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### Legislation

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## I

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

## REGULATIONS

## COUNCIL REGULATION (EC) No 624/2008

of 23 June 2008

**laying down the weightings applicable from 1 July 2007 to the remuneration of officials, temporary staff and contract staff of the European Communities serving in third countries and of certain officials remaining in post in the two new Member States for a maximum period of 19 months after accession**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Staff Regulations of officials of the European Communities and the Conditions of Employment of Other Servants of the Communities laid down by Regulation (EEC, Euratom, ECSC) No 259/68 <sup>(1)</sup>, and in particular the first paragraph of Article 13 of Annex X thereto,

Having regard to the Act of Accession of 2005, and in particular Article 27(4) thereof,

Having regard to the proposal from the Commission,

Whereas:

(2) The weightings in respect of which payment has been made on the basis of Regulation (EC, Euratom) No 453/2007 <sup>(2)</sup> may lead to retrospective upward or downward adjustments to remuneration.

(3) Provision should be made for back-payments in the event of increases in remuneration as a result of the new weightings.

(4) Provision should be made for the recovery of sums overpaid in the event of reductions in remuneration as a result of the new weightings for the period between 1 July 2007 and the date of entry into force of this Regulation.

(5) Provision should be made for any such recovery to be restricted to a period of no more than six months preceding the date of entry into force of this Regulation and for its effects to be spread over a period of no more than 12 months following that date, as is the case with the weightings applicable within the European Community to the remuneration and pensions of officials and other servants of the European Communities,

HAS ADOPTED THIS REGULATION:

(1) It is necessary to take account of changes in the cost of living in countries outside the Community and to determine accordingly the weightings applicable from 1 July 2007 to remuneration paid in the currency of the country of employment to officials, temporary staff and contract staff serving in third countries.

<sup>(1)</sup> OJ L 56, 4.3.1968, p. 1. Regulation as last amended by Regulation (EC, Euratom) No 420/2008 (OJ L 127, 15.5.2008, p. 1).

*Article 1*

With effect from 1 July 2007, the weightings applicable to the remuneration of officials, temporary staff and contract staff of the European Communities serving in third countries payable in the currency of the country of employment shall be as shown in the Annex hereto.

<sup>(2)</sup> OJ L 109, 26.4.2007, p. 22.

The exchange rates used for the calculation of that remuneration shall be established in accordance with the detailed rules for the implementation of the Financial Regulation and correspond to the date indicated in the first subparagraph.

*Article 2*

1. The institutions shall make back-payments in the event of increases in remuneration as a result of the weightings shown in the Annex.
2. The institutions shall make retrospective downward adjustments to remuneration in the event of reductions as a result of the weightings shown in the Annex for the period

between 1 July 2007 and the date of entry into force of this Regulation.

Retrospective adjustments involving the recovery of sums overpaid shall be restricted to a period of no more than six months preceding the date of entry into force of this Regulation. Recovery shall be spread over no more than 12 months from that date.

*Article 3*

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

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

Done at Luxembourg, 23 June 2008.

*For the Council*  
*The President*  
I. JARC

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## ANNEX

Place of employment	Weighting July 2007 (*)
Afghanistan (**)	0
Albania	80,2
Algeria	88,7
Angola	130
Argentina	57,1
Armenia	123,5
Australia	112,2
Azerbaijan (**)	0
Bangladesh	48,2
Barbados	129,7
Belarus (**)	0
Benin	91,9
Bolivia	48
Bosnia and Herzegovina (Banja Luka)	0
Bosnia and Herzegovina (Sarajevo)	78,7
Botswana	56,4
Brazil	93,2
Bulgaria	81,7
Burkina Faso	90,7
Burundi (**)	0
Cambodia	69,8
Cameroon	101,9
Canada	93
Cape Verde	80,9
Central African Republic	119,1
Chad	129,4
Chile	71,5
China	77,4
Colombia	82,1
Congo (Brazzaville)	130,2
Costa Rica	73,7
Côte d'Ivoire	100,2
Croatia	106,8
Cuba	86,1
Democratic Republic of Congo (Kinshasa)	129,5

Place of employment	Weighting July 2007 (*)
Djibouti	94,3
Dominican Republic	69,3
East Timor	66,5
Ecuador	64,8
Egypt	49,6
El Salvador	76,1
Eritrea	51,3
Ethiopia	88,3
Fiji	73,5
Former Yugoslav Republic of Macedonia	71,7
Gabon	123
Gambia	60,5
Georgia	96,6
Ghana	69,7
Guatemala	78,6
Guinea	73,3
Guinea-Bissau	100,7
Guyana	62,1
Haiti	118,8
Honduras	69,7
Hong Kong	94,8
India	52,9
Indonesia (Banda Aceh)	53,9
Indonesia (Jakarta)	81,1
Iraq	0
Israel	109,5
Jamaica	90,5
Japan (Naka)	101
Japan (Tokyo)	106,5
Jordan	77,7
Kazakhstan (Almaty)	125,4
Kazakhstan (Astana)	71,6
Kenya	81,9
Kosovo	
Kyrgyzstan	88,3
Laos	74,2
Lebanon	86

Place of employment	Weighting July 2007 (*)
Lesotho	62
Liberia (**)	0
Madagascar	86,6
Malawi	71,8
Malaysia	74,4
Mali	85
Mauritania	65,3
Mauritius	69,5
Mexico	74,4
Micronesia (**)	0
Montenegro	69,7
Morocco	89,5
Mozambique	77,7
Namibia	72,5
Nepal	82,5
New Caledonia	135,3
New Zealand	109,6
Nicaragua	57
Niger	85
Nigeria	86,1
Norway	132
Pakistan	50,7
Panama	61
Papua New Guinea	74,3
Paraguay	82,2
Peru	77,5
Philippines	64,4
Republic of Moldova	59,6
Romania	73,9
Russia	122,6
Rwanda	91,7
Samoa (**)	0
Saudi Arabia	84,6
Senegal	87,7
Serbia	66,1
Sierra Leone	75,4
Singapore	102,5

Place of employment	Weighting July 2007 (*)
Solomon Islands	94,8
Somalia (**)	0
South Africa	60,2
South Korea	113,9
Southern Sudan	0
Sri Lanka	53,2
Sudan	56,2
Suriname	49,4
Swaziland	57
Switzerland (Berne)	109,7
Switzerland (Geneva)	109,8
Syria	69,4
Taiwan	83,7
Tajikistan	66,9
Tanzania	61,9
Thailand	67,7
Togo	89,4
Tonga (**)	0
Trinidad and Tobago	68,3
Tunisia	71,5
Turkey	83,8
Uganda	77,1
Ukraine	108,2
United States (New York)	102,8
United States (Washington)	97,8
Uruguay	69,8
Uzbekistan (**)	0
Vanuatu	122,6
Venezuela	65,2
Vietnam	51,5
West Bank – Gaza Strip	92,1
Yemen	77,3
Zambia	64,8
Zimbabwe (**)	0

(\*) Brussels = 100 %

(\*\*) Not available



**COMMISSION REGULATION (EC) No 625/2008**  
**of 1 July 2008**  
**establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>,

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules of Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector <sup>(2)</sup>, and in particular Article 138(1) thereof,

Whereas:

- (1) Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade

negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 shall be fixed as indicated in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 2 July 2008.

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

Done at Brussels, 1 July 2008.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1. Regulation as last amended by Commission Regulation (EC) No 510/2008 (OJ L 149, 7.6.2008, p. 61).

<sup>(2)</sup> OJ L 350, 31.12.2007, p. 1.

## ANNEX

**to Commission Regulation of 1 July 2008 establishing the standard import values for determining the entry price of certain fruit and vegetables**

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	MA	39,1
	MK	32,3
	TR	76,3
	ZZ	49,2
0707 00 05	JO	156,8
	MK	11,6
	TR	47,5
	ZZ	72,0
0709 90 70	TR	99,1
	ZZ	99,1
0805 50 10	AR	94,2
	IL	116,0
	US	72,2
	ZA	107,5
	ZZ	97,5
0808 10 80	AR	80,8
	BR	91,3
	CL	94,5
	CN	89,1
	NZ	117,1
	US	105,8
	UY	88,5
	ZA	90,9
	ZZ	94,8
0809 10 00	TR	192,2
	ZZ	192,2
0809 20 95	TR	343,5
	US	354,9
	ZZ	349,2
0809 30	CL	244,7
	ZZ	244,7
0809 40 05	IL	162,8
	ZZ	162,8

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

## DIRECTIVES

## COMMISSION DIRECTIVE 2008/69/EC

of 1 July 2008

**amending Council Directive 91/414/EEC to include clofentezine, dicamba, difenoconazole, diflubenzuron, imazaquin, lenacil, oxadiazon, picloram and pyriproxyfen as active substances**

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market <sup>(1)</sup>, and in particular Article 6(1) thereof,

Whereas:

(1) Commission Regulations (EC) No 451/2000 <sup>(2)</sup> and (EC) No 1490/2002 <sup>(3)</sup> lay down the detailed rules for the implementation of the third stage of the programme of work referred to in Article 8(2) of Directive 91/414/EEC and establish a list of active substances to be assessed, with a view to their possible inclusion in Annex I to Directive 91/414/EEC. That list includes the active substances listed in the Annex to this Directive.

(2) By Regulation (EC) No 1095/2007 a new Article 11b was inserted into Regulation (EC) No 1490/2002 to allow active substances for which there are clear indications that it may be expected that they do not have any harmful effects on human or animal health or on groundwater or any unacceptable influence on the environment, to be included in Annex I to Directive 91/414/EEC without detailed scientific advice from the European Food Safety Authority (EFSA) having been sought.

(3) For the active substances listed in the Annex to this Directive the Commission examined in accordance with

Article 11a of Regulation (EC) No 1490/2002 the effects on human, animal health, groundwater and the environment for a range of uses proposed by the notifiers, with the conclusion that those active substances satisfy the requirements of Article 11b of Regulation (EC) No 1490/2002.

(4) In accordance with Article 12(1) of Regulation (EC) No 1490/2002 the Commission has submitted draft review reports for the active substances listed in the Annex to this Directive to the Standing Committee on the Food Chain and Animal Health, for examination. Those reports have been reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 14 March 2008 in the format of the Commission review reports. In accordance with Article 12a of Regulation (EC) No 1490/2002 the Commission is to request the EFSA to deliver its view on the draft review reports by 31 December 2010 at the latest.

(5) It has appeared from the various examinations made that plant protection products containing the active substances listed in the Annex to this Directive may be expected to satisfy, in general, the requirements laid down in Article 5(1) (a) and (b) of Directive 91/414/EEC, in particular with regard to the uses which have been examined and detailed in the Commission review report. It is therefore appropriate to include in Annex I to that Directive the active substances listed in the Annex to this Directive, in order to ensure that in all Member States the authorisations of plant protection products containing this active substance can be granted in accordance with the provisions of that Directive.

(6) A reasonable period should be allowed to elapse before an active substance is included in Annex I in order to permit Member States and the interested parties to prepare themselves to meet the new requirements which will result from the inclusion.

<sup>(1)</sup> OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2008/45/EC (OJ L 94, 5.4.2008, p. 21).

<sup>(2)</sup> OJ L 55, 29.2.2000, p. 25. Regulation as last amended by Regulation (EC) No 1044/2003 (OJ L 151, 19.6.2003, p. 32).

<sup>(3)</sup> OJ L 224, 21.8.2002, p. 23. Regulation as last amended by Regulation (EC) No 1095/2007 (OJ L 246, 21.9.2007, p. 19).

- (7) Without prejudice to the obligations defined by Directive 91/414/EEC as a consequence of including an active substance in Annex I, Member States should be allowed a period of six months after inclusion to review existing authorisations of plant protection products containing the active substances listed in the Annex to ensure that the requirements laid down by Directive 91/414/EEC, in particular in its Article 13 and the relevant conditions set out in Annex I, are satisfied. Member States should vary, replace or withdraw, as appropriate, existing authorisations, in accordance with the provisions of Directive 91/414/EEC. By derogation from the above deadline, a longer period should be provided for the submission and assessment of the complete Annex III dossier of each plant protection product for each intended use in accordance with the uniform principles laid down in Directive 91/414/EEC.
- (8) The experience gained from previous inclusions in Annex I to Directive 91/414/EEC of active substances assessed in the framework of Commission Regulation (EEC) No 3600/92<sup>(1)</sup> has shown that difficulties can arise in interpreting the duties of holders of existing authorisations in relation to access to data. In order to avoid further difficulties it therefore appears necessary to clarify the duties of the Member States, especially the duty to verify that the holder of an authorisation demonstrates access to a dossier satisfying the requirements of Annex II to that Directive. However, this clarification does not impose any new obligations on Member States or holders of authorisations compared to the directives that have been adopted until now amending Annex I.
- (9) It is therefore appropriate to amend Directive 91/414/EEC accordingly.
- (10) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DIRECTIVE:

#### Article 1

Annex I to Directive 91/414/EEC is amended as set out in the Annex to this Directive.

#### Article 2

Member States shall adopt and publish by 30 June 2009 at the latest the laws, regulations and administrative provisions

necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 1 July 2009.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

#### Article 3

1. Member States shall in accordance with Directive 91/414/EEC, where necessary, amend or withdraw existing authorisations for plant protection products containing the active substances listed in the Annex as active substances by 30 June 2009.

By that date they shall in particular verify that the conditions in Annex I to that Directive relating to the active substances listed in the Annex are met, with the exception of those identified in part B of the entry concerning that active substance, and that the holders of the authorisations have, or have access to, dossiers satisfying the requirements of Annex II to that Directive in accordance with the conditions of Article 13 of that Directive.

2. By way of derogation from paragraph 1, for each authorised plant protection product containing one of the active substances listed in the Annex as either the only active substance or as one of several active substances all of which were listed in Annex I to Directive 91/414/EEC by 31 December 2008 at the latest, Member States shall re-evaluate the product in accordance with the uniform principles provided for in Annex VI to Directive 91/414/EEC, on the basis of a dossier satisfying the requirements of Annex III to that Directive and taking into account part B of the entry in Annex I to that Directive concerning the active substances listed in the Annex. On the basis of that evaluation, they shall determine whether the product satisfies the conditions set out in Article 4(1)(b), (c), (d) and (e) of Directive 91/414/EEC.

Following that determination Member States shall:

- (a) in the case of a product containing one of the active substances listed in the Annex as the only active substance, where necessary, amend or withdraw the authorisation by 31 December 2013 at the latest; or

<sup>(1)</sup> OJ L 366, 15.12.1992, p. 10. Regulation as last amended by Regulation (EC) No 416/2008 (OJ L 125, 9.5.2008, p. 25).

- (b) in the case of a product containing one of the active substances listed in the Annex as one of several active substances, where necessary, amend or withdraw the authorisation by 31 December 2013 or by the date fixed for such an amendment or withdrawal in the respective Directive or Directives which added the relevant substance or substances to Annex I to Directive 91/414/EEC, whichever is the latest.

*Article 4*

This Directive shall enter into force on 1 January 2009.

*Article 5*

This Directive is addressed to the Member States.

Done at Brussels, 1 July 2008.

*For the Commission*  
Androulla VASSILIOU  
*Member of the Commission*

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## ANNEX

The following entry shall be added at the end of the table in Annex I to Directive 91/414/EEC:

No	Common name, identification numbers	IUPAC name	Purity (1)	Entry into force	Expiration of inclusion	Specific provisions
177	Clofentezine CAS No 74115-24-5 CIPAC No 418	3,6-bis(2-chlorophenyl)-1,2,4,5-tetrazine	≥ 980 g/kg (dry material)	1 January 2009	31 December 2018	PART A Only uses as acaricide may be authorised.  PART B For the implementation of the uniform principles of Annex VI, the conclusions of the review report on clofentezine, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health shall be taken into account.
178	Dicamba CAS No 1918-00-9 CIPAC No 85	3,6-dichloro-2-methoxybenzoic acid	≥ 850 g/kg	1 January 2009	31 December 2018	PART A Only uses as herbicide may be authorised.  PART B For the implementation of the uniform principles of Annex VI, the conclusions of the review report on dicamba, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health shall be taken into account.
179	Difenoconazole CAS No 119446-68-3 CIPAC No 687	3-chloro-4-[(2RS,4RS,2RS,4SR)-4-methyl-2-(1H-1,2,4-triazol-1-ylmethyl)-1,3-dioxolan-2-yl]phenyl 4-chlorophenyl ether	≥ 940 g/kg	1 January 2009	31 December 2018	PART A Only uses as fungicide may be authorised.  PART B For the implementation of the uniform principles of Annex VI, the conclusions of the review report on difenoconazole, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health shall be taken into account.  In this overall assessment Member States must pay particular attention to: — the protection of aquatic organisms. Conditions of use shall include adequate risk mitigation measures, where appropriate.

No	Common name, identification numbers	IUPAC name	Purity (1)	Entry into force	Expiration of inclusion	Specific provisions
180	Diflubenuron CAS No 35367-38-5 CIPAC No 339	1-(4-chlorophenyl)-3-(2,6-difluorobenzoyl) urea	≥ 950 g/kg impurity: max. 0,03 g/kg 4-chloroaniline	1 January 2009	31 December 2018	<p>PART A</p> <p>Only uses as insecticide may be authorised.</p> <p>PART B</p> <p>For the implementation of the uniform principles of Annex VI, the conclusions of the review report on diflubenuron, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health shall be taken into account.</p> <p>In this overall assessment Member States must pay particular attention to:</p> <ul style="list-style-type: none"> <li>— the protection of aquatic organisms,</li> <li>— the protection of terrestrial organisms,</li> <li>— the protection of non-target arthropods including bees.</li> </ul> <p>Conditions of use shall include adequate risk mitigation measures, where appropriate.</p>
181	Imazaquin CAS No 81335-37-7 CIPAC No 699	2-[(RS)-4-isopropyl-4-methyl-5-oxo-2-imidazolin-2-yl]quinoline-3-carboxylic acid	≥ 960 g/kg (racemic mixture)	1 January 2009	31 December 2018	<p>PART A</p> <p>Only uses as plant growth regulator may be authorised.</p> <p>PART B</p> <p>For the implementation of the uniform principles of Annex VI, the conclusions of the review report on imazaquin, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health shall be taken into account.</p>
182	Lenacil CAS No 2164-08-1 CIPAC No 163	3-cyclohexyl-1,5,6,7-tetrahydrocyclopentapyrimidine-2,4(3H)-dione	≥ 975 g/kg	1 January 2009	31 December 2018	<p>PART A</p> <p>Only uses as herbicide may be authorised.</p> <p>PART B</p> <p>For the implementation of the uniform principles of Annex VI, the conclusions of the review report on lenacil, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health shall be taken into account.</p>

No	Common name, identification numbers	IUPAC name	Purity (1)	Entry into force	Expiration of inclusion	Specific provisions
183	Oxadiazon CAS No 19666-30-9 CIPAC No 213	5- <i>tert</i> -butyl-3-(2,4-dichloro-5-isopropoxyphenyl)-1,3,4-oxadiazol-2(3H)-one	≥ 940 g/kg	1 January 2009	31 December 2018	PART A Only uses as herbicide may be authorised.  PART B For the implementation of the uniform principles of Annex VI, the conclusions of the review report on oxadiazon, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health shall be taken into account.
184	Picloram CAS No 1918-02-1 CIPAC No 174	4-amino-3,5,6-trichloropyridine-2-carboxylic acid	≥ 920 g/kg	1 January 2009	31 December 2018	PART A Only uses as herbicide may be authorised.  PART B For the implementation of the uniform principles of Annex VI, the conclusions of the review report on picloram, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health shall be taken into account.
185	Pyriproxyfen CAS No 95737-68-1 CIPAC No 715	4-phenoxylphenyl (RS)-2-(2-pyridyl)oxypropyl ether	≥ 970 g/kg	1 January 2009	31 December 2018	PART A Only uses as insecticide may be authorised.  PART B For the implementation of the uniform principles of Annex VI, the conclusions of the review report on pyriproxyfen, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health shall be taken into account.  In this overall assessment Member States must pay particular attention to: — the protection of non-target arthropods including bees. Conditions of use shall include adequate risk mitigation measures, where appropriate.

(1) Further details on the identity and specification of the active substance are provided in the review report.



## DECISIONS ADOPTED JOINTLY BY THE EUROPEAN PARLIAMENT AND THE COUNCIL

### DECISION No 626/2008/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 30 June 2008

#### on the selection and authorisation of systems providing mobile satellite services (MSS)

(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 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

After consulting the Committee of the Regions,

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

Whereas:

(1) As confirmed by the Council in its conclusions of 3 December 2004, effective and coherent use of radio spectrum is essential for the development of electronic communications services and contributes to stimulating growth, competitiveness and employment; access to spectrum must be eased to improve efficiency and promote innovation as well as greater flexibility for users and more choice for consumers, while taking account of general interest objectives.

(2) The European Parliament, in its resolution of 14 February 2007 entitled 'Towards a European Policy on the Radio Spectrum' <sup>(3)</sup>, emphasised the importance of communi-

cations for rural and less developed regions, for which the diffusion of broadband, lower frequency mobile communications and new wireless technologies could provide efficient solutions to achieving universal coverage in the 27 Member States with a view to the sustainable development of all areas. The European Parliament also noted that Member States' regimes for spectrum allocation and exploitation differ widely and that those differences represent serious obstacles to the achievement of a well-functioning internal market.

(3) The Commission, in its Communication of 26 April 2007 on European Space Policy, has also established an objective of facilitating the introduction of innovative satellite communications services, in particular by aggregating demand in remote and rural areas, while stressing the need for pan-European licensing of satellite services and spectrum.

(4) Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) <sup>(4)</sup> aims at encouraging efficient use and ensuring effective management of radio frequencies and numbering resources, removing the remaining obstacles to the provision of the relevant networks and services, ensuring that there is no discrimination and encouraging the establishment and development of trans-European networks and the interoperability of pan-European services.

(5) The introduction of new systems providing mobile satellite services (MSS) would contribute to the development of the internal market and enhance competition by increasing the availability of pan-European services and end-to-end connectivity as well as encouraging efficient investment. MSS constitute an innovative alternative platform for various types of pan-European telecommunications and broadcasting/multicasting services,

<sup>(1)</sup> OJ C 44, 16.2.2008, p. 50.

<sup>(2)</sup> Opinion of the European Parliament of 21 May 2008 (not yet published in the Official Journal) and Council Decision of 23 June 2008.

<sup>(3)</sup> OJ C 287 E, 29.11.2007, p. 364.

<sup>(4)</sup> OJ L 108, 24.4.2002, p. 33. Directive as amended by Regulation (EC) No 717/2007 (OJ L 171, 29.6.2007, p. 32).

regardless of the location of end users, such as high-speed Internet/intranet access, mobile multimedia and public protection and disaster relief. MSS could, in particular, improve coverage of rural areas in the Community, thus bridging the digital divide in terms of geography, strengthening cultural diversity and media pluralism and simultaneously contributing to the competitiveness of European information and communication technology industries in line with the objectives of the renewed Lisbon strategy. Directive 89/552/EEC of 3 October 1989 of the European Parliament and of the Council on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) <sup>(1)</sup> should apply, as appropriate, to audiovisual media services transmitted using MSS systems.

- (6) Satellite communications, by their very nature, cross national borders and, as such, are susceptible to international or regional in addition to national regulation. Pan-European satellite services are an important element of the internal market and could make a substantial contribution to achieving European Union objectives, such as expansion of geographical coverage of broadband in line with the i2010 initiative <sup>(2)</sup>. New applications of mobile satellite systems will emerge in the coming years.
- (7) Commission Decision 2007/98/EC of 14 February 2007 on the harmonised use of radio spectrum in the 2 GHz frequency bands for the implementation of systems providing mobile satellite services <sup>(3)</sup> provides that Member States shall make these frequency bands available to systems providing MSS in the Community as of 1 July 2007.
- (8) Radio spectrum technical management, as organised by Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) <sup>(4)</sup> in general and Decision 2007/98/EC in particular, does not cover procedures for assignment of spectrum and granting rights of use for radio frequencies.
- (9) With the exception of Article 8 of Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) <sup>(5)</sup>, operators of mobile satellite systems are

selected and authorised at national level under the existing Community regulatory framework for electronic communications.

- (10) Regulations of the International Telecommunications Union (ITU) provide for procedures for satellite radio frequency coordination as a tool for management of harmful interference, but do not extend to selection or authorisation.
- (11) In order to prevent Member States from taking decisions that might lead to fragmentation of the internal market and undermine the objectives identified in Article 8 of Directive 2002/21/EC, selection criteria for mobile satellite systems should exceptionally be harmonised so that the selection process results in availability of MSS across the European Union. High up-front investment required for the development of mobile satellite systems and the associated high technological and financial risks necessitate an economy of scale for such systems in the form of wide pan-European geographic coverage, so that they remain economically viable.
- (12) Moreover, the successful launch of MSS requires coordination of regulatory action by Member States. Differences in national selection procedures could still create fragmentation of the internal market due to the divergent implementation of selection criteria, including the weighting of the criteria, or different timescales of the selection procedures. This would result in a patchwork of successful applicants selected in contradiction to the pan-European nature of those MSS. Selection of different operators of mobile satellite systems by different Member States could imply complex harmful interference situations or could even mean that a selected operator is prevented from providing a pan-European satellite service, for instance where different radio frequencies are assigned to the operator in different Member States. Therefore, harmonisation of the selection criteria should be supplemented by the establishment of a common selection mechanism that would provide a coordinated selection outcome for all Member States.
- (13) Since authorisation of the selected operators of mobile satellite systems involves attachment of conditions to such authorisations and a broad range of national provisions applicable in the field of electronic communications must thus be taken into account, the authorisation issues should be dealt with by the competent authorities of the Member States. However, in order to ensure consistency of authorisation approaches between different Member States, provisions relating to the synchronised assignment of spectrum and harmonised authorisation conditions should be established at the Community level, without prejudice to specific national conditions compatible with Community law.

<sup>(1)</sup> OJ L 298, 17.10.1989, p. 23. Directive as last amended by Directive 2007/65/EC (OJ L 332, 18.12.2007, p. 27).

<sup>(2)</sup> Commission Communication of 1 June 2005 entitled 'i2010 — A European Information Society for growth and employment'.

<sup>(3)</sup> OJ L 43, 15.2.2007, p. 32.

<sup>(4)</sup> OJ L 108, 24.4.2002, p. 1.

<sup>(5)</sup> OJ L 108, 24.4.2002, p. 21.

- (14) MSS can generally reach geographic areas not well covered by other electronic communications services, in particular rural areas. The coordinated selection and authorisation of new systems providing MSS could therefore play an important role in bridging the digital divide by improving the accessibility, speed, and quality of electronic communications services in these areas, thus contributing to social cohesion. Therefore, the proposed coverage area of MSS (service area), as well as the time frame for providing MSS within all Member States, are important characteristics which should be taken into account in an appropriate manner during the selection procedure.
- (15) Taking into account a comparatively long period of time and complex technical development steps required for the launch of MSS, progress in the technical and commercial development of mobile satellite systems should be assessed as part of the selection procedure.
- (16) Satellite radio frequency coordination is critical for the effective provision of MSS in the Member States and should therefore be considered when the credibility of applicants and the viability of the proposed mobile satellite systems are assessed during the selection procedure.
- (17) The comparative selection procedure should aim to bring mobile satellite systems in the 2 GHz frequency band into use without undue delay, while taking into account the right of applicants to fair and non-discriminatory participation.
- (18) Complementary ground components are an integral part of a mobile satellite system and are used, typically, to enhance the services offered via the satellite in areas where it may not be possible to retain a continuous line of sight with the satellite due to obstructions in the skyline caused by buildings and terrain. In accordance with Decision 2007/98/EC, complementary ground components use the same frequency bands as MSS (1 980 to 2 010 MHz and 2 170 to 2 200 MHz). The authorisation of such complementary ground components will therefore mainly rely on conditions related to local circumstances. They should therefore be selected and authorised at national level, subject to conditions established by Community law. This should be without prejudice to specific requests made by competent national authorities to the selected applicants to provide technical information indicating how particular complementary ground components would improve the availability of the proposed MSS in geographical areas where communications with one or more space stations cannot be ensured with the required quality, provided that such technical information has not already been provided in accordance with Title II.
- (19) The limited amount of radio spectrum available implies that the number of undertakings that may be selected and authorised is also necessarily limited. However, if the selection process leads to a finding that there is no radio spectrum scarcity, all eligible candidates should be selected. The limited amount of radio spectrum available may mean that any merger or takeover of any operator providing MSS with or by another could significantly reduce competition and would therefore be subject to scrutiny under competition law.
- (20) The right to use the specific radio frequencies should be granted to the selected applicants as soon as possible after their selection, in accordance with Article 5(3) of Directive 2002/20/EC.
- (21) Decisions on the withdrawal of authorisations granted in relation to MSS or complementary ground components due to the non-fulfilment of obligations should be enforced at national level.
- (22) While monitoring of the use of radio spectrum by the selected and authorised operators of mobile satellite systems and any required enforcement action is undertaken at national level, it should remain possible for the Commission to define the modalities of a coordinated monitoring and/or enforcement procedure. Wherever necessary, the Commission should have the right to raise enforcement issues relating to the fulfilment by operators of common authorisation conditions, in particular coverage requirements.
- (23) The measures necessary for the implementation of this Decision 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<sup>(1)</sup>. Decisions on selection of applicants should be adopted in accordance with the regulatory procedure in view of the importance of the Community procedure for any further national authorisation procedures.
- (24) In particular, the Commission should be empowered to define the modalities for coordinated application of the rules on enforcement. Since those measures are of general scope and are designed to amend non-essential elements of this Decision 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.

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

(25) Since the objective of this Decision, namely to establish a common framework for the selection and authorisation of operators of mobile satellite systems, cannot be sufficiently achieved by Member States and can therefore, by reason of the scale and effects of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article, this Decision does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS DECISION:

#### TITLE I

### OBJECTIVE, SCOPE AND DEFINITIONS

#### Article 1

#### Objective and scope

1. The purpose of this Decision is to facilitate the development of a competitive internal market for mobile satellite services (MSS) across the Community and to ensure gradual coverage in all Member States.

This Decision creates a Community procedure for the common selection of operators of mobile satellite systems that use the 2 GHz frequency band in accordance with Decision 2007/98/EC, comprising radio spectrum from 1 980 to 2 010 MHz for earth to space communications, and from 2 170 to 2 200 MHz for space to Earth communications. It also lays down provisions for the coordinated authorisation by Member States of the selected operators to use the assigned radio spectrum within this band for the operation of mobile satellite systems.

2. Operators of mobile satellite systems shall be selected through a Community procedure, in accordance with Title II.

3. The selected operators of mobile satellite systems shall be authorised by Member States in accordance with Title III.

4. Operators of complementary ground components of mobile satellite systems shall be authorised by Member States in accordance with Title III.

#### Article 2

#### Definitions

1. The definitions laid down in Directive 2002/21/EC and Directive 2002/20/EC shall apply for the purposes of this Decision.

2. The following definitions shall also apply:

(a) 'mobile satellite systems' shall mean electronic communications networks and associated facilities capable of providing radio-communications services between a mobile earth station and one or more space stations, or between mobile earth stations by means of one or more space stations, or between a mobile earth station and one or more complementary ground components used at fixed locations. Such a system shall include at least one space station;

(b) 'complementary ground components' of mobile satellite systems shall mean ground-based stations used at fixed locations, in order to improve the availability of MSS in geographical areas within the footprint of the system's satellite(s), where communications with one or more space stations cannot be ensured with the required quality.

#### TITLE II

### SELECTION PROCEDURE

#### Article 3

#### Comparative selection procedure

1. A comparative selection procedure shall be organised by the Commission for the selection of operators of mobile satellite systems. The Commission shall be assisted by the Communications Committee referred to in Article 10(1).

2. Applicants shall be given a fair and non-discriminatory opportunity to participate in the comparative selection procedure, which shall be transparent.

The call for applications shall be published in the *Official Journal of the European Union*.

3. Access to documents relating to the comparative selection procedure, including applications, shall be granted in accordance with 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 <sup>(1)</sup>.

4. The Commission may seek advice and assistance from external experts for the analysis and/or evaluation of applications. Such external experts shall be selected on the basis of their expertise and high level of independence and impartiality.

<sup>(1)</sup> OJ L 145, 31.5.2001, p. 43.

*Article 4***Admissibility of applications**

1. The following admissibility requirements shall apply:

- (a) applicants shall be established in the Community;
- (b) applications shall identify the amount of radio spectrum requested, which shall be no more than 15 MHz for earth to space and 15 MHz for space to earth in relation to any single applicant and shall include statements and evidence concerning the radio spectrum requested, the required milestones and the selection criteria;
- (c) applications shall include a commitment on the part of the applicant that:
  - (i) the mobile satellite system proposed shall cover a service area of at least 60 % of the aggregate land area of the Member States, from the time the provision of MSS commences;
  - (ii) MSS shall be available in all Member States and to at least 50 % of the population and over at least 60 % of the aggregate land area of each Member State by the time stipulated by the applicant but in any event no later than seven years from the date of publication of the Commission's decision adopted pursuant to Articles 5(2) or 6(3).

2. Applications shall be submitted to the Commission. The Commission may request applicants to supply additional information regarding the fulfilment of admissibility requirements within a specific time frame of between five and 20 working days. The application shall be deemed inadmissible if such information is not supplied within the specified time frame.

3. The Commission shall decide on the admissibility of applications. Any decision of the Commission on non-admissibility of applications shall be reasoned and adopted in accordance with the advisory procedure referred to in Article 10(2).

4. The Commission shall forthwith inform the applicants whether their applications have been considered as admissible and publish the list of admissible applicants.

*Article 5***First selection phase**

1. Within 40 working days following publication of the list of admissible applicants, the Commission shall assess whether applicants have demonstrated the required level of technical and commercial development of their respective mobile satellite

systems. Such assessment shall rely on the satisfactory completion of milestones one to five as set out in the Annex. The credibility of applicants and the viability of the proposed mobile satellite systems shall be taken into account throughout the first selection phase.

2. If the combined demand for radio spectrum requested by eligible applicants retained according to paragraph 1 of this Article does not exceed the amount of radio spectrum available identified in Article 1(1), the Commission shall, by means of a reasoned decision, determine, in accordance with the regulatory procedure referred to in Article 10(3), that all eligible applicants shall be selected and identify the respective frequencies which each selected applicant shall be authorised to use, in each Member State, in accordance with Title III.

3. The Commission shall forthwith inform the applicants whether their applications have been considered as eligible for the second selection phase or have been selected according to paragraph 2. The Commission shall publish the list of eligible or selected applicants. Within 30 working days of such publication, eligible applicants that intend to proceed no further in the selection procedure, and selected applicants that intend not to use the radio frequencies, shall inform the Commission thereof in writing.

*Article 6***Second selection phase**

1. If the combined demand for radio spectrum requested by eligible applicants identified in the first selection phase exceeds the amount of radio spectrum available identified in Article 1(1), the Commission shall select eligible applicants by assessing to what extent the proposed mobile satellite systems of the eligible applicants fulfil the following weighted selection criteria:

- (a) consumer and competitive benefits provided (20 % weighting) comprising the following two sub-criteria:
  - (i) the number of end-users and the range of MSS to be provided by the date of commencement of the continuous provision of commercial MSS;
  - (ii) the date of commencement of the continuous provision of commercial MSS;
- (b) spectrum efficiency (20 % weighting) comprising the following two sub-criteria:
  - (i) the total amount of spectrum required;
  - (ii) the aggregated data stream capacity;

(c) pan-EU geographic coverage (40 % weighting) comprising the following three sub-criteria:

- (i) the number of Member States in which at least 50 % of the population is within the service area by the date of commencement of the continuous provision of commercial MSS;
- (ii) the degree of geographical coverage, based on the service area of the aggregate land area of the Member States by the date of commencement of the continuous provision of commercial MSS;
- (iii) the time stipulated by the applicant when MSS will be available in all Member States and to at least 50 % of the population and in at least 60 % of the aggregate land area of each Member State;

(d) the extent to which public policy objectives, not dealt with by the criteria referred to in points (a), (b) and (c), are achieved (20 % weighting) in accordance with the following three equally weighted sub-criteria:

- (i) the provision of public interest services contributing to the protection of health or safety and security of citizens in general or specific groups of citizens;
- (ii) the integrity and security of services;
- (iii) the range of services provided to consumers in rural or remote areas.

2. Any rules for implementing this Article shall be adopted by the Commission in accordance with the regulatory procedure referred to in Article 10(3). The credibility of the applicants and the viability of the proposed mobile satellite systems shall be taken into account throughout the second selection phase.

3. Within 80 working days following publication of the list of eligible applicants identified in the first selection phase, the Commission shall, on the basis of the report of the external expert panel, if applicable, and in accordance with the regulatory procedure referred to in Article 10(3), adopt a decision on the selection of applicants. The decision shall identify the selected applicants ranked on the basis of the extent to which they meet the selection criteria, the reasons on which the decision is based, as well as the frequencies which each selected applicant is to be authorised to use, in each Member State, in accordance with Title III.

4. The Commission shall publish the decisions adopted pursuant to Articles 5(2) or 6(3) in the *Official Journal of the European Union* within one month of their adoption.

### TITLE III

#### AUTHORISATION

##### Article 7

#### Authorisation of the selected applicants

1. Member States shall ensure that the selected applicants, in accordance with the time frame and the service area to which the selected applicants have committed themselves, in accordance with Article 4(1)(c), and in accordance with national and Community law, have the right to use the specific radio frequency identified in the Commission decision adopted pursuant to Articles 5(2) or 6(3) and the right to operate a mobile satellite system. They shall inform selected applicants of those rights accordingly.

2. The rights covered by paragraph 1 shall be subject to the following common conditions:

- (a) selected applicants shall use the assigned radio spectrum for the provision of MSS;
- (b) selected applicants shall meet milestones six to nine set out in the Annex within 24 months of the selection decision adopted pursuant to Articles 5(2) or 6(3);
- (c) selected applicants shall honour any commitments they give in their applications or during the comparative selection procedure, irrespective of whether the combined demand for radio spectrum exceeds the amount available;
- (d) selected applicants shall provide to the competent authorities of all Member States an annual report detailing the status of development of their proposed mobile satellite system;
- (e) any necessary rights of use and authorisations shall be granted for a duration of eighteen years from the date of the selection decision adopted pursuant to Articles 5(2) or 6(3).

3. Member States may grant rights of use of spectrum identified in Article 1(1) for such time and to the extent that they remain outside the service area to which the selected applicants have committed themselves pursuant to this Decision, in accordance with Decision 2007/98/EC.

4. Member States may impose objectively justified, non-discriminatory, proportionate and transparent obligations to ensure communications between emergency services and authorities during major disasters, in accordance with Community law, including Directive 2002/20/EC.

*Article 8***Complementary ground components**

1. Member States shall, in accordance with national and Community law, ensure that their competent authorities grant to the applicants selected in accordance with Title II and authorised to use the spectrum pursuant to Article 7 the authorisations necessary for the provision of complementary ground components of mobile satellite systems on their territories.

2. Member States shall not select or authorise operators of complementary ground components of mobile satellite systems before the selection procedure provided for in Title II is completed by a Commission decision adopted pursuant to Articles 5(2) or 6(3). This is without prejudice to the use of the 2 GHz frequency band by systems other than those providing MSS in accordance with Decision 2007/98/EC.

3. Any national authorisations issued for the operation of complementary ground components of mobile satellite systems in the 2 GHz frequency band shall be subject to the following common conditions:

- (a) operators shall use the assigned radio spectrum for the provision of complementary ground components of mobile satellite systems;
- (b) complementary ground components shall constitute an integral part of a mobile satellite system and shall be controlled by the satellite resource and network management mechanism; they shall use the same direction of transmission and the same portions of frequency bands as the associated satellite components and shall not increase the spectrum requirement of the associated mobile satellite system;
- (c) independent operation of complementary ground components in case of failure of the satellite component of the associated mobile satellite system shall not exceed 18 months;
- (d) rights of use and authorisations shall be granted for a period of time ending no later than the expiry of the authorisation of the associated mobile satellite system.

*Article 9***Monitoring and enforcement**

1. Selected operators shall be responsible for compliance with any conditions attached to their authorisations and for payment of any applicable authorisation and/or usage fees and charges as required by laws of Member States.

2. Member States shall ensure that rules on enforcement, including rules on penalties applicable in the event of breaches of the common conditions provided for in Article 7(2), are in accordance with Community law, in particular Article 10 of Directive 2002/20/EC. Penalties must be effective, proportionate and dissuasive.

Member States shall ensure monitoring of compliance with these common conditions and take appropriate measures to address non-compliance. Member States shall inform the Commission of the results of such monitoring on an annual basis, in the event that any common conditions have not been complied with and in the event that any enforcement measures have been taken.

The Commission may, with the assistance of the Communications Committee referred to in Article 10(1), examine any alleged specific breach of the common conditions. Where a Member State informs the Commission of a particular breach, the Commission shall examine the alleged breach with the assistance of the Communications Committee.

3. The measures defining any appropriate modalities for coordinated application of the rules on enforcement referred to in paragraph 2, including rules for the coordinated suspension or withdrawal of authorisations for breaches of the common conditions provided for in Article 7(2), designed to amend non-essential elements of this Decision by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 10(4).

## TITLE IV

**GENERAL AND FINAL PROVISIONS***Article 10***Committee**

1. The Commission shall be assisted by the Communications Committee set up by Article 22 of Directive 2002/21/EC.

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

3. 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.

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), (4)(b) and (4)(e) of Decision 1999/468/EC shall be set at one month.

*Article 11*

**Entry into force**

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

*Article 12*

**Addressees**

This Decision is addressed to the Member States.

Done at Brussels, 30 June 2008.

*For the European Parliament*

*The President*

H.-G. PÖTTERING

*For the Council*

*The President*

M. KUCLER DOLINAR



## ANNEX

**MILESTONES****1. Submission of International Telecommunications Union (ITU) request for coordination**

The applicant shall provide clear evidence that the administration responsible for the ITU filing of a mobile satellite system to be used for the provision of commercial MSS within the territories of the Member States has submitted the relevant ITU Radio Regulations Appendix 4 information.

**2. Satellite manufacturing**

The applicant shall provide clear evidence of a binding agreement for the manufacture of the satellites required for the provision of commercial MSS within the territories of the Member States. The document shall identify the construction milestones leading to the completion of manufacture of satellites required for the provision of commercial MSS. The document shall be signed by the applicant and the satellite manufacturing company.

**3. Satellite launch agreement**

The applicant shall provide clear evidence of a binding agreement to launch the minimum number of satellites required for the continuous provision of commercial MSS within the territories of the Member States. The document shall identify the launch dates and launch services and the contractual terms and conditions concerning indemnity. The document shall be signed by the mobile satellite system operator and the satellite launching company.

**4. Gateway Earth Stations**

The applicant shall provide clear evidence of a binding agreement for the construction and installation of Gateway Earth Stations that would be used for the provision of commercial MSS within the territories of the Member States.

**5. Completion of the Critical Design Review**

The Critical Design Review is the stage in the spacecraft implementation process at which the design and development phase ends and the manufacturing phase starts.

The applicant shall provide clear evidence of the completion, no later than 80 working days after the submission of the application, of the Critical Design Review in accordance with the construction milestones indicated in the satellite manufacturing agreement. The relevant document shall be signed by the satellite manufacturing company and shall indicate the date of the completion of the Critical Design Review.

**6. Satellite mating**

The mating is the stage in the spacecraft implementation process at which the Communication Module (CM) is integrated with the Service Module (SM).

The applicant shall provide clear evidence that the Test Readiness Review for SM/CM mating has taken place in accordance with the construction milestones indicated in the satellite manufacturing agreement. The relevant document shall be signed by the satellite manufacturing company and shall indicate the date of the completion of the satellite mating.

**7. Launch of satellites**

The applicant shall provide clear evidence of the successful launch and in-orbit deployment of the number of satellites required for the continuous provision of commercial MSS within the territories of the Member States.

**8. Frequency coordination**

The applicant shall provide clear evidence of the successful frequency coordination of the system in accordance with the relevant provisions of the ITU Radio Regulations. However, a system which demonstrates compliance with milestones one to seven inclusive is not obliged to demonstrate at this stage completion of successful frequency coordination with those mobile satellite systems which fail to comply adequately and reasonably with milestones one to seven inclusive.

**9. Provision of MSS within the territories of Member States**

The applicant shall provide clear evidence that it is effectively providing the continuous commercial MSS within the territories of the Member States using the number of satellites it has previously identified under milestone three to cover the geographical area the applicant has committed to in its application by the date of the commencement of the provision of MSS.

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## II

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

## DECISIONS

## COMMISSION

## COMMISSION DECISION

of 7 May 2008

**concerning the provisional prohibition of the use and sale in Austria of genetically modified maize (*Zea mays* L. line MON810) pursuant to Directive 2001/18/EC of the European Parliament and of the Council**

(notified under document number C(2008) 1718)

(Only the German text is authentic)

(Text with EEA relevance)

(2008/495/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

namely import, processing into food and feed products and cultivation.

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC<sup>(1)</sup>, and in particular the first subparagraph of Article 18(1) thereof,

After consulting the European Food Safety Authority,

Whereas:

(1) By Commission Decision 98/294/EC of 22 April 1998 concerning the placing on the market of genetically modified maize (*Zea mays* L. line MON810), pursuant to Council Directive 90/220/EEC<sup>(2)</sup> it was decided that consent was to be given for the placing on the market of that product.

(2) On 3 August 1998 the French authorities granted such consent. The consent covers all uses of the product,

(3) Pursuant to Article 35(1) of Directive 2001/18/EC which replaced Council Directive 90/220/EEC<sup>(3)</sup>, procedures in respect of notifications concerning the placing on the market of genetically modified organisms which have not been completed by 17 October 2002 are subject to Directive 2001/18/EC.

(4) On 2 June 1999 Austria informed the Commission of its decision to prohibit provisionally the use and sale of *Zea mays* L. line MON810 for all uses and gave reasons for that decision in accordance with Article 16(1) of Directive 90/220/EEC.

(5) Products derived from *Zea mays* L. line MON810 (food and food ingredients produced from maize flour, maize gluten, maize semolina, maize starch, maize glucose and maize oil produced from *Zea mays* L. line MON810) are authorised under Regulations (EC) No 258/97<sup>(4)</sup> and (EC) No 1829/2003 of the European Parliament and of the Council<sup>(5)</sup>. These uses are not subject to the safeguard clause notified by Austria.

<sup>(1)</sup> OJ L 106, 17.4.2001, p. 1. Directive as last amended by Directive 2008/27/EC (OJ L 81, 20.3.2008, p. 45).

<sup>(2)</sup> OJ L 131, 5.5.1998, p. 32.

<sup>(3)</sup> OJ L 117, 8.5.1990, p. 15.

<sup>(4)</sup> OJ L 43, 14.2.1997, p. 1. Regulation as last amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

<sup>(5)</sup> OJ L 268, 18.10.2003, p. 1. Regulation as amended by Regulation (EC) No 298/2008 (OJ L 97, 9.4.2008, p. 64).

- (6) The Scientific Committee on Plants concluded on 24 September 1999 that the information submitted by Austria did not constitute new relevant scientific evidence which had not been taken into account during the original evaluation of the dossier and which would occasion a review of that Committee's original opinion on this product.
- (7) On 9 January 2004, as well as on 9 and 17 February 2004, Austria submitted to the Commission additional information in support of its national measures concerning maize line MON810.
- (8) In accordance with Article 28(1) of Directive 2001/18/EC, the Commission consulted the European Food Safety Authority (EFSA), as established by Regulation (EC) No 178/2002 of the European Parliament and of the Council<sup>(1)</sup>, under which it has replaced the relevant scientific committees.
- (9) The EFSA concluded on 8 July 2004<sup>(2)</sup> that the information submitted by Austria did not constitute new scientific evidence sufficient to invalidate the environmental risk assessment of maize line MON810, justifying a prohibition of the use and sale of that product in Austria.
- (10) Since, under the circumstances, there was no reason to consider that the product constituted a risk to human health or the environment, the Commission submitted on 29 November 2004 a draft Decision, requesting Austria to repeal its provisional safeguard measure, for consideration by the Committee established under Article 30 of Directive 2001/18/EC, in accordance with the procedure laid down in Article 30(2) of that Directive.
- (11) However, that Committee did not deliver an opinion and, in accordance with Article 5(4) of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>(3)</sup>, the Commission submitted to the Council a proposal relating to the measures to be taken.
- (12) On 24 June 2005, in accordance with Article 5(6) of Decision 1999/468/EC, the Council, acting by qualified majority, rejected this proposal.
- (13) The Council, in its declaration, stated that 'there is still a degree of uncertainty in relation to the national safeguard measures on the market of [the] genetically modified maize variet[y] [...] MON810' and called on the Commission 'to gather further evidence on the GMO in question and further assess, whether the measure taken by [Austria] aimed at suspending as a temporary precautionary measure [its] placing on the market [is] justified and, whether the authorisation of such [an] organism still meets the safety requirements of Directive 2001/18/EC'.
- (14) In November 2005, the EFSA was consulted again by the Commission as to whether there was any scientific reason to believe that the continued placing on the market of MON810 maize was likely to cause any adverse effects to human health or the environment under the conditions of consent. In particular, the EFSA was requested to take account of any further scientific information that had arisen subsequent to the previous scientific opinion concerning the safety of this GMO.
- (15) In its opinion of 29 March 2006<sup>(4)</sup>, EFSA concluded that there is no reason to believe that the continued placing on the market of MON810 maize is likely to cause any adverse effects for human and animal health or the environment under the conditions of its consent.
- (16) In accordance with Article 5(6) of Decision 1999/468/EC, the Commission submitted a proposal to the Council requesting Austria to repeal its safeguard measure.
- (17) In accordance with Article 5(6) of Decision 1999/468/EC, the Environment Council, on 18 December 2006, indicated its opposition by qualified majority, to the proposal.
- (18) In its Decision, the Council referred to the environmental risk assessment as provided in the Directive 2001/18/EC and indicated that 'the different agricultural structures and regional ecological characteristics in the European Union need to be taken into account in a more systematic manner in the environmental risk assessment'.

<sup>(1)</sup> OJ L 31, 1.2.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 202/2008 (OJ L 60, 5.3.2008, p. 17).

<sup>(2)</sup> Opinion of the Scientific Panel on Genetically Modified Organisms on a request from the Commission related to the Austrian invoke of Article 23 of Directive 2001/18/EC, The EFSA Journal (2004) 78, 1-13.

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

<sup>(4)</sup> Opinion of the Scientific Panel on Genetically Modified Organisms on a request from the Commission related to genetically modified crops (Bt176 maize, MON810 maize, T25 maize, Topas 19/2 oilseed rape and Ms1xRf1 oilseed rape) subject to safeguard clauses invoked according to Article 16 of Directive 90/220/EEC, The EFSA Journal (2006) 338, 1-15.

- (19) In accordance with Article 5(6) of Decision 1999/468/EC the Commission submitted an amended proposal in order to take into account the Council Decision of 18 December 2006 which refers only to the environmental aspects of the Austrian safeguard clause, namely cultivation aspects.
- (20) Austria has initiated work to collect any relevant scientific evidence on these aspects, which in the view of Austria justifies provisionally the maintenance of the safeguard clause, in particular in reference to 'the different agricultural structures and regional ecological characteristics' as indicated in recital 3 of the abovementioned Council decision. In accordance with Article 23 of Directive 2001/18/EC, Austria is invited to provide the Commission with all the scientific evidence that it has collected as well as any new risk assessment as soon as it is completed and inform all Member States thereof.
- (21) On the basis of Austria's submission and its scientific assessment, the Commission will act in accordance with Article 23 of Directive 2001/18/EC on these aspects of the Austrian measure.
- (22) The food and feed safety aspects of *Zea mays* L. line MON810 covered by the consent granted under Directive 90/220/EEC (including import and processing) are identical throughout Europe and have been assessed by the EFSA, which concluded that this product is unlikely to cause any adverse effects for human and animal health.
- (23) The Commission proposal takes into account only food and feed aspects of the Austrian prohibition namely the prohibition on import and processing of unprocessed kernels as source materials for further processing or for direct food or feed use.
- (24) Under these circumstances Austria should repeal its safeguard measures at least with regard to import and processing into food and feed of *Zea mays* L. line MON810.

- (25) The measures provided for in this Decision are not in accordance with the opinion of the Committee established under Article 30 of Directive 2001/18/EC and the Commission therefore submitted to the Council a proposal relating to these measures. Since on the expiry of the period laid down in Article 30(2) of Directive 2001/18/EC, the Council had neither adopted the proposed measures nor indicated its opposition to them, in accordance with Article 5(6) of Decision 1999/468/EC, the measures should be adopted by the Commission,

HAS ADOPTED THIS DECISION:

*Article 1*

The measures taken by Austria to prohibit the import and the processing into food and feed products of the *Zea mays* L. line MON810, authorised for placing on the market by Decision 98/294/EC are not justified under Article 23 of Directive 2001/18/EC.

*Article 2*

Austria shall take the necessary steps to terminate the prohibition of import and processing into food and feed products of *Zea mays* L. line MON810 at the latest 20 days after its notification.

*Article 3*

This Decision is addressed to the Republic of Austria.

Done at Brussels, 7 May 2008.

*For the Commission*  
Stavros DIMAS  
*Member of the Commission*

**COMMISSION DECISION**  
**of 1 July 2008**  
**appointing members of the Committee for Orphan Medicinal Products**  
(Text with EEA relevance)  
(2008/496/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 141/2000 of the European Parliament and of the Council of 16 December 1999 on orphan medicinal products <sup>(1)</sup>, and in particular Article 4(3) thereof,

Having regard to the recommendation of the European Medicines Agency of 19 December 2007,

Whereas:

- (1) Three members of the Committee for Orphan Medicinal Products, hereinafter 'the Committee' were appointed by the Commission Decision 2006/286/EC of 12 April 2006 <sup>(2)</sup> on the recommendation of the European Medicines Agency for a term of three years from 16 April 2006.
- (2) The membership of two of these members ended respectively in December 2006 (Prof Gianmartino Benzi) and August 2007 (Dr Julia Dunne). It is necessary, therefore, to appoint two new members to the Committee.

(3) The European Medicines Agency has recommended two persons for nomination.

(4) The members of the Committee shall be appointed for a period of three years starting on 2 July 2008,

HAS DECIDED AS FOLLOWS:

*Sole Article*

On the recommendation of the European Medicines Agency, the following are hereby appointed members of the Committee for a term of three years from 2 July 2008:

Dr János BORVENDÉG

Mr Bruno SEPODES

Done at Brussels, 1 July 2008.

*For the Commission*  
Günter VERHEUGEN  
*Vice-President*

<sup>(1)</sup> OJ L 18, 22.1.2000, p. 1.

<sup>(2)</sup> OJ L 104, 13.4.2006, p. 54.