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Contents

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

REGULATIONS

- ★ **Regulation (EC) No 294/2008 of the European Parliament and of the Council of 11 March 2008 establishing the European Institute of Innovation and Technology** 1
- ★ **Regulation (EC) No 295/2008 of the European Parliament and of the Council of 11 March 2008 concerning structural business statistics (recast) ⁽¹⁾** 13
- ★ **Regulation (EC) No 296/2008 of the European Parliament and of the Council of 11 March 2008 amending Regulation (EC) No 562/2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), as regards the implementing powers conferred on the Commission** 60
- ★ **Regulation (EC) No 297/2008 of the European Parliament and of the Council of 11 March 2008 amending Regulation (EC) No 1606/2002 on the application of international accounting standards, as regards the implementing powers conferred on the Commission** 62
- ★ **Regulation (EC) No 298/2008 of the European Parliament and of the Council of 11 March 2008 amending Regulation (EC) No 1829/2003 on genetically modified food and feed, as regards the implementing powers conferred on the Commission** 64
- ★ **Regulation (EC) No 299/2008 of the European Parliament and of the Council of 11 March 2008 amending Regulation (EC) No 396/2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin, as regards the implementing powers conferred on the Commission** 67
- ★ **Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002 ⁽¹⁾** 72

⁽¹⁾ Text with EEA relevance

Price: EUR 18

(Continued overleaf)



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.

★ Council Regulation (EC) No 301/2008 of 17 March 2008 adapting Annex I to Regulation (EC) No 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules ⁽¹⁾	85
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⁽¹⁾ Text with EEA relevance



I

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

REGULATIONS

REGULATION (EC) No 294/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 March 2008

establishing the European Institute of Innovation and Technology

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 157(3) thereof,

Having regard to the proposal from the Commission,

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

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

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

Whereas:

- (1) The Lisbon Growth and Jobs Agenda underscores the need to develop conditions which are attractive to investment in knowledge and innovation in Europe in order to boost competitiveness, growth and jobs in the European Union.
- (2) Member States are primarily responsible for sustaining a strong European industrial, competitive and innovative base. However, the nature and scale of the innovation challenge in the European Union also require action to be taken at Community level.
- (3) The Community should provide support to foster innovation, in particular through the Seventh Framework Programme for Research, Technological Development and

Demonstration Activities, the Competitiveness and Innovation Framework Programme, the Lifelong Learning Programme and the Structural Funds.

- (4) A new initiative at Community level, the European Institute of Innovation and Technology (hereinafter referred to as the EIT) should be established to complement existing Community and national policies and initiatives by fostering the integration of the knowledge triangle — higher education, research and innovation — across the European Union.
- (5) The European Council of 15 and 16 June 2006 invited the Commission to prepare a formal proposal for the establishment of the EIT to be presented in autumn 2006.
- (6) The EIT should primarily have the objective of contributing to the development of the Community's and the Member States' innovation capacity, by involving higher education, research and innovation activities at the highest standards. In so doing, the EIT should facilitate and enhance networking and cooperation and create synergies between innovation communities in Europe.
- (7) The activities of the EIT should address strategic long-term challenges for innovation in Europe, particularly in trans- and/or inter-disciplinary areas including those already identified at European level. In so doing, the EIT should promote periodic dialogue with civil society.
- (8) The EIT should give priority to the transfer of its higher education, research and innovation activities to the business context and their commercial application, as well as to supporting the creation of start-ups, spin-offs and small and medium-sized enterprises (SMEs).

⁽¹⁾ OJ C 161, 13.7.2007, p. 28.

⁽²⁾ OJ C 146, 30.6.2007, p. 27.

⁽³⁾ Opinion of the European Parliament of 26 September 2007 (not yet published in the Official Journal), Council Common Position of 21 January 2008 (OJ C 52 E, 26.2.2008, p. 7) and position of the European Parliament of 11 March 2008 (not yet published in the Official Journal).

- (9) The EIT should primarily operate through excellence-driven, autonomous partnerships of higher education institutions, research organisations, companies and other stakeholders in the form of sustainable and long-term self-supporting strategic networks in the innovation process. These partnerships should be selected by the Governing Board of the EIT on the basis of a transparent and excellence-based process and designated as Knowledge and Innovation Communities (hereinafter referred to as KICs). The Governing Board should also steer the activities of the EIT and evaluate the activities of the KICs. Membership of the Governing Board should balance experience from the business and the higher education and/or research worlds as well as from the innovation sector.
- (10) In order to contribute to the competitiveness and to reinforce the international attractiveness of the European economy and its innovation capacity, the EIT and the KICs should be able to attract partner organisations, researchers and students from all over the world, including by encouraging their mobility, as well as to cooperate with third-country organisations.
- (11) Relations between the EIT and the KICs should be based on contractual agreements, which will set out the KICs' rights and obligations, ensure an adequate level of coordination and outline the mechanism for monitoring and evaluating KICs' activities and outcomes.
- (12) There is a need to support higher education as an integral, but often missing, component of a comprehensive innovation strategy. The agreement between the EIT and KICs should provide that the degrees and diplomas awarded through the KICs should be awarded by participating higher education institutions, which should be encouraged to label them also as EIT degrees and diplomas. Through its activities and work, the EIT should help promote mobility within the European Research Area and the Higher Education Area as well as encourage the transferability of grants awarded to researchers and students in the context of the KICs. All these activities should be carried out without prejudice to Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications ⁽¹⁾.
- (13) The EIT should establish clear and transparent guidelines for the management of intellectual property, which should foster the use of intellectual property under appropriate conditions. These guidelines should provide that due account is taken of the contributions to be made by the various partner organisations of the KICs, irrespective of their size. In the event of the activities being funded under the Community Framework Programmes for Research and Technological Development, the rules of those programmes should apply.
- (14) Appropriate provisions should be made to guarantee the liability and transparency of the EIT. Appropriate rules governing its functioning should be laid down in the Statutes of the EIT.
- (15) The EIT should possess legal personality and, in order to guarantee its functional autonomy and independence, it should administer its own budget whose revenue should include a contribution from the Community.
- (16) The EIT should seek to raise an increasing financial contribution from the private sector and from income generated by its own activities. Therefore, it is expected that industry, the finance and service sectors will contribute significantly to the budget of the EIT and, in particular, to the budget of the KICs. The KICs should aim at maximising the share of contributions from the private sector. The KICs and their partner organisations should publicise the fact that their activities are undertaken in the context of the EIT and that they receive a financial contribution from the general budget of the European Union.
- (17) The Community contribution to the EIT should finance the costs arising from the establishment, administrative and coordination activities of the EIT and the KICs. In order to avoid double funding, these activities should not benefit simultaneously from a contribution from other Community programmes, such as the Framework Programme for Research, Technological Development and Demonstration Activities, the Competitiveness and Innovation Framework Programme, the Lifelong Learning Programme, or from the Structural Funds. Furthermore, in the event that a KIC or its partner organisations apply directly for Community assistance from these programmes or funds, their applications should be treated without any preference over other applications.
- (18) The Community budgetary procedure should be applicable as far as the Community subsidy and any other grants chargeable to the general budget of the European Union are concerned. The auditing of accounts should be undertaken by the Court of Auditors in accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽²⁾.
- (19) This Regulation establishes a financial envelope for the period 2008 to 2013 which is to be the prime reference for the budgetary authority, within the meaning of point 37 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽³⁾.

⁽¹⁾ OJ L 255, 30.9.2005, p. 22. Directive as last amended by Commission Regulation (EC) No 1430/2007 (OJ L 320, 6.12.2007, p. 3).

⁽²⁾ OJ L 248, 16.9.2002, p. 1. Regulation as last amended by Regulation (EC) No 1525/2007 (OJ L 343, 27.12.2007, p. 9).

⁽³⁾ OJ C 139, 14.6.2006, p. 1. Interinstitutional Agreement as amended by Decision 2008/29/EC of the European Parliament and of the Council (OJ L 6, 10.1.2008, p. 7).

- (20) The EIT is a body set up by the Communities within the meaning of Article 185(1) of Regulation (EC, Euratom) No 1605/2002 and should adopt its financial rules accordingly. Consequently Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 ⁽¹⁾ should apply to the EIT.
- (21) The EIT should produce an annual report, outlining the activities conducted in the preceding calendar year and a rolling triennial work programme outlining its planned initiatives and allowing the EIT to respond to internal and external developments in the fields of science, technology, higher education, innovation and other relevant areas. These documents should be transmitted to the European Parliament, the Council, the Commission, the Court of Auditors, the European Economic and Social Committee and the Committee of the Regions for information. The European Parliament, the Council and the Commission should be entitled to present an opinion on the draft of the EIT's first triennial work programme.
- (22) The strategic, long-term priority fields and financial needs for the EIT for a period of seven years should be laid down in a Strategic Innovation Agenda (hereinafter referred to as SIA). Given the importance of the SIA for the Community innovation policy and the resulting political significance of its socio-economic impact for the Community the SIA should be adopted by the European Parliament and the Council on the basis of a Commission proposal prepared on the basis of a draft provided by the EIT.
- (23) It is appropriate that the Commission initiate an independent, external evaluation of the operation of the EIT, in particular with a view to preparing the SIA. Where appropriate, the Commission should make proposals to amend this Regulation.
- (24) It is appropriate to pursue a gradual, phased implementation of the EIT in view of its long-term development. An initial phase with a limited number of KICs is needed in order to evaluate properly the functioning of the EIT and the KICs and, where necessary, to introduce improvements. Within a period of 18 months from its creation, the Governing Board should select two or three KICs in areas that help the European Union to face current and future challenges, which could include such fields as climate change, renewable energy and the next generation of information and communication technologies. The selection and designation of further KICs should be enabled after the adoption of the first SIA, which, in order to address the long-term perspective, should also include detailed modalities on the operation of the EIT.

- (25) Since the objective of the action to be taken, namely to establish the EIT, cannot be sufficiently achieved by the Member States and can therefore, for reasons of scale and transnationality, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

A European Institute of Innovation and Technology (hereinafter referred to as the EIT) is hereby established.

Article 2

Definitions

For the purpose of this Regulation, the following definitions shall apply:

1. 'innovation' means the process, including its outcome, by which new ideas respond to societal or economic demand and generate new products, services or business and organisational models that are successfully introduced into an existing market or that are able to create new markets;
2. 'Knowledge and Innovation Community' (KIC) means an autonomous partnership of higher education institutions, research organisations, companies and other stakeholders in the innovation process in the form of a strategic network based on joint mid- to long-term innovation planning to achieve the EIT challenges, regardless of its precise legal form;
3. 'participating State' means either a Member State of the European Union or another country having an agreement with the Community on the EIT;
4. 'third country' means any State which is not a participating State;
5. 'partner organisation' means any organisation which is a member of a KIC and may include in particular: higher education institutions, research organisations, public or private companies, financial institutions, regional and local authorities, foundations;
6. 'research organisation' means any public or private legal entity which undertakes research or technological development as one of its main objectives;
7. 'higher education institution' means a university or any type of higher education institution which, in accordance with national legislation or practice, offers degrees and diplomas at masters or doctoral level, irrespective of its denomination in the national context;

⁽¹⁾ OJ L 357, 31.12.2002, p. 72.

8. 'degrees and diplomas' means qualifications resulting in masters or doctorates awarded by participating higher education institutions in the context of higher education activities undertaken in a KIC;
9. 'Strategic Innovation Agenda' (SIA) means a policy document outlining the priority fields of the EIT for future initiatives, including an overview of the planned higher education, research and innovation activities, for a period of seven years.
- (b) raise awareness among potential partner organisations and encourage their participation in its activities;
- (c) select and designate KICs in the priority fields in accordance with Article 7 and define their rights and obligations by agreement; provide them with appropriate support; apply appropriate quality control measures; continuously monitor and periodically evaluate their activities; and ensure an appropriate level of coordination between them;

Article 3

Objective

The EIT's objective is to contribute to sustainable European economic growth and competitiveness by reinforcing the innovation capacity of the Member States and the Community. It shall do this by promoting and integrating higher education, research and innovation of the highest standards.

Article 4

EIT bodies

1. The bodies of the EIT shall be:
- (a) a Governing Board composed of high-level members experienced in higher education, research, innovation and business. It shall be responsible for steering the activities of the EIT, for the selection, designation and evaluation of the KICs, and for all other strategic decisions;
- (b) an Executive Committee which shall oversee the running of the EIT and take such decisions as are necessary between meetings of the Governing Board;
- (c) a Director who shall be responsible to the Governing Board for the administrative and financial management of the EIT and shall be the legal representative of the EIT;
- (d) an Internal Auditing Function which shall advise the Governing Board and the Director on financial and administrative management and control structures within the EIT, on the organisation of financial links with KICs and on any other subject requested by the Governing Board.
- (e) encourage the recognition in the Member States of degrees and diplomas which are awarded by higher education institutions that are partner organisations and which may be labelled EIT degrees and diplomas;
- (f) promote the dissemination of good practices for the integration of the knowledge triangle in order to develop a common innovation and knowledge transfer culture;
- (g) seek to become a world class body for excellence in higher education, research and innovation;
- (h) ensure complementarity and synergy between EIT activities and other Community programmes.
2. The EIT shall have power to establish a Foundation (hereinafter referred to as the EIT Foundation) with the specific objective of promoting and supporting the activities of the EIT.
3. The detailed provisions regarding the EIT bodies are set out in the Statutes of the EIT, annexed to this Regulation.

Article 5

Tasks

1. In order to achieve its objective, the EIT shall:
- (a) identify its priority fields;
- (b) cutting-edge and innovation-driven research in areas of key economic and societal interest and drawing on the results of European and national research, with the potential to strengthen Europe's competitiveness at international level;

Article 6

KICs

1. KICs shall undertake in particular:
- (a) innovation activities and investments with European added value, fully integrating the higher education and research dimensions to attain a critical mass and stimulating the dissemination and exploitation of results;
- (b) cutting-edge and innovation-driven research in areas of key economic and societal interest and drawing on the results of European and national research, with the potential to strengthen Europe's competitiveness at international level;

(c) education and training activities at masters and doctoral level, in disciplines with the potential to meet future European socio-economic needs and which promote the development of innovation-related skills, the improvement of managerial and entrepreneurial skills and the mobility of researchers and students;

(d) the dissemination of best practices in the innovation sector with a focus on the development of cooperation between higher education, research and business, including the service and financial sectors.

2. KICs shall have substantial overall autonomy to define their internal organisation and composition, as well as their precise agenda and working methods. In particular, KICs shall aim to be open to new members whenever these members add value to the partnership.

3. The relationship between the EIT and each KIC shall be based on a contractual agreement.

Article 7

Selection of KICs

1. A partnership shall be selected and designated by the EIT to become a KIC on the basis of a competitive, open and transparent procedure. Detailed criteria for the selection of the KICs, based on the principles of excellence and innovation relevance, shall be adopted and published by the EIT; external and independent experts shall be involved in the selection process.

2. In accordance with the principles enshrined in paragraph 1, the selection of a KIC shall take particular account of:

(a) the current and potential innovation capacity within the partnership as well as its excellence in higher education, research and innovation;

(b) the partnership's capacity to achieve the goals of the SIA;

(c) the partnership's capacity to ensure sustainable and long-term self-supporting financing including a substantial and increasing contribution from the private sector, industry and services;

(d) the participation in the partnership of organisations active in the knowledge triangle of higher education, research and innovation;

(e) the demonstration of a plan for the management of intellectual property appropriate to the sector concerned and consistent with the EIT principles and guidelines for the management of intellectual property, including the way in which contributions from the various partner organisations have been taken into account;

(f) measures to support the involvement of and cooperation with the private sector, including the financial sector and in particular SMEs, as well as the creation of start-ups, spin-offs and SMEs, in view of the commercial exploitation of the results of the activities of KICs;

(g) readiness to interact with other organisations and networks outside the KIC with the aim of sharing good practices and excellence.

3. The minimum condition to form a KIC is the participation of at least three partner organisations, established in at least two different Member States. All these partner organisations must be independent of each other, within the meaning of Article 6 of Regulation (EC) No 1906/2006 of the European Parliament and of the Council of 18 December 2006 laying down the rules for the participation of undertakings, research centres and universities in actions under the Seventh Framework Programme and for the dissemination of research results (2007-2013) ⁽¹⁾.

4. A KIC may include partner organisations from third countries, subject to the approval of the Governing Board. The majority of the partner organisations forming a KIC shall be established in the Member States. At least one higher education institution and one private company shall be part of each KIC.

Article 8

Degrees and diplomas

1. Degrees and diplomas relating to the higher education activities referred to in Article 6(1)(c) shall be awarded by participating higher education institutions in accordance with national rules and accreditation procedures. The agreement between the EIT and the KICs shall provide that these degrees and diplomas may also be labelled EIT degrees and diplomas.

2. The EIT shall encourage participating higher education institutions to:

(a) award joint or multiple degrees and diplomas, reflecting the integrated nature of the KICs. However, these may also be awarded by a single higher education institution;

(b) take into account:

(i) Community action undertaken in accordance with Articles 149 and 150 of the Treaty;

(ii) action undertaken in the context of the European Higher Education Area.

⁽¹⁾ OJ L 391, 30.12.2006, p. 1.

Article 9

Independence of the EIT and consistency with Community, Member State or intergovernmental action

1. The EIT shall carry out its activities independently of national authorities and external pressures.
2. The activity of the EIT shall be consistent with other action and instruments to be implemented at Community level, in particular in the fields of higher education, research and innovation.
3. The EIT shall also take appropriate account of policies and initiatives at regional, national and intergovernmental levels in order to make use of best practices, well established concepts and existing resources.

Article 10

Management of intellectual property

1. The EIT shall adopt guidelines for the management of intellectual property based on, *inter alia*, Regulation (EC) No 1906/2006.
2. On the basis of these guidelines, the partner organisations of each KIC shall conclude among themselves an agreement on the management and use of intellectual property which shall define, in particular, how the contributions of the various partner organisations, including SMEs, will be taken into account.

Article 11

Legal status

1. The EIT shall be a Community body and shall have legal personality. In each of the Member States, it shall enjoy the widest possible legal capacity accorded to legal persons under national legislation. In particular, it may acquire or dispose of movable and immovable property and be a party to legal proceedings.
2. The Protocol on the Privileges and Immunities of the European Communities shall apply to the EIT.

Article 12

Liability

1. The EIT shall be solely responsible for meeting its obligations.
2. The contractual liability of the EIT shall be governed by the relevant contractual provisions and the law applicable to the contract in question. The Court of Justice shall have jurisdiction pursuant to any arbitration clause contained in a contract concluded by the EIT.

3. In the case of non-contractual liability, the EIT shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or its servants in the performance of their duties.

The Court of Justice shall have jurisdiction in any dispute relating to compensation for such damage.

4. Any payment by the EIT for covering the liability referred to in paragraphs 2 and 3 and the costs and expenses incurred in connection therewith shall be considered expenditure of the EIT and shall be covered by the resources of the EIT.

5. The Court of Justice shall have jurisdiction in actions brought against the EIT under the conditions provided for in Articles 230 and 232 of the Treaty.

Article 13

Transparency and access to documents

1. The EIT shall ensure that its activities are conducted with a high level of transparency. In particular, the EIT shall set up an accessible, free website providing information about the activities of the EIT and individual KICs.
2. The EIT shall make public its rules of procedure, its specific financial rules referred to in Article 21(1) and the detailed criteria for the selection of the KICs referred to in Article 7 before the first call of proposals for the selection of the first KICs.
3. The EIT shall make public without delay its rolling triennial work programme and annual activity report referred to in Article 15.
4. Without prejudice to paragraphs 5 and 6, the EIT shall not divulge to third parties confidential information it has received for which confidential treatment has been requested and is justified.
5. The members of the EIT bodies shall be subject to the confidentiality requirement referred to in Article 287 of the Treaty.

The information gathered by the EIT in accordance with this Regulation shall be subject to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽¹⁾.

6. Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ⁽²⁾ shall apply to the documents held by the EIT. The Governing Board shall adopt practical arrangements for applying that Regulation no later than six months after the EIT has been set up.

⁽¹⁾ OJ L 8, 12.1.2001, p. 1.

⁽²⁾ OJ L 145, 31.5.2001, p. 43.

7. Official documents and publications of the EIT shall be translated in accordance with the Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community ⁽¹⁾. The required translation services shall be provided by the Translation Centre for bodies of the European Union, set up by Council Regulation (EC) No 2965/1994 ⁽²⁾.

Article 14

Financial resources

1. The EIT shall be financed through a contribution from the general budget of the European Union within the financial envelope as set out in Article 19 and other private and public sources.

2. The KICs shall be financed, in particular, from the following sources:

- (a) contributions from companies or private organisations, forming a substantial source of funding;
- (b) contributions from the general budget of the European Union;
- (c) statutory or voluntary contributions from participating States, third countries or public authorities within them;
- (d) bequests, donations and contributions from individuals, institutions, foundations or any other national bodies;
- (e) revenue generated by the KICs' own activities and royalties from intellectual property rights;
- (f) revenue generated by the EIT's activities outcomes or capital endowments, including those managed by the EIT Foundation;
- (g) contributions from international bodies or institutions;
- (h) loans and contributions from the European Investment Bank, including the possibility to use the Risk Sharing Finance Facility, pursuant to the eligibility criteria and the selection procedure.

Contributions may include contributions in kind.

3. The modalities for accessing funding from the EIT shall be defined in the financial rules of the EIT referred to in Article 21(1).

⁽¹⁾ OJ L 17, 6.10.1958, p. 385/58. Regulation as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

⁽²⁾ OJ L 314, 7.12.1994, p. 1. Regulation as last amended by Regulation (EC) No 1645/2003 (OJ L 245, 29.9.2003, p. 13).

4. The contribution from the general budget of the European Union to the establishment, administrative and coordination costs of the KICs shall be provided from the financial envelope as set out in Article 19.

5. The KICs or their partner organisations may apply for Community assistance, in particular in the framework of Community programmes and funds, in accordance with their respective rules and on an equal footing with other applications. In that case, such assistance shall not be attributed for activities already funded through the general budget of the European Union.

Article 15

Programming and reporting

The EIT shall adopt:

- (a) a rolling triennial work programme, based on the SIA, once it is adopted, containing a statement of its major priorities and planned initiatives, including an estimate of financing needs and sources. The work programme shall be transmitted by the EIT to the European Parliament, the Council, the Commission, the European Economic and Social Committee and the Committee for the Regions for information;
- (b) an annual report by 30 June each year. The report shall outline the activities conducted by the EIT during the preceding calendar year and assess the results with respect to the objectives and timetable set, the risks associated with the activities carried out, the use of resources and the general operation of the EIT.

Article 16

Monitoring and evaluation of the EIT

1. The EIT shall ensure that its activities, including those managed through KICs, shall be subject to continuous and systematic monitoring and periodic independent evaluation, to ensure both the highest quality of outcome, scientific excellence and the most efficient use of resources. The outcomes of the evaluations shall be made public.

2. By June 2011 and every five years after the entry into force of a new financial framework, the Commission shall provide for an evaluation of the EIT. This shall be based on an independent external evaluation and shall examine how the EIT fulfils its mission. It shall cover all activities of the EIT and the KICs and shall assess the added value of the EIT, the impact, effectiveness, sustainability, efficiency and relevance of the activities pursued and their relationship and/or complementarity with existing national and Community policies, to support higher education, research and innovation. It shall take into account the views of stakeholders, at both European and national level.

3. The Commission shall forward the results of the evaluation, together with its own opinion and, where appropriate, any proposals to amend this Regulation, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The Governing Board shall take due account of the findings of evaluations in the programmes and operations of the EIT.

Article 17

SIA

1. By 30 June 2011 at the latest and every seven years thereafter, the EIT shall prepare a seven-year draft SIA and submit it to the Commission.

2. The SIA shall define long-term priority fields for the EIT and shall include an assessment of its socioeconomic impact and its capacity to generate the best innovation added-value. The SIA shall take into account the results of the monitoring and evaluation of the EIT as referred to in Article 16.

3. The SIA shall include an estimate of financial needs and sources in view of the future operation, long-term development and funding of the EIT. It shall also contain an indicative financial plan covering the period of the financial framework.

4. Acting on a proposal from the Commission, the SIA shall be adopted by the European Parliament and the Council in accordance with Article 157(3) of the Treaty.

Article 18

Initial phase

1. Within 12 months after its creation, the Governing Board shall submit the draft of the first rolling triennial work programme, referred to in Article 15(a), to the European Parliament, the Council and the Commission. The European Parliament, the Council and the Commission may each address an opinion to the Governing Board on any subject covered in draft within three months of the day on which they received it. Where such opinions are addressed to it, the Governing Board shall reply within a period of three months, indicating any adjustments in the priorities and planned activities.

2. Within a period of 18 months from the date of creation of the Governing Board, the EIT shall select and designate two or three KICs in accordance with the criteria and procedures set out in Article 7.

3. The Commission shall submit the proposal for the first SIA, on the basis of the draft provided by the EIT, to the European Parliament and the Council before the end of 2011.

In addition to the content of a SIA in accordance with Article 17, the first SIA shall include:

(a) detailed specifications and terms of reference concerning the operation of the EIT;

(b) the modalities for cooperation between the Governing Board and the KICs;

(c) modalities of the funding of the KICs.

4. After the adoption of the first SIA in accordance with Article 17(4), the Governing Board may select and designate additional KICs pursuant to the provisions of Articles 6 and 7.

Article 19

Budgetary commitments

The financial envelope for the implementation of this Regulation during the period from 1 January 2008 to 31 December 2013 is set at EUR 308,7 million. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial framework.

Article 20

Preparation and adoption of the annual budget

1. The expenditure of the EIT shall include the staff, administrative, infrastructure and operational expenses. Administrative expenditure shall be kept to a minimum.

2. The financial year shall correspond to the calendar year.

3. The Director shall draw up an estimate of the revenue and expenditure of the EIT for the following financial year and shall forward it to the Governing Board.

4. Revenue and expenditure shall be in balance.

5. The Governing Board shall adopt the draft estimate, accompanied by a draft establishment plan, and the preliminary rolling triennial work programme and forward them by 31 March to the Commission.

6. On the basis of the estimate, the Commission shall enter in the preliminary draft general budget of the European Union the estimates it deems necessary for the amount of the subsidy to be charged to the general budget.

7. The budgetary authority shall authorise the appropriations for the subsidy to the EIT.

8. The Governing Board shall adopt the EIT budget, which shall become final following the final adoption of the general budget of the European Union. Where appropriate, it shall be adjusted accordingly.

9. The Governing Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project which may have significant financial implications for the funding of the EIT budget, in particular any projects relating to property such as the rental or purchase of buildings. It shall inform the Commission thereof.

10. Any substantial modification of the budget shall follow the same procedure.

*Article 21***Implementation and control of the budget**

1. The EIT shall adopt its financial rules in accordance with Article 185(1) of Regulation (EC, Euratom) No 1605/2002. These may not depart from Regulation (EC, Euratom) No 2343/2002 except where the EIT's specific operating needs so require and with the Commission's prior consent. Due account shall be given to the need for adequate operational flexibility in order to enable the EIT to achieve its objectives and attract and retain private sector partners.

2. The Director shall implement the budget of the EIT.

3. The accounts of the EIT shall be consolidated with the Commission's accounts.

4. Upon a recommendation from the Council, the European Parliament shall, before 30 April of the year $n + 2$, give a discharge for the year n to the Director in respect of the implementation of the EIT budget and to the Governing Board in respect to the EIT Foundation.

*Article 22***Protection of the financial interests of the Community**

1. With a view to combating fraud, corruption and other illegal acts, Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) ⁽¹⁾ shall apply to the EIT in its entirety.

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

Done at Strasbourg, 11 March 2008.

For the European Parliament
The President
H.-G. PÖTTERING

For the Council
The President
J. LENARČIČ

2. The EIT shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-fraud Office (OLAF) ⁽²⁾. The Governing Board shall formalise this accession and adopt the necessary measures to help OLAF carry out internal investigations.

3. All decisions adopted and contracts concluded by the EIT shall provide explicitly that OLAF and the Court of Auditors may carry out on-the-spot inspections of the documents of all contractors and sub-contractors which have received Community funds, including at the premises of the final beneficiaries.

4. The provisions set out in paragraphs 1, 2 and 3 shall apply, *mutatis mutandis*, to the EIT Foundation.

*Article 23***Statutes**

The Statutes of the EIT, as set out in the Annex, are hereby adopted.

*Article 24***Entry into force**

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

⁽¹⁾ OJ L 136, 31.5.1999, p. 1.

⁽²⁾ OJ L 136, 31.5.1999, p. 15.

ANNEX

Statutes of the European Institute of Innovation and Technology*Article 1***Composition of the Governing Board**

1. The Governing Board shall consist both of appointed members providing a balance between those with experience in business, higher education and research (hereinafter referred to as appointed members) and members elected by and from among the higher education, research and innovation, technical and administrative staff, students and doctoral candidates of the European Institute of Innovation and Technology (EIT) and the Knowledge and Innovation Communities (KICs) (hereinafter referred to as representative members).

As a transitional provision, the initial Governing Board shall consist exclusively of appointed members until elections for representative members can be held, after the first KIC has been established.

2. There shall be 18 appointed members. They shall have a six-year non-renewable term of office. They shall be appointed by the Commission, in accordance with a transparent procedure. The Commission shall inform the European Parliament and the Council about the selection process and the final appointment of those members of the Governing Board.

The appointed members of the initial Governing Board shall be appointed on the basis of a list of potential candidates proposed by an ad-hoc Identification Committee, which shall be composed of four independent high level experts appointed by the Commission. The subsequent appointed members shall be appointed on the basis of a list of potential candidates proposed by the Governing Board.

3. The Commission shall have regard to the balance between higher education, research, innovation and business experience as well as to gender balance and an appreciation of the higher education, research and innovation environments across the Union.

4. One third of the appointed members shall be replaced every two years. An appointed member who has served for a period of less than four years shall be eligible for reappointment, subject to an overall limit of six years in office.

During a transitional period, 12 appointed members of the initial Governing Board shall be chosen by lot to serve for a four-year term of office. At the end of the initial four-year period, six of the 12 newly appointed members shall be chosen by lot to serve for a four-year term of office. The Chairperson of the Governing Board is not part of this transitional process.

5. There shall be four representative members. They shall have a three-year term of office, renewable once. Their term of office shall cease if they leave the EIT or a KIC. They shall be replaced through the same election process for the remainder of the term of office.

6. The conditions and modalities for election and replacement of the representative members shall be approved by the Governing Board on the basis of a proposal from the Director before the first KIC is in operation. This mechanism shall ensure an appropriate representation of the diversity and shall take into account the evolution of the EIT and the KICs.

7. In the event that a member of the Governing Board is unable to complete his term of office, a substitute member shall be appointed or elected by the same procedure as the incapacitated member in order to complete the latter's term of office.

*Article 2***Responsibilities of the Governing Board**

1. The Governing Board members shall act in the interests of the EIT, safeguarding its goals and mission, identity and coherence, in an independent way.

2. The Governing Board shall, in particular:

- (a) define the EIT strategy as enshrined in the Strategic Innovation Agenda (SIA), the triennial rolling work programme, its budget, its annual accounts and balance sheet and its annual activity report on the basis of a proposal from the Director;
- (b) specify the priority fields in which to establish the KICs;
- (c) provide a contribution in view of the preparation of the SIA;
- (d) draw up detailed specifications and terms of references on the operation of the EIT in the framework of the SIA, including criteria and procedures for the financing, monitoring and evaluating of the activities of the KICs;
- (e) select and designate a partnership as a KIC or withdraw the designation if necessary;
- (f) ensure continuing evaluation of the activities of KICs;
- (g) adopt its rules of procedure, including those for the selection of the KICs, those for the Executive Committee, as well as the specific financial rules of the EIT;
- (h) define, with the Commission's agreement, appropriate honoraria for members of the Governing Board and of the Executive Committee; these honoraria shall be benchmarked against similar provision in the Member States;
- (i) adopt a procedure for choosing the Executive Committee and the Director;

- (j) appoint and if necessary dismiss the Director, and exercise disciplinary authority over him/her;
- (k) appoint the Accounting Officer, the members of the Executive Committee and the members of the Internal Auditing Function;
- (l) establish where appropriate advisory groups which may have a defined duration;
- (m) promote the EIT globally, so as to raise its attractiveness and make it a world-class body for excellence in higher education, research and innovation;
- (n) adopt a code of good conduct regarding conflicts of interest;
- (o) define principles and guidelines for the management of intellectual property rights;
- (p) set up an Internal Auditing Function in accordance with Commission Regulation (EC, Euratom) No 2343/2002;
- (q) be empowered to establish a Foundation (hereinafter referred to as the EIT Foundation) with the specific objective of promoting and supporting the activities of the EIT;
- (r) ensure complementarity and synergy between EIT activities and other Community programmes;
- (s) decide on EIT's language regime, taking into account the existing principles on multilingualism and the practical requirements of its operations.

3. The Governing Board may delegate specific tasks to the Executive Committee.

4. The Governing Board shall elect its Chairperson from among the appointed members. The term of office of the Chairperson shall be three years, renewable once.

Article 3

Functioning of the Governing Board

1. Without prejudice to paragraph 2, the Governing Board shall adopt decisions by simple majority of all its members.

However, decisions under Article 2(2)(a), (b), (c), (d), (i) and (s), and (4) shall require a majority of two thirds of all its members.

2. The representative members may not vote on decisions under Article 2(2)(e), (g), (i), (j), (k), (q) and (s).

3. The Governing Board shall meet in ordinary session at least three times a year and in extraordinary session when convened by its Chairperson or on request of at least one third of its members.

Article 4

The Executive Committee

1. The Executive Committee shall consist of five persons including the Chairperson of the Governing Board who will also chair the Executive Committee.

The four members other than the Chairperson shall be chosen by the Governing Board from among the Governing Board's appointed members.

2. The Executive Committee shall meet on a regular basis as convened by its Chairperson or on the request of the Director.

3. The Executive Committee shall take its decisions by simple majority of all its members.

4. The Executive Committee shall:

- (a) prepare the meetings of the Governing Board;
- (b) oversee the implementation of the SIA and rolling triennial work programme;
- (c) oversee the selection procedure for KICs;
- (d) take any decisions delegated to it by the Governing Board.

Article 5

The Director

1. The Director shall be a person with expertise and high reputation in the areas where the EIT operates. The Director shall be appointed by the Governing Board for a term of office of four years. The Governing Board may extend that term of office once by four years when it considers that the interests of the EIT are best served by so doing.

2. The Director shall be responsible for the day-to-day management of the EIT and be its legal representative. The Director shall be accountable to the Governing Board and report to it on an ongoing basis on the development of the EIT activities.

3. The Director shall in particular:

- (a) support the Governing Board and the Executive Committee in their work and provide the secretariat for their meetings;
- (b) prepare a draft SIA, a draft rolling triennial work programme, the annual report and the annual budget for submission to the Governing Board through the Executive Committee;
- (c) administer the selection process for KICs and ensure that the various stages of that process are carried out in a transparent and objective manner;
- (d) organise and manage the activities of the EIT;
- (e) ensure the implementation of effective monitoring and evaluation procedures relating to the performance of the EIT in accordance with Article 16 of the Regulation;

- (f) be responsible for administrative and financial matters, including the implementation of the EIT budget. In this the Director shall take due account of advice received from the Internal Auditing Function;
- (g) be responsible for all staff matters;
- (h) submit the draft annual accounts and balance sheet to the Internal Auditing Function, and subsequently to the Governing Board, through the Executive Committee;
- (i) ensure that the obligations of the EIT with regard to the contracts and agreements it concludes are met;
- (j) provide the Executive Committee and the Governing Board with all information necessary for the performance of their functions.

Article 6

Preparation of establishment of the support structure

For a transitional period, the Commission shall provide the necessary support towards the establishment of the EIT structure. For that purpose, until such time as the first appointed members of the Governing Board are appointed, an official appointed by the Commission shall be the EIT legal representative and be responsible for staff, administrative and financial matters, including the implementation of the EIT budget. Thereafter, the Governing Board shall designate, according to a transparent procedure, a person who shall fulfil these functions or extend the mandate of the official appointed by the Commission, until such time as the Director takes up his/her duties following his/her appointment by the Governing Board, in accordance with Article 5. The Governing Board shall launch the procedure for choosing the Director of the EIT without delay.

Article 7

Staff of the EIT

1. The staff of the EIT shall consist of personnel employed directly by the EIT under fixed term contracts. The conditions of employment of other servants of the European Communities shall apply to the Director and the Staff of the EIT.
2. Experts may be seconded to the EIT for a limited duration by participating States or other employers.

The Governing Board shall adopt provisions enabling seconded experts from participating States or other employers to work at the EIT and defining their rights and responsibilities.

3. The EIT shall exercise, with regard to its staff, the powers which are devolved to the authority authorised to conclude the contracts with the staff members.

4. A member of staff may be required to make good, in whole or in part, any damage suffered by the EIT as a result of serious misconduct on his/her part in the course of or in connection with the performance of his/her duties.

Article 8

Principles for the evaluation and monitoring of KICs

The EIT shall organise continuous monitoring and periodic independent evaluations of the outcomes and results of each KIC. These evaluations shall be based on good administrative practice and result-oriented parameters and avoid unnecessary formal and procedural aspects.

Article 9

Duration, continuation and termination of a KIC

1. Subject to the outcomes of periodic evaluations and to the specificities of particular fields, a KIC shall normally have a time-frame of seven to 15 years.
2. The Governing Board may decide to extend the operation of a KIC beyond the period initially set if this is the most appropriate way to achieve the objective of the EIT.
3. In the event that evaluations of a KIC show inadequate results, the Governing Board shall take appropriate measures including reduction, modification or withdrawal of its financial support or termination of the agreement.

Article 10

Winding up of the EIT

In the event of winding up of the EIT, its liquidation shall intervene under the supervision of the Commission in conformity with the laws applicable. The agreements with the KICs and the act establishing the EIT Foundation shall lay down the appropriate provisions in such situation.

REGULATION (EC) No 295/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 March 2008
concerning structural business statistics
(recast)
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

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

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

Whereas:

- (1) Council Regulation (EC, Euratom) No 58/97 of 20 December 1996 concerning structural business statistics ⁽³⁾ has been significantly amended on several occasions ⁽⁴⁾. Now that new amendments are being made to that Regulation, it is desirable, for reasons of clarity and rationalisation, that the provisions in question should be recast.
- (2) Regulation (EC, Euratom) No 58/97 established a common framework for the collection, compilation, transmission and evaluation of Community statistics on the structure, activity, competitiveness and performance of businesses in the Community.
- (3) Decision No 2367/2002/EC of the European Parliament and the Council of 16 December 2002 on the Community statistical programme 2003 to 2007 ⁽⁵⁾ adopted the programme to be guided by the principal Community policy priorities of economic and monetary union, European Union enlargement and competitiveness, regional policy, sustainable development and the social agenda. Statistics on the economic activity of enterprises form an essential part of this programme.

(4) This Regulation should provide for the continuation of existing statistical support for decisions in current policy areas and to satisfy the additional requirements arising from new Community policy initiatives, and from the ongoing review of statistical priorities and of the relevance of the statistics produced, with a view to making best use of available resources and minimising response burdens. Special attention should be paid to the impact on business caused by Community energy and environmental policies, such as those embodied by the REACH Regulation (EC) No 1907/2006 ⁽⁶⁾. Cooperation and the exchange of best practices between national statistical institutes should be encouraged in order to ensure a more efficient use of administrative data sources.

(5) There is an increasing need for data on services, in particular business services. Statistics are needed for the economic analysis and policy formulation on what is the most dynamic sector of modern economies, especially in terms of its potential for growth and employment creation. The Lisbon European Council meeting of 23 and 24 March 2000 highlighted the importance of services. The measurement of turnover broken down to detailed service products is a necessary prerequisite for a true understanding of the services' role in the economy. The Stockholm European Council meeting of 23 and 24 March 2001 concluded that the creation of effectively functioning internal markets for services is one of Europe's highest priorities. Statistics by detailed service products on cross-border trade are essential for monitoring the functioning of internal markets for services, evaluating the competitiveness of services and assessing the impact of barriers on trade in services.

(6) There is a need for data on business demography, particularly since they are an element of the structural indicators established for monitoring the achievements concerning the goals set by the Lisbon Strategy. In addition, harmonised data on business demography and on its impact on employment are necessary to substantiate policy recommendations for the support of entrepreneurship.

⁽¹⁾ OJ C 318, 23.12.2006, p. 78.

⁽²⁾ Opinion of the European Parliament of 29 March 2007 (OJ C 27 E, 31.1.2008, p. 139) and Council Decision of 14 February 2008.

⁽³⁾ OJ L 14, 17.1.1997, p. 1. Regulation as last amended by Regulation (EC) No 1893/2006 of the European Parliament and of the Council (OJ L 393, 30.12.2006, p. 1).

⁽⁴⁾ See Annex X.

⁽⁵⁾ OJ L 358, 31.12.2002, p. 1. Decision as amended by Decision No 787/2004/EC (OJ L 138, 30.4.2004, p. 12).

⁽⁶⁾ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and establishing a European Chemicals Agency (OJ L 396, 30.12.2006, p. 1; corrected by OJ L 136, 29.5.2007, p. 3). Regulation as amended by Council Regulation (EC) No 1354/2007 (OJ L 304, 22.11.2007, p. 1).

- (7) There is also a need for a flexible tool within the statistical framework which can bring about a quick and timely response to emerging user needs resulting from the increasingly dynamic, innovative and complex characteristics of the knowledge-based economy. Linking such ad hoc data collections with the ongoing collection of data on structural business statistics would bring added value to the information gathered in both surveys and could reduce the total burden on respondents by avoiding the duplication of data collection.
- (8) It is necessary to provide for a procedure for the adoption of measures for the implementation of this Regulation in order to enable the rules for the collection and statistical processing of data and for the processing and transmission of the results to be clarified further.
- (9) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾.
- (10) In particular, the Commission should be empowered to: update the list of characteristics in the Annexes; establish the frequency of the compilation of the statistics, the rules for flagging data as contributions to European totals only (CETO), the first reference year for the compilation of the results, and the breakdown of results, in particular the classifications to be used and the combination of the size classes; update the periods of time for the transmission of data; adapt the breakdown of activities and products to amendments or revisions of the statistical classification of economic activities in the European Community (NACE) and classification of products by activity (CPA); adopt measures on the basis of the evaluation of pilot studies; change the lower limit for the reference population in Annex VIII; and establish criteria for the evaluation of quality. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (11) Since the objective of this Regulation, namely to provide harmonised data on the structure, activity, competitiveness and performance of businesses in the Community, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation establishes a common framework for the collection, compilation, transmission and evaluation of Community statistics on the structure, activity, competitiveness and performance of businesses in the Community.

The purpose of the compilation of statistics shall be, in particular, to analyse:

- (a) the structure and evolution of the activities of businesses;
- (b) the factors of production used and other elements allowing business activity, competitiveness and performance to be measured;
- (c) the regional, national, Community and international development of businesses and markets;
- (d) business conduct;
- (e) small and medium-sized enterprises; and
- (f) specific characteristics of enterprises related to particular breakdown of activities.

Article 2

Scope

1. This Regulation shall cover all market activities in Sections B to N and P to S of the common statistical classification of economic activities in the European Community as established by Regulation (EC) No 1893/2006 (hereinafter referred to as NACE Rev. 2).

2. Statistical units of the types listed in Section I of the Annex to Council Regulation (EEC) No 696/93 of 15 March 1993 on the statistical units for the observation and analysis of the production system in the Community ⁽²⁾ which are classified under one of the activities referred to in paragraph 1 shall be included in the scope of this Regulation. The use of particular units for the compilation of statistics is specified in the Annexes to this Regulation.

Article 3

Modules

1. The statistics to be compiled for the areas referred to in Article 1 shall be grouped as modules.

⁽¹⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽²⁾ OJ L 76, 30.3.1993, p. 1. Regulation as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

2. The modules in this Regulation shall be:

- (a) a common module for annual structural statistics, as defined in Annex I;
- (b) a detailed module for structural statistics in industry, as defined in Annex II;
- (c) a detailed module for structural statistics in trade, as defined in Annex III;
- (d) a detailed module for structural statistics in construction, as defined in Annex IV;
- (e) a detailed module for structural statistics in insurance, as defined in Annex V;
- (f) a detailed module for structural statistics on credit institutions, as defined in Annex VI;
- (g) a detailed module for structural statistics on pension funds, as defined in Annex VII;
- (h) a detailed module for structural statistics on business services, as defined in Annex VIII;
- (i) a detailed module for structural statistics on business demography, as defined in Annex IX;
- (j) a flexible module for the conduct of a specific and limited ad hoc data collection of enterprise characteristics.

3. The following information shall be laid down in each module:

- (a) the activities for which the statistics are to be compiled, drawn from the coverage indicated in Article 2(1);
- (b) the types of statistical unit to be used for the compilation of the statistics, drawn from the list of statistical units referred to in Article 2(2);
- (c) lists of characteristics for which statistics are to be compiled for the areas referred to in Article 1 and the reference periods for those characteristics;
- (d) the frequency of the compilation of the statistics, which shall be annual or multiannual. If multiannual, compilation shall take place at least once every 10 years;
- (e) the timetable showing the first reference years for the statistics to be compiled;
- (f) the standards relating to representativeness and quality evaluation;

- (g) the period of time starting from the end of the reference period within which the statistics are to be transmitted;
- (h) the maximum length of the transitional period which may be conceded.

4. The use of the flexible module referred to in paragraph 2(j) shall be planned in close cooperation with Member States. Its scope, list of characteristics, reference period, activities to be covered and quality requirements shall be decided by the Commission in accordance with the regulatory procedure referred to in Article 12(2) at least 12 months before the beginning of the reference period. The Commission shall also specify the need for the information and the impact of the data collection in respect of the burden on businesses and the costs to the Member States.

In order to limit the burden on businesses and the costs to the Member States, the size of the data collection shall be restricted to a maximum of 20 enterprise characteristics or questions, to a maximum of 25 000 respondent enterprises across the European Union, and to a maximum average individual respondent input of 1,5 hours. Ad hoc data collection shall include a representative number of Member States. When only results at European level are needed, the Commission may set up a European sampling approach to ensure a minimum burden and minimum costs.

The costs of ad hoc data collection may be co-financed by the Commission using established procedures.

Article 4

Pilot studies

1. A series of pilot studies shall be instituted by the Commission and carried out by Member States on a voluntary basis as specified in the Annexes. The Commission shall award grants to national authorities within the meaning of Article 2 of Council Regulation (EC) No 322/97 of 17 February 1997 on Community Statistics ⁽¹⁾, following a call for proposals.

2. The pilot studies shall be carried out in order to assess the relevance and feasibility of obtaining data. The results of the pilot studies shall be evaluated by the Commission, taking into account the benefits of the availability of the data in relation to the cost of collection and the burden on businesses.

3. The Commission shall inform the European Parliament and the Council of the results of pilot studies.

4. The measures designed to amend non-essential elements of this Regulation by supplementing it on the basis of the evaluation of the pilot studies, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 12(3).

⁽¹⁾ OJ L 52, 22.2.1997, p. 1. Regulation as amended by Regulation (EC) No 1882/2003.

*Article 5***Acquisition of data**

1. Member States shall acquire the necessary data for the observation of the characteristics in the lists referred to in the modules in Article 3.

2. Member States may acquire the necessary data using a combination of the different sources specified below, applying the principle of administrative simplification:

- (a) compulsory surveys: the legal units, to which the statistical units called on by the Member States belong or of which they are composed, shall be obliged to give accurate and complete information within the prescribed deadlines;
- (b) other sources which are at least equivalent as regards accuracy and quality;
- (c) statistical estimation procedures where some of the characteristics have not been observed for all of the units.

3. In order to reduce response burdens, the national authorities and the Commission (Eurostat) shall, under the limits and the conditions fixed by each Member State and by the Commission in their respective spheres of competence, have access to administrative data sources covering the fields of activity of their own public administrations to the extent that these data are necessary to meet the accuracy requirements referred to in Article 6. In addition, wherever feasible, appropriate administrative data shall be used to meet the reporting requirements of this Regulation.

4. Member States and the Commission, within their respective fields of competence, shall promote the conditions for increased use of electronic data transmission and automatic data-processing.

*Article 6***Accuracy**

1. Member States shall take the necessary measures to ensure that the data transmitted reflect the structure of the population of the statistical units laid down in the Annexes.

2. Quality evaluation shall be carried out comparing the benefits of the availability of the data with the costs of collection and the burden on business, especially on small enterprises.

3. Member States shall transmit to the Commission, at its request, all the information necessary for the evaluation referred to in paragraph 2.

*Article 7***Comparability**

1. From the collected and estimated data Member States shall produce comparable results, following the breakdown stipulated for each module in Article 3 and the respective Annexes.

2. In order that Community aggregates may be compiled, Member States shall produce component national results according to the levels of NACE Rev. 2, laid down in the Annexes, or determined in accordance with the regulatory procedure with scrutiny referred to in Article 12(3).

*Article 8***Transmission of results**

1. Member States shall transmit the results provided for in Article 7 of this Regulation, including confidential data, to the Commission (Eurostat) in accordance with the existing Community provisions on transmission of data subject to statistical confidentiality, in particular Council Regulation (Euratom, EEC) No 1588/90 ⁽¹⁾. Those Community provisions shall apply to the treatment of the results, in so far as they include confidential data.

2. The results shall be transmitted in an appropriate technical format, within a period of time starting from the end of the reference period, which shall be laid down in accordance with the regulatory procedure with scrutiny referred to in Article 12(3) for the modules provided for in Article 3(2)(a) to (h) and (j) and shall be no longer than 18 months. For the module provided for in Article 3(2)(i), the period of time shall be no longer than 30 months or 18 months as laid down in Annex IX, Section 9. In addition, a small number of estimated preliminary results shall be transmitted within a period of time starting from the end of the reference period which shall be laid down in accordance with that procedure for the modules provided for in Article 3(2)(a) to (g) and shall be no longer than 10 months. For the module provided for in Article 3(2)(i), the period of time for preliminary results shall be no longer than 18 months.

3. In order to minimise the burden on businesses and the costs to the national statistical authorities, the Member States may mark data for use as a contribution to European totals only (CETO). Eurostat shall not publish those data, nor shall Member States mark nationally published data with a CETO flag. The use of the CETO flag shall be dependent on the individual Member State's share of the EU total of value added in the business economy as follows:

- (a) Germany, France, Italy, and United Kingdom: CETO-flagged data may be sent for NACE Rev. 2 class level and for the size class breakdown at NACE Rev. 2 group level. No more than 15 % of the cells may be marked.

⁽¹⁾ OJ L 151, 15.6.1990, p. 1. Regulation as last amended by Regulation (EC) No 1882/2003.

- (b) Belgium, Denmark, Ireland, Greece, Spain, the Netherlands, Austria, Poland, Portugal, Finland and Sweden: CETO-flagged data may be sent for NACE Rev. 2 class level and for the size class breakdown at NACE Rev. 2 group level. No more than 25 % of the cells may be marked. In addition, if, in any of these Member States, the share of a NACE Rev. 2 class or of a size class of NACE Rev. 2 group is less than 0,1 % of the business economy of the Member State concerned, those data may additionally be sent as CETO-flagged.
- (c) Bulgaria, Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, Romania, Slovenia and Slovakia: CETO-flagged data may be sent for NACE Rev. 2 group and class level and for the size class breakdown at NACE Rev. 2 group level. No more than 25 % of the cells at group level may be marked.

The measures designed to amend non-essential elements of this Regulation, *inter alia*, by supplementing it, relating to reviewing the rules for the CETO flag and grouping the Member States, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 12(3) by 29 April 2013 and every five years thereafter.

Article 9

Information on implementation

Member States shall transmit to the Commission, at its request, any relevant information with regard to the implementation of this Regulation in the Member States.

Article 10

Transitional periods

1. During the transitional periods, derogations from the provisions of the Annexes may be granted in accordance with the regulatory procedure referred to in Article 12(2) insofar as the national statistical systems require major adaptations.

2. Supplementary transitional periods may be granted to a Member State for the compilation of statistics where it is impossible to comply with the provisions of this Regulation because of derogations granted pursuant to Council Regulation (EEC) No 2186/93 of 22 July 1993 on Community coordination in drawing up business registers for statistical purposes ⁽¹⁾.

Article 11

Implementing measures

1. The following measures necessary for the implementation of this Regulation shall be adopted in accordance with the regulatory procedure referred to in Article 12(2):

- (a) establishing the definitions of the characteristics and their relevance for certain activities (Article 3 and Annex I, Section 4, paragraph 2);
- (b) establishing the definition of the reference period (Article 3);
- (c) establishing the appropriate technical format for the transmission of results (Article 8 and Annex I, Section 9, paragraph 2);
- (d) establishing the transitional period and derogations from the provisions of this Regulation granted during that period (Article 10 and Annex I, Section 11, Annex II, Section 10, Annex III, Section 9, Annex VIII, Section 8 and Annex IX, Section 13);
- (e) establishing the list of characteristics to be transmitted using the common statistical classification of economic activities within the European Community as established by Council Regulation (EEC) No 3037/90 ⁽²⁾ (hereinafter referred to as NACE Rev.1.1) for the year 2008 and the details regarding the production of results (Annex I, Section 9, paragraph 2);
- (f) establishing the use of the flexible module referred to in Articles 3(2)(j) and 3(4); and
- (g) establishing the procedures to be followed in relation to the ad hoc data collections referred to in Annex II, Section 4, paragraphs 3 and 4, Annex III, Section 3, paragraph 3, and Annex IV, Section 3, paragraph 3.

2. The following measures necessary for implementation of this Regulation, designed to amend non-essential elements of this Regulation, *inter alia*, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 12(3):

- (a) updating the lists of characteristics, and preliminary results in so far as such updating, after a quantitative assessment, does not imply an increase in the number of units surveyed nor a burden on the units which is disproportionate to the anticipated results (Articles 4 and 8 and Annex I, Section 6, Annex II, Section 6, Annex III, Section 6, Annex IV, Section 6);
- (b) establishing the frequency of the compilation of the statistics (Article 3);
- (c) establishing the rules for flagging data as CETO (Article 8(3));
- (d) establishing the first reference year for the compilation of the results (Article 8 and Annex I, Section 5);
- (e) establishing the breakdown of results, in particular the classifications to be used and the combinations of the size classes (Article 7 and Annex VIII, Section 4, paragraphs 2 and 3, Annex IX, Section 8, paragraphs 2 and 3, and Annex IX, Section 10);

⁽¹⁾ OJ L 196, 5.8.1993, p. 1. Regulation as amended by Regulation (EC) No 1882/2003.

⁽²⁾ OJ L 293, 24.10.1990, p. 1. Regulation as last amended by Regulation (EC) No 1893/2006.

- (f) updating the periods of time for the transmission of data (Article 8 and Annex I, Section 8, paragraph 1, and Annex VI, Section 7);
- (g) adapting the breakdown of activities to amendments or revisions of the NACE and the breakdown of products to amendments or revisions of the CPA;
- (h) those adopted on the basis of the evaluation of pilot studies (Article 4(4));
- (i) changing the lower limit for the reference population (Annex VIII, Section 3); and
- (j) establishing the criteria for the evaluation of quality (Article 6 and Annex I, Section 6, Annex II, Section 6, Annex III, Section 6 and Annex IV, Section 6).

Article 12

Committee

1. The Commission shall be assisted by the Committee on the Statistical Programmes of the European Communities set up by Council Decision 89/382/EEC, Euratom ⁽¹⁾.

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

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

3. Where reference is made to this paragraph, Articles 5a(1) to (4) and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

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

Done at Strasbourg, 11 March 2008.

For the European Parliament
The President
H.-G. PÖTTERING

Article 13

Report

1. The Commission shall, by 29 April 2011 and every three years thereafter, submit a report to the European Parliament and the Council on the statistics compiled pursuant to this Regulation and in particular on their quality and the burden on business.

2. In the reports referred to in paragraph 1, the Commission shall propose any amendments it considers necessary.

Article 14

Repeal

1. Regulation (EC, Euratom) No 58/97 shall be repealed. Article 20 of Regulation (EC) No 1893/2006 shall also be repealed.

2. References made to the repealed Regulation shall be construed as references to this Regulation from the reference year 2008 onwards and shall be read in accordance with the correlation table in Annex XI. The provisions of Regulation (EC, Euratom) No 58/97 shall continue to apply as regards the collection, compilation and transmission of data for reference years up to and including 2007.

Article 15

Entry into force

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

For the Council
The President
J. LENARČIČ

⁽¹⁾ OJ L 181, 28.6.1989, p. 47.

ANNEX I

A COMMON MODULE FOR ANNUAL STRUCTURAL STATISTICS

SECTION 1

Aim

The aim of this Annex is to establish a common framework for the collection, compilation, transmission and evaluation of Community statistics on the structure, activity, competitiveness and performance of business in the Member States.

SECTION 2

Scope

The statistics to be compiled will relate to the domains referred to in Article 1(a), (b), (c) and (e), in particular to the analysis of value-added and of its main components.

SECTION 3

Coverage

1. The statistics are to be compiled for the activities listed in Section 9.
2. Pilot studies are to be conducted for the activities mentioned in Section 10.

SECTION 4

Characteristics

1. The lists of characteristics set out below indicate, where relevant, the type of statistical unit for which the statistics are to be compiled.
2. The corresponding titles of the characteristics for which the statistics are to be compiled on activities in Section K of NACE Rev. 2 which correspond most closely to those listed in paragraphs 3 to 5 will be laid down in accordance with the regulatory procedure referred to in Article 12(2).
3. Annual demographic statistics:

Code	Title
Structural data	
11 11 0	Number of enterprises
11 21 0	Number of local units

4. Enterprise characteristics for which annual statistics are to be compiled:

Code	Title
Accounting data	
12 11 0	Turnover
12 12 0	Production value
12 15 0	Value-added at factor cost
12 17 0	Gross operating surplus
13 11 0	Total purchases of goods and services
13 12 0	Purchases of goods and services purchased for resale in the same condition as received

Code	Title
13 13 1	Payments for agency workers
13 31 0	Personnel costs
13 32 0	Wages and salaries
13 33 0	Social security costs
Data related to the capital account	
15 11 0	Gross investment in tangible goods
Data on employment	
16 11 0	Number of persons employed
16 13 0	Number of employees
16 14 0	Number of employees in full-time equivalent units

5. Characteristics for which annual regional statistics are to be compiled:

Code	Title
Accounting data	
13 32 0	Wages and salaries
Data on employment	
16 11 0	Number of persons employed

6. Pilot studies are to be conducted for the characteristics listed in Section 10.

SECTION 5

First reference year

The first reference year for which statistics are compiled is the calendar year 2008. Data will be compiled according to the breakdown in Section 9. However the first reference year for which statistics on the activity classes covered by the NACE Rev. 2 groups 64.2, 64.3 and 64.9 and division 66 are to be compiled, will be decided in accordance with the regulatory procedure with scrutiny referred to in Article 12(3).

SECTION 6

Report on the quality of statistics

For each of the key characteristics Member States will indicate the degree of precision by reference to a confidence level of 95 %, which the Commission will include in the report provided for in Article 13, taking account of the application in each Member States of that Article. The key characteristics will be laid down in accordance with the regulatory procedure with scrutiny referred to in Article 12(3).

SECTION 7

Production of results

1. The results are to be broken down to the class level detailing the activities listed in Section 9.
2. Some results are also to be broken down into size classes for each group of activities listed in Section 9.
3. The results of the regional statistics are to be broken down to NACE Rev. 2 2-digit level (divisions) and level 2 of the common statistical classification of territorial units, as established by Regulation (EC) No 1059/2003 of the European Parliament and of the Council ⁽¹⁾ (hereinafter referred to as NUTS).

⁽¹⁾ OJ L 154, 21.6.2003, p. 1. Regulation as last amended by Commission Regulation (EC) No 105/2007 (OJ L 39, 10.2.2007, p. 1).

SECTION 8

Transmission of results

1. The results are to be transmitted within 18 months of the end of the calendar year of the reference period, except for the NACE Rev. 2 activity class 64.11 and the activities of NACE Rev. 2 covered by Annexes V, VI and VII. For the NACE Rev. 2 activity class 64.11 the transmission delay is 10 months. For the activities covered by Annexes V, VI and VII the transmission delay is laid down in these Annexes. However the transmission delay of the results on the activity classes covered by the NACE Rev. 2 groups 64.2, 64.3 and 64.9 and division 66 will be decided in accordance with the regulatory procedure with scrutiny referred to in Article 12(3).
2. Except for the divisions 64 and 65 of NACE Rev. 2, preliminary national results or estimates are transmitted within 10 months of the end of the calendar year of the reference period for the enterprise statistics compiled for the characteristics listed below:

Code	Title
Accounting data	
12 11 0	Turnover
Data on employment	
16 11 0	Number of persons employed

These preliminary results or estimates are to be broken down to NACE Rev. 2, 3-digit level (group). For the division 66 of NACE Rev. 2, the transmission of preliminary results or estimates will be decided in accordance with the regulatory procedure with scrutiny referred to in Article 12(3).

SECTION 9

Breakdown of activities

1. To enable Community statistics to be compiled, Member States will transmit, from the reference year 2008 onwards, component national results broken down to the classes of NACE Rev. 2 for Sections B to N and division 95.
2. Without prejudice to Article 2(1), Member States will transmit to the Commission structural business statistics referring to the reference year 2008 according to both NACE Rev. 1.1 and NACE Rev. 2.

The list of characteristics to be transmitted using the NACE Rev. 1.1 classification and the details regarding the production of the results will be decided in accordance with the regulatory procedure referred to in Article 12(2).

SECTION 10

Reports and pilot studies

1. A series of pilot studies for activities under Sections P to R and divisions 94 and 96 of Section S of NACE Rev. 2 will be instituted by the Commission to test the feasibility of covering market activities in these Sections.
2. The Commission will institute a series of pilot studies for characteristics relating to financial accounts and intangible investments, forms for organising the production system, and comparability between structural business statistics and labour market and productivity statistics. These pilot studies will be adapted to the specificities of the sectors.

SECTION 11

Transitional period

For the compilation of statistics on characteristics 12 17 0, 13 13 1 and 16 14 0, the transitional period will not extend for more than two years beyond the first reference year (2008) indicated in Section 5.

ANNEX II

A DETAILED MODULE FOR STRUCTURAL STATISTICS IN INDUSTRY

SECTION 1

Aim

The aim of this Annex is to establish a common framework for the collection, compilation, transmission and evaluation of Community statistics on the structure, activity, competitiveness and performance of the industry sector.

SECTION 2

Scope

The statistics to be compiled will relate to the domains referred to in Article 1(a) to (e), in particular to:

- a central list of statistics for a detailed analysis of the structure, activity, competitiveness and performance of industrial activities,
- a further list of statistics for the study of special subjects.

SECTION 3

Coverage

The statistics are to be compiled for all activities classified within the coverage of Sections B, C, D and E of NACE Rev. 2. These sections cover the activities of mining and quarrying (B), manufacturing (C), electricity, gas, steam and air conditioning supply (D) and water supply, sewerage, waste management and remediation activities (E). Enterprise statistics will relate to the population of all enterprises classified according to their main activity in Sections B, C, D and E.

SECTION 4

Characteristics

1. The lists of characteristics and statistics set out below indicate, where relevant, the type of statistical unit for which the statistics are to be compiled and whether they are to be compiled with on an annual or multiannual frequency. The statistics and characteristics in italics are also included in the lists in the common module defined in Annex I.
2. Annual demographic statistics:

Code	Title
Structural data	
11 11 0	<i>Number of enterprises</i>
11 21 0	<i>Number of local units</i>
11 31 0	Number of kind of activity units

3. Enterprise characteristics for which annual statistics are to be compiled:

Code	Title	
Accounting data		
12 11 0	<i>Turnover</i>	
12 12 0	<i>Production value</i>	
12 13 0	Gross margin on goods for resale	
12 15 0	<i>Value-added at factor cost</i>	
12 17 0	<i>Gross operating surplus</i>	
13 11 0	<i>Total purchases of goods and services</i>	
13 12 0	<i>Purchases of goods and services purchased for resale in the same condition as received</i>	
13 13 1	<i>Payments for agency workers</i>	
13 21 3	Change in stocks of finished products and work in progress manufactured by the unit	
13 31 0	<i>Personnel costs</i>	
13 32 0	<i>Wages and salaries</i>	
13 33 0	<i>Social security costs</i>	
13 41 1	Payments for long-term rental and operational leasing of goods	
Data relating to capital account		
15 11 0	<i>Gross investment in tangible goods</i>	
15 12 0	Gross investment in land	
15 13 0	Gross investment in existing buildings and structures	
15 14 0	Gross investment in construction and alteration of buildings	
15 15 0	Gross investment in machinery and equipment	
15 21 0	Sales of tangible investment goods	
Data on employment		
16 11 0	<i>Number of persons employed</i>	
16 13 0	<i>Number of employees</i>	
16 14 0	<i>Number of employees in full-time equivalent units</i>	
16 15 0	Number of hours worked by employees	
Breakdown of turnover by type of activity		
18 11 0	Turnover from the principal activity at the NACE Rev. 2, 3-digit level	
Purchases of energy products		
20 11 0	Purchases of energy products (in value)	Sections D and E excluded
Environmental data		
21 11 0	Investment in equipment and plant for pollution control, and special anti-pollution accessories (mainly end-of-pipe equipment) (*)	
21 12 0	Investment in equipment and plant linked to cleaner technology (integrated technology) (*)	

(*) If the total amount of the turnover or the number of persons employed in a division of NACE Rev. 2 Sections B to E represents, in a Member State, less than 1 % of the Community total, the information necessary for the compilation of statistics relating to characteristics 21 11 0 and 21 12 0 need not be collected for the purposes of this Regulation. If necessary for Community policy requirements, the Commission may, in accordance with the regulatory procedure referred to in Article 12(2), request ad hoc collection of these data.

4. Enterprise characteristics for which multiannual statistics are to be compiled:

Code	Title
Data relating to capital account	
15 42 0	Gross investment in concessions, patents, licences, trade marks and similar rights
15 44 1	Investment in purchased software
Breakdown of turnover by type of activity	
18 12 0	Turnover from industrial activities
18 15 0	Turnover from service activities
18 16 0	Turnover from trading activities of purchase and resale and from intermediary activities
Environmental data	
21 14 0	Total current expenditure on environmental protection (*)
Subcontracting	
23 11 0	Payments to subcontractors

(*) If the total amount of the turnover or the number of persons employed in a division of NACE Rev. 2 Sections B to E represents, in a Member State, less than 1 % of the Community total, the information necessary for the compilation of statistics relating to characteristic 21 14 0 need not to be collected for the purposes of this Regulation. If necessary for Community policy requirements, the Commission may, in accordance with the regulatory procedure referred to in Article 12(2), request ad hoc collection of these data.

5. Characteristics for which annual regional statistics are to be compiled:

Code	Title
Accounting data	
13 32 0	<i>Wages and salaries</i>
Data on employment	
16 11 0	<i>Number of persons employed</i>

6. Kind-of-activity unit characteristics for which annual statistics are to be compiled:

Code	Title
Accounting data	
12 11 0	<i>Turnover</i>
12 12 0	<i>Production value</i>
13 32 0	<i>Wages and salaries</i>
Data relating to the capital account	
15 11 0	<i>Gross investment in tangible goods</i>
Data on employment	
16 11 0	<i>Number of persons employed</i>

7. Pilot studies are to be conducted for the characteristics listed in Section 9.

SECTION 5

First reference year

1. The first reference year for which annual statistics are compiled is the calendar year 2008. The first reference years for the statistics to be compiled with a multiannual frequency are specified below for the codes under which the characteristics are listed:

Calendar year	Code
2009	15 42 0 and 15 44 1
2008	18 12 0, 18 15 0, 18 16 0 and 23 11 0

2. Multiannual statistics are to be compiled at least every five years.
3. The first reference year for which statistics on characteristic 21 14 0 are to be compiled is the calendar year 2010.
4. The statistics on characteristic 21 12 0 are to be compiled annually. The statistics on characteristic 21 14 0 are to be compiled every three years.

SECTION 6

Report on the quality of statistics

For each key characteristic Member States will indicate the degree of precision by reference to a confidence level of 95 % which the Commission will include in the report provided for in Article 13, taking account of the application in each Member State of that Article. The key characteristics are to be laid down in accordance with the regulatory procedure with scrutiny referred to in Article 12(3).

SECTION 7

Production of results

1. The results for the statistics, except for characteristics 18 11 0, 18 12 0, 18 15 0 and 18 16 0 are to be broken down to the NACE Rev. 2 4-digit level (class).

The characteristics 18 11 0, 18 12 0, 18 15 0 and 18 16 0 are to be broken down to the NACE Rev. 2 3-digit level (group).

2. Some results are also to be broken down into size classes and to NACE Rev. 2 3-digit level (group).
3. The results for the statistics compiled from kind-of-activity units are to be broken down to the NACE Rev. 2 4-digit level (class).
4. The results for the regional statistics are to be broken down to the NACE Rev. 2 2-digit level (division) and level 2 of NUTS.
5. The results for characteristics 21 11 0, 21 12 0 and 21 14 0, are to be broken down to the NACE Rev. 2, 2-digit level (division).
6. The results for characteristics 21 11 0, 21 12 0 and 21 14 0, are to be broken down to the following environmental domains: protection of ambient air and climate, wastewater management, waste management and other environmental protection activities. The results for the environmental domains will be broken down to NACE Rev. 2, 2-digit level (division).

SECTION 8

Transmission of results

The results are to be transmitted within 18 months of the end of the calendar year of the reference period.

Preliminary national results or estimates are transmitted within 10 months of the end of the calendar year of the reference period for the enterprise statistics referred to in Section 4(3) compiled for the characteristics listed below:

Code	Title
Structural data	
11 11 0	<i>Number of enterprises</i>
Accounting data	
12 11 0	<i>Turnover</i>
12 12 0	<i>Production value</i>
13 11 0	<i>Total purchases of goods and services</i>
13 32 0	<i>Wages and salaries</i>
15 11 0	<i>Gross investment in tangible goods</i>
Data on employment	
16 11 0	<i>Number of persons employed</i>

These preliminary results are to be broken down to the NACE Rev. 2 3-digit level (group).

SECTION 9

Reports and pilot studies

Member States will provide the Commission with a report relating to the availability of the necessary data for the compilation of results for the following characteristics:

Code	Title	Comment
Environmental data		
21 11 0	Investment in equipment and plant for pollution control, and special anti-pollution accessories (mainly end-of-pipe equipment)	Specific breakdown on compliance with the Kyoto Protocol to the United Nations Framework Convention on Climate Change
21 12 0	Investment in equipment and plant linked to cleaner technology ('integrated technology')	Specific breakdown on compliance with the Kyoto Protocol to the United Nations Framework Convention on Climate Change
21 14 0	Total current expenditure on environmental protection	Specific breakdown on expenditure arising from the implementation of EU environmental policy
Subcontracting		
23 12 0	Income from subcontracting	

A series of pilot studies for these characteristics will be instituted by the Commission.

SECTION 10

Transitional period

For the compilation of statistics on characteristics 21 12 0 and 21 14 0 the transitional period ends with reference year 2008.

ANNEX III

A DETAILED MODULE FOR STRUCTURAL STATISTICS IN TRADE

SECTION 1

Aim

The aim of this Annex is to establish a common framework for the collection, compilation, transmission and evaluation of Community statistics on the structure, activity, competitiveness and performance of the distributive trade sector.

SECTION 2

Scope

The statistics to be compiled will relate to the domains referred to in Article 1(a) to (e), in particular to:

- the structure of the distributive trade network and its evolution,
- distributive activity and forms of selling, as well as patterns of supply and sale.

SECTION 3

Coverage

1. The statistics are to be compiled for all activities within the coverage of Section G of NACE Rev. 2. This sector covers the activities of wholesale and retail trade; repair of motor vehicles and motorcycles. Enterprise statistics refer to the population of all enterprises whose main activity is classified in Section G.
2. If the total amount of the turnover and the number of persons employed in a division of NACE Rev. 2 Section G normally represent, in a Member State, less than 1 % of the Community total, the information laid down in this Annex which is not in Annex I need not be collected for the purposes of this Regulation.
3. If necessary for Community policy requirements, the Commission may, in accordance with the regulatory procedure referred to in Article 12(2), request ad hoc collection of the data referred to in paragraph 2.

SECTION 4

Characteristics

1. The lists of characteristics and statistics set out below indicate, where relevant, the type of statistical unit for which the statistics are to be compiled and whether they are to be compiled with on an annual or multiannual frequency. The statistics and characteristics in italics are also included in the lists in the common module defined in Annex I.
2. Annual demographic statistics:

Code	Title
Structural data	
11 11 0	<i>Number of enterprises</i>
11 21 0	<i>Number of local units</i>

3. Enterprise characteristics for which annual statistics are to be compiled:

Code	Title
Accounting data	
12 11 0	Turnover
12 12 0	Production value
12 13 0	Gross margin on goods for resale
12 15 0	Value-added at factor costs
12 17 0	Gross operating surplus
13 11 0	Total purchases of goods and services
13 12 0	Purchases of goods and services purchased for resale in the same condition as received
13 13 1	Payments for agency workers
13 21 0	Change in stocks of goods and services
13 21 1	Change in stocks of goods and services purchased for resale in the same condition as received
13 31 0	Personnel costs
13 32 0	Wages and salaries
13 33 0	Social security costs
Data relating to the capital account	
15 11 0	Gross investment in tangible goods
15 12 0	Gross investment in land
15 13 0	Gross investment in existing buildings and structures
15 14 0	Gross investment in construction and alteration of buildings
15 15 0	Gross investment in machinery and equipment
15 21 0	Sales of tangible investment goods
Data on employment	
16 11 0	Number of persons employed
16 13 0	Number of employees
16 14 0	Number of employees in full-time equivalent units

4. Enterprise characteristics for which multiannual statistics are to be compiled:

Code	Title	Comment
	Information on forms of trading by enterprises	Division 47 only
17 32 0	Number of retail stores	
Breakdown of turnover by type of activity		
18 10 0	Turnover from agriculture, forestry, fishing and industrial activities	
18 15 0	Turnover from service activities	
18 16 0	Turnover from trading activities of purchase and resale and intermediary activities	
Breakdown of turnover by product type		
18 21 0	Breakdown of turnover by product (according to Section G of CPA (*)	

(*) Council Regulation (EEC) No 3696/93 of 29 October 1993 on the statistical classification of products by activity (CPA) in the European Economic Community (OJ L 342, 31.12.1993, p. 1). Regulation as last amended by Regulation (EC) No 1882/2003.

5. Characteristics for which annual regional statistics are to be compiled:

Code	Title
Accounting data	
13 32 0	<i>Wages and salaries</i>
Data on employment	
16 11 0	<i>Number of persons employed</i>

6. Characteristics for which multiannual regional statistics are to be compiled:

Code	Title	Comment
Accounting data		
12 11 0	<i>Turnover</i>	Divisions 45 and 47 only
Information on forms of trading by enterprises		
17 33 1	<i>Sales space</i>	Division 47 only

SECTION 5

First reference year

1. The first reference year for which statistics are compiled is the calendar year 2008. The first reference years for the statistics to be compiled with a multiannual frequency are specified below for each of the divisions of NACE Rev. 2 for which the data are collected and for the multiannual regional statistics:

Calendar year	Breakdown
2012	Division 47
2008	Division 46
2009	Regional statistics
2010	Division 45

2. The multiannual frequency is five years.

SECTION 6

Report on the quality of statistics

For each key characteristic Member States will indicate the degree of precision by reference to a confidence level of 95 % which the Commission will include in the report provided for in Article 13, taking account of the application in each Member State of that Article. The key characteristics are to be determined in accordance with the regulatory procedure with scrutiny referred to in Article 12(3).

SECTION 7

Production of results

1. In order that Community aggregates may be compiled, Member States are to produce component national results broken down to the classes of NACE Rev. 2.
2. Some results are also to be broken down into size classes for each NACE Rev. 2 group.
3. The regional statistics are to be broken down to NACE Rev. 2 3-digit level (group) and level 2 of NUTS.

4. The coverage of regional statistics to be compiled on a multiannual basis corresponds to the population of all local units whose main activity is classified in Section G. However, it may be limited to the local units dependent on enterprises classified in Section G of NACE Rev. 2, if such a population covers more than 95 % of the total coverage. This ratio is to be calculated using the employment characteristic available in the business register.

SECTION 8

Transmission of results

1. The results are to be transmitted within 18 months of the end of the calendar year of the reference period.
2. Preliminary national results or estimates are to be transmitted within 10 months of the end of the calendar year of the reference period for the enterprise statistics compiled for the characteristics listed below:

Code	Title
Accounting data	
12 11 0	<i>Turnover</i>
Data on employment	
16 11 0	<i>Number of persons employed</i>

These preliminary results are to be broken down to NACE Rev. 2 3-digit level (group).

SECTION 9

Transitional period

For the compilation of statistics on characteristics 13 13 1 and 16 14 0, the transitional period will not extend for more than two years beyond the first reference year (2008) indicated in Section 5.

ANNEX IV

A DETAILED MODULE FOR STRUCTURAL STATISTICS IN CONSTRUCTION

SECTION 1

Aim

The aim of this Annex is to establish a common framework for the collection, compilation, transmission and evaluation of Community statistics on the structure, activity, competitiveness and performance of the construction sector.

SECTION 2

Scope

The statistics to be compiled will relate to the domains referred to in Article 1(a) to (e), in particular to:

- a central list of statistics for a detailed analysis of the structure, activity, competitiveness and performance of construction activities,
- a further list of statistics for the study of special subjects.

SECTION 3

Coverage

1. The statistics are to be compiled for all activities classified within the coverage of Section F of NACE Rev. 2. Enterprise statistics will relate to the population of all enterprises classified according to their main activity in Section F.
2. If the total amount of the turnover and the number of persons employed in a division of NACE Rev. 2 Section F normally represent, in a Member State, less than 1 % of the European Community total, the information laid down in this Annex which is not in Annex I need not be collected for the purposes of this Regulation.
3. If necessary for Community policy requirements, the Commission may, in accordance with the regulatory procedure referred to in Article 12(2), request ad hoc collection of the data referred to in paragraph 2.

SECTION 4

Characteristics

1. The lists of characteristics and statistics set out below indicate, where relevant, the type of statistical unit for which the statistics are to be compiled and whether they are to be compiled with on an annual or multiannual frequency. The statistics and characteristics in italics are also included in the lists in the common module defined in Annex I.
2. Annual demographic statistics:

Code	Title
Structural data	
11 11 0	<i>Number of enterprises</i>
11 21 0	<i>Number of local units</i>

3. Enterprise characteristics for which annual statistics are to be compiled:

Code	Title	Comment
Accounting data		
12 11 0	<i>Turnover</i>	
12 12 0	<i>Production value</i>	
12 13 0	Gross margin on goods for resale	Divisions 41 and 42 and groups 43.1 and 43.9 — optional
12 15 0	<i>Value-added at factor cost</i>	
12 17 0	<i>Gross operating surplus</i>	
13 11 0	<i>Total purchases of goods and services</i>	
13 12 0	<i>Purchases of goods and services for resale in the same condition as received</i>	Divisions 41 and 42 and groups 43.1 and 43.9 — optional
13 13 1	<i>Payments for agency workers</i>	
13 21 3	Change in stocks of finished products and work in progress manufactured by the unit	
13 31 0	<i>Personnel costs</i>	
13 32 0	<i>Wages and salaries</i>	
13 33 0	<i>Social security costs</i>	
13 41 1	Payments for long-term rental and operational leasing of goods	
Data relating to the capital account		
15 11 0	<i>Gross investment in tangible goods</i>	
15 12 0	Gross investment in land	
15 13 0	Gross investment in existing buildings and structures	
15 14 0	Gross investment in construction and alteration of buildings	
15 15 0	Gross investment in machinery and equipment	
15 21 0	Sales of tangible investment goods	
Data on employment		
16 11 0	<i>Number of persons employed</i>	
16 13 0	<i>Number of employees</i>	
16 14 0	<i>Number of employees in full-time equivalent units</i>	
16 15 0	Number of hours worked by employees	
Breakdown of turnover by type of activity		
18 11 0	Turnover from the principal activity at the NACE Rev. 2 three digit-level	
Purchases of energy products		
20 11 0	Purchases of energy products (in value)	

4. Enterprise characteristics for which multiannual statistics are to be compiled:

Code	Title	Comments
Data related to the capital account		
15 44 1	Investment in purchased software	
Turnover broken down by type of activity		
18 12 1	Turnover from industrial activities excluding construction	
18 12 2	Turnover from construction activities	
18 15 0	Turnover from service activities	
18 16 0	Turnover from trading and intermediary activities	
18 31 0	Turnover from building	Only divisions 41 and 42 and groups 43.1 and 43.9
18 32 0	Turnover from civil engineering	Only divisions 41 and 42 and groups 43.1 and 43.9
Subcontracting		
23 11 0	Payments to subcontractors	
23 12 0	Income from subcontracting	

5. Characteristics for which annual regional statistics are to be compiled:

Code	Title
Accounting data	
13 32 0	<i>Wages and salaries</i>
Data on employment	
16 11 0	<i>Number of persons employed</i>

6. Kind-of-activity unit characteristics for which annual statistics are to be compiled:

Code	Title
Accounting data	
12 11 0	<i>Turnover</i>
12 12 0	<i>Production value</i>
13 32 0	<i>Wages and salaries</i>
15 11 0	<i>Gross investment in tangible goods</i>
Data on employment	
16 11 0	<i>Number of persons employed</i>

SECTION 5

First reference year

1. The first reference year for which annual statistics are compiled is the calendar year 2008. The first reference years for the statistics to be compiled with a multiannual frequency are specified below for the codes under which the characteristics are listed.

Calendar year	Code
2009	15 44 1
2008	18 12 1, 18 12 2, 18 15 0, 18 16 0, 18 31 0, 18 32 0, 23 11 0 and 23 12 0

2. Multiannual statistics are to be compiled at least every five years.

SECTION 6

Report on the quality of statistics

For each key characteristic Member States will indicate the degree of precision by reference to a confidence level of 95 % which the Commission will include in the report provided for in Article 13, taking account of the application in each Member State of that Article. The key characteristics are to be established in accordance with the regulatory procedure with scrutiny referred to in Article 12(3).

SECTION 7

Production of results

1. The results for the statistics, except for characteristics 15 44 1, 18 11 0, 18 12 1, 18 12 2, 18 15 0, 18 16 0, 18 31 0 and 18 32 0, are to be broken down to NACE Rev. 2 4-digit level (class).

The results for the characteristics 15 44 1, 18 11 0, 18 12 1, 18 12 2, 18 15 0, 18 16 0, 18 31 0 and 18 32 0 are to be broken down NACE Rev. 2 3-digit level (group).

2. Some results are also to be broken down into size classes and to NACE Rev. 2 3-digit level (group).
3. The results for the statistics compiled from kind-of-activity units are to be broken down to NACE Rev. 2 4-digit level (class).
4. The results for the regional statistics are to be broken down to NACE Rev. 2 2-digit level (divisions) and level 2 of NUTS.

SECTION 8

Transmission of results

The results are to be transmitted within 18 months of the end of the calendar year of the reference period.

Preliminary national results or estimates are transmitted within 10 months of the end of the calendar year of the reference period for the enterprise statistics compiled for the characteristics listed below:

Code	Title
Structural data	
11 11 0	<i>Number of enterprises</i>
Accounting data	
12 11 0	<i>Turnover</i>
12 12 0	<i>Production value</i>
13 11 0	<i>Total purchases of goods and services</i>
13 32 0	<i>Wages and salaries</i>
Data related to the capital accounts	
15 11 0	<i>Gross investment in tangible goods</i>
Data on employment	
16 11 0	<i>Number of persons employed</i>

These preliminary results are to be broken down to NACE Rev. 2 3-digit level (group).

SECTION 9

Transitional period

A transitional period cannot be conceded.

ANNEX V

A DETAILED MODULE FOR STRUCTURAL STATISTICS IN INSURANCE

SECTION 1

Aim

The aim of this Annex is to establish a common framework for the collection, compilation, transmission and evaluation of Community statistics on the structure, activity, competitiveness and performance of insurance services. This module includes a detailed list of characteristics on which statistics will be compiled in order to improve knowledge of the national, Community and international development of the insurance sector.

SECTION 2

Scope

The statistics to be compiled will relate to the domains referred to in Article 1(a), (b) and (c), in particular to:

- the detailed analysis of the structure, activity, competitiveness and performance of insurance enterprises,
- the development and distribution of total business and business per product, customer patterns, international activities, employment, investments, capital and reserves and technical provisions.

SECTION 3

Coverage

1. Such statistics will be compiled for all activities within the scope of NACE Rev. 2 division 65 except for group 65.3.
2. The compilation of statistics will cover the following enterprises:
 - non-life insurance enterprises: all those referred to in Article 2(1)(a) of Directive 91/674/EEC ⁽¹⁾,
 - life assurance enterprises: all those referred to in Article 2(1)(b) of Directive 91/674/EEC,
 - specialist reinsurance enterprises: all those referred to in Article 2(1)(c) of Directive 91/674/EEC,
 - Lloyd's underwriters: all those referred to in Article 4 of Directive 91/674/EEC,
 - composite insurance enterprises: all those carrying out life and non-life insurance business.,
3. In addition, branches of insurance enterprises referred to under Title III of Directives 73/239/EEC ⁽²⁾ and 2002/83/EC ⁽³⁾, and whose activity falls within one of the NACE Rev. 2 groups referred to in paragraph 1 will be treated as the corresponding enterprises as defined in paragraph 2.

⁽¹⁾ Council Directive 91/674/EEC of 19 December 1991 on the annual accounts and consolidated accounts of insurance undertakings (OJ L 374, 31.12.1991, p. 7). Directive as last amended by Directive 2006/46/EC of the European Parliament and of the Council (OJ L 224, 16.8.2006, p. 1).

⁽²⁾ First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance (OJ L 228, 16.8.1973, p. 3). Directive as last amended by Directive 2005/68/EC of the European Parliament and of the Council (OJ L 323, 9.12.2005, p. 1).

⁽³⁾ Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance (OJ L 345, 19.12.2002, p. 1). Directive as last amended by Directive 2007/44/EC (OJ L 247, 21.9.2007, p. 1).

4. For the purposes of the harmonised Community statistics, Member States will be free to take into account the exclusions mentioned in Article 3 of Directive 73/239/EEC and in Article 3(2), (3), (5), (6) and (7) of Directive 2002/83/EC.

SECTION 4

Characteristics

1. The characteristics in italics are also included in the lists in the common module defined in Annex I. The characteristics and statistics presented in list A referred to in paragraph 3 and list B referred to in paragraph 4 will be compiled in accordance with Section 5. When characteristics are derived directly from the annual accounts, accounting years ending within a reference year will be assimilated to the said reference year.
2. In the lists A and B, characteristics relating to life insurance enterprises are identified by the number 1, those relating to non-life insurance enterprises by the number 2, those relating to composite insurance enterprises by the number 3, those relating to specialist reinsurance enterprises by the number 4, those relating to the life insurance business of composite insurance enterprises by the number 5 and those relating to the non-life insurance business (including acceptances in reinsurance) of composite insurance enterprises by the number 6.
3. List A includes the following information:
 - (a) characteristics listed in Article 6 of Directive 91/674/EEC concerning life insurance enterprises, non-life insurance enterprises, composite insurance enterprises and specialist reinsurance enterprises: asset side of the balance sheet: items C I (showing land and buildings occupied by an insurance enterprise for its own activities separately), C II, C II 1 + C II 3 as an aggregate, C II 2 + C II 4 as an aggregate, C III, C III 1, C III 2, C III 3, C III 4, C III 5, C III 6 + C III 7 as an aggregate, C IV, D; liability side of the balance sheet: items A, A I, A II + A III + A IV as an aggregate, B, C 1 a (separately for the life and non-life business of composite enterprises), C 2 a (separately for the life and non-life business of composite enterprises), C 3 a (separately for the life and non-life business of composite enterprises), C 4 a, C 5, C 6 a, D a, G III (without separation of convertible loans), G IV;
 - (b) characteristics listed in Article 34, Part I, of Directive 91/674/EEC concerning non-life insurance enterprises and specialist reinsurance enterprises and the non-life business of composite insurance enterprises: items 1 a, 1 b, 1 c, 1 d, 2, 4 a aa, 4 a bb, 4 b aa, 4 b bb, 7 (gross amount), 7 d, 9, 10 (separately for the gross and net amount);
 - (c) characteristics listed in Article 34, Part II, of Directive 91/674/EEC concerning life insurance enterprises and the life business of composite insurance enterprises: items 1 a, 1 b, 1 c (the gross amount and the reinsurers' share separately), 2, 3, 5 a aa, 5 a bb, 5 b aa, 5 b bb, 6 a aa, 6 a bb, 8 (gross amount), 8 d, 9, 10, 12, 13 (the gross and net amount separately);
 - (d) characteristics listed in Article 34, Part III, of Directive 91/674/EEC concerning life insurance enterprises, non-life insurance enterprises, composite insurance enterprises and specialist reinsurance enterprises: items 3, 4 (only for life and composite enterprises), 5, 6 (only for non-life insurance enterprises, composite insurance enterprises and specialist reinsurance enterprises), 7, 8, 9 + 14 + 15 as an aggregate, 10 (before tax), 13, 16;
 - (e) characteristics referred to in Article 63 of Directive 91/674/EEC:
 - concerning life and non-life insurance enterprises and life and non-life business of composite insurance enterprises: gross premiums written in direct business by (sub)categories of the CPA (5-digit level and subcategories 66.03.21, 66.03.22),
 - concerning non-life insurance enterprises and non-life business of composite insurance enterprises: gross claims incurred, direct insurance, gross operating expenses, direct insurance and reinsurance balance, direct business, all characteristics by (sub)categories of the CPA (5-digit level and subcategories 66.03.21, 66.03.22),
 - concerning life insurance enterprises and life business of composite insurance enterprises: gross direct premiums written with the breakdown as shown in number II, item 1 of that Article,

- (f) characteristics referred to in Article 64 of Directive 91/674/EEC concerning life, non-life, composite and specialist reinsurance enterprises: commissions for direct insurance business (excluding specialist reinsurance enterprises) and total insurance business;
- (g) additional characteristics listed below:

Code	Title	Enterprises/business concerned
Structural data		
11 11 0	<i>Number of enterprises</i>	(1, 2, 3, 4)
11 11 1	Number of enterprises broken down by legal status	(1, 2, 3, 4)
11 11 2	Number of enterprises broken down by size class of gross premiums written	(1, 2, 3)
11 11 3	Number of enterprises broken down by size class of gross technical provisions	(1)
11 11 5	Number of enterprises broken down by country of residence of the parent enterprise	(1, 2, 3, 4)
11 41 0	Total number and location of branches in other countries	(1, 2, 3)
Accounting data/technical part of the profit and loss account		
32 11 4	Gross premiums written broken down by legal status	(1, 2, 4, 5, 6)
32 11 5	Gross direct premiums written broken down according to the country of residence of the parent enterprise	(1, 2, 5, 6)
32 11 6	Gross reinsurance premiums accepted, written premiums broken down according to the country of residence of the parent enterprise	(1, 2, 4, 6)
32 18 2	Reinsurers' share of gross premiums written broken down according to the country of residence of the parent enterprise	(1, 2, 4, 5, 6)
32 16 0	Other items in the technical account, gross amount	(1, 2, 4, 5, 6)
32 18 0	Reinsurance balance	(1, 2, 4, 5, 6)
32 18 8	Reinsurers' share of the gross amount of other items in the technical account	(1, 2, 4, 5, 6)
Accounting data/non-technical part of the profit and loss account		
32 19 0	Sub-total II (net balance of the technical account)	(3)
Additional data relating to the profit and loss account		
32 61 4	External expenses on goods and services	(1, 2, 3, 4)
13 31 0	<i>Personnel costs</i>	(1, 2, 3, 4)
32 61 5	External and internal claims management expenses	(1, 2, 4, 5, 6)
32 61 6	Acquisition costs	(1, 2, 4, 5, 6)
32 61 7	Administrative expenses	(1, 2, 4, 5, 6)
32 61 8	Gross other technical charges	(1, 2, 4, 5, 6)
32 61 9	Investment management charges	(1, 2, 4, 5, 6)
32 71 1	Income from participating interests	(1, 2, 4, 5, 6)
32 71 3	Income from land and buildings	(1, 2, 4, 5, 6)
32 71 4	Income from other investments	(1, 2, 4, 5, 6)
32 71 5	Value re-adjustments on investments	(1, 2, 4, 5, 6)
32 71 6	Gains on the realisations of investments	(1, 2, 4, 5, 6)
32 72 1	Investment management charges, including interest	(1, 2, 4, 5, 6)
32 72 2	Value adjustments on investments	(1, 2, 4, 5, 6)
32 72 3	Losses on the realisations of investments	(1, 2, 4, 5, 6)

Code	Title	Enterprises/business concerned
Data by product by (sub)categories of the CPA		
33 12 1	Reinsurers' share of gross direct premiums written (5-digit-level, sub-categories 66.03.21, 66.03.22)	(1, 2, 5, 6)
Data on internationalisation (geographical breakdown of the business written under the right of establishment)		
34 31 1	Gross direct premiums written by CPA category (5-digit-level) and by MemberState	(1, 2, 5, 6)
Data on internationalisation (geographical breakdown of the business written under the right of freedom to provide services)		
34 32 1	Gross direct premiums written by CPA category (5-digit-level) and by MemberState	(1, 2, 5, 6)
Data on employment		
16 11 0	<i>Number of persons employed</i>	(1, 2, 3, 4)
Data on the balance sheet (assets/liabilities)		
36 30 0	Balance sheet total	(1, 2, 3, 4)
37 33 1	Gross provisions for outstanding claims, related to direct business	(2, 6)
37 30 1	Total net technical provisions	(1, 2, 3, 4)

4. List B includes the following information:

- (a) characteristics listed in Article 34, Part I, of Directive 91/674/EEC concerning non-life insurance enterprises and specialist reinsurance enterprises and the non-life business of composite insurance enterprises: items 3, 5, 6, 8;
- (b) characteristics listed in Article 34, Part II, of Directive 91/674/EEC concerning life insurance enterprises and the life business of composite insurance enterprises: items 4, 6 b, 7, 11;
- (c) characteristics referred to in Article 63 of Directive 91/674/EEC concerning life and non-life insurance enterprises and life and non-life business of composite insurance enterprises: geographical breakdown of gross direct premiums written in the Member State of the enterprise's head office, other Member States, other EEA countries, Switzerland, the USA, Japan or other third countries;
- (d) additional characteristics listed below:

Code	Title	Enterprises/business concerned	Comments
Accounting data/technical part of the profit and loss account			
32 13 2	Gross payments in respect of claims incurred in the current accounting year	(2, 4, 6)	
International activities (in general)			
34 12 0	Geographical breakdown of gross reinsurance premiums accepted, premiums written	(1, 2, 4, 5, 6)	
34 13 0	Geographical breakdown of reinsurers' share of gross premiums written	(1, 2, 4, 5, 6)	

Code	Title	Enterprises/business concerned	Comments
Data on the balance sheet (assets/liabilities)			
36 11 2	Land and buildings (current value)	(1, 2, 3, 4)	
36 12 3	Investments in affiliated enterprises and participating interests (current value)	(1, 2, 3, 4)	
36 13 8	Other financial investments (current value)	(1, 2, 3, 4)	
36 21 0	Investments for the benefit of life-assurance policyholders who bear the investment risk — land and buildings	(1, 3)	
36 22 0	Investments for the benefit of life-assurance policyholders who bear the investment risk — other financial investments	(1, 3)	
37 10 1	Total capital and reserves, broken down by legal status	(1, 2, 3, 4)	
37 33 3	Gross provision for outstanding claims related to direct business, by (sub)category of the CPA (5-digit level) and subcategories 66.03.21, 66.03.22	(2, 6)	
Residual data			
39 10 0	Number of contracts outstanding at the end of the accounting year, relating to direct business for all individual life insurance contracts and for the following (sub)categories of the CPA: 66.01.1, 66.03.1, 66.03.4 and 66.03.5	(1, 2, 5, 6)	
39 20 0	Number of insured persons at the end of the accounting year, relating to direct business for all group life insurance contracts and for the following subcategories of the CPA: 66.03.1	(1, 2, 5, 6)	
39 30 0	Number of insured vehicles at the end of the accounting year, relating to direct business, for the following subcategories of the CPA: 66.03.2	(2, 6)	Optional
39 40 0	Gross insured sum at the end of the accounting year, relating to direct business, for the following subcategories of the CPA: 66.01.1 and 66.01.4	(1, 5)	Optional
39 50 0	Number of claims incurred during the accounting year, relating to direct business, for the following subcategory of the CPA: 66.03.2	(2, 6)	Optional

SECTION 5

First reference year

The first reference year for which annual statistics are compiled is the calendar year 2008.

SECTION 6

Production of results

The results are to be broken down to the NACE Rev. 2, 4-digit level (classes).

SECTION 7

Transmission of results

The results will be transmitted within 12 months starting from the end of the reference year for the enterprises referred to in Section 3, except specialist reinsurance enterprises, for which the results will be transmitted within 18 months starting from the end of the reference period.

SECTION 8

European Insurance and Occupational Pensions Committee

The Commission will inform the European Insurance and Occupational Pensions Committee established by Commission Decision 2004/9/EC ⁽¹⁾ about the implementation of this module and about all such measures for adjustment to economic and technical developments concerning the collection and statistical processing of data and the processing and the transmission of results, which it adopts in accordance with Article 12.

SECTION 9

Transitional period

A transitional period cannot be conceded.

⁽¹⁾ OJ L 3, 7.1.2004, p. 34.

ANNEX VI

A DETAILED MODULE FOR STRUCTURAL STATISTICS ON CREDIT INSTITUTIONS

SECTION 1

Aim

The aim of this Annex is to establish a common framework for the collection, compilation, transmission and evaluation of Community statistics on the structure, activity, competitiveness and performance of the credit institutions sector. This module includes a detailed list of characteristics on which statistics are to be compiled in order to improve knowledge on the national, Community and international development of the sector of credit institutions.

SECTION 2

Scope

The statistics to be compiled will relate to the domains referred to in Article 1(a), (b) and (c), in particular to:

- the detailed analysis of the structure, activity, competitiveness and performance of credit institutions,
- the development and distribution of total business and business per product, international activities, employment, capital and reserves, and other assets and liabilities.

SECTION 3

Coverage

1. The statistics are to be compiled for the activities of credit institutions within the scope of NACE Rev. 2 classes 64.19 and 64.92.
2. The statistics are to be compiled for the activities of all credit institutions referred to in Article 2(1)(a) and Article 2(2) of Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions ⁽¹⁾, with the exemption of central banks.
3. Branches of credit institutions referred to in Article 38 of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast) ⁽²⁾ whose activity falls within the scope of NACE Rev. 2 classes 64.19 and 64.92, are to be treated as the credit institutions referred to in paragraph 2.

SECTION 4

Characteristics

The characteristics are listed below. The characteristics in *italics* are also included in the lists in the common module defined in Annex I. When characteristics are derived directly from the annual accounts, accounting years ending within a reference year will be assimilated to the said reference year.

The list includes:

- (a) characteristics listed in Article 4 of Directive 86/635/EEC: asset side of the balance sheet: item 4; liability side of the balance sheet: items 2(a)+2(b) as an aggregate, items 7 + 8+9 + 10 + 11 + 12 + 13 + 14 as an aggregate;
- (b) characteristics listed in Article 27 of Directive 86/635/EEC: item 2, items 3(a)+3(b)+3(c) as an aggregate, item 3(a), item 4, item 5, item 6, item 7, items 8(a)+8(b) as an aggregate, item 8(b), item 10, items 11 + 12 as an aggregate, items 9 + 13 + 14 as an aggregate, items 15 + 16 as an aggregate, item 19, items 15 + 20 + 22 as an aggregate, item 23;

⁽¹⁾ OJ L 372, 31.12.1986, p. 1. Directive as last amended by Directive 2006/46/EC.

⁽²⁾ OJ L 177, 30.6.2006, p. 1. Directive as last amended by Directive 2007/44/EC.

(c) the following additional characteristics:

Code	Title	Comment
Structural data		
11 11 0	<i>Number of enterprises</i>	
11 11 1	Number of enterprises broken down by legal status	
11 11 4	Number of enterprises broken down by residence of the parent enterprise	
11 11 6	Number of enterprises broken down by size classes of the balance sheet total	
11 11 7	Number of enterprises broken down by category of credit institutions	
11 21 0	<i>Number of local units</i>	
11 41 1	Total number of branches broken down by location in non-EEA countries	
11 51 0	Total number of financial subsidiaries broken down by location in other countries	
Accounting data: profit and loss account		
42 11 0	Interest receivable and similar income	
42 11 1	Interest receivable and similar income arising from fixed-income securities	
42 12 1	Interest payable and similar charges linked to debt securities in issue	
12 12 0	<i>Production value</i>	
13 11 0	<i>Total purchases of goods and services</i>	
13 31 0	<i>Personnel costs</i>	
12 14 0	Value added at basic prices	Optional
12 15 0	<i>Value-added at factor cost</i>	
15 11 0	<i>Gross investment in tangible goods</i>	
Accounting data: balance sheet		
43 30 0	Balance sheet total (CI)	
43 31 0	Balance sheet total broken down according to the residence of the parent enterprise	
43 32 0	Balance sheet total broken down by legal status	
Data by product		
44 11 0	Interest receivable and similar income broken down by (sub)categories of the CPA	Optional
44 12 0	Interest payable and similar charges broken down by (sub)categories of the CPA	Optional
44 13 0	Commissions receivable broken down by (sub)categories of the CPA	Optional
44 14 0	Commissions payable broken down by (sub)categories of the CPA	Optional
Data on the internal market and internationalisation		
45 11 0	Geographical breakdown of the total number of EEA branches	
45 21 0	Geographical breakdown of interest receivable and similar income	
45 22 0	Geographical breakdown of balance sheet total	
45 31 0	Geographical breakdown of interest receivable and similar income via the freedom to provide services business (in other EEA countries)	Optional
45 41 0	Geographical breakdown of interest receivable and similar income via branch business (in non-EEA countries)	Optional
45 42 0	Geographical breakdown of interest receivable and similar income via the freedom to provide services business (in non-EEA countries)	Optional

Code	Title	Comment
Data on employment		
16 11 0	<i>Number of persons employed</i>	
16 11 1	Number of persons employed broken down by category of credit institutions	
16 11 2	Number of women employed	
16 13 0	<i>Number of employees</i>	
16 13 6	Number of female employees	
16 14 0	<i>Number of employees in full-time equivalent units</i>	
Residual data		
47 11 0	Number of accounts broken down by (sub)categories of the CPA	Optional
47 12 0	Number of loans and advances to customers broken down by (sub)categories of the CPA	Optional
47 13 0	Number of automatic teller machines (ATM) owned by credit institutions	

(d) characteristics for which annual regional statistics are to be compiled:

Code	Title	Comment
Structural data		
11 21 0	<i>Number of local units</i>	
Accounting data		
13 32 0	<i>Wages and salaries</i>	Optional
Data on employment		
16 11 0	<i>Number of persons employed</i>	

SECTION 5

First reference year

The first reference year for which annual statistics are compiled for the characteristics listed in Section 4 is the calendar year 2008.

SECTION 6

Production of results

1. The results are to be broken down to the following NACE Rev. 2 classes: 64.19 and 64.92, separately.
2. The results of the regional statistics are to be broken down to NACE Rev. 2, 4-digit level (classes) and level 1 of NUTS.

SECTION 7

Transmission of results

The transmission delay of the results will be decided in accordance with the regulatory procedure with scrutiny referred to in Article 12(3) and will not be longer than 10 months starting from the end of the reference year.

SECTION 8

Committee for Monetary, Financial and Balance of Payments Statistics

The Commission will inform the Committee for Monetary, Financial and Balance of Payments Statistics established by Council Decision 2006/856/EC ⁽¹⁾ about the implementation of this module and about all measures for adjustment to economic and technical developments concerning the collection and statistical processing of data, the processing and transmission of results.

SECTION 9

Pilot studies

1. For the activities covered by this Annex, the Commission will institute the following pilot studies to be carried out by Member States:
 - (a) information on derivatives and off-balance sheet items;
 - (b) information on the distribution networks;
 - (c) information needed to break down the transactions of credit institutions according to prices and volumes.
2. The pilot studies are to be carried out in order to assess the relevance and feasibility of obtaining data, taking into account the benefits of the availability of the data in relation to the cost of collection and the burden on business.

SECTION 10

Transitional period

A transitional period cannot be conceded.

⁽¹⁾ OJ L 332, 30.11.2006, p. 21.

ANNEX VII

A DETAILED MODULE FOR STRUCTURAL STATISTICS ON PENSION FUNDS

SECTION 1

Aim

The aim of this Annex is to establish a common framework for the collection, compilation, transmission and evaluation of Community statistics on the structure, activity, competitiveness and performance of the pension funds sector. This module includes a detailed list of characteristics on which statistics are to be compiled in order to improve knowledge of the national, Community and international development of the pension funds sector.

SECTION 2

Scope

The statistics to be compiled will relate to the domains referred to in Article 1(a), (b) and (c), in particular to:

- the detailed analysis of the structure, activity, competitiveness and performance of pension funds,
- the development and distribution of total business, patterns of pension funds members, international activities, employment, investments and liabilities.

SECTION 3

Coverage

1. The statistics are to be compiled for all activities within the scope of NACE Rev. 2 group 65.3. This group covers the activities of autonomous pension funds.
2. Some statistics are compiled for enterprises with non-autonomous pension funds which are carried out as ancillary activities.

SECTION 4

Characteristics

1. The list of characteristics set out below indicates, where relevant, the type of statistical unit for which the statistics are to be compiled. The characteristics in italics are also included in the lists in the common module defined in Annex I. When characteristics are derived directly from the annual accounts, accounting years ending within a reference year are to be assimilated to the said reference year.
2. Demographic and enterprise characteristics for which annual statistics are to be compiled (for enterprises with autonomous pension funds only):

Code	Title	Comment
Structural data		
11 11 0	<i>Number of enterprises</i>	
11 11 8	Number of enterprises broken down by size of investments	
11 11 9	Number of enterprises broken down by size classes of members	
11 61 0	Number of pension schemes	Optional
Accounting data: profit and loss (income and expenditure) account		
12 11 0	<i>Turnover</i>	

Code	Title	Comment
48 00 1	Pension contributions receivable from members	
48 00 2	Pension contributions receivable from employers	
48 00 3	Incoming transfers	
48 00 4	Other pension contributions	
48 00 5	Pension contributions to defined benefits schemes	
48 00 6	Pension contributions to defined contributions schemes	
48 00 7	Pension contributions to hybrid schemes	
48 01 0	Investment income (PF)	
48 01 1	Capital gains and losses	
48 02 1	Insurance claims receivable	
48 02 2	Other income (PF)	
12 12 0	<i>Production value</i>	
12 14 0	Value added at basic prices	Optional
12 15 0	<i>Value-added at factor cost</i>	
48 03 0	Total expenditure on pensions	
48 03 1	Regular pensions payments	
48 03 2	Pension payments of lump sums	
48 03 3	Outgoing transfers	
48 04 0	Net change in technical provisions (reserves)	
48 05 0	Insurance premiums payable	
48 06 0	Total operational expenses	
13 11 0	<i>Total purchases of goods and services</i>	
13 31 0	<i>Personnel costs</i>	
15 11 0	<i>Gross investment in tangible goods</i>	
48 07 0	All taxes	
Balance sheet data: assets		
48 11 0	Land and buildings (PF)	
48 12 0	Investments in affiliated enterprises and participating interests (PF)	
48 13 0	Shares and other variable-yield securities	
48 13 1	Shares traded on a regulated market	
48 13 2	Shares traded on a regulated market specialised in SMEs	
48 13 3	Non-publicly traded shares	
48 13 4	Other variable yield securities	
48 14 0	Units in undertakings for collective investment in transferable securities	
48 15 0	Debt securities and other fixed-income securities	
48 15 1	Debt securities and other fixed-income securities issued by public administrations	Optional
48 15 2	Other debt securities and other fixed income securities	Optional
48 16 0	Participation in investment pools (PF)	
48 17 0	Loans guaranteed by mortgages and other loans not covered elsewhere	
48 18 0	Other investments	
48 10 0	Total investments of pension funds	
48 10 1	Total investments invested in 'the sponsoring enterprise'	

Code	Title	Comment
48 10 4	Total investments at market values	
48 20 0	Other assets	
Balance sheet data: liabilities		
48 30 0	Capital and reserves	
48 40 0	Net technical provisions (PF)	
48 50 0	Other liabilities	
Data on the internal market and internationalisation		
48 61 0	Geographical breakdown of turnover	
48 62 0	Shares and other variable-yield securities broken down by location	Optional
48 63 0	Total investments broken down by location	Optional
48 64 0	Total investments broken down into euro and non-euro components	
Data on employment		
16 11 0	<i>Number of persons employed</i>	
Residual data		
48 70 0	Number of members	
48 70 1	Number of members of defined benefits schemes	
48 70 2	Number of members of defined contributions schemes	
48 70 3	Number of members of hybrid schemes	
48 70 4	Number of active members	
48 70 5	Number of deferred members	
48 70 6	Number of retired persons	

3. Enterprise characteristics for which annual statistics are to be compiled (for enterprises with non-autonomous pension funds only):

Code	Title	Comment
Structural data		
11 15 0	Number of enterprises with non-autonomous pension funds	
Accounting data: profit and loss (income and expenditure) account		
48 08 0	Turnover of non-autonomous pension funds	Optional

SECTION 5

First reference year

The first reference year for which annual statistics are compiled for the characteristics listed in Section 4 is the calendar year 2008.

SECTION 6

Production of results

- The results for the characteristics listed in Section 4, paragraph 2, are to be broken down according to the NACE Rev. 2, 4-digit level (class).
- The results for the characteristics listed in Section 4, paragraph 3, are to be broken down according to the NACE Rev. 2 section level.

SECTION 7

Transmission of results

The results are to be transmitted within 12 months starting from the end of the reference year.

SECTION 8

European Insurance and Occupational Pensions Committee

The Commission will inform the European Insurance and Occupational Pensions Committee about the implementation of this module and about all measures for adjustment to economic and technical developments concerning the collection and statistical processing of data, the processing and transmission of results.

SECTION 9

Pilot studies

For the activities covered by this Annex, the Commission will institute the following pilot studies to be carried out by Member States:

1. More in-depth information on cross-border activities of pension funds:

Code	Title
Structural data	
11 71 0	Number of enterprises with members in other EEA countries
11 72 0	Number of enterprises with active members in other EEA countries
Data on internal market and internationalisation	
48 65 0	Geographical breakdown of number of members by gender
48 65 1	Geographical breakdown of number of members of defined benefits schemes
48 65 2	Geographical breakdown of number of members of defined contributions schemes
48 65 3	Geographical breakdown of number of members of hybrid schemes
48 65 4	Geographical breakdown of number of active members
48 65 5	Geographical breakdown of number of deferred members
48 65 6	Geographical breakdown of number of retired persons
48 65 7	Geographical breakdown of number of persons receiving a derived pension
Residual data	
48 70 7	Number of female members

2. Additional information on non-autonomous pension funds:

Code	Title
Structural data	
11 15 1	Number of enterprises with non-autonomous pension funds, broken down by size classes of members
Balance sheet data: liabilities	
48 40 1	Net technical provisions of non-autonomous pension funds
Residual data	
48 72 0	Number of members of non-autonomous pension funds
Data on internal market and internationalisation	
48 66 1	Geographical breakdown of number of active members of non-autonomous pension funds

Code	Title
48 66 2	Geographical breakdown of number of deferred members of non-autonomous pension funds
48 66 3	Geographical breakdown of number of retired persons receiving a pension of non-autonomous pension funds
48 66 4	Geographical breakdown of number of persons receiving a derived pension of non-autonomous pension funds
Accounting data: profit and loss (income and expenditure) account	
48 09 0	Pension payments by non-autonomous pension funds

3. Information on derivatives and off-balance sheet items.

The pilot studies will be carried out in order to assess the relevance and feasibility of obtaining data, taking into account the benefits of the availability of the data in relation to the cost of collection and the burden on business.

SECTION 10

Transitional period

A transitional period cannot be conceded.

ANNEX VIII

A DETAILED MODULE FOR STRUCTURAL STATISTICS ON BUSINESS SERVICES

SECTION 1

Aim

The aim of this Annex is to establish a common framework for the collection, compilation, transmission and evaluation of Community statistics on the structure, activity, competitiveness and performance of the business services' sector.

SECTION 2

Scope

The statistics to be compiled will relate to the domains referred to in Article 1(a) to (d) and (f), in particular to a list of characteristics for a detailed analysis of the structure, activity, competitiveness and performance of business services.

SECTION 3

Coverage

The statistics are to be compiled for all activities within the coverage of divisions 62, 69, 71, 73 and 78 and groups 58.2, 63.1, and 70.2, of NACE Rev. 2. These sectors cover a part of publishing activities, the information technology service activities, a part of information service activities and professional, scientific and technical activities and the employment activities. Statistics in this module refer to the population of all enterprises with 20 or more persons employed whose main activity is classified in the above divisions and groups. In 2011 at the earliest, the Commission may institute a study on the necessity and feasibility of changing the lower limit of the reference population. On the basis of this study, measures designed to amend non-essential elements of this Regulation concerning the changing of the lower limit will be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 12(3).

SECTION 4

Characteristics

1. The list of characteristics and statistics set out below indicate the statistics which are to be compiled with on an annual or biennial frequency. The statistics and characteristics in italics are also included in the lists in the common module defined in Annex I.
2. Characteristics for which annual statistics are to be compiled for enterprises in divisions 62 and 78 and groups 58.2, 63.1 and 73.1 of NACE Rev. 2:

Code	Title	Comment
Structural data		
11 11 0	<i>Number of enterprises</i>	
Breakdown of turnover by product type		
12 11 0	Breakdown of <i>turnover</i> by product (according to CPA)	The product breakdown will be determined in accordance with the regulatory procedure with scrutiny referred to in Article 12(3).

Code	Title	Comment
Information on residence of client		
12 11 0	Turnover by residence of client, specifically: Resident Non-resident, of which — Intra-EU, — Extra-EU,	

3. Characteristics for which biennial statistics are to be compiled for enterprises in the groups 69.1, 69.2, 70.2, 71.1, 71.2 and 73.2 of NACE Rev. 2:

Code	Title	Comment
Structural data		
11 11 0	Number of enterprises	
Breakdown of turnover by product type		
12 11 0	Breakdown of turnover by product (according to CPA)	The product breakdown will be determined in accordance with the regulatory procedure with scrutiny referred to in Article 12(3).
Information on residence of client		
12 11 0	Turnover by residence of client, specifically: Resident Non-resident, of which — Intra-EU, — Extra-EU,	

SECTION 5

First reference year

The first reference year for which annual statistics on the activities covered by the NACE Rev. 2 divisions 62 and 78 and groups 58.2, 63.1 and 73.1 and for which biennial statistics covered by the NACE Rev. 2 groups 69.1, 69.2 and 70.2 are to be compiled is 2008. The first reference year for which biennial statistics on the activities covered by NACE Rev. 2 groups 71.1, 71.2 and 73.2 are to be compiled is 2009.

SECTION 6

Production of results

1. In order that Community statistics may be compiled, Member States are to produce component national results broken down to the NACE Rev. 2 divisions 62 and 78 and groups 58.2, 63.1, 69.1, 69.2, 70.2, 71.1, 71.2, 73.1 and 73.2.
2. Turnover results are also to be broken down by product and residence of client for the NACE Rev. 2 divisions 62 and 78, groups 58.2, 63.1, 69.1, 69.2, 70.2, 71.1, 71.2, 73.1 and 73.2.

SECTION 7

Transmission of results

The results are to be transmitted within 18 months of the end of the calendar year of the reference period.

SECTION 8

Transitional period

For the purposes of the detailed module defined in this Annex, the transitional period will not extend for more than three years beyond the first reference years indicated in Section 5 for the compilation of the statistics indicated in Section 4.

ANNEX IX

A DETAILED MODULE FOR STRUCTURAL STATISTICS ON BUSINESS DEMOGRAPHY

SECTION 1

Aim

The aim of this Annex is to establish a common framework for the collection, compilation, transmission and evaluation of Community statistics on business demography.

SECTION 2

Scope

The statistics to be compiled will relate to the domains referred to in Article 1(a) to (f), in particular to a list of characteristics for a detailed analysis of the population of active enterprises, enterprise births, enterprise deaths and the survival of newly born enterprises and the related effects on the structure, activity and the evolution of the business population.

SECTION 3

Coverage

1. The statistics are to be compiled for the activities listed in Section 10.
2. Pilot studies are to be conducted for the statistical unit, activities and demographic events listed in Section 12.

SECTION 4

Definitions

For the purpose of this annex, the following definition applies:

- 'reference period' shall mean the year in which populations of active enterprises, enterprise births, enterprise deaths and enterprise survivals are observed. It is referred to as 't' in Section 5.

SECTION 5

Characteristics

1. Annual demographic statistics using the enterprise as the statistical unit are to be compiled for the following characteristics:

Code	Title
Structural data	
11 91 0	Population of active enterprises in t
11 92 0	Number of births of enterprises in t
11 93 0	Number of deaths of enterprises in t
11 94 1	Number of enterprises newly born in t-1 having survived to t
11 94 2	Number of enterprises newly born in t-2 having survived to t
11 94 3	Number of enterprises newly born in t-3 having survived to t
11 94 4	Number of enterprises newly born in t-4 having survived to t
11 94 5	Number of enterprises newly born in t-5 having survived to t

2. Enterprise characteristics for the populations of active enterprises, enterprise births, enterprise deaths and enterprise survivals for which annual statistics are to be compiled:

Code	Title
Data on employment	
16 91 0	Number of persons employed in the population of active enterprises in t
16 91 1	Number of employees in the population of active enterprises in t
16 92 0	Number of persons employed in the population of births in t
16 92 1	Number of employees in the population of births in t
16 93 0	Number of persons employed in the population of deaths in t
16 93 1	Number of employees in the population of deaths in t
16 94 1	Number of persons employed in the population of enterprises newly born in t-1 having survived to t
16 94 2	Number of persons employed in the population of enterprises newly born in t-2 having survived to t
16 94 3	Number of persons employed in the population of enterprises newly born in t-3 having survived to t
16 94 4	Number of persons employed in the population of enterprises newly born in t-4 having survived to t
16 94 5	Number of persons employed in the population of enterprises newly born in t-5 having survived to t
16 95 1	Number of persons employed in the year of birth in the population of enterprises newly born in t-1 having survived to t
16 95 2	Number of persons employed in the year of birth in the population of enterprises newly born in t-2 having survived to t
16 95 3	Number of persons employed in the year of birth in the population of enterprises newly born in t-3 having survived to t
16 95 4	Number of persons employed in the year of birth in the population of enterprises newly born in t-4 having survived to t
16 95 5	Number of persons employed in the year of birth in the population of enterprises newly born in t-5 having survived to t

SECTION 6

First reference year

The first reference year for which annual statistics are compiled is as follows:

Calendar year	Code
2004	11 91 0, 11 92 0, 11 93 0, 16 91 0, 16 91 1, 16 92 0, 16 92 1, 16 93 0 and 16 93 1
2005	11 94 1, 16 94 1 and 16 95 1
2006	11 94 2, 16 94 2 and 16 95 2
2007	11 94 3, 16 94 3 and 16 95 3
2008	11 94 4, 16 94 4 and 16 95 4
2009	11 94 5, 16 94 5 and 16 95 5

SECTION 7

Report on the quality of statistics

The Member States will produce quality reports that will indicate the comparability of characteristics 11 91 0 and 16 91 0 with characteristics 11 11 0 and 16 11 0 in Annex I and, if necessary, the compliance of the delivered data with the common methodology as laid down in the recommendations manual referred to in Section 11.

SECTION 8

Production of results

1. The results are to be broken down to the level of the breakdown of activities listed in Section 10.
2. Some results, to be determined in accordance with the regulatory procedure with scrutiny referred to in Article 12(3), are also to be broken down into size classes to the level of detail listed in Section 10, except for NACE Rev. 2 Sections L, M and N, where the breakdown is required only to the group level.
3. Some results, to be determined in accordance with the regulatory procedure with scrutiny referred to in Article 12(3), are also to be broken down according to legal form to the level of the detail listed in Section 10, except for NACE Rev. 2 Sections L, M and N, where the breakdown is required only to the group level.

SECTION 9

Transmission of results

Preliminary results for characteristics related to enterprise deaths (11 93 0, 16 93 0 and 16 93 1) are to be transmitted within 18 months of the end of the calendar year of the reference period. Revised results for these characteristics, following the confirmation of enterprise deaths after two years of inactivity, are to be transmitted within 30 months of the same reference period. All other results are to be transmitted within 18 months of the end of the calendar year of the reference period.

Results for reference years preceding 2008 are to be transmitted six months after the end of 2008, with the exception of revised results for enterprise deaths (11 93 0, 16 93 0 and 16 93 1) of reference year 2007, which are to be transmitted 18 months after the end of 2008.

SECTION 10

Breakdown of activities

1. For the data for the reference years 2004 to 2007 inclusive the following breakdown referring to the NACE Rev. 1.1 classification is provided:

Section C*Mining and quarrying*

To enable Community statistics to be compiled, Member States will transmit component national results broken down to the section level of NACE Rev. 1.1.

Section D*Manufacturing*

To enable Community statistics to be compiled, Member States will transmit component national results broken down to the subsection level of NACE Rev. 1.1.

Sections E and F*Electricity, gas and water supply and construction*

To enable Community statistics to be compiled, Member States will transmit component national results broken down to the section level of NACE Rev. 1.1.

Section G*Wholesale and retail trade; repair of motor vehicles, motorcycles and personal and household goods*

To enable Community statistics to be compiled, Member States will transmit component national results for the NACE Rev. 1.1 codes G, 50, 51, 52, 52.1, 52.2, 52.3 + 52.4 + 52.5, 52.6 and 52.7.

Section H*Hotels and restaurants*

To enable Community statistics to be compiled, Member States will transmit component national results for the NACE Rev. 1.1 codes 55, 55.1 + 55.2 and 55.3 + 55.4 + 55.5.

Section I*Transport, storage and communication*

To enable Community statistics to be compiled, Member States will transmit component national results for the NACE Rev. 1.1 codes I, 60, 61, 62, 63, 64, 64.1 and 64.2.

Section J*Financial intermediation*

To enable Community statistics to be compiled, Member States will transmit component national results broken down to the division level of NACE Rev. 1.1.

Section K*Real estate, renting and business activities*

NACE Rev. 1.1 class 74.15 is excluded from the scope of this Annex. To enable Community statistics to be compiled, Member States will transmit component national results broken down to the class level of NACE Rev. 1.1.

2. The data for the reference year 2008 and thereafter will be provided using the following breakdown of activities referring to the NACE Rev. 2 classification:

Section B*Mining and quarrying*

To enable Community statistics to be compiled, Member States will transmit component national results broken down to the section level of NACE Rev. 2.

Section C*Manufacturing*

To enable Community statistics to be compiled, Member States will transmit component national results for the NACE Rev. 2 codes C, 10 + 11 + 12, 13 + 14, 15, 16, 17 + 18, 19, 20 + 21, 22, 23, 24 + 25, 26 + 27, 28, 29 + 30, 31 + 32 and 33.

Sections D, E and F*Electricity, gas, steam and air conditioning supply; water supply, sewerage, waste management and remediation activities; construction*

To enable Community statistics to be compiled, Member States will transmit component national results broken down to the section level of NACE Rev. 2.

Section G*Wholesale and retail trade; repair of motor vehicles and motorcycles*

To enable Community statistics to be compiled, Member States will transmit component national results for the NACE Rev. 2 codes G, 45, 46, 47, 47.1, 47.2, 47.3, 47.4 + 47.5 + 47.6 + 47.7, and 48.8 + 48.9.

Sections H and I

Transportation and storage; accommodation and food service activities

To enable Community statistics to be compiled, Member States will transmit component national results broken down to the division level of NACE Rev. 2.

Section J

Information and communication

To enable Community statistics to be compiled Member States will transmit component national results broken down to the division level of NACE Rev. 2 and further down to class level of NACE Rev. 2 in division 62.

Section K

Financial and insurance activities

NACE Rev. 2 group 64.2 is excluded from the scope of this Annex. To enable Community statistics to be compiled, Member States will transmit component national results broken down to the division level of NACE Rev. 2.

Sections L, M and N

Real estate activities; professional, scientific and technical service activities; administrative and support service activities

To enable Community statistics to be compiled, Member States will transmit component national results broken down to the class level of NACE Rev. 2.

Special aggregates

To enable Community statistics on business demography to be compiled for the Information and Communication Technology sector, a number of special aggregates of the NACE Rev. 2 will be transmitted. These aggregates will be determined in accordance with the regulatory procedure with scrutiny referred to in Article 12(3).

3. Data on enterprises newly born in 2004, 2005, 2006 and 2007 will also be provided in accordance with the NACE Rev. 2 breakdown as defined in paragraph 2 of this Section. This comprises characteristics 11 92 0, 16 92 0 and 16 92 1 for the above reference years. These results are to be provided together with data for the reference year 2008.

SECTION 11

Recommendations manual

The Commission will publish a recommendations manual in close cooperation with the Member States, which contains supplementary guidance concerning the Community statistics produced pursuant to this Annex. The recommendations manual will be published when this Regulation enters into force.

SECTION 12

Pilot studies

For the activities covered by this Annex, the Commission will institute the following pilot studies to be carried out by Member States:

- production of the data using the local unit as the statistical unit,
- production of data on demographic events other than enterprise births, survivals and deaths, and,
- production of data on NACE Rev. 2 Sections P, Q, R and S.

If the Commission, on the basis of the evaluation of pilot studies concerning non-market activities in Sections M to O of NACE Rev. 1.1, deems it necessary to expand the current scope of this Regulation, it will make a proposal in accordance with the procedure laid down in Article 251 of the Treaty.

SECTION 13

Transitional period

For the purposes of the detailed module defined in this Annex, the transitional period will not extend for more than four years after the first reference years for the compilation of the statistics indicated in Section 6.

ANNEX X

REPEALED REGULATION AND SUCCESSIVE AMENDMENTS

Council Regulation (EC, Euratom) No 58/97 (OJ L 14, 17.1.1997, p. 1).

Council Regulation (EC, Euratom) No 410/98 (OJ L 52, 21.2.1998, p. 1).

Article 1 of Commission Regulation (EC) No 1614/2002 (OJ L 244, 12.9.2002, p. 7).

Regulation (EC) No 2056/2002 of the European Parliament and of the Council (OJ L 317, 21.11.2002, p. 1).

Point 69 of Annex III of Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

Articles 11 and 20 and Annex II of Regulation (EC) No 1893/2006 of the European Parliament and of the Council (OJ L 393, 30.12.2006, p. 1).

ANNEX XI

CORRELATION TABLE

Regulation (EC, Euratom) No 58/97	This Regulation
Article 1	Article 1
Article 2	Article 1
Article 3	Article 2
Article 4, paragraph 1	Article 3, paragraph 1
Article 4, paragraph 2	Article 3, paragraph 3
Article 5	Article 3, paragraph 2
—	Article 3, paragraph 4
—	Article 4
Article 6	Article 5
Article 7	Article 6
Article 8	Article 7
Article 9	Article 8, paragraphs 1, 2
—	Article 8, paragraph 3
Article 10	Article 9
Article 11	Article 10
Article 12, paragraphs (i) to (x)	Article 11, paragraph 1
—	Article 11, paragraph 2
Article 13	Article 12
Article 14	Article 13
Article 15	—
—	Article 14
Article 16	Article 15
Annex 1, Sections 1-9	Annex I, Sections 1-9
Annex 1, Section 10, paragraphs 1 and 2	Annex I, Section 10, paragraphs 1 and 2, with deletions
Annex 1, Section 10, paragraphs 3 and 4	—
Annex 1, Section 11	Annex I, Section 11
Annex 2	Annex II
Annex 3, Sections 1-8	Annex III, Sections 1-8
Annex 3, Section 9	—
Annex 3, Section 10	Annex III, Section 9
Annex 4, Sections 1-8	Annex IV, Sections 1-8
Annex 4, Section 9	—
Annex 4, Section 10	Annex IV, Section 9
—	Annex V
—	Annex VI
—	Annex VII
—	Annex VIII
—	Annex IX
—	Annex X
—	Annex XI

**REGULATION (EC) No 296/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 March 2008**

amending Regulation (EC) No 562/2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), as regards the implementing powers conferred on the Commission

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 62(1) and (2)(a) thereof,

Having regard to the proposal from the Commission,

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

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽¹⁾,

Whereas:

- (1) Regulation (EC) No 562/2006 of the European Parliament and of the Council ⁽²⁾ provides that certain measures should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽³⁾.
- (2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.
- (3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁴⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.
- (4) The Commission should be empowered to adopt certain practical measures governing border surveillance and to amend certain annexes. Since those measures are of general scope and are designed to amend non-essential elements of Regulation (EC) No 562/2006, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

- (5) Regulation (EC) No 562/2006 provides for a period of suspension as regards the implementing powers conferred on the Commission. In their statement concerning Decision 2006/512/EC, the European Parliament, the Council and the Commission stated that Decision 2006/512/EC provides a horizontal and satisfactory solution to the European Parliament's wish to scrutinise the implementation of instruments adopted under the co-decision procedure and that, accordingly, implementing powers should be conferred on the Commission without time-limit. The European Parliament and the Council also declared that they would make sure that the proposals aimed at repealing the provisions in the instruments that provide for a time-limit on the delegation of implementing powers to the Commission are adopted as rapidly as possible. Following the introduction of the regulatory procedure with scrutiny, the provision that provides for that period of suspension in Regulation (EC) No 562/2006 should be deleted.

- (6) Regulation (EC) No 562/2006 should therefore be amended accordingly.

- (7) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen *acquis* under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark should, in accordance with Article 5 of the said Protocol, decide within a period of six months after the date of adoption of this Regulation whether it will implement it in its national law.

- (8) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis* ⁽⁵⁾, which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC ⁽⁶⁾ on certain arrangements for the application of that Agreement.

⁽¹⁾ Opinion of the European Parliament of 14 November 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽²⁾ OJ L 105, 13.4.2006, p. 1.

⁽³⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁴⁾ OJ C 255, 21.10.2006, p. 1.

⁽⁵⁾ OJ L 176, 10.7.1999, p. 36.

⁽⁶⁾ OJ L 176, 10.7.1999, p. 31.

- (9) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement signed by the European Union, the European Community and the Swiss Confederation on the association of the Swiss Confederation with the implementation, application and development of the Schengen *acquis* which fall within the area referred to in Article 1, point A, of Decision 1999/437/EC read in conjunction with Article 4(1) of Council Decisions 2004/849/EC ⁽¹⁾ and 2004/860/EC ⁽²⁾.
- (10) This Regulation constitutes a development of provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* ⁽³⁾. The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (11) This Regulation constitutes a development of provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* ⁽⁴⁾. Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.

HAVE ADOPTED THIS REGULATION:

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community.

Done at Strasbourg, 11 March 2008.

For the European Parliament
The President
H.-G. PÖTTERING

For the Council
The President
J. LENARČIČ

⁽¹⁾ Council Decision 2004/849/EC of 25 October 2004 on the signing, on behalf of the European Union, and on the provisional application of certain provisions of the Agreement between the European Union, the European Community and the Swiss Confederation concerning the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 368, 15.12.2004, p. 26).

⁽²⁾ Council Decision 2004/860/EC of 25 October 2004 on the signing, on behalf of the European Community, and on the provisional application of certain provisions of the Agreement between the European Union, the European Community and the Swiss Confederation concerning the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 370, 17.12.2004, p. 78).

⁽³⁾ OJ L 131, 1.6.2000, p. 43.

⁽⁴⁾ OJ L 64, 7.3.2002, p. 20.

Article 1

Amendments

Regulation (EC) No 562/2006 is hereby amended as follows:

- (1) Article 12(5) shall be replaced by the following:

'5. Additional measures governing surveillance may be adopted. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 33(2).';

- (2) Article 32 shall be replaced by the following:

'Article 32

Amendments to the Annexes

Annexes III, IV and VIII shall be amended in accordance with the regulatory procedure with scrutiny referred to in Article 33(2).';

- (3) Article 33(2) shall be replaced by the following:

'2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.';

- (4) Article 33(4) shall be deleted.

Article 2

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*.

**REGULATION (EC) No 297/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 March 2008**

amending Regulation (EC) No 1606/2002 on the application of international accounting standards, as regards the implementing powers conferred on the Commission

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95(1) thereof,

Having regard to the proposal from the Commission,

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

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

Whereas:

(1) Regulation (EC) No 1606/2002 of the European Parliament and of the Council ⁽³⁾ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁴⁾.

(2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.

(3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁵⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

(4) The Commission should be empowered to decide on the applicability within the Community of international accounting standards. Since those measures are of general

scope and are designed to amend non-essential elements of Regulation (EC) No 1606/2002 by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(5) In view of the fact that the application of the regulatory procedure with scrutiny within the usual deadlines could in certain exceptional situations make it difficult to adopt newly issued accounting standards, amendments to existing accounting standards or interpretations of existing accounting standards in time for them to be applied by undertakings for the relevant financial year, the European Parliament, the Council and the Commission should act speedily in order to ensure that those standards and interpretations are adopted in a timely manner so as not to undermine investor understanding and confidence.

(6) Regulation (EC) No 1606/2002 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments

Regulation (EC) No 1606/2002 is hereby amended as follows:

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

'1. The Commission shall decide on the applicability within the Community of international accounting standards. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 6(2).';

2. Article 6 shall be amended as follows:

(a) paragraph 2 shall be replaced by the following:

'2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.';

(b) paragraph 3 shall be deleted.

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ Opinion of the European Parliament of 14 November 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽³⁾ OJ L 243, 11.9.2002, p. 1.

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁵⁾ OJ C 255, 21.10.2006, p. 1.

*Article 2***Entry into force**

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

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

Done at Strasbourg, 11 March 2008.

For the European Parliament
The President
H.-G. PÖTTERING

For the Council
The President
J. LENARČIČ

**REGULATION (EC) No 298/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 March 2008**

**amending Regulation (EC) No 1829/2003 on genetically modified food and feed, as regards the
implementing powers conferred on the Commission**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 37, 95 and 152, paragraph 4, point (b) thereof,

Having regard to the proposal from the Commission,

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

After consulting the Committee of the Regions,

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

Whereas:

(1) Regulation (EC) No 1829/2003 of the European Parliament and of the Council ⁽³⁾ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁴⁾.

(2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.

(3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁵⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ Opinion of the European Parliament of 29 November 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽³⁾ OJ L 268, 18.10.2003, p. 1. Regulation as amended by Commission Regulation (EC) No 1981/2006 (OJ L 368, 23.12.2006, p. 99).

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁵⁾ OJ C 255, 21.10.2006, p. 1.

(4) The Commission should be empowered to define whether a type of food or feed falls within the scope of Regulation (EC) No 1829/2003, to lower the thresholds for the labelling of the adventitious and technically unavoidable presence of material which contains, consists of or is produced from genetically modified organisms and for the adventitious or technically unavoidable presence of genetically modified material which has benefited from a favourable risk assessment in food and feed, and to adopt measures regarding certain labelling and information requirements incumbent on operators and mass caterers. Since those measures are of general scope and are designed to amend non-essential elements of Regulation (EC) No 1829/2003, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(5) Regulation (EC) No 1829/2003 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments

Regulation (EC) No 1829/2003 is hereby amended as follows:

1. Article 3(2) shall be replaced by the following:

'2. Where necessary, measures designed to amend non-essential elements of this Regulation by supplementing it and determining whether a type of food falls within the scope of this Section shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 35(3).';

2. Article 12(4) shall be replaced by the following:

'4. Measures designed to amend non-essential elements of this Regulation by supplementing it and establishing appropriate lower thresholds, in particular in respect of foods containing or consisting of GMOs, or taking account of advances in science and technology shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 35(3).';

3. Article 14 shall be replaced by the following:

‘Article 14

Implementing measures

1. The following measures may be adopted by the Commission:

- measures necessary for operators to satisfy the competent authorities as referred to in Article 12(3),
- measures necessary for operators to comply with the labelling requirements set out in Article 13,
- specific rules concerning the information to be given by mass caterers providing food to the final consumer. In order to take account of the specific situation of mass caterers, such rules may provide for adaptation of the requirements set out in Article 13(1)(e).

Those measures, designed to amend non-essential elements of this Regulation, *inter alia*, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 35(3).

2. In addition, detailed rules to facilitate the uniform application of Article 13 may be adopted in accordance with the regulatory procedure referred to in Article 35(2).;

4. Article 15(2) shall be replaced by the following:

‘2. Where necessary, measures designed to amend non-essential elements of this Regulation by supplementing it and determining whether a type of feed falls within the scope of this Section shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 35(3).;’

5. Article 24(4) shall be replaced by the following:

‘4. Measures designed to amend non-essential elements of this Regulation by supplementing it and establishing appropriate lower thresholds, in particular in respect of feed containing or consisting of GMOs, or taking account of advances in science and technology shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 35(3).;’

6. Article 26 shall be replaced by the following:

‘Article 26

Implementing measures

1. The following measures may be adopted by the Commission:

- measures necessary for operators to satisfy the competent authorities as referred to in Article 24(3),
- measures necessary for operators to comply with the labelling requirements set out in Article 25.

Those measures, designed to amend non-essential elements of this Regulation, *inter alia*, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 35(3).

2. In addition, detailed rules to facilitate the uniform application of Article 25 may be adopted in accordance with the regulatory procedure referred to in Article 35(2).;

7. in Article 32, the fifth paragraph shall be replaced by the following:

‘Detailed rules for implementing this Article and the Annex may be adopted in accordance with the regulatory procedure referred to in Article 35(2).’

Measures designed to amend non-essential elements of this Regulation and adapting the Annex shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 35(3).;

8. Article 35(3) shall be replaced by the following:

‘3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.’;

9. Article 47(3) shall be replaced by the following:

‘3. Measures designed to amend non-essential elements of this Regulation by supplementing it and lowering the thresholds referred to in paragraph 1, in particular for GMOs sold directly to the final consumer, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 35(3).’

*Article 2***Entry into force**

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

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

Done at Strasbourg, 11 March 2008.

For the European Parliament
The President
H.-G. PÖTTERING

For the Council
The President
J. LENARČIČ

**REGULATION (EC) No 299/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 March 2008**

**amending Regulation (EC) No 396/2005 on maximum residue levels of pesticides in or on food and feed
of plant and animal origin, as regards the implementing powers conferred on the Commission**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 37 and 152(4)(b) thereof,

Having regard to the proposal from the Commission,

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

After consulting the Committee of the Regions,

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

Whereas:

(1) Regulation (EC) No 396/2005 of the European Parliament and of the Council ⁽³⁾ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁴⁾.

(2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, inter alia by deleting some of those elements or by supplementing the instrument with new non-essential elements.

(3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁵⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

(4) The Commission should be empowered to define the scope of Regulation (EC) No 396/2005 and the criteria necessary for the establishment of certain maximum residue levels (MRLs) of pesticides in or on food and feed of plant and animal origin listed in its relevant annexes. Since those measures are of general scope and are designed to amend non-essential elements of Regulation (EC) No 396/2005, inter alia by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(5) On grounds of efficiency and in order to guarantee economic operators a rapid decision-making process, whilst ensuring a high level of consumer protection, the normal time limits for the regulatory procedure with scrutiny should be curtailed for the adoption of measures setting, including, implementing, modifying or deleting MRLs and establishing a list of active substances for which no MRLs are required, as well as a list of active substance/product combinations where active substances are used as fumigant for post-harvest treatment.

(6) When, on imperative grounds of urgency, and in particular where a risk to human or animal health exists, the normal time limits for the regulatory procedure with scrutiny cannot be complied with, the Commission should be able to apply the urgency procedure provided for in Article 5a(6) of Decision 1999/468/EC for the adoption of measures setting, including, implementing, modifying or deleting MRLs.

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ Opinion of the European Parliament of 29 November 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽³⁾ OJ L 70, 16.3.2005, p. 1. Regulation as amended by Commission Regulation (EC) No 178/2006 (OJ L 29, 2.2.2006, p. 3).

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

(7) Regulation (EC) No 396/2005 should therefore be amended accordingly,

⁽⁵⁾ OJ C 255, 21.10.2006, p. 1.

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments

Regulation (EC) No 396/2005 is hereby amended as follows:

1. Article 4(1) shall be replaced by the following:

'1. The products, product groups and/or parts of products referred to in Article 2(1) to which harmonised MRLs shall apply shall be defined in and covered by Annex I. That measure, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 45(3). Annex I shall include all products for which MRLs are set, as well as the other products for which it is appropriate to apply harmonised MRLs, in particular in view of their relevance in the diet of consumers or in trade. Products shall be grouped in such a way that MRLs may as far as possible be set for a group of similar or related products.'

2. Article 5(1) shall be replaced by the following:

'1. Active substances of plant protection products evaluated under Directive 91/414/EEC for which no MRLs are required shall be defined and listed in Annex IV to this Regulation, taking into account the uses of those active substances and the matters referred to in points (a), (c) and (d) of Article 14(2). Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 45(4).'

3. Article 8(2) shall be replaced by the following:

'2. Applications shall be evaluated in accordance with the relevant provisions of the Uniform Principles for the Evaluation and Authorisation of Plant Protection Products set out in Annex VI to Directive 91/414/EEC or specific evaluation principles to be laid down in a Commission regulation. That regulation, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 45(3).'

4. Article 14(1) shall be replaced by the following:

'1. Upon receipt of the opinion of the Authority and taking account of that opinion, one of the following shall be prepared by the Commission without delay and at the latest within three months:

(a) a regulation on the setting, modification or deletion of an MRL. That regulation, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 45(4). On imperative grounds of urgency, the Commission may have recourse to the urgency procedure referred to in Article 45(5) in order to ensure a high level of consumer protection;

(b) a decision rejecting the application, which shall be adopted in accordance with the regulatory procedure referred to in Article 45(2).'

5. Article 15(2) shall be replaced by the following:

'2. Where a temporary MRL is set as provided for in paragraph 1(b), it shall be deleted from Annex III by a regulation one year after the date of the inclusion or non-inclusion in Annex I to Directive 91/414/EEC of the active substance concerned. That regulation, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 45(4). On imperative grounds of urgency, the Commission may have recourse to the urgency procedure referred to in Article 45(5) in order to ensure a high level of consumer protection.

However, where one or more Member States so request, the temporary MRL may be maintained for an additional year pending confirmation that any scientific studies necessary for supporting an application for setting a MRL have been undertaken. In cases where such confirmation is provided, the temporary MRL shall be maintained for a further two years, provided that no unacceptable safety concerns for consumers have been identified.'

6. Article 18 shall be replaced by the following:

'Article 18

Compliance with MRLs

1. The products covered by Annex I shall not contain, from the time they are placed on the market as food or feed, or fed to animals, any pesticide residue exceeding:

(a) the MRLs for those products set out in Annexes II and III;

(b) 0,01 mg/kg for those products for which no specific MRL is set out in Annexes II or III, or for active substances not listed in Annex IV unless different default values are fixed for an active substance while taking into account the routine analytical methods available. Such default values shall be listed in Annex V. That measure, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 45(4). On imperative grounds of urgency, the Commission may have recourse to the urgency procedure referred to in Article 45(5) in order to ensure a high level of consumer protection.

2. Member States may not prohibit or impede the placing on the market or the feeding to food-producing animals within their territories of the products covered by Annex I on the grounds that they contain pesticide residues provided that:

(a) such products comply with paragraph 1 and Article 20; or

(b) the active substance is listed in Annex IV.

3. By way of derogation from paragraph 1, Member States may authorise, further to a post-harvest treatment with a fumigant on their own territory, residue levels for an active substance which exceed the limits specified in Annexes II and III for a product covered by Annex I where the active substance/product combinations are listed in Annex VII provided that:

(a) such products are not intended for immediate consumption;

(b) appropriate controls are in place to ensure that such products cannot be made available to the end user or consumer, if they are supplied directly to the latter, until the residues no longer exceed the maximum levels specified in Annexes II or III;

(c) the other Member States and the Commission have been informed of the measures taken.

Measures designed to amend non-essential elements of this Regulation and defining the active substance/product combinations listed in Annex VII shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 45(3).

4. In exceptional circumstances, and in particular further to the use of plant protection products in accordance with Article 8(4) of Directive 91/414/EEC or pursuant to obligations set out in Directive 2000/29/EC (*), a Member State may authorise the placing on the market and/or the feeding to animals within its territory of treated food or feed not complying with paragraph 1, provided that such food or feed does not constitute an unacceptable risk. Such authorisations shall immediately be notified to the other Member States, the Commission and the Authority, together with an appropriate risk assessment for consideration without undue delay with a view to setting a temporary MRL for a specified period or taking any other necessary measure in relation to such products. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 45(4). On imperative grounds of urgency, the Commission may have recourse to the urgency procedure referred to in Article 45(5) in order to ensure a high level of consumer protection.

(*) Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (OJ L 169, 10.7.2000, p. 1). Directive as last amended by Commission Directive 2007/41/EC (OJ L 169, 29.6.2007, p. 51).;

7. Article 20(2) shall be replaced by the following:

'2. Specific concentration or dilution factors for certain processing and/or mixing operations or for certain processed and/or composite products may be included in the list in Annex VI. That measure, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 45(3).';

8. Article 21(1) shall be replaced by the following:

'1. MRLs for products covered by Annex I shall be first established and listed in Annex II, incorporating the MRLs provided for under Directives 86/362/EEC, 86/363/EEC and 90/642/EEC, taking into account the criteria listed in Article 14(2) of this Regulation. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 45(3).';

9. Article 22(1) shall be replaced by the following:

'1. Temporary MRLs for active substances for which a decision on inclusion or non-inclusion in Annex I to Directive 91/414/EEC has not yet been taken shall be first established and listed in Annex III to this Regulation, unless

already listed in Annex II, taking into account the information provided by the Member States, where relevant the reasoned opinion referred to in Article 24, the factors referred to in Article 14(2) and the following MRLs:

- (a) remaining MRLs in the Annex to Directive 76/895/EEC; and
- (b) hitherto unharmonised national MRLs.

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 45(3).;

10. Article 27(2) shall be replaced by the following:

'2. Measures designed to amend non-essential elements of this Regulation by supplementing it and determining the sampling methods necessary for carrying out such controls of pesticide residues in products other than those provided for in Directive 2002/63/EC (*) shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 45(3) of this Regulation.

(*) Commission Directive 2002/63/EC of 11 July 2002 establishing Community methods of sampling for the official control of pesticide residues in and on products of plant and animal origin and repealing Directive 79/700/EEC (OJ L 187, 16.7.2002, p. 30).;

11. Article 45 shall be replaced by the following:

'Article 45

Committee procedure

1. The Commission shall be assisted by the Standing Committee on the Food Chain and Animal Health established by Article 58 of Regulation (EC) No 178/2002.

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

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

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

4. Where reference is made to this paragraph, Article 5a(1) to (4) and (5)(b), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The time limits laid down in Article 5a(3)(c) and (4)(b) and (e) of Decision 1999/468/EC shall be set at two months, one month and two months respectively.

5. Where reference is made to this paragraph, Article 5a(1), (2), (4) and (6) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.;

12. Article 46 shall be replaced by the following:

'Article 46

Implementing measures

1. Implementing measures to ensure the uniform application of this Regulation, technical guidance documents to assist in its application and detailed rules concerning the scientific data required for the setting of MRLs shall be established or may be amended in accordance with the regulatory procedure referred to in Article 45(2), taking into account, where appropriate, the opinion of the Authority.

2. Measures designed to amend non-essential elements of this Regulation and relating to the establishment or amendment of the dates referred to in Article 23, Article 29(2), Article 30(2), Article 31(1) and Article 32(5) shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 45(3), taking into account, where appropriate, the opinion of the Authority.;

13. Article 49 shall be replaced by the following:

'Article 49

Transitional measures

1. The requirements of Chapter III shall not apply to products lawfully produced or imported into the Community before the date referred to in the second paragraph of Article 50.

However, in order to ensure a high level of consumer protection, appropriate measures concerning those products may be taken. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 45(5).

2. Where necessary to allow for the normal marketing, processing and consumption of products, further transitional measures may be laid down for the implementation of

certain MRLs provided for in Articles 15, 16, 21, 22, and 25. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, and without prejudice to the obligation to ensure a high level of consumer protection, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 45(4).'

Article 2

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 Strasbourg, 11 March 2008.

For the European Parliament
The President
H.-G. PÖTTERING

For the Council
The President
J. LENARČIČ

REGULATION (EC) No 300/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 March 2008
on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission,

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

Having consulted the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾, in the light of the joint text approved by the Conciliation Committee on 16 January 2008.

Whereas:

- (1) In order to protect persons and goods within the European Union, acts of unlawful interference with civil aircraft that jeopardise the security of civil aviation should be prevented by establishing common rules for safeguarding civil aviation. This objective should be achieved by setting common rules and common basic standards on aviation security as well as mechanisms for monitoring compliance.
- (2) It is desirable, in the interests of civil aviation security generally, to provide the basis for a common interpretation of Annex 17 to the Chicago Convention on International Civil Aviation of 7 December 1944.
- (3) Regulation (EC) No 2320/2002 of the European Parliament and of the Council of 16 December 2002 establishing common rules in the field of civil aviation security ⁽³⁾ was adopted as a result of the events of 11 September 2001 in the United States. A common approach is needed in the field of civil aviation security and consideration should be given to the most effective means of offering assistance following terrorist acts that have a major impact in the transport field.
- (4) The content of Regulation (EC) No 2320/2002 should be revised in the light of the experience gained, and the Regulation itself should be repealed and replaced by this Regulation seeking the simplification, harmonisation and clarification of the existing rules and the improvement of the levels of security.
- (5) Given the need for more flexibility in adopting security measures and procedures in order to meet evolving risk assessments and to allow new technologies to be introduced, this Regulation should lay down the basic principles of what has to be done in order to safeguard civil aviation against acts of unlawful interference without going into the technical and procedural details of how they are to be implemented.
- (6) This Regulation should apply to airports serving civil aviation located in the territory of a Member State, to operators providing services at such airports and to entities providing goods and/or services to or through such airports.
- (7) Without prejudice to the Convention on offences and certain other acts committed on board aircraft, Tokyo, 1963, the Convention for the suppression of unlawful seizure of aircraft, The Hague, 1970, and the Convention for the suppression of unlawful acts against the safety of civil aviation, Montreal, 1971, this Regulation should also cover security measures that apply on board an aircraft, or during a flight, of Community air carriers.
- (8) Each Member State retains the competence to decide whether to deploy in-flight security officers on aircraft registered in that Member State and on flights of air carriers licensed by it as well as to ensure, in accordance with paragraph 4.7.7 of Annex 17 to the Chicago Convention on International Civil Aviation and under the terms of that Convention, that such officers are government personnel who are specially selected and trained, taking into account the required security and safety aspects on board an aircraft.

⁽¹⁾ OJ C 185, 8.8.2006, p. 17.

⁽²⁾ Opinion of the European Parliament of 15 June 2006 (OJ C 300 E, 9.12.2006, p. 463), Council Common Position of 11 December 2006 (OJ C 70 E, 27.3.2007, p. 21) and Position of the European Parliament of 25 April 2007 (not yet published in the Official Journal), Legislative Resolution of the European Parliament of 11 March 2008 (not yet published in the Official Journal) and Council Decision of 4 March 2008.

⁽³⁾ OJ L 355, 30.12.2002, p. 1. Regulation as amended by Regulation (EC) No 849/2004 (OJ L 158, 30.4.2004, p. 1, corrected by OJ L 229, 29.6.2004, p. 3).

- (9) The various types of civil aviation do not necessarily present the same level of threat. In setting common basic standards on aviation security, the size of the aircraft, the nature of the operation and/or the frequency of operations at airports should be taken into account with a view to permitting the grant of derogations.
- (10) Member States should also be allowed, on the basis of a risk assessment, to apply more stringent measures than those laid down in this Regulation.
- (11) Third countries may require the application of measures that differ from those laid down in this Regulation in respect of flights from an airport in a Member State to, or over, that third country. However, without prejudice to any bilateral agreements to which the Community is a party, it should be possible for the Commission to examine the measures required by the third country.
- (12) Even though, within a single Member State, there may be two or more bodies involved in aviation security, each Member State should designate a single authority responsible for the coordination and monitoring of the implementation of security standards.
- (13) In order to define responsibilities for the implementation of the common basic standards on aviation security and to describe what measures are required by operators and other entities for this purpose, each Member State should draw up a national civil aviation security programme. Furthermore, each airport operator, air carrier and entity implementing aviation security standards should draw up, apply and maintain a security programme in order to comply both with this Regulation and with whichever national civil aviation security programme is applicable.
- (14) In order to monitor compliance with this Regulation and with the national civil aviation security programme, each Member State should draw up and ensure the implementation of a national programme to check the level and quality of civil aviation security.
- (15) In order to monitor the application by Member States of this Regulation, and also to make recommendations to improve aviation security, the Commission should conduct inspections, including unannounced inspections.
- (16) As a general rule, the Commission should publish measures that have a direct impact on passengers. Implementing acts setting out common measures and procedures for the implementation of the common basic standards on aviation security which contain sensitive security information, together with Commission inspection reports and the answers of the appropriate authorities should be regarded as EU classified information within the meaning of Commission Decision 2001/844/EC, ECSC, Euratom of 29 November 2001 amending its internal rules of procedure ⁽¹⁾. Those items should not be published and should be made available only to those operators and entities with a legitimate interest.
- (17) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾.
- (18) In particular, the Commission should be empowered to adopt general measures amending non-essential elements of the common basic standards by supplementing them, set criteria allowing Member States both to derogate from the common basic standards and to adopt alternative security measures, and adopt specifications for national quality control programmes. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (19) When, on imperative grounds of urgency, the normal time-limits for the regulatory procedure with scrutiny cannot be complied with, the Commission should be able to apply the urgency procedure provided for in Article 5a(6) of Decision 1999/468/EC for the adoption of common rules for safeguarding civil aviation.
- (20) The goal of 'one-stop security' for all flights within the European Union should be advanced.
- (21) Furthermore, it should not be necessary to rescreen passengers or their baggage arriving on flights from third countries that have aviation security standards equivalent to those laid down by this Regulation. Therefore, without prejudice to the right of each Member State to apply more stringent measures, or to the respective competences of the Community and Member States, decisions of the Commission, and, where necessary, agreements between the Community and third countries, which recognise that the security standards applied in the third country are equivalent to the common standards, should be encouraged since these further one-stop security.
- (22) This Regulation is without prejudice to the application of rules on aviation safety, including those relating to the transport of dangerous goods.

⁽¹⁾ OJ L 317, 3.12.2001, p. 1. Decision as last amended by Decision 2006/548/EC, Euratom (OJ L 215, 5.8.2006, p. 38).

⁽²⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

- (23) Penalties should be provided for infringements of the provisions of this Regulation. Those penalties, which may be of a civil or administrative nature, should be effective, proportionate and dissuasive.
- (24) The Ministerial Statement on Gibraltar Airport, agreed in Cordoba on 18 September 2006 during the first Ministerial meeting of the Forum of Dialogue on Gibraltar, will replace the Joint Declaration on Gibraltar Airport made in London on 2 December 1987, and full compliance with it will be deemed to constitute compliance with the 1987 Declaration.
- (25) Since the objectives of this Regulation, namely to safeguard civil aviation against acts of unlawful interference and to provide a basis for a common interpretation of Annex 17 to the Chicago Convention on International Civil Aviation, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of this Regulation, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

Article 1

Objectives

1. This Regulation establishes common rules to protect civil aviation against acts of unlawful interference that jeopardise the security of civil aviation.

It also provides the basis for a common interpretation of Annex 17 to the Chicago Convention on International Civil Aviation.

2. The means of achieving the objectives set out in paragraph 1 shall be:

- (a) the setting of common rules and common basic standards on aviation security;
- (b) mechanisms for monitoring compliance.

Article 2

Scope

1. This Regulation shall apply to the following:

- (a) all airports or parts of airports located in the territory of a Member State that are not exclusively used for military purposes;

- (b) all operators, including air carriers, providing services at airports referred to in point (a);

- (c) all entities applying aviation security standards that operate from premises located inside or outside airport premises and provide goods and/or services to or through airports referred to in point (a).

2. The application of this Regulation to the airport of Gibraltar is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport is situated.

Article 3

Definitions

For the purposes of this Regulation:

1. 'civil aviation' means any air operation carried out by civil aircraft, excluding operations carried out by State aircraft referred to in Article 3 of the Chicago Convention on International Civil Aviation;
2. 'aviation security' means the combination of measures and human and material resources intended to safeguard civil aviation against acts of unlawful interference that jeopardise the security of civil aviation;
3. 'operator' means a person, organisation or enterprise engaged, or offering to engage, in an air transport operation;
4. 'air carrier' means an air transport undertaking holding a valid operating licence or equivalent;
5. 'Community air carrier' means an air carrier holding a valid operating licence granted by a Member State in accordance with Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers ⁽¹⁾;
6. 'entity' means a person, organisation or enterprise, other than an operator;
7. 'prohibited articles' means weapons, explosives or other dangerous devices, articles or substances that may be used to commit an act of unlawful interference that jeopardises the security of civil aviation;
8. 'screening' means the application of technical or other means which are intended to identify and/or detect prohibited articles;

⁽¹⁾ OJ L 240, 24.8.1992, p. 1.

9. 'security control' means the application of means by which the introduction of prohibited articles may be prevented;
10. 'access control' means the application of means by which the entry of unauthorised persons or unauthorised vehicles, or both, may be prevented;
11. 'airside' means the movement area of an airport, adjacent terrain and buildings or portions thereof, access to which is restricted;
12. 'landside' means those parts of an airport, adjacent terrain and buildings or portions thereof that are not airside;
13. 'security restricted area' means that area of airside where, in addition to access being restricted, other aviation security standards are applied;
14. 'demarcated area' means an area that is separated by means of access control either from security restricted areas, or, if the demarcated area itself is a security restricted area, from other security restricted areas of an airport;
15. 'background check' means a recorded check of a person's identity, including any criminal history, as part of the assessment of an individual's suitability for unescorted access to security restricted areas;
16. 'transfer passengers, baggage, cargo or mail' means passengers, baggage, cargo or mail departing on an aircraft other than that on which they arrived;
17. 'transit passengers, baggage, cargo or mail' means passengers, baggage, cargo or mail departing on the same aircraft as that on which they arrived;
18. 'potentially disruptive passenger' means a passenger who is either a deportee, a person deemed to be inadmissible for immigration reasons or a person in lawful custody;
19. 'cabin baggage' means baggage intended for carriage in the cabin of an aircraft;
20. 'hold baggage' means baggage intended for carriage in the hold of an aircraft;
21. 'accompanied hold baggage' means baggage, carried in the hold of an aircraft, which has been checked in for a flight by a passenger travelling on that same flight;
22. 'air carrier mail' means mail whose origin and destination are both an air carrier;
23. 'air carrier materials' means materials either whose origin and destination are both an air carrier or that are used by an air carrier;
24. 'mail' means dispatches of correspondence and other items, other than air carrier mail, tendered by and intended for delivery to postal services in accordance with the rules of the Universal Postal Union;
25. 'cargo' means any property intended for carriage on an aircraft, other than baggage, mail, air carrier mail, air carrier materials and in-flight supplies;
26. 'regulated agent' means an air carrier, agent, freight forwarder or any other entity who ensures security controls in respect of cargo or mail;
27. 'known consignor' means a consignor who originates cargo or mail for its own account and whose procedures meet common security rules and standards sufficient to allow carriage of cargo or mail on any aircraft;
28. 'account consignor' means a consignor who originates cargo or mail for its own account and whose procedures meet common security rules and standards sufficient to allow carriage of that cargo on all-cargo aircraft or mail on all-mail aircraft;
29. 'aircraft security check' means an inspection of those parts of the interior of the aircraft to which passengers may have had access, together with an inspection of the hold of the aircraft in order to detect prohibited articles and unlawful interferences with the aircraft;
30. 'aircraft security search' means an inspection of the interior and accessible exterior of the aircraft in order to detect prohibited articles and unlawful interferences that jeopardise the security of the aircraft;
31. 'in-flight security officer' means a person who is employed by a state to travel on an aircraft of an air carrier licensed by it with the purpose of protecting that aircraft and its occupants against acts of unlawful interference that jeopardise the security of the flight.

Article 4

Common basic standards

1. The common basic standards for safeguarding civil aviation against acts of unlawful interference that jeopardise the security of civil aviation shall be as laid down in the Annex.

Additional common basic standards not foreseen at the entry into force of this Regulation should be added to the Annex in accordance with the procedure referred to in Article 251 of the Treaty.

2. General measures, designed to amend non-essential elements of the common basic standards referred to in paragraph 1 by supplementing them, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 19(3).

These general measures shall concern:

- (a) methods of screening allowed;
- (b) categories of articles that may be prohibited;
- (c) as regards access control, grounds for granting access to air-side and security restricted areas;
- (d) methods allowed for the examination of vehicles, aircraft security checks and aircraft security searches;
- (e) criteria for recognising the equivalence of security standards of third countries;
- (f) conditions under which cargo and mail shall be screened or subjected to other security controls, as well as the process for the approval or designation of regulated agents, known consignors and account consignors;
- (g) conditions under which air carrier mail and air carrier materials shall be screened or subjected to other security controls;
- (h) conditions under which in-flight supplies and airport supplies shall be screened or subjected to other security controls, as well as the process for the approval or designation of regulated suppliers and known suppliers;
- (i) criteria for defining critical parts of security restricted areas;
- (j) criteria for staff recruitment and methods of training;
- (k) conditions under which special security procedures or exemptions from security controls may be applied; and
- (l) any general measures designed to amend non-essential elements of the common basic standards referred to in paragraph 1 by supplementing them not foreseen at the date of entry into force of this Regulation.

On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 19(4).

3. Detailed measures for the implementation of the common basic standards referred to in paragraph 1 and the general measures referred to in paragraph 2 shall be laid down in accordance with the regulatory procedure referred to in Article 19(2).

These shall include:

- (a) requirements and procedures for screening;
- (b) a list of prohibited articles;
- (c) requirements and procedures for access control;
- (d) requirements and procedures for the examination of vehicles, aircraft security checks and aircraft security searches;
- (e) decisions to recognise the equivalence of security standards applied in a third country;
- (f) as regards cargo and mail, procedures for the approval or designation of, and the obligations to be fulfilled by, regulated agents, known consignors and account consignors;
- (g) requirements and procedures for security controls of air carrier mail and air carrier materials;
- (h) as regards in-flight supplies and airport supplies, procedures for the approval or designation of, and the obligations to be fulfilled by, regulated suppliers and known suppliers;
- (i) definition of critical parts of security restricted areas;
- (j) staff recruitment and training requirements;
- (k) special security procedures or exemptions from security controls;
- (l) technical specifications and procedures for approval and use of security equipment; and
- (m) requirements and procedures concerning potentially disruptive passengers.

4. The Commission shall, by amending this Regulation through a decision in accordance with the regulatory procedure with scrutiny referred to in Article 19(3), set criteria to allow Member States to derogate from the common basic standards referred to in paragraph 1 and to adopt alternative security measures that provide an adequate level of protection on the basis of a local risk assessment. Such alternative measures shall be justified by reasons relating to the size of the aircraft, or by reasons relating to the nature, scale or frequency of operations or of other relevant activities.

On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 19(4).

The Member States shall inform the Commission of such measures.

5. Member States shall ensure the application in their territory of the common basic standards referred to in paragraph 1. Where a Member State has reason to believe that the level of aviation security has been compromised through a security breach, it shall ensure that appropriate and prompt action is taken to rectify that breach and ensure the continuing security of civil aviation.

Article 5

Security costs

Subject to the relevant rules of Community law, each Member State may determine in which circumstances, and the extent to which, the costs of security measures taken under this Regulation to protect civil aviation against acts of unlawful interference should be borne by the State, the airport entities, air carriers, other responsible agencies, or users. If appropriate, and in conformity with Community law, Member States may contribute with users to the costs of more stringent security measures taken under this Regulation. As far as may be practicable, any charges or transfers of security costs shall be directly related to the costs of providing the security services concerned and shall be designed to recover no more than the relevant costs involved.

Article 6

More stringent measures applied by Member States

1. Member States may apply more stringent measures than the common basic standards referred to in Article 4. In doing so, they shall act on the basis of a risk assessment and in compliance with Community law. Those measures shall be relevant, objective, non-discriminatory and proportional to the risk that is being addressed.

2. Member States shall inform the Commission of such measures as soon as possible after their application. Upon reception of such information, the Commission shall transmit this information to the other Member States.

3. Member States are not required to inform the Commission where the measures concerned are limited to a given flight on a specific date.

Article 7

Security measures required by third countries

1. Without prejudice to any bilateral agreements to which the Community is a party, a Member State shall notify the Commission of measures required by a third country if they differ from the common basic standards referred to in Article 4 in respect of flights from an airport in a Member State to, or over, that third country.

2. At the request of the Member State concerned or on its own initiative, the Commission shall examine the application of any measures notified under paragraph 1 and may, in accordance with the regulatory procedure referred to in Article 19(2), draw up an appropriate response to the third country concerned.

3. Paragraphs 1 and 2 shall not apply if:

- (a) the Member State concerned applies the measures concerned in accordance with Article 6; or
- (b) the requirement of the third country is limited to a given flight on a specific date.

Article 8

Cooperation with the International Civil Aviation Organisation

Without prejudice to Article 300 of the Treaty, the Commission may conclude a Memorandum of Understanding concerning audits with the International Civil Aviation Organisation (ICAO) in order to avoid duplicate monitoring of Member States' compliance with Annex 17 to the Chicago Convention on International Civil Aviation.

Article 9

Appropriate authority

Where, within a single Member State, two or more bodies are involved in civil aviation security, that Member State shall designate a single authority (hereinafter referred to as the appropriate authority) to be responsible for the coordination and monitoring of the implementation of the common basic standards referred to in Article 4.

Article 10

National civil aviation security programme

1. Every Member State shall draw up, apply and maintain a national civil aviation security programme.

That programme shall define responsibilities for the implementation of the common basic standards referred to in Article 4 and shall describe the measures required by operators and entities for this purpose.

2. The appropriate authority shall make available in writing on a 'need to know' basis the appropriate parts of its national civil aviation security programme to operators and entities which it deems to have a legitimate interest.

*Article 11***National quality control programme**

1. Every Member State shall draw up, apply and maintain a national quality control programme.

That programme shall enable the Member State to check the quality of civil aviation security in order to monitor compliance both with this Regulation and with its national civil aviation security programme.

2. The specifications for the national quality control programme shall be adopted by amending this Regulation through the addition of an annex in accordance with the regulatory procedure with scrutiny referred to in Article 19(3).

On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 19(4).

The programme shall allow for the swift detection and correction of deficiencies. It shall also provide that all airports, operators and entities responsible for the implementation of aviation security standards that are located in the territory of the Member State concerned shall be regularly monitored directly by, or under the supervision of, the appropriate authority.

*Article 12***Airport security programme**

1. Every airport operator shall draw up, apply and maintain an airport security programme.

That programme shall describe the methods and procedures which are to be followed by the airport operator in order to comply both with this Regulation and with the national civil aviation security programme of the Member State in which the airport is located.

The programme shall include internal quality control provisions describing how compliance with these methods and procedures is to be monitored by the airport operator.

2. The airport security programme shall be submitted to the appropriate authority, which may take further action if appropriate.

*Article 13***Air carrier security programme**

1. Every air carrier shall draw up, apply and maintain an air carrier security programme.

That programme shall describe the methods and procedures which are to be followed by the air carrier in order to comply both with this Regulation and with the national civil aviation security programme of the Member State from which it provides services.

The programme shall include internal quality control provisions describing how compliance with these methods and procedures is to be monitored by the air carrier.

2. Upon request, the air carrier security programme shall be submitted to the appropriate authority, which may take further action if appropriate.

3. Where a Community air carrier security programme has been validated by the appropriate authority of the Member State granting the operating licence, the air carrier shall be recognised by all other Member States as having fulfilled the requirements of paragraph 1. This is without prejudice to a Member State's right to request from any air carrier details of its implementation of:

- (a) the security measures applied by that Member State under Article 6; and/or
- (b) local procedures that are applicable at the airports served.

*Article 14***Entity security programme**

1. Every entity required under the national civil aviation security programme referred to in Article 10 to apply aviation security standards shall draw up, apply and maintain a security programme.

That programme shall describe the methods and procedures which are to be followed by the entity in order to comply with the national civil aviation security programme of the Member State in respect of its operations in that Member State.

The programme shall include internal quality control provisions describing how compliance with these methods and procedures is to be monitored by the entity itself.

2. Upon request, the security programme of the entity applying aviation security standards shall be submitted to the appropriate authority, which may take further action if appropriate.

*Article 15***Commission inspections**

1. The Commission, acting in cooperation with the appropriate authority of the Member State concerned, shall conduct inspections, including inspections of airports, operators and entities applying aviation security standards, in order to monitor the application by Member States of this Regulation and, as appropriate, to make recommendations to improve aviation security. For this purpose, the appropriate authority shall inform the Commission in writing of all airports in its territory serving civil aviation other than those covered by Article 4(4).

The procedures for conducting Commission inspections shall be adopted in accordance with the regulatory procedure referred to in Article 19(2).

2. Commission inspections of airports, operators and entities applying aviation security standards shall be unannounced. The Commission shall in good time before an inspection inform the Member State concerned thereof.

3. Each Commission inspection report shall be communicated to the appropriate authority of the Member State concerned, which shall, in its answer, set out the measures taken to remedy any identified deficiencies.

The report, together with the answer of the appropriate authority, shall subsequently be communicated to the appropriate authority of the other Member States.

Article 16

Annual report

Every year the Commission shall present a report to the European Parliament, the Council and the Member States informing them of the application of this Regulation and of its impact on improving aviation security.

Article 17

Stakeholders' Advisory Group

Without prejudice to the role of the Committee referred to in Article 19, the Commission shall establish a Stakeholders' Advisory Group on Aviation Security, composed of European representative organisations engaged in, or directly affected by, aviation security. The role of this group shall be solely to advise the Commission. The Committee referred to in Article 19 shall keep the Stakeholders' Advisory Group informed during the entire regulatory process.

Article 18

Dissemination of information

As a general rule, the Commission shall publish measures that have a direct impact on passengers. However, the following documents shall be regarded as EU classified information within the meaning of Decision 2001/844/EC, ECSC, Euratom:

- (a) measures and procedures as referred to in Articles 4(3), 4(4), 6(1) and 7(1), if containing sensitive security information;
- (b) the Commission inspection reports and the answers of the appropriate authorities referred to in Article 15(3).

Article 19

Committee procedure

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

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

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

4. Where reference is made to this paragraph, Article 5a(1), (2), (4), and (6) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Article 20

Agreements between the Community and third countries

When appropriate, and in conformity with Community law, agreements recognising that the security standards applied in a third country are equivalent to Community standards could be envisaged in aviation agreements between the Community and a third country in accordance with Article 300 of the Treaty, in order to advance the goal of 'one-stop security' for all flights between the European Union and third countries.

Article 21

Penalties

Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

Article 22

Commission report on financing

The Commission will report, no later than 31 December 2008, on the principles of the financing of the costs of civil aviation security measures. That report will consider what steps need to be taken in order to ensure that security charges are used exclusively to meet security costs, and to improve the transparency of such charges. The report will also address the principles necessary to safeguard undistorted competition between airports and between air carriers, and the different methods to ensure consumer protection as regards the distribution of the costs of security measures between taxpayers and users. The Commission report will be accompanied, if appropriate, by a legislative proposal.

Article 23

Repeal

Regulation (EC) No 2320/2002 is hereby repealed.

*Article 24***Entry into force**

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

2. It shall apply as from the date specified in the implementing rules adopted in accordance with the procedures referred to in Article 4(2) and (3), but not later than 24 months after the entry into force of this Regulation.

3. By way of exception to paragraph 2, Articles 4(2), 4(3), 4(4), 8, 11(2), 15(1) second subparagraph, 17, 19 and 22 shall apply from the date of entry into force of this Regulation.

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

Done at Strasbourg, 11 March 2008.

For the European Parliament
The President
H.-G. PÖTTERING

For the Council
The President
J. LENARČIČ

ANNEX

COMMON BASIC STANDARDS FOR SAFEGUARDING CIVIL AVIATION AGAINST ACTS OF UNLAWFUL INTERFERENCE (ARTICLE 4)**1. AIRPORT SECURITY****1.1. Airport planning requirements**

1. When designing and constructing new airport facilities or altering existing airport facilities, requirements for the implementation of the common basic standards set out in this Annex and its implementing acts shall be fully taken into account.
2. At airports the following areas shall be established:
 - (a) landside;
 - (b) airside;
 - (c) security restricted areas; and
 - (d) critical parts of security restricted areas.

1.2. Access control

1. Access to airside shall be restricted in order to prevent unauthorised persons and vehicles from entering these areas.
2. Access to security restricted areas shall be controlled in order to ensure that no unauthorised persons and vehicles enter these areas.
3. Persons and vehicles may be granted access to airside and security restricted areas only if they fulfil the required security conditions.
4. Persons, including flight crew members, shall have successfully completed a background check before either a crew identification card or an airport identification card authorising unescorted access to security restricted areas is issued to them.

1.3. Screening of persons other than passengers and items carried

1. Persons other than passengers, together with items carried, shall be screened on a continuous random basis upon entering security restricted areas in order to prevent prohibited articles from being introduced into these areas.
2. All persons other than passengers, together with items carried, shall be screened upon entering critical parts of security restricted areas in order to prevent prohibited articles from being introduced into these parts.

1.4. Examination of vehicles

Vehicles entering a security restricted area shall be examined in order to prevent prohibited articles from being introduced into these areas.

1.5. Surveillance, patrols and other physical controls

There shall be surveillance, patrols and other physical controls at airports and, where appropriate, in adjacent areas with public access, in order to identify suspicious behaviour of persons, to identify vulnerabilities which could be exploited to carry out an act of unlawful interference and to deter persons from committing such acts.

2. DEMARCATED AREAS OF AIRPORTS

Aircraft parked in demarcated areas of airports to which alternative measures referred to in Article 4(4) apply, shall be separated from aircraft to which the common basic standards apply in full, in order to ensure that security standards applied to aircraft, passengers, baggage, cargo and mail of the latter are not compromised.

3. AIRCRAFT SECURITY

1. Before departure, an aircraft shall be subjected to an aircraft security check or aircraft security search in order to ensure that no prohibited articles are present on board. An aircraft in transit may be subjected to other appropriate measures.
2. Every aircraft shall be protected from unauthorised interference.

4. PASSENGERS AND CABIN BAGGAGE

4.1. Screening of passengers and cabin baggage

1. All originating, transfer and transit passengers and their cabin baggage shall be screened in order to prevent prohibited articles from being introduced into security restricted areas and on board an aircraft.
2. Transfer passengers and their cabin baggage may be exempted from screening, if:
 - (a) they arrive from a Member State, unless the Commission or that Member State has provided information that those passengers and their cabin baggage cannot be considered as having been screened to the common basic standards; or
 - (b) they arrive from a third country where the security standards applied are recognised as equivalent to the common basic standards in accordance with the regulatory procedure referred to in Article 19(2).
3. Transit passengers and their cabin baggage may be exempted from screening, if:
 - (a) they remain on board the aircraft; or
 - (b) they do not mix with screened departing passengers other than those who board the same aircraft; or
 - (c) they arrive from a Member State, unless the Commission or that Member State has provided information that those passengers and their cabin baggage cannot be considered as having been screened to the common basic standards; or
 - (d) they arrive from a third country where the security standards applied are recognised as equivalent to the common basic standards in accordance with the regulatory procedure referred to in Article 19(2).

4.2. Protection of passengers and cabin baggage

1. Passengers and their cabin baggage shall be protected from unauthorised interference from the point at which they are screened until departure of the aircraft on which they are carried.
2. Screened departing passengers shall not mix with arriving passengers, unless:
 - (a) the passengers arrive from a Member State, provided that the Commission or that Member State has not provided information that those arriving passengers and their cabin baggage cannot be considered as having been screened to the common basic standards; or
 - (b) the passengers arrive from a third country where the security standards applied are recognised as equivalent to the common basic standards in accordance with the regulatory procedure referred to in Article 19(2).

4.3. Potentially disruptive passengers

Before departure potentially disruptive passengers shall be subjected to appropriate security measures.

5. HOLD BAGGAGE

5.1. Screening of hold baggage

1. All hold baggage shall be screened prior to being loaded onto an aircraft in order to prevent prohibited articles from being introduced into security restricted areas and on board aircraft.
2. Transfer hold baggage may be exempted from screening, if:
 - (a) it arrives from a Member State, unless the Commission or that Member State has provided information that this hold baggage cannot be considered as having been screened to the common basic standards; or
 - (b) it arrives from a third country where the security standards applied are recognised as equivalent to the common basic standards in accordance with the regulatory procedure referred to in Article 19(2).
3. Transit hold baggage may be exempted from screening if it remains on board the aircraft.

5.2. Protection of hold baggage

Hold baggage to be carried on an aircraft shall be protected from unauthorised interference from the point at which it is screened or accepted into the care of the air carrier, whichever is earlier, until the departure of the aircraft on which it is to be carried.

5.3. Baggage reconciliation

1. Each item of hold baggage shall be identified as accompanied or unaccompanied.
2. Unaccompanied hold baggage shall not be transported, unless that baggage has been either separated due to factors beyond the passenger's control or subjected to appropriate security controls.

6. CARGO AND MAIL

6.1. Security controls for cargo and mail

1. All cargo and mail shall be subjected to security controls prior to being loaded on an aircraft. An air carrier shall not accept cargo or mail for carriage on an aircraft unless it has applied such controls itself or their application has been confirmed and accounted for by a regulated agent, a known consignor or an account consignor.
2. Transfer cargo and transfer mail may be subjected to alternative security controls to be detailed in an implementing act.
3. Transit cargo and transit mail may be exempted from security controls if it remains on board the aircraft.

6.2. Protection of cargo and mail

1. Cargo and mail to be carried on an aircraft shall be protected from unauthorised interference from the point at which security controls are applied until the departure of the aircraft on which it is to be carried.
2. Cargo and mail that are not adequately protected from unauthorised interference after security controls have been applied shall be screened.

7. AIR CARRIER MAIL AND AIR CARRIER MATERIALS

Air carrier mail and air carrier materials shall be subjected to security controls and thereafter protected until loaded onto the aircraft in order to prevent prohibited articles from being introduced on board an aircraft.

8. IN-FLIGHT SUPPLIES

In-flight supplies, including catering, intended for carriage or use on board an aircraft shall be subjected to security controls and thereafter protected until loaded onto the aircraft in order to prevent prohibited articles from being introduced on board an aircraft.

9. AIRPORT SUPPLIES

Supplies intended to be sold or used in security restricted areas of airports, including supplies for duty-free shops and restaurants, shall be subjected to security controls in order to prevent prohibited articles from being introduced into these areas.

10. IN-FLIGHT SECURITY MEASURES

1. Without prejudice to the applicable aviation safety rules:

- (a) unauthorised persons shall be prevented from entering the flight crew compartment during a flight;
- (b) potentially disruptive passengers shall be subjected to appropriate security measures during a flight.

2. Appropriate security measures such as training of flight crew and cabin staff shall be taken to prevent acts of unlawful interference during a flight.

3. Weapons, with the exception of those carried in the hold, shall not be carried on board an aircraft, unless the required security conditions in accordance with national laws have been fulfilled and authorisation has been given by the states involved.

4. Paragraph 3 shall also apply to in-flight security officers if they carry weapons.

11. STAFF RECRUITMENT AND TRAINING

1. Persons implementing, or responsible for implementing, screening, access control or other security controls shall be recruited, trained and, where appropriate, certified so as to ensure that they are suitable for employment and competent to undertake the duties to which they are assigned.

2. Persons other than passengers requiring access to security restricted areas shall receive security training, before either an airport identification card or crew identification card is issued.

3. Training as mentioned in paragraphs 1 and 2 shall be conducted on initial and recurrent basis.

4. Instructors engaged in the training of the persons mentioned in paragraphs 1 and 2 shall have the necessary qualifications.

12. SECURITY EQUIPMENT

Equipment used for screening, access control and other security controls shall comply with the defined specifications and be capable of performing the security controls concerned.

**COUNCIL REGULATION (EC) No 301/2008
of 17 March 2008**

**adapting Annex I to Regulation (EC) No 882/2004 on official controls performed to ensure
the verification of compliance with feed and food law, animal health and animal welfare rules**

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of 2003, and in particular Article 57(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Regulation (EC) No 882/2004 ⁽¹⁾ establishes a harmonised framework of general rules for the organisation of official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules.

(2) It is necessary by virtue of the accession in 2004 of new Member States to complete the list of territories in Annex I to Regulation (EC) No 882/2004 in order to include all Member States.

(3) Regulation (EC) No 882/2004 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 882/2004 shall be replaced by the text appearing in the Annex to this Regulation.

Article 2

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

It shall apply from 1 May 2004 as regards the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia.

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

Done at Brussels, 17 March 2008.

For the Council
The President
I. JARC

⁽¹⁾ OJ L 165, 30.4.2004, p. 1; corrected version in OJ L 191, 28.5.2004, p. 1. Regulation as last amended by Commission Regulation (EC) No 180/2008 (OJ L 56, 29.2.2008, p. 4).

ANNEX

'ANNEX I

TERRITORIES REFERRED TO IN ARTICLE 2(15)

1. The territory of the Kingdom of Belgium
 2. The territory of the Republic of Bulgaria
 3. The territory of the Czech Republic
 4. The territory of the Kingdom of Denmark with the exception of the Faroe Islands and Greenland
 5. The territory of the Federal Republic of Germany
 6. The territory of the Republic of Estonia
 7. The territory of Ireland
 8. The territory of the Hellenic Republic
 9. The territory of the Kingdom of Spain with the exception of Ceuta and Melilla
 10. The territory of the French Republic
 11. The territory of the Italian Republic
 12. The territory of the Republic of Cyprus
 13. The territory of the Republic of Latvia
 14. The territory of the Republic of Lithuania
 15. The territory of the Grand Duchy of Luxembourg
 16. The territory of the Republic of Hungary
 17. The territory of the Republic of Malta
 18. The territory of the Kingdom of the Netherlands in Europe
 19. The territory of the Republic of Austria
 20. The territory of the Republic of Poland
 21. The territory of the Portuguese Republic
 22. The territory of Romania
 23. The territory of the Republic of Slovenia
 24. The territory of the Slovak Republic
 25. The territory of the Republic of Finland
 26. The territory of the Kingdom of Sweden
 27. The territory of the United Kingdom of Great Britain and Northern Ireland'.
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