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### Legislation

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<sup>(1)</sup> Text with EEA relevance

## I

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

## REGULATIONS

**COMMISSION REGULATION (EC) No 997/2008****of 14 October 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 for 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:

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 Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 15 October 2008.

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

Done at Brussels, 14 October 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.

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

## ANNEX

**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	76,4
	MK	52,8
	TR	106,4
	ZZ	78,5
0707 00 05	MK	81,9
	TR	141,7
	ZZ	111,8
0709 90 70	TR	140,3
	ZZ	140,3
0805 50 10	AR	75,7
	TR	98,0
	UY	95,7
	ZA	84,4
	ZZ	88,5
0806 10 10	BR	224,6
	TR	91,6
	US	224,7
	ZZ	180,3
0808 10 80	AR	67,2
	CL	71,3
	CN	53,8
	MK	35,3
	NZ	88,4
	US	104,9
	ZA	79,5
	ZZ	71,5
0808 20 50	CN	58,4
	TR	76,2
	ZA	98,3
	ZZ	77,6

<sup>(1)</sup> Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

**COMMISSION REGULATION (EC) No 998/2008****of 14 October 2008****fixing the depreciation coefficients to be applied when agricultural products are bought in, for the 2009 accounting year**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy <sup>(1)</sup>, and in particular Article 3(3) thereof,

Whereas:

(1) Article 4(1)(d) of Commission Regulation (EC) No 884/2006 of 21 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the financing by the European Agricultural Guarantee Fund (EAGF) of intervention measures in the form of public storage operations and the accounting of public storage operations by the paying agencies of the Member States <sup>(2)</sup> provides, in the context of public storage operations, for the financing of the depreciation of the products stored in public intervention.

(2) Points 1, 2 and 3 of Annex VIII to Regulation (EC) No 884/2006 lay down the method for calculating the depreciation. The depreciation percentage at the time of the buying-in of the agricultural products must not exceed the difference between the buying-in price and the foreseeable disposal price for each of these products. That percentage must be fixed for each product before the beginning of each accounting year. The Commission may also restrict the depreciation at the time of buying-in to a fraction of this depreciation percentage, but that fraction may not be less than 70 % of the overall depreciation.

(3) Coefficients for certain products to be applied by the intervention agencies to the monthly buying-in values of those products in the 2009 accounting year should therefore be fixed, to enable the agencies to establish the depreciation amounts.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

In respect of the products listed in the Annex hereto which, having been bought in by public intervention, are stored or taken over by the intervention agencies between 1 October 2008 and 30 September 2009, the intervention agencies shall apply to the values of the products bought in every month the depreciation coefficients set out in the Annex.

*Article 2*

The expenditure amounts, calculated by taking account of the depreciation referred to in Article 1 of this Regulation, shall be notified to the Commission under the declarations established in accordance with Commission Regulation (EC) No 883/2006 <sup>(3)</sup>.

*Article 3*

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

It shall apply from 1 October 2008.

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

Done at Brussels, 14 October 2008.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

<sup>(1)</sup> OJ L 209, 11.8.2005, p. 1.

<sup>(2)</sup> OJ L 171, 23.6.2006, p. 35.

<sup>(3)</sup> OJ L 171, 23.6.2006, p. 1.

## ANNEX

**Depreciation coefficients to be applied to the monthly buying-in values**

Products	Coefficient
Common wheat of bread-making quality	—
Barley	—
Maize	—
Alcohol	0,45

**COMMISSION REGULATION (EC) No 999/2008****of 14 October 2008****fixing the interest rates to be used for calculating the costs of financing intervention measures comprising buying-in, storage and disposal for the 2009 EAGF accounting year**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy <sup>(1)</sup>, and in particular Article 3(3) thereof,

Whereas:

(1) Article 4(1)(a) of Commission Regulation (EC) No 884/2006 of 21 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the financing by the European Agricultural Guarantee Fund (EAGF) of intervention measures in the form of public storage operations and the accounting of public storage operations by the paying agencies of the Member States <sup>(2)</sup> provides that expenditure relating to the financial costs incurred by Member States in mobilising funds to buy in products is to be determined in accordance with the methods set out in Annex IV to that Regulation on the basis of a uniform interest rate for the Community.

(2) The uniform interest rate for the Community is the average of the three-month and 12-month forward Euribor rates recorded in the six months preceding the notification from the Member States provided for in point I.2 of Annex IV to Regulation (EC) No 884/2006, with a weighting of one-third and two-thirds respectively. That rate must be fixed at the beginning of each accounting year of the European Agricultural Guarantee Fund (EAGF).

(3) However, if the interest rate notified by a Member State is lower than the uniform interest rate fixed for the Community, in accordance with the second subparagraph of point I.2 of Annex IV to Regulation (EC) No 884/2006 a specific interest rate is fixed for that

Member State. Also, in the absence of any notification from a Member State of the average rate of its interest costs by the end of the year, the Commission fixes the interest rate for that Member State at the level of the uniform rate fixed for the Community.

(4) Given the Member States' notifications to the Commission, the interest rates applicable for the 2009 EAGF accounting year should be fixed taking the various factors into account.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

For expenditure relating to the financial costs incurred by Member States in mobilising funds to buy in products chargeable to the 2009 accounting year of the European Agricultural Guarantee Fund (EAGF), the interest rates provided for in Annex IV to Regulation (EC) No 884/2006 in accordance with Article 4(1)(a) of that Regulation shall be:

(a) 4,1 % in the case of the specific interest rate applicable in France, Ireland and the Czech Republic;

(b) 4,3 % in the case of the specific interest rate applicable in Slovakia;

(c) 4,4 % in the case of the specific interest rate applicable in the Netherlands and Sweden;

(d) 4,5 % in the case of the specific interest rate applicable in Greece;

(e) 5,0 % in the case of the uniform interest rate for the Community applicable to those Member States for which no specific interest rate has been fixed.

<sup>(1)</sup> OJ L 209, 11.8.2005, p. 1.

<sup>(2)</sup> OJ L 171, 23.6.2006, p. 35.

*Article 2*

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

It shall apply from 1 October 2008.

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

Done at Brussels, 14 October 2008.

*For the Commission*  
Mariann FISCHER BOEL  
*Member of the Commission*

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## II

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

## DECISIONS

## COUNCIL

## COUNCIL DECISION

of 25 September 2008

**on the signing and provisional application of the Agreement between the European Community and the Government of the Republic of India on certain aspects of air services**

(2008/797/EC)

THE COUNCIL OF THE EUROPEAN UNION,

- (3) Subject to its possible conclusion at a later date, the Agreement negotiated by the Commission should be signed and provisionally applied,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2), in conjunction with the first sentence of the first subparagraph of Article 300(2) thereof,

HAS DECIDED AS FOLLOWS:

*Article 1*

Having regard to the proposal from the Commission,

The signing of the Agreement between the European Community and the Government of the Republic of India on certain aspects of air services is hereby approved on behalf of the Community, subject to the Council Decision concerning the conclusion of the said Agreement.

Whereas:

The text of the Agreement is attached to this Decision.

- (1) In its Decision of 5 June 2003, the Council authorised the Commission to open negotiations with third countries on the replacement of certain provisions in existing bilateral agreements with a Community agreement.

*Article 2*

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Community subject to its conclusion.

- (2) On behalf of the Community, the Commission has negotiated an Agreement with the Government of the Republic of India on certain aspects of air services in accordance with the mechanisms and directives in the Annex to the Council Decision of 5 June 2003 authorising the Commission to open negotiations with third countries on the replacement of certain provisions in existing bilateral agreements with a Community agreement.

*Article 3*

Pending its entry into force, the Agreement shall be applied provisionally from the first day of the first month following the date on which the parties have notified each other of the completion of the necessary procedures for this purpose <sup>(1)</sup>.

<sup>(1)</sup> The date from which the Agreement will be provisionally applied will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

*Article 4*

The President of the Council is hereby authorised to make the notification provided for in Article 7(2) of the Agreement.

Done at Brussels, 25 September 2008.

*For the Council*  
*The President*  
L. CHATEL

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**AGREEMENT****between the European Community and the Government of the Republic of India on certain aspects of air services**

THE EUROPEAN COMMUNITY,

of the one part, and

THE REPUBLIC OF INDIA,

of the other part

(hereinafter referred to as the Parties)

NOTING that bilateral air service agreements have been concluded between several Member States of the European Community and the Republic of India containing provisions contrary to Community law,

NOTING that the European Community has exclusive competence with respect to several aspects that may be included in bilateral air service agreements between Member States of the European Community and third countries,

NOTING that under European Community law Community air carriers established in a Member State have the right to non-discriminatory access to air routes between the Member States of the European Community and third countries,

HAVING REGARD to the agreements between the European Community and certain third countries providing for the possibility for the nationals of such third countries to acquire ownership in air carriers licensed in accordance with European Community law,

RECOGNISING that certain provisions of the bilateral air service agreements between Member States of the European Community and the Republic of India, must be brought into conformity with European Community law in order to establish a sound legal basis for air services between the European Community and the Republic of India and to preserve the continuity of such air services,

NOTING that under European Community law air carriers may not, in principle, conclude agreements which may affect trade between Member States of the European Community and which have as their object or effect the prevention, restriction or distortion of competition,

RECOGNISING that provisions in bilateral air service agreements concluded between Member States of the European Community and the Republic of India which (i) require or favour the adoption of agreements between undertakings, decisions by associations of undertakings or concerted practices that prevent, distort or restrict competition between air carriers on the relevant routes; or (ii) reinforce the effects of any such agreement, decision or concerted practice; or (iii) delegate to air carriers or other private economic operators the responsibility for taking measures that prevent, distort or restrict competition between air carriers on the relevant routes, may render ineffective the application of the competition rules applicable to undertakings,

RECOGNISING that where a Member State has designated an air carrier whose regulatory control with regard to safety oversight is exercised and maintained by another Member State, the rights of the Republic of India under the safety provisions of the agreement between the Member State that has designated the carrier and the Republic of India shall apply equally in relation to that other Member State,

NOTING that the bilateral air services agreements listed in Annex I are based on the general principle that the designated airlines of the parties shall have fair and equal opportunities in operating the agreed services on the specified routes,

NOTING that it is not a purpose of this agreement, to increase the total volume of air traffic between the European Community and the Republic of India, to affect the balance between Community air carriers and air carriers of the Republic of India, or to negotiate amendments to the provisions of existing bilateral air service agreements concerning traffic rights,

HAVE AGREED AS FOLLOWS:

#### Article 1

##### General Provisions

1. For the purposes of this Agreement, 'Member States' shall mean Member States of the European Community.
2. References in each of the agreements listed in Annex I to nationals of the Member State that is a party to that agreement shall be understood as referring to nationals of the Member States of the European Community.
3. References in each of the agreements listed in Annex I to air carriers or airlines of the Member State that is a party to that agreement shall be understood as referring to air carriers or airlines designated by that Member State.
4. The granting of traffic rights will continue to be carried out through bilateral arrangements.

#### Article 2

##### Designation by a Member State

1. The provisions in paragraphs 2 and 3 of this Article shall supersede the corresponding provisions in the Articles listed in Annex II(a) and (b), respectively, in relation to the designation of an air carrier by the Member State concerned, its authorisations and permissions granted by the Republic of India, and the refusal, revocation, suspension or limitation of the authorisations or permissions of the air carrier, respectively.
2. On receipt of a designation by a Member State, the Republic of India shall grant the appropriate authorisations and permissions with minimum procedural delay, provided that:
  - (i) the air carrier is established in the territory of the designating Member State under the Treaty establishing the European Community and has a valid Operating Licence in accordance with European Community law;
  - (ii) effective regulatory control of the air carrier is exercised and maintained by the Member State responsible for issuing its Air Operator's Certificate and the relevant aeronautical authority is clearly identified in the designation; and

- (iii) the air carrier is owned and shall continue to be owned directly or through majority ownership by Member States and/or nationals of Member States, and/or by other states listed in Annex III and/or nationals of such other states, and shall at all times be effectively controlled by such states and/or such nationals.

3. The Republic of India may refuse, revoke, suspend or limit the authorisations or permissions of an air carrier designated by a Member State where:

- (i) the air carrier is not established in the territory of the designating Member State under the Treaty establishing the European Community or does not have a valid Operating Licence in accordance with European Community law;

- (ii) effective regulatory control of the air carrier is not exercised or not maintained by the Member State responsible for issuing its Air Operator's Certificate, or the relevant aeronautical authority is not clearly identified in the designation;

- (iii) the air carrier is not owned, directly or through majority ownership, or it is not effectively controlled by Member States and/or nationals of Member States, and/or by other states listed in Annex III and/or nationals of such other states;

- (iv) the air carrier is already authorised to operate under a bilateral agreement between the Republic of India and another Member State and by exercising traffic rights under this Agreement on a route that includes a point in that other Member State, it would be circumventing restrictions on the traffic rights imposed by that other agreement; or

- (v) the air carrier designated holds an Air Operator's Certificate issued by a Member State with which the Republic of India does not have a bilateral air services agreement and that Member State has denied traffic rights to the Republic of India.

In exercising its right under this paragraph, the Republic of India shall not discriminate between European Community air carriers on the grounds of nationality.

*Article 3***Safety**

1. The provisions in paragraph 2 of this Article shall complement the corresponding Articles listed in Annex II(c).

2. Where a Member State has designated an air carrier whose regulatory control is exercised and maintained by another Member State, the rights of the Republic of India under the safety provisions of the agreement between the Member State that has designated the air carrier and the Republic of India shall apply equally in respect of the adoption, exercise or maintenance of safety standards by that other Member State and in respect of the operating authorisation of that air carrier.

*Article 4***Compatibility with competition rules**

1. Notwithstanding any other provision to the contrary, nothing in each of the agreements listed in Annex I shall (i) favour the adoption of agreements between undertakings, decisions by associations of undertakings or concerted practices that prevent, distort or restrict competition; (ii) reinforce the effects of any such agreement, decision or concerted practice; or (iii) delegate to private economic operators the responsibility for taking measures that prevent, distort or restrict competition.

2. The provisions contained in the agreements listed in Annex I that are incompatible with paragraph 1 of this Article shall not be applied.

*Article 5***Annexes to the Agreement**

The Annexes to this Agreement shall form an integral part thereof.

*Article 6***Review, revision or amendment**

The Parties may, at any time, review, revise or amend this Agreement by mutual consent.

*Article 7***Entry into force and provisional application**

1. This Agreement shall enter in force when the Parties have notified each other in writing that their respective internal procedures necessary for its entry into force have been completed.

2. Notwithstanding paragraph 1, the Parties agree to provisionally apply this Agreement from the first day of the month following the date on which the Parties have notified each other of the completion of the procedures necessary for this purpose.

3. Agreements and other arrangements between Member States and the Republic of India which, at the date of signature of this Agreement, have not yet entered into force and are not being applied provisionally are listed in Annex I(b). This Agreement shall apply to all such Agreements and arrangements upon their entry into force or provisional application.

*Article 8***Termination**

1. In the event that an agreement listed in Annex I is terminated, all provisions of this Agreement that relate to the agreement listed in Annex I concerned shall terminate at the same time.

2. In the event that all agreements listed in Annex I are terminated, this Agreement shall terminate at the same time.

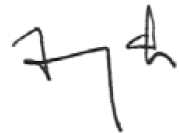
IN WITNESS WHEREOF, the undersigned, being duly authorised, have signed this Agreement.

Done at Marseille in duplicate, on this twenty-eighth day of September two thousand and eight in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovene, Spanish, Swedish and Hindi languages.

За Европейската общност  
 Por la Comunidad Europea  
 Za Evropské společenství  
 For Det Europæiske Fællesskab  
 Für die Europäische Gemeinschaft  
 Euroopa Ühenduse nimel  
 Για την Ευρωπαϊκή Κοινότητα  
 For the European Community  
 Pour la Communauté européenne  
 Per la Comunità europea  
 Eiropas Kopienas vārdā  
 Europos bendrijos vardu  
 Az Európai Közösség részéről  
 Ghall-Komunità Ewropea  
 Voor de Europese Gemeenschap  
 W imieniu Wspólnoty Europejskiej  
 Pela Comunidade Europeia  
 Pentru Comunitatea Europeană  
 Za Európske spoločenstvo  
 Za Evropsko skupnost  
 Euroopan yhteisön puolesta  
 För Europeiska gemenskapen  
 यूरोपीय समुदाय की ओर से



За правителството на Република Индия  
 Por el Gobierno de la República de la India  
 Za vládu Indické republiky  
 For regeringen for Republikken Indien  
 Für die Regierung der Republik Indien  
 India Vabariigi valitsuse nimel  
 Για την κυβέρνηση της Δημοκρατίας της Ινδίας  
 For the Government of the Republic of India  
 Pour le gouvernement de la République de l'Inde  
 Per il governo della Repubblica dell'India  
 Indijas Republikas valdības vārdā  
 Indijos Respublikos Vyriausybės vardu  
 Az Indiai Köztársaság kormánya részéről  
 Ghall-Gvern tar-Repubblika ta' l-Indja  
 Voor de Regering van de Republiek India  
 W imieniu Rządu Republiki Indii  
 Pelo Governo da República da Índia  
 Pentru Guvernul Republicii India  
 Za vládu Indické republiky  
 Za Vlado Republike Indije  
 Intian tasavallan hallituksen puolesta  
 För Republiken Indiens regering  
 भारत गणराज्य की सरकार की ओर से



## ANNEX I

**List of agreements referred to in Article 1 of this Agreement**

- (a) Air service agreements between the Government of India and Member States of the European Community as they may have been amended, modified or supplemented, which, at the date of signature of this Agreement, have been concluded, signed and/or are being applied provisionally
- Agreement between the Austrian Federal Government and the Government of India relating to Air Services signed at New Delhi on 26 October 1989,
  - Agreement between the Government of the Kingdom of Belgium and the Government of India relating to Air Services signed at New Delhi on 6 April 1967,
  - Agreement between the Government of the Republic of Bulgaria and the Government of the Republic of India relating to air services done at New Delhi on 16 June 1992,
  - Agreement between the Government of the Republic of Cyprus and the Government of India relating to air services done at Nicosia on 18 December 2000,
  - Air Transport Agreement between the Government of the Czech Republic and the Government of the Republic of India signed at Delhi on 16 October 1997,
  - Agreement between the Government of the Kingdom of Denmark and the Government of India relating to Air Services signed at New Delhi on 19 December 1995,
  - Air Services Agreement between the Government of the Republic of Finland and the Government of India signed at New Delhi on 18 July 1995,
  - Agreement between the Government of the French Republic and the Government of India relating to Air Services signed at New Delhi on 16 July 1947,
  - Agreement between the Federal Republic of Germany and the Government of India relating to Air Services signed at New Delhi on 31 May 1963,
  - Agreement between the Government of the Hungarian People's Republic and the Government of India relating to Air Services signed at New Delhi on 23 February 1966,
  - Air Transport Agreement between the Government of Ireland and the Government of India signed at New Delhi on 20 February 1991,
  - Agreement between the Government of Italy and the Government of India relating to Air Services signed at Rome on 16 July 1959,
  - Agreement between the Government of the Republic of Latvia and the Government of the Republic of India relating to Air Services signed at New Delhi on 20 October 1997,
  - Agreement between the Government of the Republic of Lithuania and the Government of the Republic of India relating to Air Services signed at New Delhi on 20 February 2001,
  - Agreement between the Government of the Grand Duchy of Luxembourg and the Government of the Republic of India relating to air services signed in New Delhi on 8 January 2001,
  - Agreement between the Government of the Republic of Malta and the Government of India relating to Air Services signed at Malta on 5 October 1998,
  - Agreement between the Government of the Netherlands and the Government of India relating to Air Services signed at New Delhi on 24 May 1951,
  - Agreement between the Government of the Polish People's Republic and the Government of the Republic of India relating to Air Services signed at New Delhi on 25 January 1977,

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- Air Services Agreement between the Government of the Republic of Portugal and the Government of the Republic of India signed at New Delhi on 6 February 1997,
  - Air Services Agreement between the Government of Romania and the Government of India done at New Delhi on 4 December 1993,
  - Agreement between the Government of the Slovak Republic and the Government of India relating to Scheduled Air Services signed at Bratislava on 9 October 1996,
  - Agreement between the Government of the Republic of Slovenia and the Government of India relating to Scheduled Air Services signed at New Delhi on 16 February 2004,
  - Air Transport Agreement between the Government of Spain and the Government of the Republic of India signed at New Delhi on 10 April 1987,
  - Agreement between the Government of the Kingdom of Sweden and the Government of India relating to Air Services signed at New Delhi on 19 December 1995,
  - Air Services Agreement between the Government of the Republic of India and the Government of the United Kingdom of Great Britain and Northern Ireland signed at New Delhi on 8 September 2005;
- (b) Air service agreements and other arrangements initialled or signed between the Government of India and Member States of the European Community as they may have been amended, modified or supplemented, which, at the date of signature of this Agreement, have not yet entered into force and are not being applied provisionally
- Air Transport Agreement between the Government of the Hellenic Republic and the Government of the Republic of India initialled at Athens on 23 October 1997.
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## ANNEX II

**List of articles in the agreements listed in Annex I and referred to in Articles 2 and 3 of this Agreement**

## (a) Designation by a Member State:

- Article 3, of the India — Austria Agreement,
- Article 3, paragraphs 1 to 5, of the India — Belgium Agreement,
- Article III of the India — Bulgaria Agreement,
- Article 3, of the India — Cyprus Agreement,
- Article 3, of the India — Czech Republic Agreement,
- Article 3, of the India — Denmark Agreement,
- Article 3, of the India — Finland Agreement,
- Article 2, of the India — France Agreement,
- Article III, of the India — Germany Agreement,
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- Article 3, of the India — Latvia Agreement,
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- Article IV, of the India — Poland Agreement,
- Article 3, of the India — Portugal Agreement,
- Article 3, of the India — Romania Agreement,
- Article 3, of the India — Slovakia Agreement,
- Article 3, of the India — Slovenia Agreement,
- Article II, of the India — Spain Agreement,
- Article 3, of the India — Sweden Agreement,
- Article 4, of the India — United Kingdom Agreement;

## (b) Refusal, revocation, suspension or limitation of authorisations or permissions:

- Article 4, of the India — Austria Agreement,
- Article 3, paragraph 6, of the India — Belgium Agreement,

- Article IV of the India — Bulgaria Agreement,
  - Article 4, of the India — Cyprus Agreement,
  - Article 4, of the India — Czech Republic Agreement,
  - Article 4, of the India — Denmark Agreement,
  - Article 4, of the India — Finland Agreement,
  - Article 9, of the India — France Agreement,
  - Article IV, of the India — Germany Agreement,
  - Article 4, of the India — Greece Agreement,
  - Article 4, of the India — Hungary Agreement,
  - Article 4, of the India — Ireland Agreement,
  - Article IV, paragraphs 4 to 6, of the India — Italy Agreement,
  - Article 4, of the India — Latvia Agreement,
  - Article 4, of the India — Lithuania Agreement,
  - Article 4, of the India — Luxembourg Agreement,
  - Article 4, of the India — Malta Agreement,
  - Article 8, of the India — Netherlands Agreement,
  - Article V, of the India — Poland Agreement,
  - Article 4, of the India — Portugal Agreement,
  - Article 4, of the India — Romania Agreement,
  - Article 4, of the India — Slovakia Agreement,
  - Article 4, of the India — Slovenia Agreement,
  - Article IV, of the India — Spain Agreement,
  - Article 4, of the India — Sweden Agreement,
  - Article 5, of the India — United Kingdom Agreement;
- (c) Safety:
- The safety article agreed between India and Denmark on 30 November 2006,
  - The safety article agreed between India and Finland on 18 May 2006,
  - Appendix C, of the India — Greece Agreement,
  - Article XI, of the India — Spain Agreement,
  - The safety article agreed between India and Sweden on 30 November 2006,
  - Article 7, of the India — United Kingdom Agreement.
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*ANNEX III***List of other states referred to in Article 2 of this Agreement**

- (a) The Republic of Iceland (under the Agreement on the European Economic Area);
  - (b) The Principality of Liechtenstein (under the Agreement on the European Economic Area);
  - (c) The Kingdom of Norway (under the Agreement on the European Economic Area);
  - (d) The Swiss Confederation (under the Agreement between the European Community and the Swiss Confederation on Air Transport).
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# COMMISSION

## COMMISSION DECISION

of 14 October 2008

### **imposing special conditions governing the import of products containing milk or milk products originating in or consigned from China, and repealing Commission Decision 2008/757/EC**

(notified under document number C(2008) 6086)

(Text with EEA relevance)

(2008/798/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety<sup>(1)</sup>, and in particular Article 53(2), second subparagraph, thereof,

Whereas:

- (1) Article 53 of Regulation (EC) No 178/2002 provides for the possibility to adopt appropriate Community emergency measures for food and feed imported from a third country in order to protect human health, animal health or the environment, where the risk cannot be contained satisfactorily by means of measures taken by the Member States individually.
- (2) The European Commission was recently made aware that high levels of melamine were found in infant milk and other milk products in China. Melamine is a chemical intermediate used in the manufacture of amino resins and plastics and is used as a monomer and as an additive for plastics. High levels of melamine in food can result in very severe health effects.
- (3) Imports of milk and milk products, including milk powder, originating from China are not allowed into the Community; however, certain composite products

(i.e. products which contain at the same time a processed product of animal origin and a product of non-animal origin) containing processed milk components might have reached the European Union's markets.

- (4) Although factual information available indicates that no composite products are imported which are intended for the particular nutritional uses of infants or young children, certain such composite products, depending of their specific formulation and in particular on the proportion of milk product content, could have been presented for import without undergoing systematic border checks pursuant to Commission Decision 2007/275/EC of 17 April 2007 concerning lists of animals and products to be subject to controls at border inspection posts under Council Directives 91/496/EEC and 97/78/EC<sup>(2)</sup>. Taking into account that such products represent the primary, and in some cases sole, source of nourishment for infants and young children, it is appropriate to prohibit the import into the Community of any such products originating from China. Member States should ensure that any such products which were to be found on the market should be destroyed without delay.
- (5) As regards other composite products (such as biscuits and chocolate), which are only a minor part of a varied diet, after a request from the European Commission for an assessment of the risks related to the presence of melamine in composite product, the European Food Safety Authority (EFSA) issued a statement in which it concludes that the highest risk would be represented by a worst case scenario according to which children with high daily consumption of biscuits and chocolate containing the highest proportion of milk powder (which varies between 16 % and more than 20 %), with a contamination equal to the highest level found in milk powder from China, could potentially exceed the tolerable daily intake (TDI) of melamine (0,5 mg/kg body weight).

<sup>(1)</sup> OJ L 31, 1.2.2002, p. 1.

<sup>(2)</sup> OJ L 116, 4.5.2007, p. 9.

(6) In order to counter the risk for health that may result from exposure to the melamine content of such composite products, Member States are required under Commission Decision 2008/757/EC <sup>(1)</sup> to ensure that all composite products containing at least 15 % of milk product, originating from China, are systematically tested before import into the Community and that all such products which are shown to contain melamine in excess of 2,5 mg/kg are immediately destroyed. Melamine from different sources, such as migration from food contact materials, pesticide use, etc. can be present in feed and food. Taking into account the available occurrence data, the level of 2,5 mg/kg is the appropriate level to distinguish between the unavoidable background presence of melamine and unacceptable adulteration. This level responds also to the need to ensure a large margin of safety. Member States have reported significant difficulties in establishing the exact milk or milk product content of composite products. As a consequence, the value of 15 % above is largely devoid of relevance for deciding whether a consignment is subject to control requirements prior to import. In order to streamline and simplify import controls procedures, it is therefore appropriate to establish the requirement of controls irrespective of the exact amount of milk or milk products in the composite products.

(7) Member States should also ensure that composite products which are already present in the Community are appropriately tested and withdrawn from the market if necessary. The costs of tests at import and of official measures taken as regards products found to be non-compliant with the maximum level in question should be borne by the feed and food business operator responsible for the products.

(8) In order for the Commission to be able to reassess appropriateness of these measures in due time, Member States should inform the Commission of unfavourable results through the Rapid Alert System for Food and Feed and should report favourable results on a two weeks basis.

(9) The measure provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

#### Article 1

For the purposes of this Decision, references to China shall be intended to the People's Republic of China.

<sup>(1)</sup> OJ L 259, 27.9.2008, p. 10.

#### Article 2

##### Control measures

1. Member States shall prohibit the import into the Community of composite products containing milk or milk products, intended for the particular nutritional use of infants and young children within the meaning of Council Directive 89/398/EEC <sup>(2)</sup> on foods for particular nutritional uses, originating or consigned from China. Member States shall also ensure that any such product found after the entry into force of this Decision on the market shall be immediately withdrawn and destroyed.

2. Member States shall carry out documentary, identity and physical checks, including laboratory analysis, on all consignments originating in or consigned from China of composite products, including feed, containing milk products.

Member States may carry out random checks prior to importing other feed and food products with a high protein content originating from China.

Such checks shall in particular aim at ascertaining that the level of melamine, if any, does not exceed 2,5 mg/kg product. Consignments shall be detained pending the availability of the results of the laboratory analysis.

3. The checks referred to in paragraph 2, first subparagraph, shall be carried out at points of control specifically designated by the Member States for that purpose. Member States shall make the list of points of control available to the public and communicate it to the Commission.

4. Member States shall report any unfavourable result of the laboratory analysis referred to in paragraph 2 through the Rapid Alert System for Food and Feed. They shall report to the Commission on favourable results on a two weeks basis.

5. Member States shall take the necessary measures to ensure that products referred to in paragraph 2, and feed and food products with a high protein content, as appropriate, which are already placed on the market are subject to an appropriate level of controls aimed at ascertaining the level of melamine.

<sup>(2)</sup> OJ L 186, 30.6.1989, p. 27.

6. Any product found to contain melamine in excess of 2,5 mg/kg product, following controls performed in accordance with paragraphs 2 and 5, shall be destroyed without delay.

7. Member States shall ensure that the costs incurred in the implementation of paragraph 2 are borne by the operators responsible for the import, and that the cost of official measures taken as regards products found not to be in compliance with this Decision are borne by the feed and food business operator responsible for that product.

*Article 3*

**Prior notification**

Feed and food business operators or their representatives shall give prior notification to the point of control referred to in Article 2(3) of the estimated date and time of arrival of all consignments originating in or consigned from China of composite products, including feed, containing milk products.

*Article 4*

**Review of the measures**

The measures laid down in this Decision shall be regularly reassessed in the light of the results of the controls carried out by the Member States.

*Article 5*

Decision 2008/757/EC is repealed.

*Article 6*

This Decision is addressed to the Member States.

Done at Brussels, 14 October 2008.

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

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**NOTE TO THE READER**

The institutions have decided no longer to quote in their texts the last amendment to cited acts.

Unless otherwise indicated, references to acts in the texts published here are to the version of those acts currently in force.