 2, the following definitions shall apply:

   (a) "applicable percentage" means the percentage to be established in accordance with point 2 and applicable to the quota allocated to the undertaking concerned;

   (b) "common percentage at Member State level" means the percentage calculated for the Member State concerned as:

   $$Qty \;/\; \Sigma\,[(1 - R/K) \times Q]$$

   with

   Qty = the quantity to be reduced at the level of the Member State referred to in Annex VIII point 1(a),

   R = renunciation referred under (c) for a given undertaking,

   Q = the quota of the same given undertaking available at the end of February 2010,

   K = the figure calculated under (d),

   Σ refers to the sum of the product of (1 − R/K) × Q calculated for each undertaking holding a quota in the territory of the Member State; when the product is below zero, it shall be equal to zero;

   (c) "renunciation" means the figure obtained by dividing the quantity of quotas renounced by the undertaking concerned by its quota as allocated in accordance with Article 7 and paragraphs 1 to 3 of Article 11;

(d) "K" is calculated in each Member State by dividing the total reduction of quota in that Member State (voluntary renunciations plus the quantity to be reduced at the level of Member State referred to in Annex VIII point 1(a)) by its initial quota as fixed in Annex III to this Regulation in the version applicable on 1 July 2006. For those Member States which were not members of the Community on 1 July 2006, the reference to Annex III concerns the version applicable on the date of their accession to the Community.

2. The applicable percentage is equal to the common percentage at Member State level multiplied by 1 – [(1/K) × the renunciation].

When the result is below zero, the applicable percentage is equal to zero.

ANNEX X

CALCULATION OF THE COEFFICIENT TO BE ESTABLISHED IN ACCORDANCE WITH ARTICLE 19a (1)

1. For the purpose of the calculations set out in points 2 and 3, the following definitions shall apply:

(a) "coefficient at Member State level" means the coefficient to be established in accordance with point 2;

(b) "reduction" means the figure obtained by dividing the total renunciation of sugar quotas in the Member State, including renunciations in the marketing year to which the withdrawal applies, by the national sugar quotas as fixed in Annex III to this Regulation in the version applicable on 1 July 2006; for those Member States which were not members of the Community on 1 July 2006, the calculation should take account of the version of Annex III applicable on the date of their accession to the Community;

(c) "coefficient" means the coefficient established by the Commission in accordance with Article 19(2).

2. For the 2007/2008 marketing year, the coefficient at Member State level shall be equal to the coefficient increased by [(1/0,5) × the reduction] × (1 – the coefficient).

When the result is above 1, the applicable coefficient is equal to 1.

3. For the 2008/2009 and 2009/2010 marketing years, the coefficient at Member State level shall be equal to the coefficient increased by [(1/0,6) × the reduction] × (1 – the coefficient).

When the result is above 1, the applicable coefficient is equal to 1.'

COUNCIL REGULATION (EC) No 1261/2007

of 9 October 2007

amending Regulation (EC) No 320/2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

(1) Council Regulation (EC) No 320/2006 [1] was adopted with the aim of enabling the least competitive sugar producers to give up their quota production. However, the renunciation of quotas under that Regulation has not reached the level that was initially expected.

(2) In accordance with Article 10(2) of Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector [2], a linear reduction of national and regional quotas is to be carried out by the end of February 2010 at the latest, with a view to avoiding market imbalances in the marketing years as from 2010/2011, taking into account the results of the restructuring scheme. Such a linear cut may penalise the most competitive undertakings and weaken the industry as a whole. To avoid this, it is considered necessary to improve the functioning of the restructuring scheme, in order to increase the renunciation of quotas under that scheme.

(3) It appears that sugar undertakings have been discouraged from making applications for restructuring aid by the fact that there is no certainty as regards the amount of restructuring aid that they will receive, since Member States can decide to increase the minimum percentage of the aid reserved for growers of beet, cane or chicory and for machinery contractors, in accordance with Article 3(6) of Regulation (EC) No 320/2006. To remove this uncertainty, the amount of aid to be reserved to growers and machinery contractors should be fixed at 10 % of the aid to be granted to the sugar undertakings, and the growers concerned should be granted an additional payment for the 2008/2009 marketing year. In certain cases, a longer preparatory period for the restructuring process is needed. Where, in such cases, undertakings decide to apply for restructuring aid as from the marketing year 2009/2010, and in order not to disadvantage growers in such cases, the additional payment to growers should also be granted for the 2009/2010 marketing year provided that the undertaking's application is submitted by 31 January 2008.

(4) In order not to penalise undertakings and growers who took part in the restructuring scheme in the 2006/2007 and 2007/2008 marketing years, the difference between the aid amount granted for those marketing years and the aid amount that would have been granted for the 2008/2009 marketing year should be paid retroactively to them.

(5) In order to create a further incentive to participate in the restructuring scheme, it is considered appropriate to provide for the exemption of a part of the temporary restructuring amount to be paid in accordance with Article 11 of Regulation (EC) No 320/2006 for the 2007/2008 marketing year to those undertakings which renounce, for the 2008/2009 marketing year, a percentage of their quota of at least the withdrawal percentage applied to the undertaking in 2007/2008. The amount to be exempted should correspond to this withdrawal percentage.

(6) Moreover, it is appropriate to set up a two-phase application procedure which should allow undertakings who decide up until 31 January 2008 to renounce a part of their quota, corresponding to at least that withdrawal percentage, to submit a second application by 31 March 2008 enabling them to renounce a further part or the totality of their quota in view of the market situation known at that stage.

(7) It is considered that the restructuring scheme would give better result if growers were able to give up on their own initiative their production of beet or cane intended to be processed into quota sugar. To that end, growers should in the 2008/2009 marketing year be given the possibility to apply directly for the aid provided for in Article 3(6) of Regulation (EC) No 320/2006 provided that they cease to deliver sugar beet or cane to the undertakings to which they were bound by delivery contracts in the previous marketing year. As a consequence, Member States should reduce the quota of the sugar undertakings concerned. In certain cases it may be more appropriate to apply this possibility at Member State level rather than at undertaking level.

[1] OJ L 58, 28.2.2006, p. 42.
[2] OJ L 58, 28.2.2006, p. 1. Regulation as last amended by Commission Regulation (EC) No 247/2007 (OJ L 69, 9.3.2007, p. 3).

(8) In order to avoid endangering the economic viability of the sugar undertakings concerned by growers' aid applications, the quota reduction should be limited to 10 % of the quota allocated to each undertaking, which corresponds to the percentage of quota which the Member State can re-allocate each marketing year in accordance with Article 11(1) of Regulation (EC) No 318/2006.

(9) Where the quota of a sugar undertaking is reduced as a result of growers' aid applications, that undertaking should be granted restructuring aid as referred to in Article 3(1)(c) of Regulation (EC) No 320/2006. Consequently, the aid amounts granted should be those referred to in Article 3(5)(c) of that Regulation. However, those amounts should be adjusted downwards if the undertaking does not take measures in favour of the workforce concerned by the reduction of quota production.

(10) A sugar undertaking concerned by growers' aid applications should until 31 January preceding the marketing year concerned retain the right to submit an application for restructuring aid as provided for in Articles 3 and 4 of Regulation (EC) No 320/2006, provided that it renounces a quota corresponding to at least the same level of quota reduction that would have resulted from the applications for aid lodged by growers. In that case the sugar undertaking's aid application should replace the growers' applications.

(11) Article 6 of Regulation (EC) No 320/2006 provides for aid for diversification. It has become apparent that there is need to clarify the meaning of the third subparagraph of paragraph 4 of that Article. It should be made clear that the aid payable in accordance with that Article in respect of measures envisaged under Axis 1 and 3 of Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) [1] is limited by the amounts and rates of support as set out in the Annex to that Regulation.

(12) Article 10(4) of Regulation (EC) No 320/2006 provides for the dates of payments of the aids under the restructuring fund. Experience shows that under certain conditions a further incentive for the uptake of the fund could be set by advancing the payments. The Commission should therefore be empowered to decide on such a measure taking into account the availability of financial means in the fund.

(13) Regulation (EC) No 320/2006 should therefore be amended accordingly.

(14) Account should be taken in this Regulation of the fact that the total quota for production of inulin syrup has already been renounced under the restructuring scheme in the 2006/2007 marketing year. Hence, there is no longer any need to refer to that product or to the raw material from which it is produced, that is to say chicory,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 320/2006 is amended as follows:

1. Article 3 shall be amended as follows:

(a) paragraph 1(c) shall be replaced by the following:

'(c) renounces a part or the total of the quota assigned by it to one or more of its factories and does not use the production facilities of the factories concerned for refining raw cane sugar.

This last condition shall not apply in respect of:

— the sole processing plant in Slovenia,

— the sole beet processing plant in Portugal,

existing on 1 January 2006 and full-time refiners as defined in point 13 of Article 2 of Regulation (EC) No 318/2006.';

(b) in paragraph 6, the first and second subparagraphs shall be replaced by the following:

'An amount of 10 % of the relevant restructuring aid fixed in paragraph 5 shall be reserved for:

(a) growers of sugar beet and cane having concluded a delivery contract with the undertaking concerned during a period preceding the marketing year referred to in paragraph 2 for the production of sugar under the relevant quota renounced;

(b) machinery contractors, being private persons or enterprises having worked under contract with their agricultural machinery for the growers, for the products and in the period referred to in point (a).

After consultation of the interested parties, Member States shall determine the period referred to in the first subparagraph.';

(c) the following paragraphs shall be added:

'7. For the 2008/2009 marketing year, growers referred to in paragraph 6(a) shall receive an additional payment of EUR 237,5 per tonne of sugar quota renounced.

[1] OJ L 277, 21.10.2005, p. 1. Regulation as last amended by Regulation (EC) No 2012/2006 (OJ L 384, 29.12.2006, p. 8).

This additional payment shall also be made for the 2009/2010 marketing year where the undertaking concerned renounces a part or the totality of the sugar quota allocated to it as from that marketing year provided that the application is submitted by 31 January 2008.

8. This paragraph shall apply to:

(a) undertakings having renounced under the restructuring scheme in the 2006/2007 or 2007/2008 marketing year a part or the totality of the quota allocated to them; and

(b) growers concerned by the quota renunciation referred to in point (a).

Where the amounts granted to undertakings and growers in the 2006/2007 and 2007/2008 marketing years were less than the amounts that they would have received if they had restructured under the conditions applicable in the 2008/2009 marketing year, the difference shall be granted to them retroactively.

The same shall apply in respect of inulin syrup producers and chicory growers. The latter shall, for that purpose, be deemed as being eligible for the additional payment referred to in paragraph 7.';

2. after Article 4(1), the following paragraph shall be inserted:

'1a. Undertakings may submit an additional application for restructuring aid to renounce, as from the marketing year 2008/2009, a further part or the totality of the quota allocated to them, until 31 March 2008 in the case where:

— applications at growers' initiative in accordance with Article 4a or of an undertaking in accordance with paragraph 1 of this Article to renounce quota as from the marketing year 2008/2009 have been granted, and

— the quota renounced accordingly corresponds at least to the withdrawal percentage set on 16 March 2007 by Article 1(1) or Article 1(2) of Commission Regulation (EC) No 290/2007 of 16 March 2007 establishing for the 2007/2008 marketing year, the percentage provided for in Article 19 of Council Regulation (EC) No 318/2006 (*).

However, undertakings situated in Member States where the withdrawal percentage set at the date specified in the second indent of the first subparagraph is 0 may make use of the possibility stipulated in that subparagraph independently of whether applications at growers' initiative or by themselves were submitted previously.

(*) OJ L 78, 17.3.2007, p. 20.';

3. the following Article shall be inserted:

'Article 4a

Application for restructuring aid by growers

1. For the 2008/2009 marketing year, any grower of sugar beet or cane intended to be processed into quota sugar may submit to the Member State concerned a direct application for the aid provided for in Article 3(6) and 3(7), accompanied by a commitment to cease delivery of a certain amount of quota beet or cane to the undertaking with which he has concluded a delivery contract in the preceding marketing year.

By way of derogation from the first subparagraph, in the framework of an agreement within the trade it may be decided that only growers who have concluded delivery contracts in the preceding marketing year with one and the same undertaking shall be entitled to submit an application as referred to in the first subparagraph provided that:

— the quota allocated to that undertaking corresponds to at least 10 % of the remaining sugar quota fixed for the Member State concerned in Annex III to Regulation (EC) No 318/2006, and

— the amount of sugar quota to be renounced by that undertaking plus the amount of sugar quota already renounced by all undertakings within the Member State concerned as a consequence of previous applications in accordance with Article 4 of Regulation (EC) No 320/2006 correspond to at least 60 % of the sugar quota fixed for that Member State in Annex III to Regulation (EC) No 318/2006 on 20 February 2006. For those Member States which were not members of the Community on 1 July 2006, the reference to the said Annex III shall concern the version applicable on the date of their accession to the Community.

2. The applications referred to in paragraph 1 shall be submitted by 30 November 2007. Applications may be submitted as from the 30 October 2007.

3. The Member State concerned shall establish a list of applications referred to in paragraph 1 in the chronological order of their lodging and shall communicate the total amount of quota affected by the applications received within 10 working days following the deadline for submission as referred to in paragraph 2 to the Commission and the undertakings concerned.

4. By 15 March 2008, the Member State concerned shall, on the basis of the chronological order referred to in paragraph 3 and after the verification provided for in the fourth indent of Article 5(2), grant growers' applications corresponding to up to 10 % of the sugar quota allocated to each undertaking and shall reduce in proportion the sugar quota of the undertaking concerned in accordance with Article 11(4) of Regulation (EC) No 318/2006. However, in the case referred to in the second subparagraph of paragraph 1 of this Article, the Member States concerned shall, under the same conditions, grant growers' applications corresponding up to 10 % of the remaining sugar quota fixed for this Member State in Annex III to Regulation (EC) No 318/2006.

In the case where any of the limits of 10 % referred to in the first subparagraph is reached, the Member State concerned shall reject the applications above this limit according to the chronological order of submission.

The undertaking concerned shall establish and implement a social plan as referred to in Article 4(3)(f).

5. As a result of the Member State's acceptance of applications in accordance with paragraph 4, the amount of restructuring aid to be granted shall be as follows:

(a) for growers and contractors, 10 % of the relevant aid amount fixed in Article 3(5)(c) and for growers the additional payment referred to in Article 3(7);

(b) for undertakings, the relevant aid amount fixed in Article 3(5)(c), reduced by 10 %, or by 60 % if the undertaking concerned does not respect the requirement set out in the third subparagraph of paragraph 4 of this Article.

6. Paragraphs 4 and 5 of this Article shall not apply where an undertaking's application in accordance with Article 4 has been granted as from the marketing year 2008/2009 renouncing an amount of quota higher than the quota affected by the growers' applications. The same shall apply in any case, where an undertaking's application has been granted as from the marketing year 2008/2009 renouncing more than 10 % of its quota.';

4. in Article 5(1), the following subparagraph shall be added:

'In the case of submission of additional applications for restructuring aid in accordance with Article 4(1a), Member States shall decide, after the verification provided for in the fourth indent of Article 5(2) on the granting of that aid linked to these applications by the end of April 2008.';

5. in Article 6(4), the third subparagraph shall be replaced by the following:

'The aid provided for in paragraph 1 of this Article shall not be higher than the amounts and rates of support laid down in the Annex to Regulation (EC) No 1698/2005.';

6. Article 10(5) shall be replaced by the following:

'5. The Commission may decide to postpone payment of the aids referred to in Articles 6, 7, 8 and 9 until the necessary financial resources have been paid into the restructuring fund or, in the case where the necessary financial resources are available in that fund, to advance the dates for the payment of the aids.';

7. in Article 11, the following paragraph shall be added:

'6. In the 2008/2009 marketing year, undertakings which were subject to the application of the withdrawal percentage set on 16 March 2007 by Article 1(1) or Article 1(2) of Regulation (EC) No 290/2007 and which renounce a percentage of their quota of at least that withdrawal percentage shall be exempted from part of the temporary restructuring amount to be paid for the 2007/2008 marketing year.

In the case where the conditions referred to in the first subparagraph of this paragraph are fulfilled, the reduction of the temporary restructuring amount shall be calculated by multiplying that amount by the withdrawal percentage set in accordance with Article 1(1) or 1(2)(c) of Regulation (EC) No 290/2007.'

Article 2

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

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

Done at Luxembourg, 9 October 2007.

For the Council
The President
F. TEIXEIRA DOS SANTOS

COMMISSION REGULATION (EC) No 1262/2007

of 26 October 2007

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables [1], and in particular Article 4(1) thereof,

Whereas:

(1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

(2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 27 October 2007.

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

Done at Brussels, 26 October 2007.

For the Commission

Jean-Luc DEMARTY

Director-General for Agriculture and Rural Development

[1] OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 756/2007 (OJ L 172, 30.6.2007, p. 41).

ANNEX

to Commission Regulation of 26 October 2007 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 00	MA	57,8
	MK	42,6
	ZZ	50,2
0707 00 05	EG	151,2
	JO	190,9
	MA	35,8
	MK	68,4
	TR	162,0
	ZZ	121,7
0709 90 70	TR	124,3
	ZZ	124,3
0805 50 10	AR	76,0
	TR	86,3
	ZA	58,5
	ZZ	73,6
0806 10 10	BR	248,5
	MK	26,1
	TR	108,1
	US	223,3
	ZZ	151,5
0808 10 80	AU	148,5
	CL	161,2
	MK	35,8
	NZ	104,8
	US	96,9
	ZA	100,6
	ZZ	108,0
0808 20 50	AR	49,1
	CN	69,0
	TR	122,2
	ZZ	80,1

(1) Country nomenclature as fixed by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1263/2007

of 26 October 2007

amending Regulation (EC) No 290/2007 as regards the refining needs referred to in Article 29 of Council Regulation (EC) No 318/2006

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector [1], and in particular Article 40(2)(d) thereof,

Whereas:

(1) Commission Regulation (EC) No 290/2007 of 16 March 2007 establishing, for the 2007/08 marketing year, the percentage provided for in Article 19 of Regulation (EC) No 318/2006 [2] fixed the withdrawal percentage for that marketing year at 13,5 %.

(2) Article 2(1) of Regulation (EC) No 290/2007 adjusted the traditional supply needs for refining sugar under Article 29(1) and (2) of Regulation (EC) No 318/2006 by applying to them a reduction equal to the withdrawal percentage, in accordance with the second subparagraph of Article 19(1) of Regulation (EC) No 318/2006, in the version in force at the time of the adoption of Regulation (EC) No 290/2007. In accordance with Article 19 of Regulation (EC) No 318/2006, as amended by Council Regulation (EC) No 1260/2007 [3], the said needs should not be adjusted by a withdrawal applied to sugar and isoglucose production under quotas. The reduction should therefore no longer be applied to the said needs.

(3) Regulation (EC) No 290/2007 should therefore be amended accordingly.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

Article 2 of Regulation (EC) No 290/2007 is hereby deleted.

Article 2

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

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

Done at Brussels, 26 October 2007.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 58, 28.2.2006, p. 1. Regulation as last amended by Regulation (EC) No 1182/2007 (OJ L 273, 17.10.2007, p. 1).
[2] OJ L 78, 17.3.2007, p. 20.
[3] See page 1 of this Official Journal.

COMMISSION REGULATION (EC) No 1264/2007

of 26 October 2007

amending Regulation (EC) No 968/2006 laying down detailed rules for the implementation of Council Regulation (EC) No 320/2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 320/2006 of 20 February 2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community [1], and in particular Article 12 thereof,

Whereas:

(1) Following the amendments to Regulation (EC) No 320/2006 by Council Regulation (EC) No 1261/2007 [2], it is necessary to adapt Commission Regulation (EC) No 968/2006 [3] accordingly and to clarify certain terms used in it.

(2) Article 3(6) of Regulation (EC) No 320/2006 fixes the percentage of the restructuring aid to be paid to growers and machinery contractors at 10 %. Therefore, decisions no longer need to be taken in view of the fixing of the level of the percentage as it had previously been the case and the competent authorities of the Member States also need less time to determine the percentage of the aid to be given to growers on the one hand and to machinery contractors on the other. The period for the consultation between undertakings and growers provided for in Article 2(4) and in Article 6(1) of Regulation (EC) No 968/2006 can therefore be shortened.

(3) The second subparagraph of Article 3(6) of Regulation (EC) No 320/2006 provides for the fixing, by the Member States, of the reference period for deliveries by growers of sugar beet and cane. In the case where growers make use of their right to submit an application for restructuring aid as provided for in Article 4a of Regulation (EC) No 320/2006, the first subparagraph of paragraph 1 of that Article provides that that period has to be the marketing year that precedes the marketing year 2008/2009, i.e. the marketing year 2007/2008. For reasons of clarity it should be provided that the Member States should fix the marketing year 2007/2008 in that situation.

(4) Article 4a of Regulation (EC) No 320/2006 introduces the right for growers of sugar beet and cane to submit, at their own initiative, an application for restructuring aid. The undertakings concerned by such growers' applications are called upon to submit a social plan in accordance with the third subparagraph of paragraph 4 of that Article. The deadlines for the submission as well as the details that need to be contained therein should be specified.

(5) The details concerning the application procedure to be applied in the case of such growers' applications need to be laid down, in particular with regard to the elements to be contained therein, the addresses at which the applications may be submitted whilst leaving it to the Member States to provide for further means of transmission. Moreover, there is a need to clarify the cases in which the submission of more than one application per grower would lead to the ineligibility of any one of them.

(6) The number of growers' applications submitted as well as the quantity of quota of the undertakings concerned affected by such applications will trigger the need for the undertakings concerned to, decide, for their part, whether they want to submit an application in accordance with Article 4 of Regulation (EC) No 320/2006. Moreover, the Member States need to take quick action for the follow-up decisions once the growers' applications have been received. Therefore, it is important that the situation concerning the applications submitted cannot change and that a grower's application may no longer be withdrawn.

(7) There is also a need to determine the further procedure to be applied by the Member States with a view to the communications to be made to the undertakings concerned by growers' applications as well as to the Commission, and with regard to the decisions on the granting of these applications.

(8) In order to establish a chronological list of applications both from growers and undertakings, the lodging date for the growers' applications should be determined by the lodging date of the last grower's application for each undertaking which has not submitted an eligible application of its own in accordance with Article 4 of Regulation (EC) No 320/2006.

[1] OJ L 58, 28.2.2006, p. 46.
[2] See page 8 of this Official Journal.
[3] OJ L 176, 30.6.2006, p. 32.

(9) Rules need to be laid down to determine the establishment of the chronological list of growers' applications referred to in Article 4a(3) of Regulation (EC) No 320/2006 in the case where several such applications are being submitted simultaneously and where the amounts of sugar covered by these applications exceed the threshold provided for in paragraph 4 of that Article.

(10) Article 4(1) and (1a) of Regulation (EC) No 320/2006 provide for the possibility for undertakings to submit applications for restructuring aid for the renunciation of quotas as from the marketing year 2008/2009 in two phases, namely a first application until 31 January 2008 and a second until 31 March 2008. Recital 6 of Regulation (EC) No 1261/2007 introducing that possibility, refers to the setting-up of a two-phase-application procedure. It is, therefore, appropriate to provide that the initial applications of undertakings for renunciation of quota may be reconsidered in the light of the additional application to the extent that a further quota is being attributed to the factory or factories concerned or that the initial applications under Article 3(1)(b) or (c) are being reconsidered as applications under Article 3(1)(a) or (b) respectively. As such an additional application has an impact on the obligations to be complied with, a revised restructuring plan taking into account the increased level of quota to be renounced, and the obligations linked to the provision of Article 3(1) of Regulation (EC) No 320/2006 concerned, needs to be established and furnished together with that additional application.

(11) Article 13 of Regulation (EC) No 968/2006 provides for the dates by which the Commission fixes the amounts attributed to each Member State under the restructuring fund. The introduction of the different kinds of application procedures by this Regulation makes it necessary to provide for a longer period of time within which the Commission fixes these amounts.

(12) Article 3(8) of Regulation (EC) No 320/2006 provides for the granting of retroactive payments in certain situations. The rules need to be laid down to determine the procedure to be applied in that context and in particular in order to establish the level of such payments and the date by which they have to be made.

(13) Article 11(6) of Regulation (EC) No 320/2006 provides for the reduction of the temporary restructuring amount in cases where undertakings renounce a percentage of their quota of at least the withdrawal percentage to which they were subject under Regulation (EC) No 290/2007. Paragraph 5 of that Article provides for two instalments for the payment of the restructuring amount. Given that the data for the calculation of the reduction of that amount will not yet be available by the deadline for the payment of the first instalment, it should be provided that the reduction is to be offset against the second instalment of the payment by the undertakings.

(14) Regulation (EC) No 968/2006 should, therefore, be amended accordingly.

(15) The measures provided for in this Regulation are in accordance with the opinion of the Committee on the Agricultural Funds,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 968/2006 is amended as follows:

1. in Article 1, the following paragraph 3 is added:

'3. For the purposes of this Regulation:

(i) "application" shall mean an application by a sugar producing undertaking in accordance with Article 4 of Regulation (EC) No 320/2006;

(ii) "grower's application" shall mean an application submitted by a grower of sugar beet or cane in accordance with Article 4a of Regulation (EC) No 320/2006.';

2. Article 2(4) is replaced by the following:

'4. Unless an agreement can be found earlier, the consultation shall consist of at least two meetings and shall last for up to 20 days as from the day on which the invitation to the consultation was sent.

By way of derogation from the first subparagraph, for applications for restructuring aid in accordance with Article 4(1a) of Regulation (EC) No 320/2006, the consultation shall last for up to 10 days and consist of at least one meeting.';

3. Article 6 is amended as follows:

(a) in paragraph 1, the introductory phrase is replaced by the following:

'1. 20 days after it has received a copy of the invitation to the consultation referred to in Article 2(3) at the latest, the Member State shall inform the parties involved in the restructuring plan of its decision on:';

(b) in paragraph 2, the following subparagraph is added:

'By way of derogation from paragraph 1, if the competent authority has received no eligible application from an undertaking by the deadline set out in Article 4(1) of Regulation (EC) No 320/2006, but has received eligible growers' applications, the Member State shall inform the parties of its decision for each undertaking concerned no later than 15 February 2008. In this case, the Member States shall fix the marketing year 2007/2008 as the period referred to in Article 3(6) of Regulation (EC) No 320/2006.';

4. in Article 7, the following paragraph is added:

'4. The social plan referred to in the third subparagraph of Article 4a(4) of Regulation (EC) No 320/2006 shall be submitted by 31 January 2008 at the latest. The social plan shall set-out the impact of the quota reduction triggered by the growers' applications on the workforce and actions and measures foreseen in favour of the workforce, as well as the costs involved.';

5. the following Article 7a is inserted:

'Article 7a

Grower's application for restructuring aid

1. Each grower's application shall contain at least the following elements:

(a) name and address of the applicant;

(b) name and address of the undertaking concerned by the application;

(c) the amount of white sugar and/or beet/cane tonnage and/or hectares for which the grower has rights for delivery to the undertaking referred to in point (b) for the 2007/2008 marketing year for the production of quota sugar;

(d) the amount of delivery rights to be ceased;

(e) where applicable, a document proving the existence of the delivery rights for the 2007/2008 marketing year referred to in point (c);

(f) a statement of the grower that he/she is aware of the conditions pertaining to the aid scheme;

(g) a statement of the grower that he/she has not transferred his/her delivery rights referred to in point (d) to any third parties;

(h) the signature of the applicant.

2. Each grower's application for restructuring aid shall only cover one product (beet/cane) and one undertaking. In the case where a grower has delivery rights for more than one product and/or with more than one undertaking, he/she may submit one application per product and/or undertaking.

3. Once submitted, a grower's application may not be withdrawn, subject to Article 10(5).';

6. Article 8(6) is replaced by the following:

'Within two working days after issuing an acknowledgment of receipt, the competent authority of the Member State shall inform the Commission thereof, using the model table set out in Annex I. If applicable, a separate table shall be used for each product and each marketing year concerned.';

7. the following Article 8a is inserted:

'Article 8a

Receipt of grower's application for restructuring aid

1. The grower's application shall be submitted to the competent authority of the Member State where the undertaking concerned is located either under the address listed for that Member State in Annex II or, where applicable, under any other address or by way of any other means of transmission communicated by the competent authority of the Member State concerned for this purpose. Each grower's application shall be sent to only one address and shall contain the elements mentioned in Article 7a(1).

In the case where a grower submits more than one application in respect of the same product and the same undertaking, or the same application under more than one address, his application or applications shall be ineligible.

2. Growers' applications must be received at the competent authority between 0.00 hours on 30 October 2007 and 24.00 hours on 30 November 2007. The relevant time shall be local time at the place of destination. Applications received before 30 October 2007 or after 30 November 2007 shall be disregarded.

3. For the purpose of the application of Article 4a(3) of Regulation (EC) No 320/2006, the Member States shall establish a provisional calculation of the amount of quota affected by growers' applications. The details of the growers' applications, especially the identity of the applicants, shall not be divulged to any third party.

The communications provided for in Article 4a(3) of Regulation (EC) No 320/2006 shall contain all amounts of delivery rights to be ceased for which applications have been submitted.';

8. Article 9 is amended as follows:

(a) paragraph 4 is replaced by the following:

'4. Where an application is considered eligible, the Member State shall notify the Commission within two working days after its decision, using the model table set out in Annex I.';

(b) the following paragraphs are added:

'6. If the competent authority has received no eligible application from an undertaking by the deadline set out in Article 4(1) of Regulation (EC) No 320/2006, it shall verify the growers' applications concerning this undertaking in view of:

(a) existence of delivery rights in respect of the undertaking concerned in 2007/2008;

(b) tonnage in white sugar equivalent requested, on the basis of the delivery rights or, if reference is made to beet tonnage or hectares, by using the conversion coefficient applicable according to the agreement within the trade or, in absence of such coefficient, a coefficient fixed by the competent authority of the Member State after consulting representatives of the undertaking and the growers concerned.

The competent authority of the Member State shall inform the Commission at least 10 working days before the deadline provided for in Article 5(1) of Regulation (EC) No 320/2006 about the total amount of quota to be reduced as a consequence of eligible growers' applications for each of the undertakings concerned, using the table set out in Annex I to this Regulation.

7. The competent authority of the Member State shall decide on the eligibility of the social plan to be submitted by an undertaking, and inform the undertaking and the Commission of its decision at least 10 working days before the deadline provided for in 5(1) of Regulation (EC) No 320/2006.';

9. Article 10 is amended as follows:

(a) In paragraph 1, the following subparagraph is added:

'However, in the case where growers' applications have been submitted concerning an undertaking which has not, itself, submitted an eligible application before the deadline laid down in Article 4(1) of Regulation (EC) No 320/2006, the moment of the lodging referred to in the first subparagraph of this paragraph shall be the moment of the last grower's application concerning the quota of that undertaking.';

(b) Paragraph 2 is replaced by the following:

'2. By the deadline provided for in Article 5(1) of Regulation (EC) No 320/2006, the Commission shall determine the estimated availability of the financial resources in the restructuring fund:

(a) for all the applications concerning the following marketing year received by the deadline set out in Article 4(1) of that Regulation and found eligible by the competent authority of the Member State, as well as all the aids related to them;

(b) for all the applications by growers, concerning undertakings not having submitted an eligible application for the 2008/2009 marketing year, received by the deadline set out in Article 4a(2) of that Regulation, as well as the aids related to them, up to the limit of 10 % laid down in Article 4a(4) of that Regulation.';

(c) the following paragraphs are added:

'5. In the case where several eligible growers' applications are submitted simultaneously, and where the amounts of deliveries to be ceased under these applications exceed any of the 10 % limits referred to in the first subparagraph of Article 4a(4) of Regulation (EC) No 320/2006, the Member State shall inform the applicants concerned that a proportionate reduction coefficient will be applied to their respective applications. By way of derogation from Article 7a(3), applicants may, in this case, withdraw their applications in writing within 5 working days. The coefficient to be applied to the remaining applications shall in this case be rectified accordingly.

6. By the deadline provided for in Article 4a(4) of Regulation (EC) No 320/2006, the competent authority of the Member State shall:

(a) notify the growers of the granting of the restructuring aid;

(b) provide the undertakings concerned with a list of the growers concerned including the respective amount of delivery rights ceased by each of these growers;

(c) notify the undertaking concerned of the amount of quota thus being reduced.

7. The total amount of quota being reduced for each undertaking in accordance with Article 4a(4) of Regulation (EC) No 320/2006 shall be communicated to the Commission.';

10. the following Article 11a is inserted:

'Article 11a

Special situation as concerns additional applications for restructuring aid

1. If, in respect of a factory, for which restructuring aid under Article 3(1)(a) of Regulation (EC) No 320/2006 has been granted following an application under Article 4(1) of that Regulation, an additional application for restructuring aid is submitted in accordance with Article 4(1a) of that Regulation for the renunciation of an additional quota, the restructuring plan to be included in that application shall be based on the total quota to be renounced and replace the restructuring plan submitted in the context of the first application and accepted under Article 5 of that Regulation.

The same shall apply in the case where the first and the additional application are submitted in view of the granting of restructuring aid under Article 3(1)(b) of Regulation (EC) No 320/2006.

2. If in respect of a factory, for which restructuring aid under Article 3(1)(b) has been granted following an application under Article 4(1) of that Regulation, an additional application for restructuring aid is submitted in accordance with Article 4(1a) of that Regulation for the renunciation of an additional quota in view of the granting of restructuring aid under Article 3(1)(a) of that Regulation, the previous application may be reconsidered for the granting of aid under Article 3(1)(a) of that Regulation provided that the restructuring plan to be included in the additional application is based on the total quota to be renounced and that that restructuring plan replaces the restructuring plan submitted in the context of the first application and accepted under Article 5 of that Regulation.

The same shall apply in respect of first applications which were submitted in view of the granting of restructuring aid under Article 3(1)(c) of Regulation (EC) No 320/2006, if the additional application is submitted in view of the granting of restructuring aid under Article 3(1)(a) or (b) of that Regulation respectively.';

11. in Article 13(1), the introductory phrase is replaced by the following:

'1. By 31 May 2008 for the 2008/2009 marketing year and by 31 March 2009 for the 2009/2010 marketing year, the Commission shall fix the amounts attributed to each Member State under the restructuring fund for:';

12. the title of Chapter V is replaced by the following:

'PAYMENT OF THE AIDS AND TEMPORARY RESTRUCTURING AMOUNT';

13. in Article 16(1), the following subparagraph is added:

'However, where the competent authority of the Member State is satisfied that the conditions laid down in Article 22(1) are fulfilled prior to the payment of any of the instalments, that payment shall not be subject to the lodging of a security.';

14. the following Article 16a is inserted:

'*Article 16a*

Payment of retroactive restructuring aid to growers and undertakings having restructured in 2006/2007 and 2007/2008

1. The retroactive payments provided for in Article 3(8) of Regulation (EC) No 320/2006 shall concern the amounts which make up the positive difference between the aid granted to undertakings and growers in the 2006/2007 and 2007/2008 marketing year and the aid which would have been granted under the conditions valid for the 2008/2009 marketing year.

For the purposes of the application of the first subparagraph, the Member States shall notify to the Commission by 30 November 2007 at the latest the percentages they have fixed for growers and contractors in accordance with Article 3(6) of Regulation (EC) No 320/2006 for all restructuring applications granted for the 2006/2007 and 2007/2008 marketing years.

The Commission shall fix the amounts per Member State that may thus be granted retroactively.

2. The retroactive payments shall be made in June 2008.

Article 16(1) and (2) shall apply *mutatis mutandis*.';

15. in Article 22(1), the introductory phrase is replaced by the following:

'1. The securities referred to in Articles 16(1), 16a(2) and 18(2) shall be released provided that:';

16. the following Article 22a is added in Chapter V:

'*Article 22a*

Temporary restructuring amount

The reduction of the temporary restructuring amount referred to in Article 11(6) of Regulation (EC) No 320/2006 shall be offset against the second instalment of that amount to be paid by the undertakings concerned by 31 October 2008 in accordance with the second indent of the second subparagraph of paragraph 5 of that Article.';

17. the Annex to Regulation (EC) No 968/2006 is renumbered as Annex I;

18. an Annex II is added the text of which is set out in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 26 October 2007.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX

'ANNEX II

Addresses referred to in Article 8a(1)

Belgique/België:

Bureau de coordination agricole
WTC 3, Boulevard Simon Bolivar 30
4e étage, bureau 55
B-1000 Bruxelles
Fax (32-2) 208 35 68

Landbouwbureau
WTC 3, Simon Bolivarlaan 30
4e verdieping, bureel 55
B-1000 Brussel
Fax (32-2) 208 35 68

България:

Държавен фонд „Земеделие" — Разплащателна агенция
бул. „Цар Борис III" 136
София (Sofia) 1618
Тел. (359-2) 818 72 02
Факс (359-2) 818 71 67

Česká republika:

Státní zemědělský intervenční fond
Oddělení pro cukr a škrob
Ve Smečkách 33
CZ-110 00 Praha 1
Tel.: (420) 222 871 427
Fax: (420) 222 871 875
E-mail: Sarka.Dubovicka@szif.cz

Danmark:

Direktoratet for FødevareErhverv
Nyropsgade 30
DK-1780 København V
Tlf. (45) 33 95 80 00

Deutschland:

Bundesanstalt für Landwirtschaft und Ernährung
Referat 312
D-53168 Bonn
Tel. (49-228) 68 45-3704 oder 3640
Fax (49-228) 68 45-3985, 3276 oder 3624

Ελλάδα:

Οργανισμός Πληρωμών και Ελέγχου Κοινοτικών Ενισχύσεων Προσανατολισμού και Εγγυήσεων (ΟΠΕΚΕΠΕ)
Αχαρνών 241
GR-104 46 Αθήνα
Τηλ. (30) 210 228 33 54
Φαξ (30) 210 221 15 01
E-mail: g.kentros@opekepe.gr

España:

Fondo Español de Garantía Agraria (FEGA),
Subdirección General de Sectores Especiales
http://www.fega.es

France:

Office national interprofessionnel des grandes cultures (ONIGC) TSA 20002
F-93555 Montreuil-sous-Bois cedex
Fax (33) 174 90 01 30

Italia:

Agenzia per le erogazioni in agricoltura
Area Autorizzazioni pagamenti
PAC prodotti animali, seminativi e foraggi-zucchero
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COMMISSION REGULATION (EC) No 1265/2007

of 26 October 2007

laying down requirements on air-ground voice channel spacing for the single European sky

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 552/2004 of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management Network (the interoperability Regulation) [1] and in particular article 3(1) thereof,

Having regard to Regulation (EC) No 549/2004 of the European Parliament and the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation) [2], and in particular Article 8(2) thereof,

Whereas:

(1) Increases in air traffic levels within the European Air Traffic Management network (hereinafter EATMN) have required increases in air traffic management capacity. This has led to a demand for operational improvements — such as airspace resectorisation — which, in turn, has led to a demand for additional VHF assignments.

(2) Due to difficulties in satisfying the demand for VHF assignments in the aeronautical mobile radio communication service band 117,975 to 137 MHz — and taking into account the limitations for increasing the allocated spectrum and/or frequency re-use — the International Civil Aviation Organisation (hereinafter ICAO) decided to reduce the channel spacing from 25 to 8,33 kHz.

(3) Following ICAO decisions taken in 1994 and 1995, 8,33 kHz channel spacing was introduced above flight level (hereinafter FL) 245 in the ICAO EUR Region in October 1999. Initially, seven States enforced mandatory carriage of this radio equipment with 8,33 kHz channel spacing capability in the aircraft, with a further 23 States enforcing mandatory carriage since October 2002.

(4) In line with predicted increases in the demand for VHF assignments, ICAO decided in 2002 to proceed with the implementation of 8,33 kHz channel spacing below FL 245, and requested the European Organisation for the Safety of Air navigation (Eurocontrol) to manage the implementation. Subsequently, the Eurocontrol Permanent Commission recommended to proceed with the implementation of 8,33 kHz channel spacing above FL 195 in the ICAO EUR Region from 15 March 2007.

(5) Traffic growth is expected to continue over the coming years, implying further demand for additional VHF requirements. Implementation of 8,33 kHz channel spacing above FL 195 should therefore be considered only as a first step which would need to be evaluated for possible expansion in due time, on the basis of proper operational, safety and economic impact assessment.

(6) Eurocontrol has been mandated in accordance with Article 8(1) of Regulation (EC) No 549/2004 to develop requirements for the coordinated introduction of air-ground voice communications based on reduced 8,33 kHz channel spacing. This Regulation is based on the resulting mandate report of 12 October 2006.

(7) In order to ensure interoperability, the ground and airborne 8,33 kHz voice communications systems need to comply with common minimum performance requirements.

(8) The uniform application of specific procedures within the airspace of the single European sky is essential for the achievement of interoperability and seamless operations.

(9) The information about whether aircraft have 8,33 kHz channel spacing capability should be included in the flight plan, processed and transmitted between the air traffic control units.

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

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

(11) The Member States have declared in a general statement on military issues related to the single European sky [1] that they will cooperate with each other, taking into account national military requirements, in order that the concept of the flexible use of airspace is fully and uniformly applied in all Member States by all users of airspace. To that end, the air-ground voice communication on reduced 8,33 kHz channel spacing should be implemented by all users of airspace.

(12) The handling of State aircraft flying as general air traffic which do not have 8,33 kHz channel spacing capability can lead to an increased air traffic control workload and have a detrimental impact on capacity and safety levels of the EATMN. In order to minimise such impact, the highest possible rates of State aircraft should be equipped with radio equipment with 8,33 kHz channel spacing capability.

(13) Transport type State aircraft represent the largest category of State aircraft flying as general air traffic in the airspace in which this Regulation applies. Ensuring that such State aircraft have radio equipment with 8,33 kHz channel spacing capability should therefore be made a priority.

(14) Constraints of a technical or financial nature may prevent Member States from equipping certain categories of State aircraft with radios with 8,33 kHz channel spacing capability. The Commission should be informed in such cases.

(15) Air navigation service providers should establish plans addressing the handling of the State aircraft which cannot be equipped with radios with 8,33 kHz channel spacing capability, in order to maintain safety levels.

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

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

(18) The level of maturity of the market for the constituents to which this Regulation applies is such that their conformity or suitability for use can be satisfactorily assessed through internal production control, using procedures based on Module A in the Annex to 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 [2].

(19) The measures provided for in this Regulation are in accordance with the opinion of the Single Sky Committee established by Article 5(1) of Regulation (EC) No 549/2004,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1. This Regulation lays down requirements for the coordinated introduction of air-ground voice communications based on 8,33 kHz channel spacing.

2. This Regulation shall apply to air-ground voice communications systems based on 8,33 kHz channel spacing within the aeronautical mobile radio communication service band 117,975-137 MHz, their constituents and associated procedures and to flight data processing systems serving air traffic control units providing services to general air traffic, their constituents and associated procedures.

3. This Regulation shall apply to all flights operating as general air traffic above FL 195, within the airspace of the ICAO EUR region where Member States are responsible for provision of air traffic services in accordance with Regulation (EC) No 550/2004 of the European Parliament and of the Council [3], with the exception of Article 4 which shall apply also below FL 195.

4. In the framework of the first paragraph of Article 4 of Commission Regulation (EC) No 730/2006 [4], Member States may issue derogations from airborne carriage obligations laid down in this Regulation for flights operated under visual flight rules.

[1] OJ L 96, 31.3.2004, p. 9.

[2] OJ L 220, 30.8.1993, p. 23.

[3] OJ L 96, 31.3.2004, p. 10.

[4] OJ L 128, 16.5.2006, p. 3.

Article 2

Definitions

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

The following definitions shall also apply:

1. '8,33 kHz channel spacing' means a separation of 8,33 kHz between adjacent channels;

2. 'channel' means a numerical designator used in conjunction with voice communication equipment tuning, which allows unique identification of the applicable radio communication frequency and channel spacing;

3. 'air traffic control unit' (hereinafter ATC unit) means variously area control centre, approach control unit or aerodrome control tower;

4. 'area control centre' (hereinafter ACC) means a unit established to provide air traffic control service to controlled flights in control areas under its responsibility;

5. 'flights operated under visual flight rules' (VFR flights) means any flights operated under visual flight rules as defined in Annex 2 ([1]) to the 1944 Chicago Convention on International Civil Aviation;

6. 'VHF assignments' means the assignment of a VHF frequency to an aeronautical service for the purpose of operating voice communication equipment;

7. 'offset-carrier system' means a system used in situations where radio coverage cannot be ensured by a single transmitter and receiver combination and where, in order to minimise the interference problems, the signals are offset from the main carrier frequency;

8. 'designated operational coverage' means the volume of airspace in which a particular service is provided and in which the service is afforded frequency protection;

9. 'operator' means a person, organisation or enterprise engaged in or offering to engage in an aircraft operation;

10. 'working position' means the furniture and technical equipment at which a member of the air traffic services staff under takes task associated with their job;

11. 'radio-telephony' means a form of radio-communication primarily intended for the exchange of information in the form of speech;

12. 'letter of agreement' means an agreement between two adjacent ATC units that specifies how their respective ATC responsibilities are to be coordinated;

13. 'Integrated Initial Flight Plan Processing System' (hereinafter 'IFPS') means a system within the European Air Traffic Management Network through which a centralised flight planning processing and distribution service, dealing with the reception, validation and distribution of flight plans, is provided within the airspace covered by this Regulation;

14. 'State aircraft' means any aircraft used for military, customs and police;

15. 'transport-type State aircraft' means fixed wing State aircraft that are designed for the purpose of transporting persons and/or cargo.

Article 3

Interoperability and performance requirements

1. Without prejudice to Article 5, operators shall ensure that, by 15 March 2008 at the latest, their aircraft are equipped with radio equipment with 8,33 kHz channel spacing capability.

2. In addition to 8,33 kHz channel spacing capability, the equipment referred to in paragraph 1 shall be able to tune to 25 kHz spaced channels and to operate in an environment which uses offset-carrier frequencies.

3. Air navigation service providers shall ensure that, by 3 July 2008 at the latest, all voice VHF assignments are converted to 8,33 kHz channel spacing for sectors with a lower level at or above FL 195.

([1]) 10th Edition — July 2005 — www.icao.int

4. Paragraph 3 shall not apply in respect of sectors where 25 kHz offset-carrier system is utilised.

5. Member States shall take all the necessary measures to ensure that appropriate VHF assignments are notified to air navigation service providers.

6. Air navigation service providers shall implement the VHF assignments referred to in paragraph 5. If under exceptional circumstances it is not possible to comply with paragraph 3, Member States shall communicate the reasons to the Commission.

7. Air navigation service providers shall ensure that the performance of their 8,33 kHz voice communication systems comply with the ICAO standards specified in Annex I(1).

8. Air navigation service providers shall ensure that their 8,33 kHz voice communication systems allow an operationally acceptable voice communication between controllers and pilots within the designated operational coverage.

9. Air navigation service providers shall ensure that the performance of the transmitter/receiver ground constituent installed within the 8,33 kHz voice communication systems comply with the ICAO standards specified in Annex I(1) with regard to the frequency stability, modulation, sensitivity, effective acceptance bandwidth and adjacent channel rejection.

10. Operators shall ensure that the performance of the 8,33 kHz voice communication systems installed onboard their aircraft in application of paragraph 1 comply with the ICAO standards specified in Annex I(2).

11. The European Organisation for Civil Aviation Equipment (Eurocae) document specified in Annex I(3) shall be considered as sufficient means of compliance with regard to the frequency stability, modulation, sensitivity, effective acceptance bandwidth and adjacent channel rejection requirements identified in the ICAO standards specified in Annex I(2).

12. Air navigation service providers shall implement the notification and initial co-ordination processes in their flight data processing systems in accordance with Commission Regulation (EC) No 1032/2006 [1] as follows:

(a) the information about the 8,33 kHz capability of a flight shall be transmitted between ATC units;

(b) the information about the 8,33 kHz capability of a flight shall be made available at the appropriate working position;

(c) the controller shall have the means to modify the information about the 8,33 kHz capability of a flight.

Article 4

Associated procedures

1. Air navigation service providers and operators shall ensure that all six digits of the numerical designator are used to identify the transmitting channel in VHF radio-telephony communications, except in the case of both the fifth and sixth digits being zeros, in which case only the first four digits shall be used.

2. Air navigation service providers and operators shall ensure that their air-ground voice communication procedures are in accordance with the ICAO provisions specified in Annex I(4).

3. Air navigation service providers shall ensure that the procedures applicable to aircraft equipped with radio equipment with 8,33 kHz channel spacing capability and aircraft which are not equipped with such equipment are specified in the letters of agreement between ACCs.

4. Operators operating flights referred to in Article 1(3) above FL 195, and agents acting on their behalf shall ensure that in addition to the letter S and/or any other letters, as appropriate, the letter Y is inserted in item 10 of the flight plan for aircraft equipped with radio equipment with 8,33 kHz channel spacing capability, or the indicator STS/EXM833 is included in item 18 for aircraft not equipped but which have been granted exemption from the mandatory carriage equipment. Aircraft normally capable of operating above FL 195 equipped with radio equipment with 8,33 kHz channel spacing capability but planning to fly below this level shall include the letter Y in item 10 of the flight plan.

5. In the case of a change in the 8,33 kHz capability status for a flight, the operators or the agents acting on their behalf shall send a modification message to IFPS with the appropriate indicator inserted in the relevant item.

6. Member States shall take the necessary measures to ensure that IFPS processes and distributes information on the 8,33 kHz capability received in the flight plans.

[1] OJ L 186, 7.7.2006, p. 27.

Article 5

State aircraft

1. Member States shall ensure that transport-type State aircraft are equipped with radio equipment with 8,33 kHz channel spacing capability by 3 July 2008 at the latest.

2. Without prejudice to national procedures for the communication of information on State aircraft, Member States shall communicate to the Commission by 3 January 2008 at the latest, the list of transport-type State aircraft that will not be equipped with radio equipment with 8,33 kHz channel spacing capability in accordance with paragraph 1, due to:

(a) withdrawal from operational service by 31 December 2010;

(b) procurement constraints.

When procurement constraints prevent compliance with paragraph 1, Member States shall also communicate to the Commission by 3 January 2008 at the latest the date by which the aircraft concerned will be equipped with radio equipment with 8,33 kHz channel spacing capability. That date shall not be later than 31 December 2012.

3. Member States shall ensure that non-transport-type State aircraft are equipped with radio equipment with 8,33 kHz channel spacing capability by 31 December 2009 at the latest.

4. Without prejudice to national procedures for the communication of information on State aircraft, Member States shall communicate to the Commission by 30 June 2009 at the latest, the list of non-transport-type State aircraft that will not be equipped with radio equipment with 8,33 kHz channel spacing capability in accordance with paragraph 3, due to:

(a) compelling technical or budgetary constraints;

(b) withdrawal from operational service by 31 December 2010;

(c) procurement constraints.

When procurement constraints prevent compliance with paragraph 3, Member States shall also communicate to the Commission by 30 June 2009 at the latest the date by which the aircraft concerned will be equipped with radio equipment with 8,33 kHz channel spacing capability. That date shall not be later than 31 December 2015.

5. Air traffic service providers shall ensure that the State aircraft not equipped with radio equipment with 8,33 KHz channel spacing capability can be accommodated, provided that they can be safely handled within the capacity limits of the air traffic management system on UHF or 25 kHz VHF assignments.

6. Member States shall publish the procedures for the handling of State aircraft which are not equipped with radio equipment with 8,33 kHz channel spacing capability in national aeronautical information publications.

7. Air traffic service providers shall communicate on an annual basis to the Member State that has designated them, their plans for the handling of State aircraft which are not equipped with radio equipment with 8,33 kHz channel spacing capability defined taking into account the capacity limits associated with the procedures referred to in paragraph 6.

Article 6

Safety requirements

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

During this safety assessment, the safety requirements specified in Annex II shall be taken into consideration as a minimum.

Article 7

Conformity or suitability for use of constituents

1. Before issuing an EC declaration of conformity or suitability for use referred to in Article 5 of Regulation (EC) No 552/2004, manufacturers of constituents of the systems referred to in Article 1(2) shall assess the conformity or suitability for use of these constituents in compliance with the requirements set out in Annex III, Part A, to this Regulation without prejudice to paragraph 2.

2. Certification airworthiness processes complying with Regulation (EC) No 1592/2002 of the European Parliament and of the Council [1], when applied to airborne constituents of the systems referred to in Article 1(2), shall be considered as acceptable procedures for the conformity assessment of these constituents if they include the demonstration of compliance with the interoperability, performance and safety requirements of this Regulation.

[1] OJ L 240, 7.9.2002, p. 1.

Article 8

Verification of systems

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

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

Article 9

Additional requirements

1. Air navigation service providers shall ensure that all related personnel are made duly aware of the requirements laid down in this Regulation and that they are adequately trained for their job functions.

2. Member States shall take the necessary measures to ensure that the personnel operating the IFPS involved in flight planning are made duly aware of the requirements laid down in this Regulation and that they are adequately trained for their job functions.

3. Air navigation service providers shall:

(a) develop and maintain operations manuals containing the necessary instructions and information to enable all related personnel to apply this Regulation;

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

(c) ensure that the working methods and operating procedures comply with this Regulation.

4. Member States shall take the necessary measures to ensure that the centralised flight planning processing and distribution service:

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

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

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

5. Operators identified in Article 3(1) shall take the necessary measures to ensure that the personnel operating radio equipment are made duly aware of this Regulation, that they are adequately trained to use this equipment and that instructions are available in the cockpit where feasible.

6. Member States shall take the necessary measures to ensure compliance with this Regulation including the publication of relevant information in the national aeronautical information publications.

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 Brussels, 26 October 2007.

For the Commission

Jacques BARROT

Vice-President

ANNEX I

Standards and provisions referred to in Articles 3 and 4

1. Chapter 2 'Aeronautical Mobile Service', Section 2.1 'Air-ground VHF communication system characteristics' and Section 2.2 'System characteristics of the ground installations' of ICAO Annex 10, Volume III, Part 2 (First Edition — July 1995 incorporating Amendment No 80).

2. Chapter 2 'Aeronautical Mobile Service', Section 2.1 'Air-ground VHF communication system characteristics', Section 2.3.1 'Transmitting function' and Section 2.3.2 'Receiving function' excluding sub-section 2.3.2.8 'VDL — Interference Immunity Performance' of ICAO Annex 10, Volume III, Part 2 (First Edition — July 1995 incorporating Amendment No 80).

3. Eurocae Minimum Operational Performance Specification for Airborne VHF Receiver-Transmitter operating in the frequency range 117,975-137,000 MHz, Document ED-23B, Amendment 3, December 1997.

4. Section 12.3.1.4 '8,33 kHz channel spacing' of ICAO PANS-ATM Doc. 4444 (14th Edition — 2001 incorporating Amendment No 4).

ANNEX II

Safety requirements referred to in Article 6

1. The interoperability and performance requirements specified in Article 3(1) and (12) shall be considered as safety requirements.

2. The associated procedures' requirements specified in Article 4(1) and (2) shall be considered as safety requirements.

3. The State aircraft requirements specified in Article 5(1), (3), (5) and (7) shall be considered as safety requirements.

4. The requirements supporting compliance specified in Article 9(1), (3), (5) and (6) shall be considered as safety requirements.

5. Air navigation service providers shall ensure that the controller Human Machine Interface for the display of VHF channels is consistent with the VHF radio-telephony procedures.

6. Air navigation service providers shall assess the impact of descending aircraft which are not equipped with radio equipment with 8,33 kHz channel spacing capability below FL 195, taking into account factors such as minimum safe crossing altitudes, and determine whether modifications to sector capacity or airspace design/structures are required.

7. Member States shall ensure that 25 to 8,33 kHz conversions are operated for a trial period of minimum four weeks, during which time safe operation is verified, prior to coordination in the Table COM2 of ICAO Doc 7754.

8. Member States shall ensure that 25 to 8,33 kHz conversions are made respecting the ICAO frequency planning criteria described in Part II — 'VHF Air-Ground Communications Frequency Assignment Planning Criteria' of the EUR Frequency Management Manual — ICAO EUR Doc 011 (2005).

ANNEX III

PART A

REQUIREMENTS FOR THE ASSESSMENT OF THE CONFORMITY OR SUITABILITY FOR USE OF CONSTITUENTS REFERRED TO IN ARTICLE 7

1. The verification activities shall demonstrate the conformity of constituents with the performance requirements of this Regulation, or their suitability for use whilst these constituents are in operation in the test environment.

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

PART B

INTERNAL PRODUCTION CONTROL MODULE

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

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

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

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

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

PART C

REQUIREMENTS FOR THE VERIFICATION OF SYSTEMS REFERRED TO IN ARTICLE 8(1)

1. The verification of systems identified in Article 1(2) shall demonstrate the conformity of these systems with the interoperability, performance and safety requirements of this Regulation in an assessment environment that reflects the operational context of these systems. In particular:

   — the verification of systems for air-to-ground communications shall demonstrate that 8,33 kHz channel spacing is in use for the VHF air-ground voice communications in accordance with Article 3(3) and that the performance of the 8,33 kHz voice communication systems complies with Article 3(7),

   — the verification of systems for flight data processing shall demonstrate that the functionality described in Article 3(12) is properly implemented.

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

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

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

— description of the implementation,

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

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

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

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

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

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

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

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

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

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

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

PART D

REQUIREMENTS FOR THE VERIFICATION OF SYSTEMS REFERRED TO IN ARTICLE 8(2)

1. The verification of systems identified in Article 1(2) shall demonstrate the conformity of these systems with the interoperability, performance and safety requirements of this Regulation in an assessment environment that reflects the operational context of these systems. In particular:

— the verification of systems for air-to-ground communications shall demonstrate that 8,33 kHz channel spacing is in use for the VHF air-ground voice communications in accordance with Article 3(3) and that the performance of the 8,33 kHz voice communication systems complies with Article 3(7),

— the verification of systems for flight data processing shall demonstrate that the functionality described in Article 3(12) is properly implemented.

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

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

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

   — description of the implementation,

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

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

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

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

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

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

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

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

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

7. The notified body shall ensure that the systems identified in Article 1(2) operated in an operational assessment environment meet the interoperability, performance and safety requirements of this Regulation.

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

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

ANNEX IV

Conditions referred to in Article 8

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

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

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

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

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

COMMISSION REGULATION (EC) No 1266/2007

of 26 October 2007

on implementing rules for Council Directive 2000/75/EC as regards the control, monitoring, surveillance and restrictions on movements of certain animals of susceptible species in relation to bluetongue

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 82/894/EEC of 21 December 1982 on the notification of animal diseases within the Community [1], and in particular the second indent of Article 5(2),

Having regard to Council Directive 2000/75/EC of 20 November 2000 laying down specific provisions for the control and eradication of bluetongue [2], and in particular Article 6(1) and (3), Article 8(2)(d), Article 8(3), Article 9(1)(c), Articles 11 and 12 and the third paragraph of Article 19 thereof,

Whereas:

(1) Directive 2000/75/EC lays down control rules and measures to combat bluetongue in the Community, including the establishment of protection and surveillance zones and a ban on animals of the susceptible species leaving those zones. Exemptions from that ban may de decided by the Commission in accordance with the procedure provided for in that Directive.

(2) Commission Decision 2005/393/EC of 23 May 2005 on protection and surveillance zones in relation to bluetongue and conditions applying to movements from or through these zones [3] provides for the demarcation of the global geographic areas where protection and surveillance zones (the restricted zones) are to be established by the Member States.

(3) Following the adoption of Decision 2005/393/EEC, the bluetongue situation in the Community has considerably changed and new experience has been gained on disease control, in particular following the recent incursions of new serotypes of bluetongue virus, namely of serotype 8 in an area of the Community where outbreaks had never been reported before and which was not considered at risk of bluetongue, and of serotype 1 of that virus.

(4) On the basis of the experience gained, it is appropriate to improve harmonisation at Community level of the rules on the control, monitoring, surveillance, and restrictions on movements of susceptible animals, excluding wild animals, in relation to bluetongue as they are of fundamental importance for safe trade in susceptible farmed animals moving within and from restricted zones, with the aim of establishing a more sustainable strategy for the control of bluetongue. For the sake of harmonisation and clarity, it is therefore necessary to repeal Decision 2005/393/EC and to replace it by this Regulation.

(5) The new situation as regards bluetongue has also led the Commission to request scientific advice and support from the European Food Safety Authority (EFSA) which has delivered two scientific reports and two scientific opinions on bluetongue in 2007.

(6) Pursuant to Directive 2000/75/EC, the demarcation of protection and surveillance zones must take account of geographical, administrative, ecological and epizootiological factors connected with bluetongue and of the control arrangements. In order to take account of those factors, it is necessary to lay down rules as regards the minimum harmonised requirements for monitoring and surveillance of bluetongue in the Community.

(7) Surveillance and exchange of information are key elements of a risk-based approach to bluetongue control measures. For that purpose, it is appropriate, in addition to the definitions laid down in Article 2 of Directive 2000/75/EC, to provide in particular for a definition of a case of bluetongue, to enable a common understanding of the essential parameters related to an outbreak of bluetongue.

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[1] OJ L 378, 31.12.1982. Directive as last amended by Commission Decision 2004/216/EC (OJ L 67, 5.3.2004, p. 27).

[2] OJ L 327, 22.12.2000, p. 74. Directive as last amended by Directive 2006/104/EC (OJ L 363, 20.12.2006, p. 352).

[3] OJ L 130, 24.5.2005, p. 22. Decision as last amended by Decision 2007/357/EC (OJ L 133, 25.5.2007, p. 44).

(8) In addition, the concept of restricted zones, used in Decision 2005/393/EC, has proven adequate, especially if the presence of the bluetongue virus is detected in the affected area in two consecutive seasons. For practical reasons and for the sake of clarity of Community legislation, it is appropriate to provide for a definition of restricted zones, consisting of both the protection and surveillance zones demarcated by the Member States pursuant to Article 8(1) of Directive 2000/75/EC.

(9) The determination of a bluetongue seasonally-free zone for which surveillance demonstrates no evidence of bluetongue transmission or of competent vectors is an essential tool for a sustainable management of outbreaks of bluetongue enabling safe movements. For that purpose, it is appropriate to provide for the harmonised criteria that should be used for the definition of the seasonally vector-free period.

(10) Outbreaks of bluetongue should be notified in accordance with Article 3 of Council Directive 82/894/EEC, using the codified forms and the codes set out in Commission Decision 2005/176/EC of 1 March 2005 laying down the codified form and the codes for the notification of animal diseases pursuant to Council Directive 82/894/EEC [1]. In the light of the current epidemiological development of bluetongue, the scope of this notification requirement should be temporarily adapted by defining more precisely the obligation to notify primary outbreaks.

(11) According to the opinion of the Scientific Panel on Animal Health and Welfare of the EFSA on bluetongue origin and occurrence [2], adopted on 27 April 2007, it is essential that appropriate surveillance programmes are in place to detect the occurrence of bluetongue at the earliest possible stage. Such surveillance programmes should include a clinical, serological and entomological component that should operate seamlessly across all Member States.

(12) An integrated approach at Community level is required in order to be able to analyse the epidemiological information provided by the bluetongue monitoring and surveillance programmes, including both regional and global distribution of the bluetongue infection, as well as of the vectors.

(13) Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field [3] provides for a Community financial contribution for the eradication, control and monitoring of bluetongue.

(14) Pursuant to Decision 90/424/EEC, Commission Decision 2007/367/EC of 25 May 2007 concerning a financial contribution by the Community to Italy for the implementation of a system for collection and analysis of epidemiological information on bluetongue [4] established the BlueTongue NETwork application (BT-Net system), which is a web-based system to collect, store, and analyse bluetongue surveillance data in the Member States. Full use of that system is of fundamental importance to establish the most appropriate measures for controlling the disease, verifying their efficacy and allowing safe movements of animals of susceptible species. To ensure more effective and efficient exchanges of information on the bluetongue monitoring and surveillance programmes in place between the Member States and the Commission, those exchanges should therefore be carried out through the BT-Net system.

(15) Unless it appears necessary to proceed to the demarcation of protection and surveillance zones at Community level pursuant to Article 8(2)(d) of Directive 2000/75/EC, that demarcation should be carried out by the Member States. However, for the sake of transparency, Member States should notify to the Commission their protective and surveillance zones and any changes thereof without delay. In particular, if a Member State intends not to maintain an epidemiological relevant geographical area in a restricted zone, it should provide to the Commission in advance with relevant information to substantiate the absence of bluetongue virus circulation in that area.

(16) Exemptions from the exit ban applicable to movements of susceptible animals, their semen, ova and embryos, from the restricted zone should be authorised on the basis of a risk analysis taking into account the data collected through the bluetongue surveillance programme, the exchange of data with other Member States and the Commission through the BT-Net system, the destination of the animals, and their compliance with certain health requirements guaranteeing the safety of the animals. Movements of animals for immediate slaughter should also be exempted from the exit ban under certain conditions. Taking into account the low level of risk of movements of animals for immediate slaughter and certain risk mitigation factors, it is appropriate to provide for specific conditions minimizing the risk of virus transmission by channelling the transport of animals from a holding located in a restricted zone towards slaughterhouses designated on the basis of a risk assessment.

[1] OJ L 59, 5.3.2005, p. 40. Decision as amended by Decision 2006/924/EC (OJ L 354, 14.12.2006, p. 48).
[2] The EFSA Journal (2007) 480, 1-20.
[3] OJ L 224, 18.8.1990, p. 19. Decision as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).
[4] OJ L 139, 31.5.2007, p. 30.

(17) Movements of animals within the same restricted zone where the same bluetongue virus serotype or serotypes are circulating, does not pose an additional risk to animal health and should therefore be allowed by the competent authority under certain conditions.

(18) According to the opinion of the Scientific Panel on Animal Health and Welfare of the EFSA on vectors and vaccines [1], adopted on 27 April 2007, movements of immunised animals due to vaccination or naturally immunised animals can be considered safe irrespective of the virus circulation at the place of origin or the vectors activity at the place of destination. It is therefore necessary to provide for the conditions that immunised animals must fulfil before moving from a restricted zone.

(19) Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine [2], Council Directive 91/68/EEC of 28 January 1991 on animal health conditions governing intra-Community trade in ovine and caprine animals [3], Council Directive 92/65/EEC of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A(I) to Directive 90/425/EEC [4] and Commission Decision 93/444/EEC of 2 July 1993 on detailed rules governing intra-Community trade in certain live animals and products intended for exportation to third countries [5] provide that health certificates are to accompany the movements of animals. Where exemptions from the exit ban applicable to movements of animals of susceptible species from the restricted zone are applied to animals intended for intra-Community trade or for export to a third country, those certificates should include a reference to this Regulation.

(20) In accordance with the opinion of the EFSA on vectors and vaccines, it is appropriate to lay down the conditions for the treatment with authorised insecticides at the place of loading of the vehicles transporting susceptible animals from a restricted zone to or through areas outside a restricted zone. When during the transit through a restricted zone, a rest period is foreseen in a control post the animals should be protected from any attacks by vectors. However, the treatment with authorised insecticides of animals, premises and their surroundings in infected holdings should only be carried out following a defined protocol on the basis of the positive outcome of a case-by-case risk assessment which takes into account geographical, epidemiological, ecological, environmental, entomological data and a cost/benefit assessment.

(21) The health certificates provided for in Directives 64/432/EEC, 91/68/EEC and 92/65/EEC and Decision 93/444/EEC covering animals intended for intra-Community trade or for export to a third country should include a reference to any insecticide treatment carried out pursuant to this Regulation.

(22) In view of the need to avoid unnecessary disruptions in trade it is urgent to establish a sustainable strategy for the control of the bluetongue virus enabling safe trade in animals of susceptible species moving within and from restricted zones.

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

HAS ADOPTED THIS REGULATION:

CHAPTER 1

SUBJECT MATTER AND DEFINITIONS

Article 1

Subject matter

This Regulation lays down rules for the control, monitoring, surveillance and restrictions on movements of animals with the meaning of Article 2(c) of Directive 2000/75/EC, in relation to bluetongue, in and from the restricted zones.

Article 2

Definitions

For the purposes of this Regulation, the definitions in Article 2 of Directive 2000/75/EC shall apply.

In addition, the following definitions shall apply:

(a) 'case of bluetongue' means an animal that meets one of the following requirements:

[1] The EFSA Journal (2007) 479, 1-29.
[2] OJ 121, 29.7.1964, p. 1977/1964. Directive as last amended by Directive 2006/104/EC.
[3] OJ L 46, 19.2.1991, p. 19. Directive as last amended by Directive 2006/104/EC.
[4] OJ L 268, 14.9.1992, p. 54. Directive as last amended by Commission Decision 2007/265/EC (OJ L 114, 1.5.2007, p. 17).
[5] OJ L 208, 19.8.1993, p. 34.

(i) it presents clinical signs consistent with the presence of bluetongue;

(ii) it is a sentinel animal that had showed negative serological results in a previous test and has seroconverted from negative to positive for antibodies to at least one bluetongue serotype since that test;

(iii) it is an animal from which the bluetongue virus has been isolated and identified as such;

(iv) it is an animal which has tested positive to bluetongue serological tests or from which viral antigen or viral ribonucleic acid (RNA) specific to one or more of the bluetongue serotypes has been identified.

In addition, a set of epidemiological data must indicate that the clinical signs or results of laboratory tests suggesting bluetongue infection are the consequence of virus circulation in the holding in which the animal is kept and not the result of the introduction of vaccinated or seropositive animals from restricted zones.

(b) 'outbreak of bluetongue' means an outbreak of that disease as defined in Article 2(c) of Directive 82/894/EEC;

(c) 'primary outbreak of bluetongue' means an outbreak as defined in Article 2(d) of Directive 82/894/EEC, taking into account that, for the purposes of the application of the first indent of Article 3(1) of that Directive, a case of bluetongue is a primary outbreak in the following cases:

(i) if it is not epidemiologically linked with a previous outbreak; or

(ii) it implies the demarcation of a restricted zone or a change in an existing restricted zone as referred to in Article 6.

(d) 'restricted zone' means a zone consisting of both protection and surveillance zones established pursuant to Article 8(1) of Directive 2000/75/EC;

(e) 'bluetongue seasonally-free zone' means an epidemiological relevant geographical area of a Member State for which, for a part of the year, surveillance demonstrates no evidence of bluetongue virus transmission or of adult *Culicoides* likely to be competent bluetongue vectors;

(f) 'transit' means the movement of animals:

(i) from or through a restricted zone;

(ii) from a restricted zone through a non-restricted zone back to the same restricted zone; or

(iii) from a restricted zone through a non-restricted zone to another restricted zone.

CHAPTER 2

MONITORING AND SURVEILLANCE AND EXCHANGE OF INFORMATION

Article 3

Notification of bluetongue

Member States shall notify primary outbreaks and outbreaks of bluetongue through the Animal Disease Notification System, using the codified forms and the codes set out in Decision 2005/176/EC.

Article 4

Bluetongue monitoring and surveillance programmes

Member States shall implement the following programmes in accordance with the minimum requirements set out in Annex I:

(a) bluetongue monitoring programmes in restricted zones (the bluetongue monitoring programmes);

(b) bluetongue surveillance programmes outside restricted zones (bluetongue surveillance programmes).

Article 5

Epidemiological information

1. Member States shall transmit to the BlueTongue NETwork application (BT-Net system), established by Decision 2007/367/EC, information on bluetongue gathered in the course of the implementation of the bluetongue monitoring and/or surveillance programmes, and in particular:

(a) a monthly report, transmitted not later than one month after the end of the reporting month, which shall contain at least:

(i) the data on the sentinel animals from the bluetongue monitoring programmes in place in the restricted zones;

(ii) the entomological data from the bluetongue monitoring programmes in place in the restricted zones;

(b) an intermediate report covering the first six months of the year, and transmitted each year by 31 July at the latest, which shall contain at least:

(i) the data from the bluetongue surveillance programmes in place outside the restricted zones;

(ii) the vaccination data from the restricted zones;

(c) an annual report, transmitted by 30 April of the following year at the latest, which shall contain the information referred to in points (b)(i) and (ii) for the previous year.

2. The information to be transmitted to the BT-Net system is set out in Annex II.

CHAPTER 3

RESTRICTIONS ON MOVEMENTS OF ANIMALS AND OF THEIR SEMEN, OVA AND EMBRYOS

Article 6

Restricted zones

1. Member States shall notify to the Commission their restricted zones, and any change in the situation of those zones within 24 hours.

2. Before taking any decision to remove an epidemiologically relevant geographical area from a restricted zone, Member States shall provide the Commission with substantiated information demonstrating the absence of bluetongue virus circulation in that area during a period of two years following the implementation of the bluetongue monitoring programme.

3. The Commission shall inform the Member States in the framework of the Standing Committee on the Food Chain and Animal Health of the list of restricted zones.

4. Member States shall draw up and keep updated a list of the restricted zones in their territory and make it available to the other Member States and to the public.

5. The Commission shall publish, for information purposes only, on its website the updated list of restricted zones.

That list shall include information on the bluetongue virus serotypes circulating in each restricted zone, which permits, for the purposes of Articles 7 and 8, the identification of the restricted zones demarcated in different Member States where the same bluetongue virus serotypes are circulating.

Article 7

Conditions for movements within the same restricted zone

1. Movements of animals within the same restricted zone where the same bluetongue virus serotype or serotypes are circulating shall be allowed by the competent authority provided that the animals to be moved do not show any clinical signs of bluetongue on the day of transport.

2. However, movements of animals from a protection zone to a surveillance zone may only be allowed if:

(a) the animals comply with the conditions set out in Annex III; or

(b) the animals comply with any other appropriate animal health guarantees based on a positive outcome of a risk assessment of measures against the spread of the bluetongue virus and protection against attacks by vectors, required by the competent authority of the place of origin and approved by the competent authority of the place of destination, prior to the movement of such animals;

(c) the animals are destined for immediate slaughter.

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

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

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

(*) OJ L 283, 27.10.2007, p. 37.'

Article 8

Conditions for exemption from the exit ban provided for in Directive 2000/75/EC

1. Movements of animals, their semen, ova and embryos, from a holding or semen collection or storage centre located in a restricted zone to another holding or semen collection or storage centre shall be exempted from the exit ban established pursuant to Article 9(1)(c) and point 1 of Article 10 of Directive 2000/75/EC provided that the animals, their semen, ova and embryos comply with:

(a) the conditions set out in Annex III to this Regulation; or

(b) comply with any other appropriate animal health guarantees based on a positive outcome of a risk assessment of measures against the spread of the bluetongue virus and protection against attacks by vectors, required by the competent authority of the place of origin and approved by the competent authority of the place of destination, prior to the movement of such animals.

2. The Member State of origin shall immediately inform the Commission and the other Member States of the animal health guarantees referred to in paragraph 1(b).

3. A channelling procedure shall be set up, under the control of the competent authority of the place of destination, to ensure that the animals, their semen, ova and embryos moved in accordance with the conditions provided for in paragraph 1(b), are not subsequently moved to another Member State unless the animals comply with the conditions provided for in paragraph 1(a).

4. Movements of animals from a holding located in a restricted zone for immediate slaughter shall be exempted from the exit ban established pursuant to Article 9(1)(c) and point 1 of Article 10 of Directive 2000/75/EC provided that:

(a) no case of bluetongue has been recorded in the holding of origin for a period of at least 30 days prior to the date of dispatch;

(b) the animals are transported under official supervision directly to the slaughterhouse for slaughter within 24 hours of arrival at the slaughterhouse of destination;

(c) the competent authority at the place of dispatch notifies the intended movement of the animals to the competent authority of the place of destination at least 48 hours prior to the loading of the animals.

5. Notwithstanding paragraph 4(b), the competent authority of the place of destination may require, on the basis of a risk assessment, the competent authority of the place of origin to set up a channelling procedure for the transport of the animals referred to therein towards designated slaughterhouses.

Any such designated slaughterhouses shall be identified on the basis of a risk assessment that shall take into account the criteria set out in Annex IV.

Information on the designated slaughterhouses shall be made available to the other Member States and to the public. That information shall also be made available through the BT-Net system.

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

'..... *(Animals, semen, ova and embryos, indicate as appropriate)* in compliance with ..... *(Article 8(1)(a) or 8(1)(b) or 8(4), indicate as appropriate)* of Regulation (EC) No 1266/2007 (*).

(*) OJ L 283, 27.10.2007, p. 37.'

Article 9

Further conditions for the transit of animals

1. The transit of animals shall be allowed by the competent authority provided that:

(a) animals from a restricted zone being moved through areas outside a restricted zone and the means in which they are transported are treated with authorised insecticides and/or repellents after adequate cleansing and disinfection at the place of loading and in any case prior to leaving the restricted zone;

(b) animals being moved from an area outside a restricted zone through a restricted zone and the means in which they are transported are treated with authorised insecticides and/or repellents after adequate cleansing and disinfection at the place of loading and in any case prior to entry into the restricted zone;

(c) when a rest period is foreseen at a control post during the movement through a restricted zone, the animals are protected against any attacks by vectors.

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

'Insecticide/repellent treatment with ..... *(insert name of the product)* on ..... *(insert date)* at ..... *(insert time)* in conformity with Regulation (EC) No 1266/2007 (*).

(*) OJ L 283, 27.10.2007, p. 37.'

3. Paragraph 1 of this Article shall no longer apply in an epidemiologically relevant geographical area of a bluetongue seasonally vector-free zone when more than 60 days have elapsed from the date of commencement of the seasonally vector-free period, defined in accordance with Annex V.

However, that exemption shall no longer apply after the end of the seasonally vector-free period, on the basis of the bluetongue monitoring programme.

CHAPTER 4

FINAL PROVISIONS

Article 10

Repeal

Decision 2005/393/EC is repealed.

Article 11

Entry into force

This Regulation shall enter into force on the fifth 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 Brussels, 26 October 2007.

For the Commission
Markos KYPRIANOU
Member of the Commission

ANNEX I

Minimum requirements for bluetongue monitoring and surveillance programmes (referred to in Article 4)

1. **Minimum requirements for bluetongue monitoring programmes to be implemented by Member States in restricted zones**

Bluetongue monitoring programmes in restricted zones shall be aimed at providing information on the dynamics of bluetongue in a zone already subjected to restrictions.

The geographical unit of reference shall be defined by a grid of around 45 × 45 km (approximately 2 000 km^2) unless specific environmental conditions justify a different size. In certain Member States, the 'region' as defined in Article 2 of Directive 64/432/EEC may be used as the geographical unit of reference for monitoring purposes.

Bluetongue monitoring programmes must consist at least of the following elements:

1.1. Serological monitoring with sentinel animals:

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

— Sentinel animals shall be tested at least every month during the period of activity of the vector involved, if known. In the absence of such information the sentinel animals shall be tested at least monthly throughout the year. However, the testing frequency may be adjusted to the seasonal variations of the epidemiological situation during the year to establish the beginning and the end of the circulation of bluetongue virus within the restricted zones,

— The minimum number of sentinel animals per geographical unit must be representative and sufficient in order to detect a monthly incidence of seroconversion [1] of 2 % with a 95 % confidence in each geographical unit.

1.2. Entomological monitoring

— Entomological monitoring shall consist of an active programme of vector catching by means of permanently sited traps intended to determine the population dynamics and overwintering features of the *Culicoides* species in the sampled site in order to determine the seasonally vector-free period in the bluetongue seasonally-free zone in accordance with Annex V,

— Only aspiration traps equipped with ultraviolet light shall be used in accordance with pre-established protocols. The traps must be operated throughout the night and operate at a rate of at least one night per week at least during the period of the year necessary to determine the beginning and the end of the seasonally vector free period. At least one trap must be placed in each geographical unit all over the restricted zone. The frequency of operation of the traps must be adjusted to the seasonal variations of the epidemiological situation during the year to optimise the determination of the population dynamics and overwintering features of the *Culicoides* and may be amended on the basis of the evidence obtained in the three first years of operation of the traps. An adequate proportion of the midges collected in the insect traps must be sent to a specialised laboratory capable of counting and identifying *Culicoides* species on a routine basis.

2. **Minimum requirements for bluetongue surveillance programmes to be implemented by the Member States outside restricted zones**

Bluetongue surveillance programmes outside restricted zones shall be aimed at the detection of virus circulation in a bluetongue-free Member State or epidemiologically relevant geographical area and must consist at least of the following elements:

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

2.1. Passive clinical surveillance:

— shall consist of a formal and ongoing system aimed at detecting and investigating suspicions of bluetongue including an early warning system for reporting suspicious cases. Owners or holders of animals as well as veterinarians must report promptly any suspicion of bluetongue to the competent authority. All suspected cases of bluetongue must be investigated immediately,

— must be specially reinforced during the season of vector activity, and in particular at its beginning,

— must ensure that awareness campaigns are put in place and aimed, in particular, at enabling veterinarians and farmers in identifying clinical signs of bluetongue.

2.2. Serological surveillance:

— shall consist of an active annual programme of serological testing of susceptible species populations, aimed at detecting evidence of the bluetongue virus transmission through random or targeted serological and/or virological testing proportional to the risk of infection of the Member State or epidemiologically relevant geographical area and performed in the period of the year when seroconversion is more likely to be detected,

— must be designed in such a way that the samples are representative of the bovine population in the Member State or in an epidemiologically relevant geographical area and the sample size has been calculated to detect a prevalence of 0,5 % with 95 % confidence in the bovine population of that Member State or geographical area,

— must ensure that samples sizes are adjusted to the structure of the bovine population to be sampled and for the use of targeted surveillance, focusing the sampling for the surveillance on high-risk populations in which specific commonly known risk factors exist. The design of the targeted surveillance must ensure that seropositive animals from vaccinated or immunised populations referred to in points 5, 6 and 7 of Part A of Annex III do not interfere with the bluetongue surveillance programme.

2.3. Entomological surveillance:

— shall consist of an active annual programme of vector catching aimed at gathering information on the proven and potential vector species in the Member State or in an epidemiologically relevant geographical area, their distribution and seasonal profiles,

— shall be implemented in all Member States where information on the proven and potential vector species, their distribution and seasonal profiles in the Member State is lacking.

ANNEX II

Information to be transmitted by the Member States to the BT-Net system (referred to in Article 5(2))

The information to be transmitted by the Member States to the BT-Net system shall include at least the following:

1. **Bluetongue serological/virological data**

   (a) Administrative division/unit

   (b) Animal species tested

   (c) Type of surveillance system scheme (sentinel system or periodical survey)

   (d) Type of diagnostic tests performed (ELISA, Serum-neutralisation, PCR, virus isolation)

   (e) Month and year

   (f) Number of tested animals [1]

   (g) Number of positive animals

   (h) Serotype serologically or virologically determined (data to be provided in case of positive results to serum-neutralization or virus isolation tests)

2. **Bluetongue entomological data**

   (a) Administrative division

   (b) Site unique identity (a unique code for each trapping site)

   (c) Collection date

   (d) Latitude and longitude

   (e) Total number of *Culicoides* spp. collected

   (f) Number of *C. imicola* collected, if available

   (g) Number of *C. obsoletus Complex* collected, if available

   (h) Number of *C. obsoletus sensu strictu* collected, if available

   (i) Number of *C. scoticus* collected, if available

   (j) Number of *C. Pulicaris Complex* collected, if available

   (k) Number of *C. Nubeculosus complex* collected, if available

   (l) Number of *C. dewulfii* collected, if available

   (m) Other relevant data

3. **Bluetongue vaccination data**

   (a) Administrative division

   (b) Year/semester

   (c) Type of vaccine

   (d) Serotype combination

   (e) Animal species vaccinated

   (f) Total number of herds in the Member State

   (g) Total number of animals in the Member State

[1] If pools of sera are used, an estimation of the number of animals corresponding to the pools tested must be reported.

(h) Total number of herds under the vaccination programme

(i) Total number of animals under the vaccination programme

(j) Total number of herds vaccinated

(k) Number of animals vaccinated (where the vaccination type is vaccination of young animals)

(l) Number of young animals vaccinated (where the vaccination type is mass vaccination)

(m) Number of adults vaccinated (where the vaccination type is mass vaccination)

(n) Doses of vaccine administered.

ANNEX III

Conditions for exemption from the exit ban (referred to in Articles 7(2)(a) and 8(1)(a))

A. **Animals**

The animals must have been protected against attacks by vector *Culicoides* during transportation to the place of destination.

In addition, at least one of the conditions set out in points 1 to 7 must be complied with:

1. The animals were kept until dispatch during the seasonally vector-free period defined in accordance with Annex V, in a bluetongue seasonally-free zone since birth or for at least 60 days prior to the date of movement and were subjected to an agent identification test according to the Manual of Diagnostic Tests and Vaccines for Terrestrial Animals of the World Organisation for Animal Health (OIE) [1] (OIE Terrestrial Manual), with negative results, carried out not earlier than seven days before the date of movement.

   However, that agent identification test shall not be necessary for Member States or regions of a Member State where sufficient epidemiological data, obtained following the implementation of a monitoring programme for a period of not less than three years, substantiate the determination of the seasonally vector-free period defined in accordance with Annex V.

   The Member States making use of that possibility shall inform the Commission and the other Member States in the framework of the Standing Committee on the Food Chain and Animal Health;

2. The animals have been kept until dispatch protected against attacks by vectors for a period of at least 60 days prior to the date of dispatch;

3. The animals have been kept until dispatch in a bluetongue seasonally-free zone during the seasonally vector-free period, defined in accordance with Annex V, or have been protected against attacks by vectors for a period of at least 28 days and were subjected during that period to a serological test according to the OIE Terrestrial Manual to detect antibodies to the bluetongue virus group, with negative results, carried out at least 28 days following the date of the commencement of the period of protection against attacks by vectors or the seasonally vector-free period;

4. The animals have been kept until dispatch in a bluetongue seasonally-free zone during the seasonally vector-free period, defined in accordance with Annex V, or have been protected against attacks by vectors for a period of at least 14 days and were subjected during that period to an agent identification test according to the OIE Terrestrial Manual, with negative results, carried out at least 14 days following the date of the commencement of the period of protection against attacks by vectors or the seasonally vector-free period;

5. The animals originate from a herd vaccinated according to a vaccination programme adopted by the competent authority and the animals have been vaccinated against the serotype(s) present or likely to be present in an epidemiologically relevant geographical area of origin, the animals are still within the immunity period of time guaranteed in the specifications of the vaccine approved in the vaccination programme and the animals meet at least one of the following requirements:

   (a) they have been vaccinated more than 60 days before the date of movement;

   (b) they have been vaccinated with an inactivated vaccine before at least the number of days necessary for the onset of the immunity protection set in the specifications of the vaccine approved in the vaccination programme and were subjected to an agent identification test according to the OIE Terrestrial Manual, with negative results, carried out at least 14 days after the onset of the immunity protection set in the specifications of the vaccine approved in the vaccination programme;

   (c) they were previously vaccinated and they have been re-vaccinated with an inactivated vaccine within the immunity period of time guaranteed in the specifications of the vaccine approved in the vaccination programme;

   (d) they were kept during the seasonally vector-free period, defined in accordance with Annex V, in a bluetongue seasonally-free zone, since birth or for a period of at least 60 days before the date of vaccination and have been vaccinated with an inactivated vaccine before at least the number of days necessary for the onset of the immunity protection set in the specifications of the vaccine approved in the vaccination programme.

[1] http://www.oie.int/eng/normes/en_mcode.htm?e1d10

Where animals referred to in this point are intended for intra-Community trade or export to a third country, the following additional wording shall be added to the corresponding health certificates laid down in Directives 64/432/EEC, 91/68/EEC and 92/65/EEC, or referred to in Decision 93/444/EEC:

'Animal(s) vaccinated against bluetongue serotype(s) ..... (*insert serotype(s)*) with ..... (*insert name of the vaccine*) with a inactivated/modified live vaccine (*indicate, as appropriate*) on ..... (*insert date*) in conformity with Regulation (EC) No 1266/2007 (*).

(*) OJ L 283, 27.10.2007, p. 37.'

6. The animals were always kept in an epidemiologically relevant geographical area of origin where not more than one serotype was or is present or likely to be present and:

(a) they were subjected to a serological test according to the OIE Terrestrial Manual to detect antibodies against the bluetongue virus serotype, with positive results; the test must be carried out between 60 and 360 days before the date of movement; or

(b) they were subjected to a serological test according to the OIE Terrestrial Manual to detect antibodies against the bluetongue virus serotype, with positive results; the test must be carried out at least 30 days before the date of the movement and the animals were subjected to an agent identification test according to the OIE Terrestrial Manual, with negative results, carried out not earlier than seven days before date of the movement.

Where animals referred to in this point are intended for intra-Community trade or export to a third country, the following additional wording shall be added to the corresponding health certificates laid down in Directives 64/432/EEC, 91/68/EEC and 92/65/EEC, or referred to in Decision 93/444/EEC:

'Animal(s) in compliance with Annex IV(6) to Regulation (EC) No 1266/2007 (*).

(*) OJ L 283, 27.10.2007, p. 37.'

7. The animals were subjected to an adequate specific serological test according to the OIE Terrestrial Manual able to detect the specific antibodies against all the bluetongue virus serotypes present or likely to be present, with positive results to all serotypes present or likely to be present in the epidemiologically relevant geographical area of origin, and:

(a) the specific serotype serological test is carried out between 60 and 360 days before the date of movement; or

(b) the specific serotype serological test is carried out at least 30 days before the date of the movement and the animals were subjected to an agent identification test according to the OIE Terrestrial Manual, with negative results, carried out not earlier than seven days before the date of movement.

Where animals referred to in this point are intended for intra-Community trade or export to a third country, the following additional wording shall be added to the corresponding health certificates laid down in Directives 64/432/EEC, 91/68/EEC and 92/65/EEC, or referred to in Decision 93/444/EEC:

'Animal(s) in compliance with Annex IV(7) to Regulation (EC) No 1266/2007 (*).

(*) OJ L 283, 27.10.2007, p. 37.'

B. **Semen of animals**

Semen must have been obtained from donor animals which comply with at least one of the following conditions:

(a) they have been kept outside a restricted zone for a period of at least 60 days before commencement of, and during, collection of the semen;

(b) they have been protected against attacks by vectors for a period of at least 60 days before commencement of, and during, collection of the semen;

(c) they were kept during the seasonally vector-free period in a bluetongue seasonally-free zone, defined in accordance with Annex V, for a period of at least 60 days before commencement of, and during, collection of the semen and were subjected to an agent identification test according to the OIE Terrestrial Manual, with negative results, carried out not earlier than seven days before the date of commencement of collection of the semen.

However, that agent identification test shall not be necessary in Member States or regions of a Member State where sufficient epidemiological data, obtained following the implementation of a monitoring programme during a period of not less than three years, substantiate the determination of the seasonally vector-free period, as defined in Annex V.

The Member States making use of that possibility shall inform the Commission and the Member States in the framework of the Standing Committee on the Food Chain and Animal Health.

(d) they have been subjected to a serological test according to the OIE Terrestrial Manual to detect antibodies to the bluetongue virus group, with negative results, at least every 60 days during the collection period and between 21 and 60 days following the final collection;

(e) they have been subjected, with negative results, to an agent identification test according to the OIE Terrestrial Manual carried out on blood samples collected:

(i) at commencement and final collection; and

(ii) during the period of semen collection:

— at least every seven days, in the case of a virus isolation test,

— at least every 28 days, in the case of a polymerase chain reaction test.

C. **Ova and embryos of animals**

1. *In vivo* derived embryos and ova of bovine animals must be collected in accordance with Council Directive 89/556/EEC [1].

2. *In vivo* derived embryos and ova of animals other than bovine animals and in vitro produced bovine embryos must have been obtained from donor animals, which comply with at least one of the following conditions:

(a) they have been kept outside a restricted zone for at least 60 days before commencement of, and during, collection of the embryos/ova;

(b) they have been protected against attacks by vectors for at least 60 days before commencement of, and during, collection of the embryos/ova;

(c) they have been subjected to a serological test according to the OIE Terrestrial Manual to detect antibodies to the bluetongue virus group, between 21 and 60 days following collection of the embryos/ova, with negative results;

(d) they have been subjected to an agent identification test according to the OIE Terrestrial Manual on a blood sample taken on the day of collection of the embryos/ova, with negative results.

[1] OJ L 302, 19.10.1989, p. 1. Directive as last amended by Commission Decision 2006/60/EC (OJ L 31, 3.2.2006, p. 24).

ANNEX IV

Criteria for the designation of slaughterhouses for exemption from the exit ban (referred to in the second paragraph of Article 8(4))

For the purpose of the risk assessment for the designation of slaughterhouses for the channelling of movements of animals from a holding located in a restricted zone for immediate slaughter, the competent authority of destination shall use at least the following criteria:

1. the data available through the monitoring and surveillance programmes, especially as regards the vector's activity;

2. the distance from the point of entry in the non-restricted zone to the slaughterhouse;

3. the entomological data on the route;

4. the period of the day during which the transport takes place in relation to the hours of activity of the vectors;

5. the possible use of insecticides and repellents in compliance with Council Directive 96/23/EC [1];

6. the location of the slaughterhouse as regards livestock holdings;

7. the biosecurity measures in place at the slaughterhouse.

[1] OJ L 125, 23.5.1996, p. 10. Directive as last amended by Directive 2006/104/EC.

ANNEX V

Criteria for the definition of the seasonally vector-free period (referred to in Article 9(3))

For the purpose of determining a bluetongue seasonally-free zone, the seasonally vector-free period for a determinate epidemiologically relevant geographical area of a Member State (epidemiologically relevant geographical area) shall be defined by the competent authority using at least the following criteria:

1. **General criteria**

(a) A bluetongue monitoring and/or surveillance programme must be in place.

(b) The specific criteria and thresholds used for the determination of the seasonally vector-free period shall be defined considering the *Culicoides* species proven or suspected to be the main vectors in the epidemiologically relevant geographical area.

(c) The criteria used for the determination of the seasonal vector-free period shall be applied considering data from current and previous years (historical data). In addition, the aspects linked to surveillance data standardization shall be taken into consideration.

2. **Specific criteria**

(a) No bluetongue virus circulation within the epidemiologically relevant geographical area, as demonstrated by bluetongue surveillance programmes or other evidence suggesting a halt in bluetongue virus.

(b) Cessation of vector and likely vector activity, as demonstrated through entomological surveillance as part of the bluetongue monitoring and/or surveillance programmes.

(c) Captures of *Culicoides* species proven or suspected to be the vectors of the serotype present in the epidemiologically relevant geographical area below a maximum threshold of vectors collected that shall be defined for the epidemiologically relevant geographical area. In the absence of sound evidence supporting the determination of the maximum threshold, total absence of *Culicoides imicola* specimens and less than five parous *Culicoides* per trap must be used.

3. **Additional criteria**

(a) Temperature conditions that impact on the behaviour of the vectors activity for the epidemiologically relevant geographical area. The temperature thresholds shall be defined in consideration of the ecological behaviour of *Culicoides* species proven or suspected to be the vectors of the serotype present in the epidemiologically relevant geographical area.

COMMISSION REGULATION (EC) No 1267/2007

of 26 October 2007

on special conditions for the granting of private storage aid for pigmeat

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organisation of the market in pigmeat [1], and in particular Article 4(6) and Article 5(4) thereof,

Whereas:

(1) Intervention measures may be taken in respect of pigmeat if, on the representative markets of the Community, the average price for pig carcases is less than 103 % of the basic price and is likely to remain below that level.

(2) Market prices have fallen below that level and, given seasonal and cyclical trends, this situation could persist.

(3) Intervention measures must be taken. These can be limited to the granting of private storage aid in accordance with Commission Regulation (EEC) No 3444/90 of 27 November 1990 laying down detailed rules for granting private storage aid for pigmeat [2].

(4) Under Article 3 of Council Regulation (EEC) No 2763/75 of 29 October 1975 laying down general rules for granting private storage aid for pigmeat [3], the Commission may decide to reduce or extend the storage period. As well as the amounts of aid for specific periods of storage, the amounts to be added or deducted in the event the Commission adopts such a decision should be fixed.

(5) In order to facilitate administrative and control work relating to the conclusion of contracts, minimum quantities should be fixed.

(6) The security should be fixed at a level that will ensure storers fulfil their contractual obligations.

(7) The Management Committee for Pigmeat has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

1. From 29 October 2007 applications for private storage aid may be lodged in accordance with Regulation (EEC) No 3444/90. The list of products eligible for aid and the relevant amounts are set out in the Annex hereto.

2. Should the Commission extend or reduce the period of storage, the amount of aid shall be adjusted accordingly. The supplements and deductions per month and per day are set out in columns 6 and 7 of the Annex.

Article 2

The minimum quantities per contract and per product shall be:

(a) 10 tonnes for boned products;

(b) 15 tonnes for other products.

Article 3

The security shall be 20 % of the amounts of aid set out in the Annex.

Article 4

This Regulation shall enter into force on the day 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 Brussels, 26 October 2007.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

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[1] OJ L 282, 1.11.1975, p. 1. Regulation as last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).
[2] OJ L 333, 30.11.1990, p. 22. Regulation as last amended by Regulation (EC) No 1913/2006 (OJ L 365. 21.12.2006, p. 52).
[3] OJ L 282, 1.11.1975, p. 19.

ANNEX

(EUR/tonne)

CN code	Products in respect of which aid is granted	Amount of aid for a storage period of			Supplement or deduction	
		3 months	4 months	5 months	Per month	Per day
1	2	3	4	5	6	7
ex 0203	Meat of domestic swine, fresh or chilled					
ex 0203 11 10	Half-carcases without the forefoot, tail, kidney, thin skirt and spinal cord (1)	278	315	352	37	1,24
ex 0203 12 11	Hams	337	379	421	42	1,41
ex 0203 12 19	Shoulders	337	379	421	42	1,41
ex 0203 19 11	Fore-ends	337	379	421	42	1,41
ex 0203 19 13	Loins, with or without the neck-end, or neck-ends separately, loins with or without the chump (2) (3)	337	379	421	42	1,41
ex 0203 19 15	Bellies, whole or trimmed by rectangular cut	164	197	230	33	1,09
ex 0203 19 55	Bellies, whole or trimmed by rectangular cut, without rind and ribs	164	197	230	33	1,09
ex 0203 19 55	Legs, shoulders, fore-ends, loins with or without the neck-end, or neck-ends separately, loins with or without the chump, boned (2) (3)	337	379	421	42	1,41
ex 0203 19 55	Cuts corresponding to 'middles', with or without rind or fat, boned (4)	255	290	325	35	1,17

(1) The aid may also be granted for half-carcases presented as Wiltshire sides, i.e. without the head, cheek, chap, feet, tail, flare fat, kidney, tenderloin, blade bone, sternum, vertebral column, pelvic bone and diaphragm.
(2) Loins and neck-ends may be with or without rind but the adherent layer of fat may not exceed 25 mm in depth.
(3) The quantity contracted may cover any combination of the products referred to.
(4) Same presentation as for products falling within CN code 0210 19 20.

COMMISSION REGULATION (EC) No 1268/2007

of 25 October 2007

establishing a prohibition of fishing for herring in ICES zone IIIa by vessels flying the flag of Germany

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy [1], and in particular Article 26(4) thereof,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to common fisheries policy [2], and in particular Article 21(3) thereof,

Whereas:

(1) Council Regulation (EC) No 41/2007 of 21 December 2006 fixing for 2007 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in Community waters and for Community vessels, in waters where catch limitations are required [3], lays down quotas for 2007.

(2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2007.

(3) It is therefore necessary to prohibit fishing for that stock and its retention on board, transhipment and landing,

HAS ADOPTED THIS REGULATION:

Article 1

Quota exhaustion

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2007 shall be deemed to be exhausted from the date set out in that Annex.

Article 2

Prohibitions

Fishing for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. It shall be prohibited to retain on board, tranship or land such stock caught by those vessels after that date.

Article 3

Entry into force

This Regulation shall enter into force on the 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 Brussels, 25 October 2007.

For the Commission

Fokion FOTIADIS

Director-General for Fisheries and Maritime Affairs

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[1] OJ L 358, 31.12.2002, p. 59. Regulation as amended by Regulation (EC) No 865/2007 (OJ L 192, 24.7.2007, p. 1).

[2] OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1967/2006 (OJ L 409, 30.12.2006, p. 11), as corrected by OJ L 36, 8.2.2007, p. 6.

[3] OJ L 15, 20.1.2007, p. 1. Regulation as last amended by Commission Regulation (EC) No 898/2007 (OJ L 196, 28.7.2007, p. 22).

ANNEX

No	62
Member State	Germany
Stock	HER/03A.
Species	Herring (*Clupea harengus*)
Zone	IIIa
Date	12.10.2007

COMMISSION REGULATION (EC) No 1269/2007

of 25 October 2007

establishing a prohibition of fishing for cod in Norwegian waters south of 62° N by vessels flying the flag of Sweden

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy [1], and in particular Article 26(4) thereof,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to common fisheries policy [2], and in particular Article 21(3) thereof,

Whereas:

(1) Council Regulation (EC) No 41/2007 of 21 December 2006 fixing for 2007 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in Community waters and for Community vessels, in waters where catch limitations are required [3], lays down quotas for 2007.

(2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2007.

(3) It is therefore necessary to prohibit fishing for that stock and its retention on board, transhipment and landing,

HAS ADOPTED THIS REGULATION:

Article 1

Quota exhaustion

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2007 shall be deemed to be exhausted from the date set out in that Annex.

Article 2

Prohibitions

Fishing for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. It shall be prohibited to retain on board, tranship or land such stock caught by those vessels after that date.

Article 3

Entry into force

This Regulation shall enter into force on the 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 Brussels, 25 October 2007.

For the Commission

Fokion FOTIADIS

Director-General for Fisheries and Maritime Affairs

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[1] OJ L 358, 31.12.2002, p. 59. Regulation as amended by Regulation (EC) No 865/2007 (OJ L 192, 24.7.2007, p. 1).

[2] OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1967/2006 (OJ L 409, 30.12.2006, p. 11), as corrected by OJ L 36, 8.2.2007, p. 6.

[3] OJ L 15, 20.1.2007, p. 1. Regulation as last amended by Commission Regulation (EC) No 898/2007 (OJ L 196, 28.7.2007, p. 22).

ANNEX

No	56
Member State	Sweden
Stock	COD/04-N.
Species	Cod (*Gadus morhua*)
Zone	Norwegian waters south of 62° N
Date	8.10.2007

COMMISSION REGULATION (EC) No 1270/2007

of 25 October 2007

establishing a prohibition of fishing for ling in ICES zone III a; EC waters of III b, III c and III d by vessels flying the flag of Sweden

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy [1], and in particular Article 26(4) thereof,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to common fisheries policy [2], and in particular Article 21(3) thereof,

Whereas:

(1) Council Regulation (EC) No 41/2007 of 21 December 2006 fixing for 2007 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in Community waters and for Community vessels, in waters where catch limitations are required [3], lays down quotas for 2007.

(2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2007.

(3) It is therefore necessary to prohibit fishing for that stock and its retention on board, transhipment and landing,

HAS ADOPTED THIS REGULATION:

Article 1

Quota exhaustion

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2007 shall be deemed to be exhausted from the date set out in that Annex.

Article 2

Prohibitions

Fishing for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. It shall be prohibited to retain on board, tranship or land such stock caught by those vessels after that date.

Article 3

Entry into force

This Regulation shall enter into force on the 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 Brussels, 25 October 2007.

For the Commission
Fokion FOTIADIS
Director-General for Fisheries and Maritime Affairs

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[1] OJ L 358, 31.12.2002, p. 59. Regulation as amended by Regulation (EC) No 865/2007 (OJ L 192, 24.7.2007, p. 1).
[2] OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1967/2006 (OJ L 409, 30.12.2006, p. 11), as corrected by OJ L 36, 8.2.2007, p. 6.
[3] OJ L 15, 20.1.2007, p. 1. Regulation as last amended by Commission Regulation (EC) No 898/2007 (OJ L 196, 28.7.2007, p. 22).

ANNEX

No	55
Member State	Sweden
Stock	LIN/03.
Species	Ling (*Molva molva*)
Zone	III a; EC waters of III b, III c and III d
Date	8.10.2007

COMMISSION REGULATION (EC) No 1271/2007

of 26 October 2007

fixing the refunds applicable to cereal and rice sector products supplied as Community and national food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals ([1]) and in particular Article 13(3) thereof,

Having regard to Council Regulation (EC) No 1785/2003 of 29 September 2003 on the common organisation of the market in rice ([2]) and in particular Article 14(3) thereof,

Whereas:

(1) Article 2 of Council Regulation (EEC) No 2681/74 of 21 October 1974 on Community financing of expenditure incurred in respect of the supply of agricultural products as food aid ([3]) lays down that the portion of the expenditure corresponding to the export refunds on the products in question fixed under Community rules is to be charged to the European Agricultural Guidance and Guarantee Fund, Guarantee Section.

(2) In order to make it easier to draw up and manage the budget for Community food aid actions and to enable the Member States to know the extent of Community participation in the financing of national food aid actions, the level of the refunds granted for these actions should be determined.

(3) The general and implementing rules provided for in Article 13 of Regulation (EC) No 1784/2003 and in Article 13 of Regulation (EC) No 1785/2003 on export refunds are applicable *mutatis mutandis* to the abovementioned operations.

(4) The specific criteria to be used for calculating the export refund on rice are set out in Article 14 of Regulation (EC) No 1785/2003.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For Community and national food aid operations under international agreements or other supplementary programmes, and other Community free supply measures, the refunds applicable to cereals and rice sector products shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 1 November 2007.

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

Done at Brussels, 26 October 2007.

For the Commission

Jean-Luc DEMARTY

Director-General for Agriculture and Rural Development

([1]) OJ L 270, 21.10.2003, p. 78. Regulation as last amended by Regulation (EC) No 735/2007 (OJ L 169, 29.6.2007, p. 6).

([2]) OJ L 270, 21.10.2003, p. 96. Regulation as last amended by Commission Regulation (EC) No 797/2006 (OJ L 144, 31.5.2006, p. 1).

([3]) OJ L 288, 25.10.1974, p. 1.

ANNEX

to the Commission Regulation of 26 October 2007 fixing the refunds applicable to cereal and rice sector products supplied as Comunity and national food aid

(EUR/t)

Product code	Refund
1001 10 00 9400	0,00
1001 90 99 9000	0,00
1002 00 00 9000	0,00
1003 00 90 9000	0,00
1005 90 00 9000	0,00
1006 30 92 9100	0,00
1006 30 92 9900	0,00
1006 30 94 9100	0,00
1006 30 94 9900	0,00
1006 30 96 9100	0,00
1006 30 96 9900	0,00
1006 30 98 9100	0,00
1006 30 98 9900	0,00
1006 30 65 9900	0,00
1007 00 90 9000	0,00
1101 00 15 9100	0,00
1101 00 15 9130	0,00
1102 10 00 9500	0,00
1102 20 10 9200	0,92
1102 20 10 9400	0,79
1103 11 10 9200	0,00
1103 13 10 9100	1,19
1104 12 90 9100	0,00

NB: The product codes are defined in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1), amended.

II

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

DECISIONS

COMMISSION

COMMISSION DECISION

of 20 September 2006

relating to a proceeding under Article 81 of the Treaty establishing the European Community and Article 53 of the EEA Agreement

(Case COMP/F/38.121 — Fittings)

(notified under document number C(2006) 4180)

(Only the English, German, Spanish, Italian and French versions are authentic)

(Text with EEA relevance)

(2007/691/EC)

SUMMARY OF THE INFRINGEMENT

(1) The Decision was addressed to Aalberts Industries NV, Aquatis France SAS, Simplex Armaturen + Fittings GmbH & Co. KG, VSH Italia Srl, Yorkshire Fittings Limited, Advanced Fluid Connections plc, IBP Limited, International Building Products France SA, International Building Products GmbH, Delta plc, Aldway Nine Limited, Delta Engineering Holdings Limited, Druryway Samba Limited, Flowflex Holdings Ltd, Flowflex Components Ltd, IMI plc, IMI Kynoch Ltd, Mueller Industries Inc, Mueller Europe Ltd, WTC Holding Company Inc, Pegler Ltd, Tomkins plc, FRA.BO SpA, Supergrif SL, SANHA Kaimer GmbH & Co. KG, Kaimer GmbH & Co. Holdings KG, SANHA Italia srl, Viega GmbH & Co. KG, Legris Industries SA and Comap SA.

(2) The above 30 legal entities (belonging to 11 undertakings, with some legal entities held liable as parent companies) committed an infringement of Article 81 of the EC Treaty and Article 53 of the EEA Agreement by participating in a single and continuous infringement between 31 December 1988 and 1 April 2004 in the fittings industry in the EEA. Not all the undertakings participated to the infringement for its entire duration.

(3) The infringement's main features included: competitors discussing prices, agreeing, implementing and monitoring price agreements as well as discounts and rebates, agreeing on implementation mechanisms, allocating of markets and customers, exchanging commercially important and confidential market and/or company relevant information, participating in regular meetings and having other contacts to agree to the above restrictions and monitor implementation within the EEA.

THE FITTINGS INDUSTRY

(4) The product concerned is copper fittings including copper alloy fittings (such as gunmetal, brass and other copper-based alloys). A fitting connects tubes used in the transportation of water, air, gas, etc. for plumbing, heating, sanitation and other purposes. There are various types of fittings such as end-feed, solder ring, compression, press and push-fit. All these types are implicated in this Decision.

(5) The investigation showed that the cartel covered the whole of the EEA. The 2003 EEA market value for copper and copper alloy fittings was approximately EUR 525 million for about 960 million pieces.

PROCEDURE

(6) In January 2001 the company Mueller Industries Inc informed the Commission of the existence of a cartel in the Fittings industry (and in other related industries in the copper tubes market) and expressed the wish to cooperate with the Commission under the 1996 Leniency Notice. Mueller provided the Commission with evidence that enabled the carrying out of inspections.

(7) On 22 and 23 March 2001, the Commission carried out the first unannounced inspections concerning both copper tubes and fittings. Thereafter, in April 2001, it was decided to separate the cases into copper plumbing tubes (38.069), industrial tubes (38.240) and fittings (38.121). Subsequently, on 24 and 25 April 2001, the Commission carried out further unannounced on-site inspections at the premises of the Delta group. The latter inspections covered only fittings. In the copper tubes sector the Commission adopted two decisions imposing fines in the industrial tubes case (in 2003) and the copper plumbing tubes case (in 2004).

(8) In September 2003, after the inspections and after having sent letters requesting information, the IMI group applied for leniency. This leniency application was followed by those of the Delta group (March 2004) and Frabo (July 2004). The last leniency application was submitted by Oystertec/Advanced Fluid Connections plc, in May 2005.

(9) The Statement of Objections was addressed to 30 undertakings belonging to 11 undertakings and to one association of undertakings. All parties but Flowflex, Comap and Supergrif exercised their right to be heard and participated in the oral hearing which was held on 25 and 26 January 2006.

FUNCTIONING OF THE CARTEL

(10) Whilst there are indications that the first anti-competitive contacts between the UK producers of fittings occurred prior to 1988, evidence in the possession of the Commission demonstrates on a solid and lasting basis that December 1988 was the starting date of the infringement. On this basis the Commission considered that the collusive arrangements started in the UK among UK manufacturers on 31 December 1988. As to the behaviour of fittings manufacturers at pan-European level, due to the loose form and exploratory nature of contacts before January 1991, the Commission limited its assessment under competition rules to the period from 31 January 1991, date of the first 'Super-EFMA' meeting, when the competitors agreed on prices and when the pan-European arrangements were evidenced as an organised and structured scheme.

(11) Further evidence in the Commission's file shows that this infringement continued even after the Commission inspections in March and April 2001, as far as Comap, IBP/Oystertec (Advanced Fluid Connections) and Frabo are concerned until April 2004 and to a lesser extent as far as Delta is concerned. With regard to Aalberts, it participated in the infringement after the inspections between June 2003 and April 2004. This is the first cartel case which for certain participant companies continued for three years after the inspections.

(12) The overall structure of the anti-competitive arrangements for the fittings products shows that they can be considered as one single infringement whereby competitors discussed prices, agreed, implemented and monitored price agreements as well as discounts and rebates, agreed on implementation mechanisms, allocated markets and customers and exchanged commercially important and confidential market information.

FINES

Basic amount

Gravity

(13) Regarding the gravity of the infringement, impact on the market and its geographic scope, the infringement must be qualified as very serious.

Differential treatment

(14) As there was considerable disparity between each undertaking's weighting in terms of turnover in the cartelised industry, the Commission has applied differential treatment (groupings) to take account of each undertaking's weighting: this approach seeks to differentiate how each undertaking's weighting damaged competition.

(15) The undertakings have been divided into six categories according to their relative importance. As the basis for determining the relative importance of the undertakings in this infringement, the Commission took into account the respective market shares of each undertaking with the product concerned. The individual weight of the participants in the infringement was compared on the basis of their product market shares in the EEA for all the undertakings, in the year 2000, except Aalberts and Advanced Fluid Connections, for which the year 2003 was taken as the basis of differentiation. The Commission chose 2000 because it was the most recent year of the infringement in which all the undertakings to which this Decision was addressed were active in the cartel except the two undertakings mentioned.

(16) Accordingly Viegener and Aalberts were placed in the first category. IMI and Delta were placed in the second category, Advanced Fluid Connections in the third, Legris Industries in the fourth, SANHA Kaimer, Flowflex, Frabo and Mueller in the fifth and Pegler in the sixth category.

Sufficient deterrence

(17) In order to set the amount of the fine at a level which ensures that it has sufficient deterrent effect the Commission considered it appropriate to apply a multiplication factor to the fine imposed on Tomkins/Pegler. In 2005, the most recent financial year preceding the Decision, the total turnover of Tomkins, Pegler's mother company, was EUR 4,65 billion.

(18) Accordingly and in line with previous decisions, the Commission considered it appropriate to multiply the fine for Tomkins.

Duration

(19) Individual multiplying factors were also applied according to the duration of the infringement by each legal entity.

AGGRAVATING CIRCUMSTANCES

Participation in the infringement after the inspections

(20) The Decision established that Oystertec/Advanced Fluid Connections, Comap, Frabo and to a lesser extent Delta did not terminate the infringement immediately after the inspections. These undertakings participated in the infringement after the inspections had taken place. As far as Aalberts is concerned, it is established that it participated in the infringement after the inspections between June 2003 and April 2004. This behaviour is a blatant disregard of the competition rules. When the Commission conducts an inspection in a cartel case, it officially alerts the undertakings concerned that competition rules may have been infringed. In the overwhelming majority of cases, experience has shown that the inspections spur the undertakings to immediately put an end to the infringement, providing thereby immediate relief for the consumers, while awaiting the Commission's decision in the case. In this sense, the inspections have the function to deter the undertakings involved from continuing the infringement. Therefore, for the period after the inspections, undertakings should immediately stop any infringing behaviour. Nonetheless, these undertakings disregarded the inspections and certain of them continued as much as three years after.

(21) This justified an increase in the basic amount of the fine to be imposed on Aalberts, Advanced Fluid Connections, Comap, Frabo and Delta.

(22) However, as far as Frabo is concerned, the Decision recognises that its contribution in this regard was particularly decisive. Frabo was the first company to disclose the anti-competitive behaviour after the inspections and provided the link for the years before and after the inspections. Thus, the Commission was able to establish continuity between the two periods which without Frabo's contribution, could not have been proven. Having regard to this circumstance and in line with the principle of fairness, Frabo was not penalised given it disclosed this post-inspection arrangement. Consequently, Frabo was exempted from this aggravating factor.

Misleading information

(23) Furthermore in its reply to the Statement of Objections, Advanced Fluid Connections provided the Commission with misleading information. In a statement annexed to the reply to the Statement of Objections an employee of Advanced Fluid Connections stated that he did not have any telephone contacts with Frabo in the period between 2001 and 2005. Several telephone bills provided by Frabo show, contrary to this statement, that between April 2002 and July 2003, Frabo contacted Advanced Fluid Connections via mobile phone at least 28 times.

(24) This aggravating circumstance justified an increase in the basic amount of the fine to be imposed on Advanced Fluid Connections.

ATTENUATING CIRCUMSTANCES

(25) Several undertakings claimed some or all of the following attenuating circumstances: early termination of the infringement, a minor/passive role, the absence of an effective implementation of the practices, the implementation of compliance programs, absence of benefit, difficulties in the Fittings industry. These claims are all rejected as being unfounded except for the minor/passive role claimed by Flowflex. The basic amount for Flowflex was therefore reduced by 10 %.

Cooperation outside the leniency notice

(26) The Decision considered that Frabo's cooperation qualified for an attenuating factor in this regard. Frabo was the first to disclose the duration of the cartel after the inspections, and, in particular, it was the first to provide evidence and explanations to prove continuity of the infringement after the inspections and until April 2004. Prior to Frabo's leniency application, the Commission could not have established the duration and continuity of the infringement from March 2001 until April 2004.

(27) Frabo should not be penalised for its cooperation by imposing on it a higher fine than the one that it would have had to pay without its cooperation. Therefore the basic amount of Frabo's fine was reduced by the hypothetical amount of the fine that would have been imposed on Frabo for a three year infringement.

APPLICATION OF THE 10 % TURNOVER LIMIT

(28) Where appropriate, the 10 % worldwide turnover limit of Article 23(2) of Council Regulation (EC) No 1/2003 [1] was applied to the fines calculated.

[1] OJ L 1, 4.1.2003, p. 1. Regulation as last amended by Regulation (EC) No 1419/2006 (OJ L 269, 28.9.2006, p. 1).

APPLICATION OF THE 1996 LENIENCY NOTICE

(29) Mueller, IMI, Delta, Frabo and Advanced Fluid Connections co-operated with the Commission at different stages of the investigation with a view to receiving the favourable treatment set out in the 1996 Leniency Notice, applicable to the present case.

Exemption from fines

(30) Mueller was the first undertaking to inform the Commission about the existence of a cartel in the fittings sector affecting the EEA market in the 1990s. The evidence Mueller provided enabled the Commission to establish the existence, content and the participants of a number of cartel meetings and other contacts held in particular between 1991 and 2000 as well as to undertake inspections on 22 March 2001 and thereafter. Mueller therefore qualified for total exemption from any fine.

Reduction of fines

(31) On 18 September 2003 IMI approached the Commission with a view to submitting a leniency application. IMI materially contributed to establishing the existence of the infringement, and after having received the Statement of Objections, IMI informed the Commission that it confirmed the facts presented in its leniency submissions. IMI's cooperation was rewarded with a 50 % reduction of the fine.

(32) On 10 March 2004, Delta submitted a leniency application. Delta's application was followed by other written submissions, a meeting and the presentation of oral statements. To a great extent, Delta corroborated the facts presented by IMI in its leniency submissions. Delta's cooperation was rewarded with a 20 % reduction of the fine.

(33) On 19 July 2004, Frabo submitted a leniency application. To a great extent Frabo corroborated the facts presented by IMI and Delta in their leniency submissions. Frabo was the first to disclose that the infringement continued for the period after the inspections and until April 2004. In addition, Frabo's information was also used to draft requests for information that contributed to trigger Advanced Fluid Connections' leniency submission, in which it provided evidence on participation in the infringement after the inspection. Based on the foregoing, Frabo's cooperation was rewarded with a 20 % reduction of the fine.

(34) On 24 May 2005, Advanced Fluid Connections (Oystertec) submitted a leniency application. To a great extent Advanced Fluid Connections corroborated the facts presented by Frabo in its leniency submission. However, in its reply to the Statement of Objections and during the Oral Hearing, Advanced Fluid Connections strongly contested that the Commission had established continuity between the periods before and after the inspections until April 2004. Finally, as indicated above, Advanced Fluid Connections misled the Commission and attempted to weaken its ability to prove the infringement. Therefore, after due consideration of all these circumstances, the Commission did not grant Advanced Fluid Connections a reduction of the fine

CLOSURE OF PROCEEDINGS

(35) In view of the elements brought forward by the undertakings and the association of undertakings in their replies to the Statement of Objections and at the Oral Hearing, the Commission had evidence that implicateed the Fédération Française des Négociants en Appareils Sanitaires, Chauffage-Climatisation et Canalisations (FNAS) indirectly in an agreement reached on 16 February 2004 to increase prices.

(36) However there was not sufficient evidence indicating that FNAS actively accepted the task entrusted to it by the manufacturers and that it indeed facilitated the implementation of the agreement.

(37) Consequently, the Commission came to the conclusion that FNAS was not part of the agreement or any other anti-competitive arrangements. Therefore the proceedings against the Fédération Française des Négociants en Appareils Sanitaires, Chauffage-Climatisation et Canalisations (FNAS) were closed.

DECISION

(38) The addressees of the Decision and the duration of their involvement were as follows:

— Aalberts Industries NV, from 25 June 2003 until 1 April 2004,

— Aquatis France SAS, from 31 January 1991 until 22 March 2001 (IMI) and from 25 June 2003 until 1 April 2004 (Aalberts),

— Simplex Armaturen + Fittings GmbH & Co. KG, from 31 January 1991 until 22 March 2001 (IMI) and from 25 June 2003 until 1 April 2004 (Aalberts),

— VSH Italia Srl, from 15 March 1994 until 22 March 2001,

— Yorkshire Fittings Limited, from 31 December 1988 until 22 March 2001,

— Advanced Fluid Connections plc, from 23 November 2001 until 1 April 2004,

— IBP Limited, from 23 November 2001 until 1 April 2004,

— International Building Products France SA, from 4 April 1998 until 23 November 2001 (Delta) and from 23 November 2001 until 1 April 2004 (Advanced Fluid Connections),

— International Building Products GmbH, from 31 January 1991 until 23 November 2001,

— Delta plc, from 31 December 1988 until 23 November 2001,

— Aldway Nine Limited, from 28 July 1999 until 23 November 2001,

— Delta Engineering Holdings Limited, from 31 December 1988 until 23 November 2001,

— Druryway Samba Limited, from 31 December 1988 until 23 November 2001,

— Flowflex Holdings Ltd, from 1 April 1989 until 22 March 2001,

— Flowflex Components Ltd, from 31 December 1988 until 22 March 2001,

— FRA.BO SpA, from 30 July 1996 until 1 April 2004,

— IMI plc, from 31 December 1988 until 22 March 2001,

— IMI Kynoch Ltd, from 31 December 1988 until 22 March 2001,

— Legris Industries SA, from 31 January 1991 until 1 April 2004,

— Comap SA, from 31 January 1991 until 1 April 2004,

— Mueller Industries Inc., from 12 December 1991 until 12 December 2000,

— Mueller Europe Ltd., from 28 February 1997 until 12 December 2000,

— WTC Holding Company, Inc., from 28 February 1997 until 12 December 2000,

— Pegler Ltd, from 31 December 1988 until 22 March 2001,

— SANHA Kaimer GmbH & Co. KG, from 30 July 1996 until 22 March 2001,

— Kaimer GmbH & Co. Holdings KG, from 30 July 1996 until 22 March 2001,

— SANHA Italia srl, from 1 January 1998 until 22 March 2001,

— Supergrif SL, from 22 July 1991 until 23 November 2001,

— Tomkins plc, from 31 December 1988 until 22 March 2001,

— Viega GmbH & Co. KG, from 12 December 1991 until 22 March 2001.

(39) Following the above recitals, the following fines were imposed:

(a) Aalberts Industries NV: EUR 100,80 million
of which jointly and severally with:
(i) Aquatis France SAS: EUR 55,15 million; and
(ii) Simplex Armaturen + Fittings GmbH & Co. KG: EUR 55,15 million

(b) 1. IMI plc jointly and severally with IMI Kynoch Ltd: EUR 48,30 million
of which jointly and severally with:
(i) Yorkshire Fittings Limited: EUR 9,64 million; and
(ii) VSH Italia Srl: EUR 0,42 million; and
(iii) Aquatis France SAS: EUR 48,30 million; and
(iv) Simplex Armaturen + Fittings GmbH & Co. KG: EUR 48,30 million

2. Aquatis France SAS and Simplex Armaturen + Fittings GmbH & Co. KG are jointly and severally liable for the additional amount of: EUR 2,04 million

(c) Advanced Fluid Connections plc: EUR 18,08 million
of which jointly and severally with:
(i) IBP Limited: EUR 11,26 million; and
(ii) International Building Products France SA: EUR 5,63 million

(d) Delta plc jointly and severally with Delta Engineering Holdings Limited: EUR 28,31 million
of which jointly and severally with:
(i) Druryway Samba Limited: EUR 28.31 million; and
(ii) International Building Products GmbH: EUR 2,81 million; and
(iii) International Building Products France SA: EUR 5,63 million; and
(iv) Aldway Nine Limited: EUR 28,31 million; and
(v) Supergrif SL: EUR 0,59 million

(e) Flowflex Holdings Ltd EUR 1,34 million
jointly and severally with Flowflex Components Ltd:

(f) FRA.BO SpA: EUR 1,58 million

(g) Legris Industries SA: EUR 46,80 million
of which jointly and severally
with Comap SA: EUR 18,56 million

(h) Tomkins plc EUR 5,25 million
jointly and severally with Pegler Ltd:

(i) Kaimer GmbH & Co. Holdings KG: EUR 7,97 million
of which jointly and severally with:
(i) SANHA Kaimer GmbH & Co. KG: EUR 7,97 million; and
(ii) SANHA Italia srl: EUR 7,15 million

(j) Viega GmbH & Co. KG: EUR 54,29 million

(40) The undertakings listed in recital 38 were ordered to bring to an end immediately the infringement referred to in recital 3, insofar as they had not already done so and to refrain from repeating any act or conduct described in recital 3, and from any act or conduct having an identical or similar object or effect.

COMMISSION DECISION

of 24 October 2007

authorising the placing on the market of food and feed produced from genetically modified sugar beet H7-1 (KM-ØØØH71-4) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council

(notified under document number C(2007) 5125)

(Only the French, Dutch and German texts are authentic)

(Text with EEA relevance)

(2007/692/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed [1], and in particular Articles 7(3) and 19(3) thereof,

Whereas:

(1) On 12 November 2004, KWS SAAT AG and Monsanto Europe S.A. submitted to the competent authorities of the United Kingdom an application, in accordance with Articles 5 and 17 of Regulation (EC) No 1829/2003, for the placing on the market of foods, food ingredients, and feed produced from sugar beet H7-1 (the application).

(2) The initial scope of the application also included beet leaves and small pieces of roots resulting from the root processing that may be fermented to produce silage for animal feed. These products, which are not considered as produced from GMOs but as containing or consisting of GMOs, were removed from the scope of the application by the applicants on 14 February 2006.

(3) On 20 December 2006, the European Food Safety Authority (EFSA) gave a favourable opinion in accordance with Articles 6 and 18 of Regulation (EC) No 1829/2003 and concluded that it is unlikely that the placing on the market of the products produced from sugar beet H7-1, as described in the application (the products) will have any adverse effects on human or animal health or the environment in the context of their intended uses [2]. In its opinion, EFSA considered all specific questions and concerns raised by the Member States.

(4) Taking into account those considerations, authorisation should be granted for the products.

(5) A unique identifier should be assigned to each GMO as provided for in Commission Regulation (EC) No 65/2004 of 14 January 2004 establishing a system for the development and assignment of unique identifiers for genetically modified organisms [3].

(6) On the basis of the EFSA opinion, no specific labelling requirements, other than those provided for in Articles 13(1) and 25(2) of Regulation (EC) No 1829/2003, appear to be necessary.

(7) Similarly, the EFSA opinion does not justify the imposition of specific conditions or restrictions for the placing on the market and/or specific conditions or restrictions for the use and handling, including post-market monitoring requirements, as provided for in point (e) of Articles 6(5) and 18(5) of Regulation (EC) No 1829/2003.

(8) All relevant information on the authorisation of the products should be entered in the Community register of genetically modified food and feed, as provided for in Regulation (EC) No 1829/2003.

(9) In accordance with Articles 4(2) and 16(2) of Regulation (EC) No 1829/2003, the conditions for authorisation of the products are binding all persons placing them on the market.

(10) The Standing Committee on the Food Chain and Animal Health has not delivered an opinion within the time limit laid down by its chairman; the Commission has therefore submitted a proposal to the Council on 25 June 2007 in accordance with Article 5 of Council Decision 1999/468/EC [4], the Council being required to act within three months.

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[1] OJ L 268, 18.10.2003, p. 1. Regulation as amended by Commission Regulation (OJ L 368, 23.12.2006, p. 99).

[2] http://www.efsa.europa.eu/EFSA/efsa_locale-1178620753816_1178620785055.htm

[3] OJ L 10, 16.1.2004, p. 5.

[4] OJ L 184, 17.7.1999, p. 23.

(11) However, the Council has not acted within the required time limit; a decision should now be adopted by the Commission,

HAS ADOPTED THIS DECISION:

Article 1

Genetically modified organism and unique identifier

Genetically modified sugar beet (*Beta vulgaris* subsp. *vulgaris*) H7-1, as specified in point (b) of the Annex to this Decision, is assigned the unique identifier KM-ØØØH71-4, as provided for in Regulation (EC) No 65/2004.

Article 2

Authorisation

The following products are authorised for the purposes of Articles 4(2) and 16(2) of Regulation (EC) No 1829/2003, in accordance with the conditions set out in this Decision:

(a) foods and food ingredients produced from KM-ØØØH71-4 sugar beet;

(b) feed produced from KM-ØØØH71-4 sugar beet.

Article 3

Labelling

For the purposes of the specific labelling requirements laid down in Articles 13(1) and 25(2) of Regulation (EC) No 1829/2003, the 'name of the organism' shall be 'sugar beet'.

Article 4

Community register

The information set out in the Annex to this Decision shall be entered in the Community register of genetically modified food and feed, as provided for in Article 28 of Regulation (EC) No 1829/2003.

Article 5

Authorisation holders

1. The authorisation holders shall be:

(a) KWS SAAT AG, Germany;

and

(b) Monsanto Europe S.A., Belgium, representing Monsanto Company, United States of America.

2. Both authorisation holders shall be responsible for fulfilling the duties imposed on authorisation holders by this Decision and Regulation (EC) No 1829/2003.

Article 6

Validity

This Decision shall apply for a period of 10 years from the date of its notification.

Article 7

Addressees

This Decision is addressed to:

(a) KWS SAAT AG, Grimsehlstrasse 31, D-37574 Einbeck, Germany;

and

(b) Monsanto Europe S.A., Scheldelaan 460, Haven 627, B-2040 Antwerp, Belgium.

Done at Brussels, 24 October 2007.

For the Commission

Markos KYPRIANOU

Member of the Commission

ANNEX

(a) **Applicants and Authorisation holders:**

Name: KWS SAAT AG

Address: Grimsehlstrasse 31, D-37574 Einbeck, Germany

and

Name: Monsanto Europe S.A.

Address: Scheldelaan 460, Haven 627, B-2040 Antwerp, Belgium

On behalf of Monsanto Company — 800 N. Lindbergh Boulevard — St. Louis, Missouri 63167 — United States of America.

(b) **Designation and specification of the products:**

(1) Foods and food ingredients produced from KM-ØØØH71-4 sugar beet;

(2) Feed produced from KM-ØØØH71-4 sugar beet.

The genetically modified KM-ØØØH71-4 sugar beet, as described in the application, expresses the CP4 EPSPS protein after insertion of the *cp4 epsps* gene from *Agrobacterium* sp. strain CP4 into sugar beet (*Beta vulgaris* subsp. *vulgaris*).

The CP4 EPSPS protein confers tolerance to glyphosate containing herbicides.

(c) **Labelling:**

For the purposes of the specific labelling requirements laid down in Articles 13(1) and 25(2) of Regulation (EC) No 1829/2003, the 'name of the organism' shall be 'sugar beet'.

(d) **Method for detection:**

— Event specific realtime PCR-based method for the quantification of KM-ØØØH71-4 sugar beet.

— Validated on seeds by the Community reference laboratory established under Regulation (EC) No 1829/2003, published at http://gmo-crl.jrc.it/statusofdoss.htm

— Reference Material: ERM®-BF419 accessible via the Joint Research Centre (JRC) of the European Commission, the Institute of Reference Materials and Measurements (IRMM) at http://www.irmm.jrc.be/html/reference_materials_catalogue/index.htm

(e) **Unique identifier:**

KM-ØØØH71-4

(f) **Information required under Annex II to the Cartagena Protocol on Biosafety to the Convention on Biological Diversity:**

Not applicable.

(g) **Conditions or restrictions on the placing on the market, use or handling of the products:**

Not required.

(h) **Monitoring plan**

Not applicable.

(i) **Post-market monitoring requirements for the use of the food for human consumption**

Not required.

Note: links to relevant documents may need to be modified over the time. Those modifications will be made available to the public via the updating of the Community register of genetically modified food and feed.

COMMISSION DECISION

of 26 October 2007

concerning protection measures in relation to highly pathogenic avian influenza in Canada

(notified under document number C(2007) 5202)

(Text with EEA relevance)

(2007/693/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC [1], and in particular Article 18(1) and (6) thereof,

Having regard to Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries [2], and in particular Article 22(1) and (5) thereof,

Whereas:

(1) Commission Decision 2006/696/EC of 28 August 2006 laying down a list of third countries from which poultry, hatching eggs, day-old chicks, meat of poultry, ratites and wild game-birds, eggs and egg products and specified pathogen-free eggs may be imported into and transit through the Community and the applicable veterinary certification conditions, and amending Decisions 93/342/EEC, 2000/585/EC and 2003/812/EC [3] sets out a list of third countries from which these commodities may be imported into, and transit through, the Community and lays down the veterinary certification conditions.

(2) Under that Decision, imports into the Community from Canada, are authorised of poultry, hatching eggs, day-old chicks, meat of poultry, ratites and wild game-birds.

(3) On 27 September 2007, Canada reported to the Commission an outbreak of highly pathogenic avian influenza of subtype H7N3 in a poultry holding in the province of Saskatchewan. It also informed that certification has been immediately suspended for poultry, poultry meat and other products liable to spread that virus, for imports into the Community from the whole territory of Canada.

(4) Canada has taken immediate and appropriate control measures, including restrictions on the movement of poultry and their products within and out of the disease affected area and provided the Commission with information on the epidemiological situation. According to the information available there are no indications of further virus spread from the affected area. In the light of that information and in view of the Agreement between the European Community and the Government of Canada on sanitary measures to protect public and animal health in respect of trade in live animals and animal products as approved on behalf of the Community by Council Decision 1999/201/EC [4], it is appropriate to restrict the suspension of imports from Canada to the disease affected area in the province of Saskatchewan.

(5) Commission Decision 2005/432/EC of 3 June 2005 laying down the animal and public health conditions and model certificates for imports of meat products for human consumption from third countries and repealing Decisions 97/41/EC, 97/221/EC and 97/222/EC [5] lays down the list of third countries from which Member States, depending on the third country's animal health status, are to authorise the importation of those products subject to certain treatment regimes.

(6) Imports, into the Community from Canada are currently authorised, of poultry meat products that have undergone a non-specific treatment. However, in the case of an outbreak of avian influenza, that treatment is insufficient to inactivate the avian influenza virus. It is therefore appropriate, in this Decision, to only authorise imports of poultry meat products from the affected area that have been subjected to treatment B, C or D, in accordance to Part 4 of Annex II to Decision 2005/432/EC.

(7) In the light of the current epidemiological situation in Canada this Decision should apply until 30 November 2007 and the measures should be reviewed.

[1] OJ L 268, 24.9.1991, p. 56. Directive as last amended by Directive 2006/104/EC (OJ L 363, 20.12.2006, p. 352).
[2] OJ L 24, 30.1.1998, p. 9. Directive as last amended by Directive 2006/104/EC.
[3] OJ L 295, 25.10.2006, p. 1.
[4] OJ L 71, 18.3.1999, p. 3.
[5] OJ L 151, 14.6.2005, p. 3. Decision as last amended by Regulation (EC) No 1792/2006 (OJ L 362, 20.12.2006, p. 1).

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

HAS ADOPTED THIS DECISION:

Article 1

Member States shall suspend imports of the following commodities from the territory of Canada referred to in Annex I to this Decision:

(a) poultry, hatching eggs and day-old chicks, as defined in Article 2(a), (b) and (c) of Decision 2006/696/EC;

(b) meat, as defined in Article 2(j) of Decision 2006/696/EC;

(c) meat preparations and meat products as defined in points 1.15. and 7.1. in Annex I of Regulation (EC) No 853/2004 of the European Parliament and of the Council [1], and consisting of, or containing meat referred to in point (b);

(d) raw pet food and unprocessed feed material containing any parts of the species referred to in point (a);

(e) non-treated game trophies from any bird.

Article 2

Imports of commodities referred to in Article 1 shall be authorised from the territory referred to in Annex II of this Decision provided that in the import certificates accompanying consignments of these commodities, it is clearly indicated that:

(a) they come from the territory of code 'CA-1' where the freedom from avian influenza must be certified.

(b) 'This consignment is in compliance with Commission Decision 2007/693/EC.'

Article 3

By way of derogation from Article 1, meat products referred to in Article 1(c), shall be authorised for importation into the Community, provided that they have been subjected to treatment B, C or D, in accordance with Part 4 of Annex II to Decision 2005/432/EC.

Article 4

This Decision shall apply until 30 November 2007.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 26 October 2007.

For the Commission

Markos KYPRIANOU

Member of the Commission

[1] OJ L 139, 30.4.2004, as corrected by OJ L 226, 25.6.2004, p. 22.

ANNEX I

The restricted area (10 km) in the province of Saskatchewan including part of the Rural Municipality of Lumsden #189 that is bound:

— On the south by Highway 11,

— On the southeast by Highway 20 to Last Mountain Creek,

— On the east and north by Last Mountain Creek and Last Mountain Lake,

— On the west by the east half Range 23 (3 miles) of Township 21 and 20 to the intersection of Highway 11 in the Rural Municipality of Dufferin #190.

ANNEX II

CA-1: The territory of Canada, except for the restricted area set out in Annex I.