

Official Journal

of the European Union

L 201



English edition

Legislation

Volume 53

3 August 2010

Contents

II *Non-legislative acts*

REGULATIONS

- ★ **Commission Regulation (EU) No 691/2010 of 29 July 2010 laying down a performance scheme for air navigation services and network functions and amending Regulation (EC) No 2096/2005 laying down common requirements for the provision of air navigation services ⁽¹⁾** 1
- ★ **Commission Regulation (EU) No 692/2010 of 30 July 2010 concerning the classification of certain goods in the Combined Nomenclature** 23
- Commission Regulation (EU) No 693/2010 of 2 August 2010 establishing the standard import values for determining the entry price of certain fruit and vegetables 26
- Commission Regulation (EU) No 694/2010 of 2 August 2010 amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EC) No 877/2009 for the 2009/10 marketing year 28

DECISIONS

2010/427/EU:

- ★ **Council Decision of 26 July 2010 establishing the organisation and functioning of the European External Action Service** 30

Price: EUR 4

(Continued overleaf)

⁽¹⁾ Text with EEA relevance

EN

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

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

2010/428/EU:

- ★ **Commission Decision of 28 July 2010 authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize 59122x1507xNK603 (DAS-59122-7xDAS-01507xMON-00603-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council** (*notified under document C(2010) 5138*) ⁽¹⁾ 41

2010/429/EU:

- ★ **Commission Decision of 28 July 2010 authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize MON 88017 x MON 810 (MON-88017-3 x MON-00810-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council** (*notified under document C(2010) 5139*) ⁽¹⁾..... 46



⁽¹⁾ Text with EEA relevance

II

(Non-legislative acts)

REGULATIONS

COMMISSION REGULATION (EU) No 691/2010

of 29 July 2010

laying down a performance scheme for air navigation services and network functions and amending Regulation (EC) No 2096/2005 laying down common requirements for the provision of air navigation services

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation) ⁽¹⁾ and in particular Article 11 thereof,

Whereas:

- (1) Regulation (EC) No 549/2004 requires that a performance scheme for air navigation services and network functions be set up by means of implementing rules.
- (2) The performance scheme should contribute to the sustainable development of the air transport system by improving overall efficiency of the air navigation services across the key performance areas of safety, environment, capacity and cost-efficiency, in consistency with those identified in the Performance Framework of the ATM Master Plan, all having regard to the overriding safety objectives.
- (3) The performance scheme should provide for indicators and binding targets on key performance areas whereby required safety levels are fully achieved and maintained while allowing for performance target setting in other key performance areas.
- (4) The performance scheme should be set up and operated with a long-term view on the high-level societal goals.
- (5) The performance scheme should address air navigation services in a gate-to-gate approach including airports with a view to improving the overall performance of the network.

- (6) The interdependencies between the national and functional airspace block levels and the network level, as well as the interdependencies between performance targets, all having regard to the overriding safety objectives, should be duly taken into account in the preparation and monitoring of the performance scheme.
- (7) The performance plans should register the commitment of Member States, for the duration of the reference period, to achieve the objectives of the single European sky and the balance between the needs of all airspace users and supply of services provided by air navigation service providers.
- (8) National Supervisory Authorities have a key role to play in the implementation of the performance scheme. Member States should therefore ensure that they are in a position to effectively carry out these additional responsibilities.
- (9) The performance plans should describe the measures, such as incentives schemes, aimed at driving the behaviour of stakeholders towards improving performance at national, functional airspace block and European levels.
- (10) In circumstances that were unforeseeable at the moment of adopting the performance plans and that are both insurmountable and outside the control of the Member States and the entities subject to the performance targets, the establishment of appropriate alert mechanisms should allow the implementation of adequate measures aiming at preserving the safety requirements as well as the continuity of service provision.
- (11) Effective stakeholder consultations should take place at national and/or functional airspace block level, as well as at European Union level.

⁽¹⁾ OJ L 96, 31.3.2004, p. 1.

- (12) Having due regard to military mission effectiveness, civil-military cooperation and coordination are of utmost importance in order to achieve the performance objectives.
- (13) The performance scheme should be without prejudice to the provisions of Article 13 of Regulation (EC) No 549/2004 aiming at safeguarding essential security or defence policy interests.
- (14) Key performance indicators should be selected for being specific and measurable and allowing the allocation of responsibility for achieving the performance targets. The associated targets should be achievable, realistic and timely and aim at effectively steering the sustainable performance of air navigation services.
- (15) The implementation of binding performance targets supported by incentives that can be of financial nature requires appropriate link with Commission Regulation (EC) No 1794/2006 of 6 December 2006 laying down a common charging scheme for air navigation services ⁽¹⁾.
- (16) The establishment and implementation of key performance indicators and of performance targets require the appropriate consistency with the safety objectives and standards laid down in Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC ⁽²⁾, and its implementing rules together with the measures taken by the European Union to achieve and maintain these objectives.
- (17) During the reference periods an effective performance monitoring process should be put in place to ensure that the evolution of performance allows meeting the targets and if necessary introducing appropriate measures.
- (18) When adopting European Union-wide performance targets for the first reference period, due account should be taken by the Commission of the actual financial situation of the air navigation service providers resulting in particular from cost-containment measures already taken, in particular since 2009, as well as possible over or under recoveries of route charges to be carried over from preceding years. Due account should also be taken of the progress already achieved by the existing functional airspace blocks.
- (19) Pursuant to Article 11(1) of Regulation (EC) No 549/2004, this Regulation should apply to the air traffic management network functions referred to in Article 6 of Regulation (EC) No 551/2004 of the

European Parliament and of the Council ⁽³⁾ through an appropriate amendment of this Regulation.

- (20) The measures provided for in this Regulation are in accordance with the opinion of the Single Sky Committee,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter and scope

1. This Regulation lays down the necessary measures to improve the overall performance of air navigation services and network functions for general air traffic within the ICAO EUR and AFI regions where Member States are responsible for the provision of air navigation services with a view to meeting the requirements of all airspace users.

2. For the purpose of target setting, this Regulation shall apply to the air navigation services provided by air traffic service providers designated in accordance with Article 8 of Regulation (EC) No 550/2004 of the European Parliament and of the Council ⁽⁴⁾ and by providers of meteorological services, if designated in accordance with Article 9(1) of that Regulation.

3. Member States may decide not to apply this Regulation to terminal air navigation services provided at airports with less than 50 000 commercial air transport movements per year. They shall inform the Commission thereof. Where none of the airports in a Member State reaches the threshold of 50 000 commercial air transport movements per year, performance targets shall apply as a minimum to the airport with the highest commercial air transport movements.

4. Where a Member State considers that some or all of its terminal air navigation services are submitted to market conditions it shall assess in accordance with the procedures laid down in Article 1(6) of Regulation (EC) No 1794/2006, and with the support of the national supervisory authority, no later than 12 months before the start of each reference period, whether the conditions laid down in Annex I of that Regulation are met. Where the Member State finds that these conditions are met, regardless of the number of commercial air transport movements served, it may decide not to set determined costs under that Regulation nor apply binding targets to the cost efficiency of those services.

5. Pursuant to Article 11(6)(c)(ii) of Regulation (EC) No 549/2004 and Article 15(2)(a) and (b) of Regulation (EC) No 550/2004, and without prejudice to Article 4(2) of the present Regulation, target setting on cost-efficiency shall apply to all determined costs chargeable to airspace users.

⁽¹⁾ OJ L 341, 7.12.2006, p. 3.

⁽²⁾ OJ L 79, 19.3.2008, p. 1.

⁽³⁾ OJ L 96, 31.3.2004, p. 20.

⁽⁴⁾ OJ L 96, 31.3.2004, p. 10.

6. Member States may also apply this Regulation:

- (a) in airspace under their responsibility within other ICAO regions, on condition that they inform the Commission and the other Member States thereof, and without prejudice to the rights and duties of Member States under the 1944 Chicago Convention on international civil aviation (the Chicago Convention);
- (b) to providers of air navigation services which have received the permission to provide air navigation services without certificate, in accordance with Article 7(5) of Regulation (EC) No 550/2004.

7. Notwithstanding the protection of information provisions of Directive 2003/42/EC of the European Parliament and of the Council ⁽¹⁾ and its implementing Regulations Commission Regulations (EC) No 1321/2007 ⁽²⁾ and (EC) Nos 1330/2007 ⁽³⁾, the requirements related to the provision of data as defined in Chapter V shall apply to national authorities, air navigation service providers, airport operators, airport coordinators and air carriers under the conditions set out in Annex IV.

Article 2 Definitions

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

In addition, the following definitions shall apply:

- (a) 'Airport operator' means the 'managing body of an airport' as defined in Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports ⁽⁴⁾;
- (b) 'Data' means qualitative, quantitative and other relevant information related to air navigation performance collected and systematically processed by, or on behalf of, the Commission for the purpose of the implementation of the performance scheme;
- (c) 'Performance indicators' means the indicators used for the purpose of performance monitoring, benchmarking and reviewing;
- (d) 'Key performance indicators' means the performance indicators used for the purpose of performance target setting;
- (e) 'Commercial air transport movements' means the sum of take-offs and landings involving the transport of passengers, cargo or mail, for remuneration or hire, calculated as an average over the three years preceding

the adoption of the performance plan, regardless of the maximum take-off mass and the number of passenger seats used;

- (f) 'Binding target' means a performance target adopted by Member States as part of a national or functional airspace block performance plan and subject to an incentive scheme providing for rewards, disincentives and/or corrective action plans;
- (g) 'Air carrier' means an air transport undertaking with a valid operating license issued by a Member State in accordance with European Union Law;
- (h) 'Airspace users' representative' means any legal person or entity representing the interests of one or several categories of users of air navigation services;
- (i) 'Determined costs' means the costs as defined in Article 15(2)(a) and (b) of Regulation (EC) No 550/2004;
- (j) 'National authorities' means the regulatory authorities at national or functional airspace block level whose costs are eligible for recovery from airspace users when they are incurred in relation with the provision of air navigation services in application of Article 5(2) of Regulation (EC) No 1794/2006;
- (k) 'Just culture' means a culture in which front line operators or others are not punished for actions, omissions or decisions taken by them that are commensurate with their experience and training, but where gross negligence, wilful violations and destructive acts are not tolerated;
- (l) 'Airport coordinator' means the function established at coordinated airports in application of Regulation (EEC) No 95/93;
- (m) 'Performance Monitoring' means the continuous process of collecting and analysing data in order to measure the actual output of a system versus predefined targets.

Article 3

Performance Review Body

1. Where the Commission decides to designate a Performance Review Body to assist it in the implementation of the performance scheme, such designation shall be for a fixed term consistent with the reference periods.

2. The Performance Review Body shall have the appropriate competence and impartiality to carry out independently the tasks assigned to it by the Commission, in particular in the applicable key performance areas.

⁽¹⁾ OJ L 167, 4.7.2003, p. 23.

⁽²⁾ OJ L 294, 13.11.2007, p. 3.

⁽³⁾ OJ L 295, 14.11.2007, p. 7.

⁽⁴⁾ OJ L 14, 22.1.1993, p. 1.

3. The Performance Review Body shall assist the Commission in the implementation of the performance scheme, in particular in the following tasks:
- (a) the collection, examination, validation and dissemination of performance-related data;
 - (b) the definition of new or the adaptation of key performance areas, in consistency with those identified in the Performance Framework of the ATM (Air Traffic Management) Master Plan, as referred to in Article 8(1) and the related key performance indicators;
 - (c) for the second reference period and beyond, the definition of appropriate key performance indicators in order to cover in all key performance areas the performance of the network functions and of air navigation services both in en route and terminal services;
 - (d) the setting up or the revision of European Union-wide performance targets;
 - (e) the setting up of the thresholds for activating the alert mechanisms as referred to in Article 9(3);
 - (f) the consistency assessment of adopted performance plans, including performance targets, with the European Union-wide targets;
 - (g) where appropriate, the consistency assessment of the alert thresholds adopted in application of Article 18(3) with the European Union-wide alert thresholds referred to in Article 9(3);
 - (h) where appropriate, the assessment of the revised performance targets or the corrective measures taken by the Member States concerned;
 - (i) the monitoring, benchmarking and reviewing of the performance of air navigation services, at national or functional airspace block and European Union level;
 - (j) the monitoring, benchmarking and reviewing of the performance of the network functions;
 - (k) the ongoing monitoring of the overall performance of the ATM network, including the preparation of annual reports to the Single Sky Committee;
 - (l) the assessment of the achievement of the performance targets at the end of each reference period with a view to preparing the following period.
4. Upon the Commission's request, the Performance Review Body shall provide ad hoc information or reports on performance related issues.
5. The Performance Review Body may report and make recommendations to the Commission for the improvement of the scheme.
6. As regards relations with national supervisory authorities:
- (a) In order to exercise its function of ongoing monitoring of the overall performance of the ATM network, the Performance Review Body shall obtain from the national supervisory authorities the information necessary in relation with the national or functional airspace block performance plans.
 - (b) The Performance Review Body shall assist the national supervisory authorities upon their request by providing an independent view of the national or functional airspace block performance issues such as factual comparisons between air navigation service providers operating in similar environments (benchmarking), analyses of changes in performance over the last five years, or analyses of forward-looking projections.
 - (c) National supervisory authorities may request the assistance of the Performance Review Body for the definition of ranges of indicative values for national or functional airspace block target setting, taking into account the European perspective. Such values shall be available to national supervisory authorities, air navigation service providers, airport operators and airspace users.
7. The Performance Review Body shall cooperate as appropriate with the European Aviation Safety Agency for the tasks referred to in paragraph 3 when they are related to safety, to ensure consistency with the objectives and standards established and implemented in accordance with Regulation (EC) No 216/2008.
8. In order to exercise its function of ongoing monitoring of the overall performance of the air traffic management network, the Performance Review Body shall develop appropriate working arrangements with the air navigation service providers, airport operators, airport coordinators and air carriers.

Article 4

National supervisory authorities

1. The national supervisory authorities shall be responsible for the elaboration, at national or functional airspace block level, of the performance plans, the performance oversight and the monitoring of performance plans and targets. In carrying out these tasks, they shall act impartially, independently and transparently.
2. Member States shall ensure that national supervisory authorities have, or have access to, the necessary resources and capabilities in all the key performance areas to carry out the tasks provided for in this Regulation, including the investigation powers to perform the tasks referred to in Article 19.
3. Where a Member State has more than one national supervisory authority, it shall notify the Commission which national supervisory authority is responsible for the national co-ordination and relations with the Commission for the implementation of this Regulation.

*Article 5***Functional airspace blocks**

1. Member States shall encourage close cooperation between their national supervisory authorities with a view to establishing a performance plan at functional airspace block level.

2. Where Member States decide to adopt a performance plan at functional airspace block level, they shall:

(a) ensure that the performance plan conforms to the template laid down in Annex II;

(b) notify the Commission which national supervisory authority or body is responsible for the coordination within the functional airspace block and the relations with the Commission for the implementation of the performance plan;

(c) make appropriate arrangements to ensure that:

(i) a single target is established for each key performance indicator;

(ii) the measures referred to in Article 11(3)(d) of Regulation (EC) No 549/2004 are defined and applied during the reference period when targets are not met. For this purpose the annual values in the performance plan shall be used;

(iii) the consequences for meeting or not meeting the targets are suitably allocated within the functional airspace block;

(d) be jointly responsible for the achievement of the performance targets set for the functional airspace block;

(e) in the case where no common charging zone has been established within the meaning of Article 4 of Regulation (EC) No 1794/2006, aggregate the national cost-efficiency targets and provide for information a global figure demonstrating the cost efficiency effort at functional airspace block level.

3. Where Member States of a functional airspace block do not adopt a performance plan with targets at functional airspace block level, they shall communicate for information to the Commission aggregated performance targets highlighting the consistency at functional airspace block level with the European Union-wide performance targets.

*Article 6***Coordination with the European Aviation Safety Agency (EASA)**

In application of Article 13a of Regulation (EC) No 549/2004 and in accordance with Regulation (EC) No 216/2008, the Commission shall coordinate as appropriate with the EASA:

(a) the safety aspects of the performance scheme, including the setting-up, revision and implementation of key safety performance indicators and European Union-wide safety performance targets as well as the provision of proposals for appropriate actions and measures following the activation of an alert mechanism;

(b) the consistency of the safety key performance indicators and targets with the implementation of the European Aviation Safety Programme as may be adopted by the European Union.

*Article 7***Duration of the reference periods**

1. The first reference period for the performance scheme shall cover the calendar years 2012 to 2014 included. The following reference periods shall be of five calendar years, unless decided otherwise through amendment of this Regulation.

2. The same reference period shall apply to European Union-wide performance targets and the national or functional airspace blocks performance plans and targets.

*Article 8***Key performance areas and performance indicators**

1. For the purpose of target-setting, the possible addition and adaptation of other key performance areas pursuant to Article 11(4)(b) of Regulation (EC) No 549/2004 shall be decided by the Commission in accordance with the procedure referred to in Article 5(3) of that Regulation.

2. For the purpose of target-setting, to each key performance area shall correspond one or a limited number of key performance indicators. The performance of air navigation services shall be assessed by means of binding targets for each key performance indicator.

3. The key performance indicators for European Union-wide target setting, selected for each key performance area, are in Annex I Section 1.

4. The key performance indicators used for establishing the performance targets for the national or functional airspace blocks are in Annex I Section 2.

5. The key performance indicators shall not be changed in the course of a reference period. Changes shall be adopted by amendment of this Regulation at the latest six months before adopting new European Union-wide performance targets.

6. In addition to the key performance areas and key performance indicators referred to in this Article, Member States, at national or functional airspace block level, may decide to set up and use additional performance indicators and associated targets to those set out in Annex I Section 2 for their own performance monitoring and/or as part of their performance plans. These additional indicators and targets shall be supportive of the achievement of the European Union-wide, and resulting national or functional airspace block level targets. They may for example integrate and describe the civil-military or meteorological dimension of the performance plan. These additional indicators and targets may be accompanied by appropriate incentive schemes decided at national or functional airspace block level.

CHAPTER II

THE PREPARATION OF PERFORMANCE PLANS

Article 9

European Union-wide performance targets

1. The Commission shall adopt European Union-wide performance targets, in accordance with the procedure referred to in Article 5(3) of Regulation (EC) No 549/2004, taking into account the relevant inputs from national supervisory authorities and after consultation of the stakeholders as referred to in Article 10 of that Regulation, other relevant organisations as appropriate and the European Aviation Safety Agency for the safety aspects of the performance.

2. European Union-wide targets shall be proposed by the European Commission at the latest 15 months before the beginning of the reference period and adopted at the latest 12 months before the beginning of the reference period.

3. Together with the adoption of the European Union-wide performance targets, the Commission shall define for each key performance indicator alert thresholds beyond which the alert mechanisms referred to in Article 18 may be activated. Alert thresholds for the cost-efficiency key performance indicator shall cover both traffic and costs evolution.

4. The Commission shall substantiate each European Union-wide performance target with a description of the assumptions and rationale used for setting up these targets, such as the use made of inputs from national supervisory authorities and other factual data, traffic forecasts and, where appropriate, expected levels of efficient determined costs for the European Union.

Article 10

Elaboration of performance plans

1. The national supervisory authorities, at either national or functional airspace block level, shall draw up performance plans containing targets consistent with the European Union-wide performance targets and the assessment criteria set out in Annex III. There shall be only one performance plan per Member State or per functional airspace block when the Member States concerned decide to elaborate a performance plan at functional airspace block level in application of Article 5(1) and (2).

2. To support the preparation of the performance plans the national supervisory authorities shall ensure:

- (a) that the air navigation service providers communicate relevant elements of their business plans, prepared in consistency with the European Union-wide targets;
- (b) consultation of the stakeholders in accordance with Article 10 of Regulation (EC) No 549/2004 on the performance plan and targets. Adequate information shall be provided to stakeholders at least three weeks prior to the consultation meeting.

3. The performance plans shall contain, in particular:

- (a) the traffic forecast, expressed in service units, to be served for each year of the reference period, with the justification of the figures used;
- (b) the determined costs for air navigation services costs set by Member State(s) in accordance with the provisions of Article 15(2)(a) and (b) of Regulation (EC) No 550/2004;
- (c) a description of investment necessary to achieve the performance targets with a description of their relevance in relation with the European ATM Master Plan and their coherence with the main areas and directions of progress and change as set out therein;
- (d) performance targets in each relevant key performance area, set by reference to each key performance indicator, for the entire reference period, with annual values to be used for monitoring and incentive purposes;
- (e) a description of the civil-military dimension of the plan describing the performance of flexible use of airspace (FUA) application in order to increase capacity with due regard to military mission effectiveness, and if deemed appropriate, relevant performance indicators and targets in consistency with the indicators and targets of the performance plan;
- (f) a description and justification of how the performance targets referred to in (d) reconcile and contribute to the European Union-wide performance targets;
- (g) clear identification of the different entities, accountable for meeting the targets and their specific contribution;
- (h) a description of the incentive mechanisms to be applied on the various accountable entities to encourage achievement of the targets over the reference period;

- (i) the measures taken by the national supervisory authorities to monitor the achievement of the performance targets;
- (j) a description of the outcome of the stakeholder consultation, including the issues raised by the participants as well as the actions agreed.

4. The performance plans shall be based on the template set out in Annex II and may, if the Member States so decide in application of Article 8(6), contain additional indicators with associated targets.

Article 11

Incentive schemes

1. The incentive schemes applied by Member States as part of their performance plan, shall comply with the following general principles:

- (a) they shall be effective, proportional, and credible and shall not be changed during the reference period;
- (b) they shall be implemented on a non-discriminatory and transparent basis to support improvements in the performance of service provision;
- (c) they shall be part of the regulatory environment known *ex ante* by all stakeholders and be applicable during the entire reference period;
- (d) they shall drive behaviour of entities subject to target setting with a view to achieving a high level of performance and meeting the associated targets.

2. Incentives on safety targets shall aim at encouraging that required safety objectives are fully achieved and maintained while allowing for performance improvements in other key performance areas. They shall not be of financial nature and shall consist in action plans with deadlines and/or associated measures in application of Commission Regulation (EC) No 2096/2005 of 20 December 2005 laying down common requirements for the provision of air navigation services⁽¹⁾ and/or implementing rules resulting from Regulation (EC) No 216/2008.

3. Incentives on cost-efficiency targets shall be of financial nature and shall be governed by appropriate provisions in Article 11(1) and (2) of Regulation (EC) No 1794/2006. They shall consist in a risk-sharing mechanism, at national or functional airspace block level.

4. Incentives on capacity targets may be of financial nature or of other nature, such as corrective action plans with deadlines and associated measures, which may include bonuses and penalties, adopted by Member States. Where the incentives are of financial nature, they shall be governed by the provisions of Article 12 of Regulation (EC) No 1794/2006.

5. Incentives on environment targets shall aim at encouraging the achievement of required environmental performance levels while allowing for performance improvements in other key performance areas. They shall be of financial or non-financial nature and shall be decided by Member States taking account of local circumstances.

6. In addition, Member States, at national or functional airspace block level, may establish or approve incentives schemes on airspace users, as provided for in Article 12 of Regulation (EC) No 1794/2006.

CHAPTER III

THE ADOPTION OF PERFORMANCE PLANS

Article 12

Initial adoption of performance plans

Upon proposal of the national supervisory authorities, Member States, at national or functional airspace block level, shall adopt and communicate to the Commission, at the latest six months after adoption of the European Union-wide targets, their performance plans containing binding performance targets.

Article 13

Assessment of performance plans and revision of the targets

1. The Commission shall assess the performance plans, their targets and in particular their consistency with, and adequate contribution to, the European Union-wide performance targets, on the basis of the criteria laid down in Annex III, taking into appropriate account the evolution of the context that may have occurred between the date of adoption of the European Union-wide targets and the date of assessment of the performance plan.

2. Where performance targets contained in a performance plan are found consistent with, and adequately contributing to, the European Union-wide targets, the Commission shall notify the Member State(s) thereof at the latest four months after reception of the plan.

3. Where performance target(s) contained in a performance plan is/are found not to be consistent with, and adequately contributing to, the European Union-wide targets, the Commission may, at the latest four months after reception of the plan and in accordance with the procedure referred to in Article 5(2) of Regulation (EC) No 549/2004, decide to issue a recommendation to the Member State(s) concerned to adopt revised performance target(s). Such decision shall be taken after consultation of the Member State(s) concerned, and shall identify precisely which target(s) has/have to be revised as well as the rationale of the Commission's assessment.

4. In such case, at the latest two months after the issuance of the recommendation, the Member State(s) concerned shall adopt revised performance targets, taking due account of the Commission's views, together with the appropriate measures for reaching those targets and shall notify the Commission thereof.

⁽¹⁾ OJ L 335, 21.12.2005, p. 13.

*Article 14***Assessment of the revised performance targets and adoption of corrective measures**

1. Within two months after notification, the Commission shall assess the revised performance targets and in particular their consistency with, and adequate contribution to, the European Union-wide performance targets, on the basis of the criteria laid down in Annex III.

2. Where the revised targets referred to in Article 13(4) are found consistent with, and adequately contributing to, the European Union-wide targets, the Commission shall notify the Member State(s) thereof at the latest two months after reception of the revised targets.

3. Where the revised performance targets and the appropriate measures are still not consistent with, and adequately contributing to, the European Union-wide targets, the Commission may decide, at the latest two months after reception of the revised targets and in accordance with the procedure referred to in Article 5(3) of Regulation (EC) No 549/2004, that the Member State(s) concerned shall take corrective measures.

4. Such decision shall identify precisely which target(s) has/have to be revised and the rationale of the Commission's assessment. It may contain the level of performance expected for those targets in order to allow the Member State(s) concerned to take the appropriate corrective measures, and/or contain suggestions for such appropriate measures.

5. At the latest two months after the Commission's decision, the corrective measures adopted by the Member State(s) concerned shall be communicated to the Commission, together with the elements showing how consistency with the Commission's decision is ensured.

*Article 15***Performance plans and targets adopted after the beginning of the reference period**

Performance plans or corrective measures adopted after the beginning of the reference period as a result of the implementation of the procedures set out in Articles 13 and 14 shall apply retroactively as from the first day of the reference period.

*Article 16***Revision of the European Union-wide targets**

1. The Commission may decide to revise the European Union-wide targets in accordance with the procedure referred to in Article 5(3) of Regulation (EC) No 549/2004:

(a) before the beginning of the reference period when it has substantial evidence that the initial data, assumptions and

rationales used for setting the initial European Union-wide targets are no longer valid;

(b) during the reference period, as a result of the application of an alert mechanism as referred to in Article 18.

2. A revision of the European Union-wide targets may result in amendment of the existing performance plans. In such case the Commission may decide an appropriate adjustment of the time schedule set up in Chapters II and III of this Regulation.

CHAPTER IV

MONITORING OF THE ACHIEVEMENT OF PERFORMANCE*Article 17***Ongoing monitoring and reporting**

1. The national supervisory authorities, at national or functional airspace block level, and the Commission shall monitor the implementation of the performance plans. If during the reference period targets are not met, the national supervisory authorities shall apply the appropriate measures defined in the performance plan with a view to rectifying the situation. For this purpose the annual values in the performance plan shall be used.

2. Where the Commission witnesses a significant and persistent drop in performance in a Member State or a functional airspace block, affecting other States parties to the single European sky and/or the entire European airspace, it may request the Member States concerned and national or functional airspace block supervisory authority or body concerned to define, apply and communicate to the Commission appropriate measures to achieve the targets set in their performance plan.

3. The Member States shall report to the Commission on the monitoring by their national or functional airspace block supervisory authorities of the performance plans and targets at least on an annual basis and when performance targets risk not being achieved. The Commission shall report to the Single Sky Committee on the achievement of performance targets at least on an annual basis.

*Article 18***Alert mechanisms**

1. Where, due to circumstances that were unforeseeable at the beginning of the period and are at the same time insurmountable and outside the control of the Member States, alert threshold(s) referred to in Article 9(3) is/are reached at European Union level, the Commission shall review the situation in consultation with the Member States through the Single Sky Committee and provide proposals for appropriate actions within three months, which may include the revision of the European Union-wide performance targets and as a consequence revision of the national or functional airspace block performance targets.

2. Where, due to circumstances that were unforeseeable at the beginning of the period and are at the same time insurmountable and outside the control of the Member States and the entities subject to the performance targets, alert threshold(s) referred to in Article 9(3) is/are reached at national or functional airspace block level, the national supervisory authority or body concerned shall review the situation liaising with the Commission and may provide proposals for appropriate measures within three months, which may include the revision of the national or functional airspace block performance targets.

3. Member States, at national or functional airspace block level, may decide to adopt alert thresholds different from the ones referred to in Article 9(3), in order to take account of local circumstances and specificities. In such case, these thresholds shall be set out in the performance plans and consistent with the thresholds adopted pursuant to Article 9(3). The deviations shall be supported by detailed justification. When these thresholds are activated, the process set out in paragraph 2 shall apply.

4. Where the implementation of an alert mechanism entails revision of performance plans and targets, the Commission shall facilitate such revision through an appropriate adjustment of the time schedule applicable in accordance with the procedure referred to in Chapters II and III of this Regulation.

Article 19

Facilitation of compliance monitoring

Air navigation service providers shall facilitate inspections and surveys by the Commission and the national supervisory authority(ies) responsible for their oversight, by a qualified entity acting on the latter's behalf, or by EASA in so far as relevant, including site visits. Without prejudice to the oversight powers conferred upon the national supervisory authorities and the EASA the authorised persons shall be empowered:

- (a) to examine, in relation with all key performance areas, the relevant documents and any other material relevant to the establishment of performance plans and targets;
- (b) to take copies of or extracts from such documents;
- (c) to ask for an oral explanation on site.

Such inspections and surveys shall be carried out in compliance with the procedures in force in the Member State in which they are to be undertaken.

CHAPTER V

COLLECTION, VALIDATION, EXAMINATION, EVALUATION AND DISSEMINATION OF INFORMATION RELATED TO AIR NAVIGATION PERFORMANCE FOR THE SINGLE EUROPEAN SKY

Article 20

Collection and validation of data for performance review

1. In addition to the data already collected by the Commission through other European Union instruments and which may also be used for performance review, national authorities, air navigation service providers, airport operators, airport coordinators and air carriers shall ensure the provision to the Commission of the data referred to in Annex IV according to the requirements set out in this Annex.

2. National authorities may delegate or reorganise in full or in part the task of providing the data between their national supervisory authorities, air navigation service providers, airport operators and airport coordinators, with a view to taking into account local specificities and existing reporting channels.

3. The data providers shall take the necessary measures to ensure the quality, validation and timely transmission of the data, including evidence of their quality checks and validation processes, explanations to specific requests of the European Commission related to the quality of the data and, where necessary, action plans to improve data quality. The data shall be provided free of charge, in electronic form where applicable using the format specified by the Commission.

4. The Commission shall assess the quality and validate the data transmitted according to paragraph 1. When the data do not allow proper use for performance review, the Commission may take appropriate measures to assess and improve the quality of the data in cooperation with Member States, and in particular their national supervisory authorities.

5. For the purpose of this Regulation, performance related data referred to in paragraph 1 that is already provided to Eurocontrol shall be deemed to be provided to the Commission. Where this is not the case, the Commission and Eurocontrol shall make the necessary arrangements to ensure that such data is made available to the Commission under the same requirements as described in paragraph 3.

6. Whenever significant new data requirements are identified or insufficient quality data is to be expected, the Commission may carry out pilot studies to be completed on a voluntary basis by the Member States before new data requirements are introduced by amendment of this Regulation. Such pilot studies will be carried out in order to assess the feasibility of the relevant data collection, taking into consideration the benefits of the availability of the data in relation to the collection costs and the burden of respondents.

Article 21

Dissemination of information

1. The Commission shall disseminate general information for the purpose of the objectives set out in Article 11 of Regulation (EC) No 549/2004 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⁽¹⁾, in particular its Article 4, and with Article 18 of Regulation (EC) No 550/2004.

2. The information included in Article 3(3)(a) shall be publicly available to the interested parties concerned, in particular by electronic means.

3. The annual reports referred to in Article 3(3)(k) shall be publicly available. A reference to those reports shall be published in the *Official Journal of the European Union*. The Commission may decide to provide other general information on a regular basis to the interested parties concerned, in particular by electronic means.

4. The European Union-wide targets referred to in Article 9 and a reference to the adopted performance plans referred to in Chapter III shall be publicly available and published in the *Official Journal of the European Union*.

5. Individual access to specific information, such as validated data and statistics, shall be granted to the data provider to whom the information and activities directly relate.

CHAPTER VI

FINAL PROVISIONS

Article 22

Appeal

Member States shall ensure that decisions taken pursuant to this Regulation are properly reasoned and are subject to an effective review and/or appeal procedure.

Article 23

Transitional measures

Where Member States decide to adopt a performance plan with targets at functional airspace block level in the course of the first reference period, they shall ensure that:

- (a) the plan supersedes the national plans as from 1 January of one of the years of the reference period;
- (b) the duration of the plan does not exceed the remaining duration of the reference period;
- (c) the plan demonstrates that its performance targets are at least as ambitious as the consolidation of the former national targets.

⁽¹⁾ OJ L 145, 31.5.2001, p. 43.

Article 24

Review of the scheme

The Commission shall review the effectiveness of the process by 1 July 2013. By the end of 2014 and regularly thereafter, the Commission shall review the performance scheme, and in particular analyse the impact, the effectiveness and scope of that system, taking appropriate account of work carried out by ICAO in this field.

Article 25

Amendments to Regulation (EC) No 2096/2005

Regulation (EC) No 2096/2005 is amended as follows:

1. Section 2.2 of Annex I is replaced by the following:

'2.2. Organisational management

An air navigation service provider shall produce a business plan covering a minimum period of five years. The business plan shall:

- (a) set out the overall aims and goals of the air navigation service provider and its strategy towards achieving them in consistency with any overall longer term plan of the provider and with relevant European Union requirements for the development of infrastructure or other technology;
- (b) contain appropriate performance targets in terms of safety, capacity, environment and cost-efficiency as may be applicable.

The information contained in paragraphs (a) and (b) shall be consistent with the national or functional airspace block performance plan referred to in Article 11 of Regulation (EC) No 549/2004 and, as far as safety data is concerned, consistent with the State Safety Programme referred to in Standard 2.27.1 of ICAO Annex 11, Amendment 47B-A from 20 July 2009 as applicable.

An air navigation service provider shall produce safety and business justifications for major investment projects including where relevant the estimated impact on the appropriate performance targets referred to in 2.2(b) and identifying investments stemming from the legal requirements associated with the implementation of SESAR.

An air navigation service provider shall produce an annual plan covering the forthcoming year which shall specify further the features of the business plan and describe any changes to it.

The annual plan shall cover the following provisions on the level and quality of service such as the expected level of capacity, safety, environment and cost-efficiency as may be applicable:

- (a) information on the implementation of new infrastructure or other developments and a statement how they will contribute to improving the performance of the air navigation service provider, including level and quality of services;
- (b) performance indicators consistent with the national or functional airspace block performance plan referred to in Article 11 of Regulation (EC) No 549/2004 against which the performance level and quality of service may be reasonably assessed;
- (c) information on the measures foreseen to mitigate the safety risks identified in the safety plan of the air navigation service provider, including safety indicators to monitor safety risk and where appropriate the estimated cost of mitigation measures;
- (d) the service provider's expected short-term financial position as well as any changes to or impacts on the business plan.

The air navigation service provider shall make the content of the performance part of the business plan and of the annual plan available to the Commission on request under conditions set by the national supervisory authority in accordance with national law.'

2. Section 9 of Annex I is replaced by the following:

'9. REPORTING REQUIREMENTS

An air navigation service provider shall be able to provide an annual report of its activities to the relevant national supervisory authority. This report shall cover its financial results without prejudice to Article 12 of Regulation (EC) No 550/2004, as well as its operational performance and any other significant activities and developments in particular in the area of safety.

The annual report shall include as a minimum:

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

Done at Brussels, 29 July 2010.

- an assessment of the level of performance of service generated,
- the performance of the air navigation service provider compared to the performance targets established in the business plan, reconciling actual performance against the annual plan by using the indicators of performance established in the annual plan,
- provide an explanation for differences with the targets, and identify measures for closing any gaps during the Reference Period referred to in Article 11 of Regulation (EC) No 549/2004,
- developments in operations and infrastructure,
- the financial results, as long as they are not separately published in accordance with Article 12(1) of Regulation (EC) No 550/2004,
- information about the formal consultation process with the users of its services,
- information about the human resources policy.

The air navigation service provider shall make the content of the annual report available to the European Commission on request and to the public under conditions set by the national supervisory authority in accordance with national law.'

Article 26

Entry into force

1. This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.
2. Chapter V shall apply as from 1 January 2011. The first reference period shall start from 1 January 2012.

For the Commission

The President

José Manuel BARROSO

ANNEX I

KEY PERFORMANCE INDICATORS (KPI)**Section 1: For European Union-wide target setting:**

1. SAFETY KEY PERFORMANCE INDICATORS

- (a) The first European Union-wide safety KPI shall be the minimum level of the first safety key performance indicator defined in Section 2, point 1(a) below for air navigation services providers and national supervisory authorities respectively.
- (b) The second European Union-wide safety key performance indicator shall be the percentage of application of the severity classification of Risk Analysis Tool as defined in Section 2, point 1(b) below in States where this Regulation applies, to allow harmonised reporting of severity assessment of Separation Minima Infringements, Runway Incursions and ATM Specific Technical Events.
- (c) The third European Union-wide safety key performance indicator shall be the minimum level of the measure of the just culture at the end of the reference period as defined in Section 2, point 1(c) below.

There shall be no European Union-wide targets for the above key performance indicators in the first reference period. During the first reference period, the Commission shall use the data collected to validate these key performance indicators and assess them with a view to ensuring that safety risk is adequately identified, mitigated and managed. On this basis, the Commission shall adopt new safety key performance indicators if necessary, by revision of this Annex.

2. ENVIRONMENT INDICATOR

2.1. For the first reference period:

The first European Union-wide environment KPI shall be the average horizontal en route flight efficiency, defined as follows:

- the average horizontal en route flight efficiency indicator is the difference between the length of the en route part of the actual trajectory and the optimum trajectory which, in average, is the great circle,
- 'en route' is defined as the distance flown outside a circle of 40 NM around the airport,
- the flights considered for the purpose of this indicator are:
 - (a) all commercial IFR (Instrumental Flight Rules) flights within European airspace;
 - (b) where a flight departs or arrives outside the European airspace, only that part inside the European airspace is considered,
- circular flights and flights with a great circle distance shorter than 80NM between terminal areas are excluded.

The second European Union-wide environment KPI shall be the effective use of the civil/military airspace structures, e.g. CDRs (Conditional Routes). For the first reference period, this indicator shall be monitored by the Commission. Target setting shall start as from the second reference period.

- 2.2. As from the second reference period, a third European Union-wide environment KPI shall be developed to address the specific airport air navigation services (ANS)-related environment issues.

3. CAPACITY INDICATOR

3.1. For the first reference period:

The European Union-wide capacity KPI shall be the minutes of en route ATFM (Air Traffic Flow Management) delay per flight, defined as follows:

- (a) the en route ATFM delay is the delay calculated by the central unit of ATFM as defined in Commission Regulation (EU) No 255/2010 of 25 March 2010 laying down common rules on air traffic flow management⁽¹⁾ and expressed as the difference between the take-off time requested by the aircraft operator in the last submitted flight plan and the calculated take-off time allocated by the central unit of ATFM;

⁽¹⁾ OJ L 80, 26.3.2010, p. 10.

- (b) the indicator includes all IFR flights within European airspace and covers ATFM delay causes;
- (c) the indicator is calculated for the whole calendar year.

In order to prepare the development of a second European Union-wide capacity KPI, the Commission shall collect, consolidate and monitor as from the first reference period:

- (a) the total of ATFM delays attributable to terminal and airport air navigation services;
- (b) the additional time in the taxi out phase;
- (c) for airports with more than 100 000 commercial movements per year the additional time for ASMA (Arrival Sequencing and Metering Area).

3.2. As from the second reference period, a second European Union-wide capacity indicator shall be developed on the basis of the monitoring described in point 3.1 to address the specific airport ANS-related capacity issues.

4. COST-EFFICIENCY INDICATOR

4.1. For the first reference period:

The European Union-wide cost-efficiency KPI shall be the average European Union-wide determined unit rate for en route air navigation services, defined as follows:

- (a) the indicator is the result of the ratio between the determined costs and the forecast traffic, expressed in service units, expected for the period at European Union level, as contained in the Commission's assumptions for establishing the European Union-wide targets in application of Article 9(4);
- (b) the indicator is expressed in euros and in real terms;
- (c) the indicator is provided for each year of the reference period.

For the first reference period, terminal air navigation services costs and unit rates shall be collected, consolidated and monitored by the Commission in accordance with Regulation (EC) No 1794/2006.

4.2. As from the second reference period, the second European Union-wide cost-efficiency key performance indicator shall be the average European Union determined unit rate for terminal air navigation services.

Section 2: For national or Functional Airspace Block (FAB) target setting:

1. SAFETY KEY PERFORMANCE INDICATORS

- (a) The first national/FAB safety KPI shall be the effectiveness of safety management as measured by a methodology based on the ATM Safety Maturity Survey Framework. This indicator shall be developed jointly by the Commission, the Member States, EASA and Eurocontrol and adopted by the Commission prior to the first reference period. During this first reference period, national supervisory authorities will monitor and publish these key performance indicators, and Member States may set corresponding targets.
- (b) The second national/FAB safety KPI shall be the application of the severity classification of the Risk Analysis Tool to allow harmonised reporting of severity assessment of Separation Minima Infringement, Runway Incursions and ATM Specific Technical Events at all Air Traffic Control Centres and airports with more than 150 000 commercial air transport movements per year within the scope of this Regulation (yes/no value). The severity classification shall be developed jointly by the Commission, the Member States, EASA and Eurocontrol and adopted by the Commission prior to the first reference period. During this first reference period, national supervisory authorities will monitor and publish these key performance indicators, and Member States may set corresponding targets.
- (c) The third national/FAB safety KPI shall be the reporting of just culture. This measure shall be developed jointly by the Commission, the Member States, EASA and Eurocontrol and adopted by the Commission prior to the first reference period. During this first reference period, national supervisory authorities will monitor and publish this measure, and Member States may set corresponding targets.

2. ENVIRONMENT INDICATOR

2.1. For the first reference period, there shall be no mandatory national/FAB environment KPI.

Without prejudice to the local prescriptions on environment, Member States shall also collaborate with the Commission in view of the setting up of an environment KPI to address the specific airport ANS-related environment issues and which shall be implemented as from the second reference period.

2.2. For the second reference period, the national/FAB environment KPI shall be the development of a national/FAB improvement process on route design before the end of the reference period, including the effective use of the civil/military airspace structures (e.g. CDRs).

3. CAPACITY INDICATOR

3.1. For the first reference period:

The national/FAB capacity KPI shall be the minutes of en route ATFM delay per flight. It is defined as follows:

- (a) the indicator is defined as in Section 1, point 3.1;
- (b) the indicator is given for each year of the reference period.

In order to prepare the development of a second national/FAB capacity KPI, Member States shall report as from the first reference period:

- (a) the total of ATFM delays attributable to terminal and airport air navigation services;
- (b) the additional time in the taxi out phase;
- (c) for airports with more than 100 000 commercial movements per year the additional time for ASMA (Arrival Sequencing and Metering Area).

3.2. As from the second reference period, a second national/FAB capacity KPI shall be implemented to address the specific terminal and airport-related capacity issues.

4. COST-EFFICIENCY INDICATOR

4.1. For the first reference period, the national/FAB cost-efficiency KPI shall be the national/FAB determined unit rate for en route air navigation services, defined as follows:

- (a) the indicator is the result of the ratio between the determined costs and the forecast traffic contained in the performance plans in accordance with Article 10(3)(a) and (b);
- (b) the indicator is expressed in national currency and in real terms;
- (c) the indicator is provided for each year of the reference period.

In addition, States shall report their terminal air navigation services costs and unit rates in accordance with Regulation (EC) No 1794/2006 and shall justify to the Commission any deviation from the forecasts.

4.2. As from the second reference period, a second national/FAB capacity KPI shall be implemented: the national/FAB determined unit rate(s) for terminal air navigation services.

ANNEX II

TEMPLATE FOR PERFORMANCE PLANS

The national/functional airspace block performance plans shall be based on the following structure:

1. INTRODUCTION

- 1.1. Description of the situation (scope of the plan, entities covered, national or FAB plan, etc.)
- 1.2. Description of the macroeconomic scenario for the reference period including overall assumptions (traffic forecast, unit rate trend, etc.)
- 1.3. Description of the outcome of the stakeholder consultation to prepare the performance plan (main issues raised by the participants and if possible agreed compromises).

2. PERFORMANCE TARGETS AT NATIONAL AND/OR FUNCTIONAL AIRSPACE BLOCK LEVEL

- 2.1. Performance targets in each key performance area, set by reference to each key performance indicator, for the entire reference period, with annual values to be used for monitoring and incentive purposes:

(a) **Safety**

- effectiveness of safety management: national/FAB targets as defined in accordance with Annex I, Section 2, point 1(a) for each year of the reference period (optional in the first reference period),
- application of the severity classification of the Risk Analysis Tool: national/FAB targets as defined in accordance with Annex I, Section 2, point 1(b) for each year of the reference period (yes/no values),
- just culture: national/FAB targets as defined in accordance with Annex I, Section 2, point 1(c) for each year of the reference period (optional in the first reference period);

(b) **Capacity**

- minutes of en route ATFM delay per flight;

(c) **Environment**

- description of the national/FAB improvement process on route design (optional in the first reference period);

(d) **Cost-efficiency**

- determined costs for en route and terminal air navigation services set in accordance with the provisions of Article 15(2)(a) and (b) of Regulation (EC) No 550/2004 and in application of the provisions of Regulation (EC) No 1794/2006 for each year of the reference period,
- en route service units forecast for each year of the reference period,
- as a consequence, the determined unit rates for the reference period,
- description and justification of the return on equity of the air navigation service providers in relation with the actual risk incurred,
- description of investment necessary to achieve the performance targets with a description of their relevance in relation with the European ATM Master Plan and their coherence with the main areas and directions of progress and change as set out therein.

- 2.2. Description and explanation of the consistency of the performance targets with the European Union-wide performance targets.

- 2.3. Description and explanation of the carry-overs from the years before the reference period.

- 2.4. Description of the parameters used by the Member States in the setting of risk-sharing and incentives.

3. CONTRIBUTION OF EACH ACCOUNTABLE ENTITY

- 3.1. Individual performance targets for each accountable entity.
- 3.2. Description of the incentive mechanisms to be applied on each entity to encourage the targets being met over the reference period.

4. MILITARY DIMENSION OF THE PLAN

Description of the civil-military dimension of the plan describing the performance of flexible use of airspace (FUA) application in order to increase capacity with due regard to military mission effectiveness, and if deemed appropriate, relevant performance indicators and targets in consistency with the indicators and targets of the performance plan.

5. ANALYSIS OF SENSITIVITY AND COMPARISON WITH THE PREVIOUS PERFORMANCE PLAN

- 5.1. Sensitivity to external assumptions.
- 5.2. Comparison with previous performance plan (not applicable for first reference period).

6. IMPLEMENTATION OF THE PERFORMANCE PLAN

Description of the measures put in place by the national supervisory authorities to achieve the performance targets, such as:

- monitoring mechanisms to ensure that the ANS safety programmes and business plans are implemented,
 - measures to monitor and report on the implementation of the performance plans including how to address the situation if targets are not met during the reference period.
-

ANNEX III

PRINCIPLES TO ASSESS CONSISTENCY BETWEEN EUROPEAN UNION-WIDE AND NATIONAL OR FUNCTIONAL AIRSPACE BLOCK PERFORMANCE TARGETS

The Commission shall use the following assessment criteria:

1. General criteria

- (a) Compliance with the requirements related to the preparation and adoption of the performance plan and in particular assessment of the justifications provided in the performance plan;
- (b) Factual analysis taking into account the overall situation of each individual States;
- (c) The interrelations between all performance targets;
- (d) The standards of performance at the start of the reference period and the resulting scope for further improvement;

2. Safety

- (a) Effectiveness of safety management: the additional margin for both air navigation service providers and national supervisory authorities, used in the performance plan and assessed by the Commission, shall be equal or higher than to the scores of the corresponding European Union-wide indicator at the end of the reference period (optional in the first reference period);
- (b) Application of the severity classification of the Risk Analysis Tool: consistency of the local key performance indicator as defined in Annex I, Section 2, point 1(b) with the European Union-wide indicator for each year of the reference period;
- (c) Just culture: the level of the national/FAB performance target at the end of the reference period using the key performance indicator defined in Annex I, Section 2, point 1(c) shall be equal to or higher than the European Union-wide target as defined in accordance with Annex I, Section 1, point 1(c) (optional in the first reference period);

3. Environment

Route design: not applicable during the first reference period. During the second reference period, assessment of the process on route design used in the performance plan;

4. Capacity

Delay level: Comparison of the expected level of en route ATFM delay used in the performance plans with a reference value provided by capacity planning process of Eurocontrol;

5. Cost-efficiency

- (a) Unit rate trend: assessment whether the submitted determined unit rates are foreseen to evolve consistently with the European Union-wide cost-efficiency target and whether they contribute in an adequate manner to the achievement of the aforementioned target during the entire reference period as well as for each year individually;
- (b) Determined Unit rate level: comparison of the submitted local unit rates with the average unit rate of Member States or FABs having a similar operational and economic environment defined by the Commission;
- (c) Return on equity: assessment of the return on equity of the air navigation service providers in relation with the actual risk incurred;
- (d) Traffic forecast assumptions: comparison of local service unit forecasts used in the performance plan with a reference forecast such as Eurocontrol Statistics and Forecast Service (STATFOR) traffic forecasts;
- (e) Economic assumptions: Check that the inflation assumptions used in the performance plan are in line with a reference forecast such as IMF (International Monetary Fund)/Eurostat forecasts.

ANNEX IV

LIST OF DATA TO BE PROVIDED FOR THE PURPOSE OF THIS REGULATION

1. BY NATIONAL AUTHORITIES:

1.1. **Data set specification**

National authorities shall provide for the purpose of performance review the following data:

- (a) information required to comply with the safety key performance indicator referred to in Annex I Section 2 point 1(a);
- (b) State Safety Programme as required by Standard 2.27.1 of ICAO Annex 11, Amendment 47-B from 20 July 2009.

In addition, National authorities shall ensure that the following data is available for the purpose of performance review:

- (c) data used and calculated by the central unit of ATFM as defined in Regulation (EU) No 255/2010 on ATFM such as flight plans for general air traffic under IFR rules, actual routing, surveillance data, en-route and airport air traffic management delays, exemptions from air traffic flow management measures, respect of air traffic management slots, frequency of conditional route usage;
- (d) ATM-related safety occurrences as defined in the Eurocontrol Safety Regulatory Requirement – ESARR 2, Edition 3.0 – entitled ‘Reporting and Assessment of Safety Occurrences in ATM’;
- (e) NSA safety reports as referred to in Articles 6, 7 and 14 of Commission Regulation (EC) No 1315/2007 ⁽¹⁾ as well as NSA reports on resolution of safety deficiencies identified that are subject to corrective action plans;
- (f) information on safety recommendations and corrective actions taken on the basis of ATM-related incident analysis/investigation in accordance with Council Directive 94/56/EC ⁽²⁾ on accident investigation and Directive 2003/42/EC on occurrence reporting in civil aviation;
- (g) information on the elements in place to promote the application of a just culture;
- (h) data in support to tasks referred to in Article 4(1)m and (n) of Commission Regulation (EC) No 2150/2005 of 23 December 2005 laying down common rules for the flexible use of airspace (FUA) ⁽³⁾.

1.2. **Periodicity and deadlines for data provision**

Data referred to in 1.1(a), (b), (d), (e), (g) and (h) shall be provided on an annual basis.

Data referred to in 1.1(c) and (f) shall be made available on a monthly basis.

2. BY AIR NAVIGATION SERVICE PROVIDERS

This Section applies to air navigation service providers providing services referred to in Article 1(2). In individual cases, National authorities may include air navigation service providers below the limit of this Article 1(2). They shall inform the Commission thereof.

2.1. **Data set specification**

Air navigation service providers shall provide for the purpose of performance review the following data:

- (a) data referred to in the Eurocontrol Specification titled ‘Eurocontrol Specification for Economic Information Disclosure’, Edition 2.6 of 31 December 2008 with the reference Eurocontrol-SPEC-0117;
- (b) annual reports and performance-related part of the Business plans and the Annual plan established by the air navigation service provider according to Annex I, Section 2.2 and 9 of the common requirement Regulation;

⁽¹⁾ OJ L 291, 9.11.2007, p. 16.

⁽²⁾ OJ L 319, 12.12.1994, p. 14.

⁽³⁾ OJ L 342, 24.12.2005, p. 20.

(c) information required to comply with the safety KPI referred to in Annex I, Section 2, point 1(a);

(d) information on the elements in place to promote the application of a just culture.

2.2. Periodicity and deadlines for data provision

Data for year (n) referred to in Article 2(a) shall be provided on an annual basis before the 15th of July of year (n + 1), except for forward looking data which shall be provided by 1st November of year (n + 1). The first reference year (n) shall be 2010.

Data referred to in Article 2(b) and (c) shall be provided on an annual basis.

3. BY AIRPORT OPERATORS

This Section applies to Airport operators providing services at Community airports with more than 150 000 commercial air transport movements per year and to all coordinated and facilitated airports with more than 50 000 commercial air transport movements per year. In individual cases, Member States may include airports below this threshold. They shall inform the Commission thereof.

3.1. Definitions

The following definitions shall apply for the purpose of this specific Annex:

- (a) 'Airport Identification' means the description of the airport using the standard ICAO 4-letter code as defined in ICAO Doc. 7910 (120th edition – June 2006);
- (b) 'Coordination parameters' means the coordination parameters defined in Regulation (EEC) No 95/93;
- (c) 'Airport declared capacity' means the coordination parameters which are provided in the form that describes a maximum number of slots per unit of time (block period) that can be allocated by the coordinator. The duration of blocks can vary; in addition several blocks with different duration can be superposed to control the concentration of flights within a certain time period. The use of declared capacity values for the whole season means a fixing of the seasonal airport infrastructure capacity at an early stage;
- (d) 'Aircraft Registration' means the alphanumeric characters corresponding to the actual registration of the aircraft;
- (e) 'Aircraft type' means an aircraft type designator (up to 4 characters) as indicated in ICAO guidelines;
- (f) 'Flight Identifier' means a group of alphanumeric characters used to identify a flight;
- (g) 'Encoded aerodrome of departure' and 'Encoded aerodrome of destination' mean the code of the airport using the ICAO 4-letter or the IATA 3-letter airport designator;
- (h) 'Out-Off-On-In time stamps' means the following data, to the nearest minute:
 - scheduled time of departure (off-block),
 - actual off-block time,
 - actual take-off time,
 - actual landing time,
 - scheduled time of arrival (in-block),
 - actual in-block time;
- (i) 'Scheduled time of departure (off-block)' means date and time when a flight is scheduled to depart from the departure stand;
- (j) 'Actual off-block time' means the actual date and time the aircraft has vacated the parking position (pushed back or on its own power);
- (k) 'Actual take off time' means the date and time that an aircraft has taken off from the runway (wheels-up);

- (l) 'Actual landing time' means the actual date and time when the aircraft has landed (touch down);
- (m) 'Scheduled time of arrival (in-block)' means date and time when a flight is scheduled to arrive at the arrival stand;
- (n) 'Actual in-block time' the actual date and time when the parking brakes have been engaged at the arrival stand;
- (o) 'Flight Rules' means the rules used in conducting the flight. 'IFR' for aircraft flying according to instrument flight rules as defined in Annex 2 to the Chicago Convention or 'VFR' for aircraft flying according to visual flight rules as defined in the same Annex. Operational Air Traffic (OAT) for State Aircraft not following the rules defined in Annex 2 to the Chicago Convention;
- (p) 'Flight type' means 'IFR' for aircraft flying according to instrument flight rules as defined in Annex 2 to the 1944 Chicago Convention (Tenth Edition – July 2005) or 'VFR' for aircraft flying according to visual flight rules as defined in the same Annex;
- (q) 'Airport arrival slot' and 'Airport departure slot' mean an airport slot assigned either to an arrival or departure flight as defined in Regulation (EEC) No 95/93;
- (r) 'Arrival runway designator' and 'Departure runway designator' mean the ICAO designator of the runway used for take-off (e.g. 10L);
- (s) 'Arrival stand' means the designator of the first parking position where the aircraft was parked upon arrival;
- (t) 'Departure stand' means the designator of the last parking position where the aircraft was parked before departing from the airport;
- (u) 'Delay causes' means the standard IATA delay codes as defined in Annex 2 to Digest – Annual 2008 Delays to Air Transport in Europe (ECODA) ⁽¹⁾ with the duration of the delay. Where several causes may be attributable to the flight, the list of delay causes shall be provided;
- (v) 'De-icing or anti-icing information' means indication if de-icing or anti-icing operations occurred and if yes, where (before leaving the departure stand or in a remote position after departing the stand, i.e. after off block);
- (w) 'Operational cancellation' means an arrival or departure scheduled flight to which the following conditions apply:
 - the flight received an airport slot, and
 - the flight was confirmed by the air carrier the day before operations and/or it was contained in the daily list of flight schedules produced by the airport operator the day before of operations, but
 - the actual landing or take-off never occurred.

3.2. Data set specification

3.2.1. Airport operators of coordinated and facilitated airports shall provide the following data:

- Airport Identification,
- Airport declared capacity,
- all coordination parameters pertinent to air navigation services,
- planned level of quality of service (delay, punctuality, etc.) associated to the airport capacity declaration, when established,
- detailed description of the indicators which are used to establish the planned level of quality of service, when established.

3.2.2. Airport operators shall provide for the purpose of performance review, the following operational data for each flight landing or taking-off:

- Aircraft Registration,
- Aircraft type,
- Flight Identifier,

⁽¹⁾ https://extranet.eurocontrol.int/http://prisme-web.hq.corp.eurocontrol.int/ecoda/coda/public/standard_page/codarep/2008/2008DIGEST.pdf

- Encoded aerodrome of departure and of destination,
- Out-Off-On-In time stamps,
- Flight Rules and Flight type,
- Airport arrival and departure slot, where available,
- Arrival and departure runway designator,
- Arrival and departure stand,
- Delay causes, where available (only for departing flights),
- De-icing or anti-icing information, where available.

3.2.3. Airport operators shall provide for the purpose of performance review, the following operational data for each operational cancellation:

- Flight Identifier,
- Aircraft type,
- Scheduled airport of departure and of destination,
- Airport arrival and departure slots where available,
- reason for cancellation.

3.2.4. Airport operators may provide for the purpose of performance review:

- voluntary reports regarding degradation or disruption of ANS at airports,
- voluntary reports related to ANS safety occurrences,
- voluntary reports on terminal capacity shortfalls,
- voluntary reports on consultation meetings with ANSPs and States.

3.3. Periodicity and deadlines for data provision

Data referred to in 3.2.1 shall be provided twice a year, in accordance with the timescale set out in Article 6 of Regulation (EEC) No 95/93.

When data referred to in 3.2.2 and 3.2.3 is provided, it shall be provided on a monthly basis within one month after the end of the flight month.

Reports referred to in 3.2.4 may be provided at any time.

4. BY AIRPORT COORDINATORS

4.1. Data set specification

Airport coordinators shall provide for the purpose of performance review the following data:

Data referred to in Article 4(8) of Regulation (EEC) No 95/93.

4.2. Periodicity and deadlines for data provision

Data shall be made available twice a year, in accordance with the timescale set out in Article 6 of Regulation (EEC) No 95/93.

5. BY AIR CARRIERS

This Section applies to Air carriers which operate within the European airspace more than 35 000 flights per year calculated as the average over the previous three years.

5.1. Definitions

5.1.1. The same definitions as in Annex IV point 3.1 shall apply for the purpose of this specific Annex and in addition:

- (a) 'Fuel burn' means the actual quantity of fuel that has been burnt during the flight (gate-to-gate);
- (b) 'Actual ramp weight' means the actual metric tons of the aircraft before starting the engine.

5.2. Data set specification

5.2.1. Air carriers shall provide for the purpose of performance review the following data for each flight they operate within the geographical scope of this Regulation:

- Aircraft Registration,
- Flight identifier,
- Flight Rules and Flight type,
- Encoded airport of departure and of destination,
- Arrival and departure runway designator, where available,
- Arrival and departure stand, where available,
- Out-Off-On-In time stamps both scheduled and actual,
- Delay causes,
- De-icing or anti-icing information, where available.

5.2.2. Air carriers shall provide for the purpose of performance review the data referred to in Annex IV point 3.2.3 for each operational cancellation within the geographical scope of this Regulation.

5.2.3. In addition to the data provided under the requirements of Annex IV, Part B to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC⁽¹⁾, air carriers may provide to the Commission the following data for each flight they operate within the geographical scope of this Regulation:

- Fuel burn,
- Actual ramp weight.

5.2.4. Air carriers may provide for the purpose of performance review:

- voluntary reports regarding access to airspace,
- voluntary report regarding degradation or disruption of ANS at airports,
- voluntary reports related to ANS safety occurrences,
- voluntary reports on en-route capacity shortfalls, level capping or rerouting,
- voluntary reports on consultation meetings with ANSPs and States.

5.3. Periodicity of data provision

Data referred to in Annex IV points 5.2.1, 5.2.2 and 5.2.3 shall be provided on a monthly basis.

Reports referred to in point 5.2.4 may be provided at any time.

⁽¹⁾ OJ L 275, 25.10.2003, p. 32.

COMMISSION REGULATION (EU) No 692/2010
of 30 July 2010
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column 1 of the table set out in the Annex should be classified under the CN code indicated in column 2, by virtue of the reasons set out in column 3 of that table.
- (4) It is appropriate to provide that, subject to the measures in force in the European Union relating to double checking systems and to prior and retrospective

surveillance of textile products on importation into the European Union, binding tariff information issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature and which is not in accordance with this Regulation, may continue to be relied on for a period of 60 days by the holder, pursuant to Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽²⁾.

- (5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column 1 of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN code indicated in column 2 of that table.

Article 2

Subject to the measures in force in the European Union relating to double checking systems and to prior and retrospective surveillance of textile products on importation into the European Union, binding tariff information issued by the customs authorities of Member States which is not in accordance with this Regulation, may continue to be relied on for a period of 60 days, pursuant to Article 12(6) of Regulation (EEC) No 2913/92.

Article 3

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

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

Done at Brussels, 30 July 2010.

For the Commission
Neelie KROES
Vice-President

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ OJ L 302, 19.10.1992, p. 1.

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>1. Thick semicircular article, with overall dimensions of approximately 75 cm in length x 45 cm in width, made of a woven textile fabric of spun coconut fibres, which forms the majority of the surface, with a rubber backing. The article is surrounded by a decorative rubber border (doormat).</p> <p>See image 652 (*)</p>	5702 20 00	<p>Classification is determined by General Rules 1, 3(b) and 6 for the interpretation (GIR) of the Combined Nomenclature, Note 2(a) to Chapter 40, Note 1 to Chapter 46, Note 1 to Chapter 57 and the wording of CN codes 5702 and 5702 20 00.</p> <p>Coconut fibres are vegetable textile fibres, which, when spun, fall within the scope of heading 5308 and belong therefore to Section XI (textiles and textile articles) of the Combined Nomenclature.</p> <p>The surface of the article is made of woven fabric of yarn of coconut fibres and of rubber, whereby the coconut fibres give the surface its essential character within the meaning of GIR 3(b), because it allows people to scrub or wipe the soles of their shoes, and, moreover, the coconut fibres form the majority of the surface.</p> <p>Since the textile material (woven fabric of yarn of coconut fibres) serves as the exposed surface of the article when in use, this article is a 'textile floor covering' within the meaning of Note 1 to Chapter 57.</p> <p>Due to its size, thickness, stiffness and its strength the article has the objective characteristics of a textile floor covering (doormat).</p> <p>Furthermore, the text to heading 5702 includes 'other textile floor coverings, woven', without any distinction being made with regard to the indoor or outdoor use of the mats and without specifying the size.</p> <p>Consequently, according to Note 2(a) to Chapter 40, this article cannot be classified in Chapter 40, because that Chapter does not cover goods of Section XI (textiles and textile articles).</p> <p>Neither can this article be classified in Chapter 46 because, according to Note 1 to that Chapter, it does not encompass spun natural textile fibres.</p> <p>The article is therefore to be classified as a textile floor covering in Chapter 57.</p>
<p>2. Thick rectangular article measuring approx. 60 cm in length x 40 cm in width, made of coconut fibres forming a pile surface. The coconut fibres are bonded to a substrate of poly(vinyl chloride), which forms the backing. The mat is surrounded by a decorative poly(vinyl chloride)-border (doormat).</p> <p>See image 653 (*)</p>	5705 00 90	<p>Classification is determined by General Rules 1, 3(b) and 6 for the interpretation (GIR) of the Combined Nomenclature, Note 2(p) to Chapter 39, Note 1 to Chapter 57 and the wording of CN codes 5705 and 5705 00 90.</p> <p>Coconut fibres are vegetable textile fibres within the scope of heading 5305 and belong therefore to Section XI (textiles and textile articles) of the Combined Nomenclature.</p>

(1)	(2)	(3)
		<p>The surface of the article is made of coconut fibres and poly(vinyl chloride), whereby the coconut fibres give the surface its essential character within the meaning of GIR 3(b), because it allows people to scrub or wipe the soles of their shoes.</p> <p>Since the textile material (coconut fibres) serves as the exposed surface of the article when in use, this article is a 'textile floor covering' within the meaning of Note 1 to Chapter 57.</p> <p>Due to its size, thickness, stiffness and its strength the article has the objective characteristics of a textile floor covering (doormat).</p> <p>Furthermore, heading 5705 covers carpets and textile floor coverings, without any distinction being made with regard to the indoor or outdoor use of the mats and without specifying the size (see also the HS Explanatory Notes to heading 5705, first paragraph). This heading includes bonded pile carpets, where the pile use surface is bonded either to a substrate or directly to an adhesive which forms the substrate (see also the HS Explanatory Notes to heading 5705, second paragraph (1)).</p> <p>Consequently, according to Note 2(p) to Chapter 39, this article cannot be classified in Chapter 39, because that Chapter does not cover goods of Section XI (textiles and textile articles).</p> <p>The article is therefore to be classified as a textile floor covering in Chapter 57.</p>

(*) The image is purely for information.



COMMISSION REGULATION (EU) No 693/2010**of 2 August 2010****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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) ⁽¹⁾,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 ⁽²⁾, 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 3 August 2010.

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

Done at Brussels, 2 August 2010.

*For the Commission,
On behalf of the President,
Jean-Luc DEMARTY
Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ 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 ⁽¹⁾	Standard import value
0702 00 00	MK	27,7
	TR	50,2
	ZZ	39,0
0707 00 05	TR	105,8
	ZZ	105,8
0709 90 70	TR	110,0
	ZZ	110,0
0805 50 10	AR	117,4
	UY	81,1
	ZA	103,0
	ZZ	100,5
0806 10 10	CL	134,6
	EG	129,8
	IL	126,4
	MA	157,0
	TR	150,5
	ZA	98,7
	ZZ	132,8
	ZZ	132,8
0808 10 80	AR	83,7
	BR	76,0
	CL	103,0
	CN	87,3
	NZ	101,5
	US	98,3
	UY	112,9
	ZA	104,3
	ZZ	95,9
0808 20 50	AR	74,3
	CL	178,9
	CN	93,7
	ZA	105,5
	ZZ	113,1
0809 20 95	TR	223,1
	ZZ	223,1
0809 30	TR	162,4
	ZZ	162,4
0809 40 05	BA	62,1
	IL	162,3
	XS	70,3
	ZZ	98,2

⁽¹⁾ 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 (EU) No 694/2010**of 2 August 2010****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EC) No 877/2009 for the 2009/10 marketing year**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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) ⁽¹⁾,

Having regard to Commission Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector ⁽²⁾, and in particular Article 36(2), second subparagraph, second sentence thereof,

Whereas:

(1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups

for the 2009/10 marketing year are fixed by Commission Regulation (EC) No 877/2009 ⁽³⁾. These prices and duties have been last amended by Commission Regulation (EU) No 689/2010 ⁽⁴⁾.

(2) The data currently available to the Commission indicate that those amounts should be amended in accordance with the rules and procedures laid down in Regulation (EC) No 951/2006,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties applicable to imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Regulation (EC) No 877/2009 for the 2009/10, marketing year, are hereby amended as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 3 August 2010.

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

Done at Brussels, 2 August 2010.

*For the Commission,
On behalf of the President,*

Jean-Luc DEMARTY
*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 178, 1.7.2006, p. 24.

⁽³⁾ OJ L 253, 25.9.2009, p. 3.

⁽⁴⁾ OJ L 199, 31.7.2010, p. 21.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 3 August 2010

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 11 10 ⁽¹⁾	44,37	0,00
1701 11 90 ⁽¹⁾	44,37	1,59
1701 12 10 ⁽¹⁾	44,37	0,00
1701 12 90 ⁽¹⁾	44,37	1,30
1701 91 00 ⁽²⁾	45,04	3,96
1701 99 10 ⁽²⁾	45,04	0,83
1701 99 90 ⁽²⁾	45,04	0,83
1702 90 95 ⁽³⁾	0,45	0,24

⁽¹⁾ For the standard quality defined in point III of Annex IV to Regulation (EC) No 1234/2007.

⁽²⁾ For the standard quality defined in point II of Annex IV to Regulation (EC) No 1234/2007.

⁽³⁾ Per 1 % sucrose content.

DECISIONS

COUNCIL DECISION

of 26 July 2010

establishing the organisation and functioning of the European External Action Service

(2010/427/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 27(3) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy ('the High Representative'),

Having regard to the Opinion of the European Parliament,

Having regard to the consent of the European Commission,

Whereas:

- (1) The purpose of this Decision is to establish the organisation and functioning of the European External Action Service ('EEAS'), a functionally autonomous body of the Union under the authority of the High Representative, set up by Article 27(3) of the Treaty on European Union ('TEU'), as amended by the Treaty of Lisbon. This Decision and, in particular, the reference to the term 'High Representative' will be interpreted in accordance with his/her different functions under Article 18 TEU.
- (2) In accordance with the second subparagraph of Article 21(3) TEU, the Union will ensure consistency between the different areas of its external action and between those areas and its other policies. The Council and the Commission, assisted by the High Representative, will ensure that consistency and will cooperate to that effect.
- (3) The EEAS will support the High Representative, who is also a Vice-President of the Commission and the President of the Foreign Affairs Council, in fulfilling his/her mandate to conduct the Common Foreign and Security Policy ('CFSP') of the Union and to ensure the consistency of the Union's external action as outlined, notably, in Articles 18 and 27 TEU. The EEAS will support the High Representative in his/her capacity as President of the Foreign Affairs Council, without prejudice to the normal tasks of the General Secretariat of the Council. The EEAS will also support the High

Representative in his/her capacity as Vice-President of the Commission, in respect of his/her responsibilities within the Commission for responsibilities incumbent on it in external relations, and in coordinating other aspects of the Union's external action, without prejudice to the normal tasks of the Commission services.

- (4) In its contribution to the Union's external cooperation programmes, the EEAS should seek to ensure that the programmes fulfil the objectives for external action as set out in Article 21 TUE, in particular in paragraph (2)(d) thereof, and that they respect the objectives of the Union's development policy in line with Article 208 of the Treaty on the Functioning of the European Union ('TFEU'). In this context, the EEAS should also promote the fulfilment of the objectives of the European Consensus on Development⁽¹⁾ and the European Consensus on Humanitarian Aid⁽²⁾.
- (5) It results from the Treaty of Lisbon that, in order to implement its provisions, the EEAS must be operational as soon as possible after the entry into force of that Treaty.
- (6) The European Parliament will fully play its role in the external action of the Union, including its functions of political control as provided for in Article 14(1) TEU, as well as in legislative and budgetary matters as laid down in the Treaties. Furthermore, in accordance with Article 36 TEU, the High Representative will regularly consult the European Parliament on the main aspects and the basic choices of the CFSP and will ensure that the views of the European Parliament are duly taken into consideration. The EEAS will assist the High Representative in this regard. Specific arrangements should be made with regard to access for Members of the European Parliament to classified documents and information in the area of CFSP. Until the adoption of

⁽¹⁾ OJ C 46, 24.2.2006, p. 1.

⁽²⁾ Communication from the Commission to the European Parliament and the Council — Towards a European Consensus on Humanitarian Aid (COM(2007) 317 final). Not published in the Official Journal.

- such arrangements, existing provisions under the Inter-institutional Agreement of 20 November 2002 between the European Parliament and the Council concerning access by the European Parliament to sensitive information of the Council in the field of security and defence policy ⁽¹⁾ will apply.
- (7) The High Representative, or his/her representative, should exercise the responsibilities provided for by the respective acts founding the European Defence Agency ⁽²⁾, the European Union Satellite Centre ⁽³⁾, the European Union Institute for Security Studies ⁽⁴⁾, and the European Security and Defence College ⁽⁵⁾. The EEAS should provide those entities with the support currently provided by the General Secretariat of the Council.
- (8) Provisions should be adopted relating to the staff of the EEAS and their recruitment where such provisions are necessary to establish the organisation and functioning of the EEAS. In parallel, necessary amendments should be made, in accordance with Article 336 TFEU, to the Staff Regulations of Officials of the European Communities ('Staff Regulations') and the Conditions of Employment of Other Servants of those Communities ⁽⁶⁾ ('CEOS') without prejudice to Article 298 TFEU. For matters relating to its staff, the EEAS should be treated as an institution within the meaning of the Staff Regulations and the CEOS. The High Representative will be the Appointing Authority, in relation both to officials subject to the Staff Regulations and agents subject to the CEOS. The number of officials and servants of the EEAS will be decided each year as part of the budgetary procedure and will be reflected in the establishment plan.
- (9) The staff of the EEAS should carry out their duties and conduct themselves solely with the interest of the Union in mind.
- (10) Recruitment should be based on merit whilst ensuring adequate geographical and gender balance. The staff of the EEAS should comprise a meaningful presence of nationals from all the Member States. The review foreseen for 2013 should also cover this issue, including, as appropriate, suggestions for additional specific measures to correct possible imbalances.
- (11) In accordance with Article 27(3) TEU, the EEAS will comprise officials from the General Secretariat of the Council and from the Commission, as well as personnel coming from the diplomatic services of the Member States. For that purpose, the relevant departments and functions in the General Secretariat of the Council and in the Commission will be transferred to the EEAS, together with officials and temporary agents occupying a post in such departments or functions. Before 1 July 2013, the EEAS will recruit exclusively officials originating from the General Secretariat of the Council and the Commission, as well as staff coming from the diplomatic services of the Member States. After that date, all officials and other servants of the European Union should be able to apply for vacant posts in the EEAS.
- (12) The EEAS may, in specific cases, have recourse to specialised seconded national experts ('SNEs'), over whom the High Representative will have authority. SNEs in posts in the EEAS will not be counted in the one third of all EEAS staff at Administrator ('AD') level which staff from Member States should represent when the EEAS will have reached its full capacity. Their transfer in the phase of setting up of the EEAS will not be automatic and will be made with the consent of the authorities of the originating Member States. By the date of expiry of the contract of an SNE transferred to the EEAS under Article 7, the relevant function will be converted into a temporary agent post in cases where the function performed by the SNE corresponds to a function normally carried out by staff at AD level, provided that the necessary post is available under the establishment plan.
- (13) The Commission and the EEAS will agree on detailed arrangements relating to the issuing of instructions from the Commission to delegations. These should provide in particular that when the Commission will issue instructions to delegations, it will simultaneously provide a copy thereof to the Head of Delegation and to the EEAS central administration.
- (14) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁷⁾ (the 'Financial Regulation') should be amended in order to include the EEAS in Article 1 thereof, with a specific section in the Union budget. In accordance with the applicable rules, and as is the case for other institutions, a part of the annual report of the Court of Auditors will also be dedicated to the EEAS, and the EEAS will respond to such reports. The EEAS will be subject to the procedures regarding the discharge as provided for in Article 319 TFEU and in Articles 145 to 147 of the Financial Regulation. The High Representative will provide the European Parliament with all necessary support for the exercise of the European Parliament's

⁽¹⁾ OJ C 298, 30.11.2002, p. 1.

⁽²⁾ Council Joint Action 2004/551/CFSP of 12 July 2004 on the establishment of the European Defence Agency (OJ L 245, 17.7.2004, p. 17).

⁽³⁾ Council Joint Action 2001/555/CFSP of 20 July 2001 on the establishment of a European Union Satellite Centre (OJ L 200, 25.7.2001, p. 5).

⁽⁴⁾ Council Joint Action 2001/554/CFSP of 20 July 2001 on the establishment of a European Union Institute for Security Studies (OJ L 200, 25.7.2001, p. 1).

⁽⁵⁾ Council Joint Action 2008/550/CFSP of 23 June 2008 establishing a European Security and Defence College (ESDC) (OJ L 176, 4.7.2008, p. 20).

⁽⁶⁾ Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (OJ 45, 14.6.1962, p. 1387/62. English special edition: Series I Chapter 1959-1962 p. 135).

⁽⁷⁾ OJ L 248, 16.9.2002, p. 1.

right as discharge authority. The implementation of the operational budget will be the Commission's responsibility in accordance with Article 317 TFEU. Decisions having a financial impact will, in particular, comply with the responsibilities laid down in Title IV of the Financial Regulation, especially Articles 64 to 68 thereof regarding liability of financial actors, and Article 75 thereof regarding expenditure operations.

- (15) The establishment of the EEAS should be guided by the principle of cost-efficiency aiming towards budget neutrality. To this end, transitional arrangements and a gradual build-up of capacity will have to be used. Unnecessary duplication of tasks, functions and resources with other structures should be avoided. All opportunities for rationalisation should be availed of.

In addition, a number of additional posts for Member States' temporary agents will be necessary, which will have to be financed within the framework of the current multiannual financial framework.

- (16) Rules should be laid down covering the activities of the EEAS and its staff as regards security, the protection of classified information, and transparency.
- (17) It is recalled that the Protocol on the Privileges and Immunities of the European Union will apply to the EEAS, its officials and other agents, who will be subject either to the Staff Regulations or the CEOS.
- (18) The European Union and the European Atomic Energy Community continue to be served by a single institutional framework. It is therefore essential to ensure consistency between the external relations of both, and to allow the Union Delegations to undertake the representation of the European Atomic Energy Community in third countries and at international organisations.
- (19) The High Representative should, by mid-2013, provide a review of the organisation and functioning of the EEAS, accompanied, if necessary, by proposals for a revision of this Decision. Such a revision should be adopted no later than the beginning of 2014,

HAS ADOPTED THIS DECISION:

Article 1

Nature and scope

1. This Decision establishes the organisation and functioning of the European External Action Service ('EEAS').
2. The EEAS, which has its headquarters in Brussels, shall be a functionally autonomous body of the European Union, separate from the General Secretariat of the Council and from the Commission with the legal capacity necessary to perform its tasks and attain its objectives.

3. The EEAS shall be placed under the authority of the High Representative of the Union for Foreign Affairs and Security Policy ('High Representative').

4. The EEAS shall be made up of a central administration and of the Union Delegations to third countries and to international organisations.

Article 2

Tasks

1. The EEAS shall support the High Representative in fulfilling his/her mandates as outlined, notably, in Articles 18 and 27 TEU:

- in fulfilling his/her mandate to conduct the Common Foreign and Security Policy ('CFSP') of the European Union, including the Common Security and Defence Policy ('CSDP'), to contribute by his/her proposals to the development of that policy, which he/she shall carry out as mandated by the Council and to ensure the consistency of the Union's external action,
- in his/her capacity as President of the Foreign Affairs Council, without prejudice to the normal tasks of the General Secretariat of the Council,
- in his/her capacity as Vice-President of the Commission for fulfilling within the Commission the responsibilities incumbent on it in external relations, and in coordinating other aspects of the Union's external action, without prejudice to the normal tasks of the services of the Commission.

2. The EEAS shall assist the President of the European Council, the President of the Commission, and the Commission in the exercise of their respective functions in the area of external relations.

Article 3

Cooperation

1. The EEAS shall support, and work in cooperation with, the diplomatic services of the Member States, as well as with the General Secretariat of the Council and the services of the Commission, in order to ensure consistency between the different areas of the Union's external action and between those areas and its other policies.

2. The EEAS and the services of the Commission shall consult each other on all matters relating to the external action of the Union in the exercise of their respective functions, except on matters covered by the CSDP. The EEAS shall take part in the preparatory work and procedures relating to acts to be prepared by the Commission in this area.

This paragraph shall be implemented in accordance with Chapter 1 of Title V of the TEU, and with Article 205 TFEU.

3. The EEAS may enter into service-level arrangements with relevant services of the General Secretariat of the Council, the Commission, or other offices or interinstitutional bodies of the Union.

4. The EEAS shall extend appropriate support and cooperation to the other institutions and bodies of the Union, in particular to the European Parliament. The EEAS may also benefit from the support and cooperation of those institutions and bodies, including agencies, as appropriate. The EEAS internal auditor will cooperate with the internal auditor of the Commission to ensure a consistent audit policy, with particular reference to the Commission's responsibility for operational expenditure. In addition, the EEAS shall cooperate with the European Anti-Fraud Office ('OLAF') in accordance with Regulation (EC) No 1073/1999⁽¹⁾. It shall, in particular, adopt without delay the decision required by that Regulation on the terms and conditions for internal investigations. As provided in that Regulation, both Member States, in accordance with national provisions, and the institutions shall give the necessary support to enable OLAF's agents to fulfil their tasks.

Article 4

Central administration of the EEAS

1. The EEAS shall be managed by an Executive Secretary-General who will operate under the authority of the High Representative. The Executive Secretary-General shall take all measures necessary to ensure the smooth functioning of the EEAS, including its administrative and budgetary management. The Executive Secretary-General shall ensure effective coordination between all departments in the central administration as well as with the Union Delegations.

2. The Executive Secretary-General shall be assisted by two Deputy Secretaries-General.

3. The central administration of the EEAS shall be organised in directorates-general.

(a) It shall, in particular, include:

- a number of directorates-general comprising geographic desks covering all countries and regions of the world, as well as multilateral and thematic desks. These departments shall coordinate as necessary with the General Secretariat of the Council and with the relevant services of the Commission,
- a directorate-general for administrative, staffing, budgetary, security and communication and information system matters, working in the EEAS framework managed by the Executive Secretary-General. The High Representative shall appoint, in accordance with the

normal rules of recruitment, a Director-General for budget and administration who shall work under the authority of the High Representative. He/she shall be responsible to the High Representative for the administrative and internal budgetary management of the EEAS. He/she shall follow the same budget lines and administrative rules as are applicable in the part of Section III of the Union's budget which falls under Heading 5 of the Multiannual Financial Framework,

- the crisis management and planning directorate, the civilian planning and conduct capability, the European Union Military Staff and the European Union Situation Centre, placed under the direct authority and responsibility of the High Representative, and which shall assist him/her in the task of conducting the Union's CFSP in accordance with the provisions of the Treaty while respecting, in accordance with Article 40 TEU, the other competences of the Union.

The specificities of these structures, as well as the particularities of their functions, recruitment and the status of the staff shall be respected.

Full coordination between all the structures of the EEAS shall be ensured.

(b) The central administration of the EEAS shall also include:

- a strategic policy planning department,
- a legal department under the administrative authority of the Executive Secretary-General which shall work closely with the Legal Services of the Council and of the Commission,
- departments for interinstitutional relations, information and public diplomacy, internal audit and inspections, and personal data protection.

4. The High Representative shall designate the chairpersons of Council preparatory bodies that are chaired by a representative of the High Representative, including the chair of the Political and Security Committee, in accordance with the detailed arrangements set out in Annex II to Council Decision 2009/908/EU of 1 December 2009 laying down measures for the implementation of the European Council Decision on the exercise of the Presidency of the Council, and on the chairmanship of preparatory bodies of the Council⁽²⁾.

5. The High Representative and the EEAS shall be assisted where necessary by the General Secretariat of the Council and the relevant departments of the Commission. Service-level arrangements may be drawn up to that effect by the EEAS, the General Secretariat of the Council and the relevant Commission departments.

⁽¹⁾ Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) (OJ L 136, 31.5.1999, p. 1).

⁽²⁾ OJ L 322, 9.12.2009, p. 28.

*Article 5***Union delegations**

1. The decision to open or close a delegation shall be adopted by the High Representative, in agreement with the Council and the Commission.

2. Each Union Delegation shall be placed under the authority of a Head of Delegation.

The Head of Delegation shall have authority over all staff in the delegation, whatever their status, and for all its activities. He/she shall be accountable to the High Representative for the overall management of the work of the delegation and for ensuring the coordination of all actions of the Union.

Staff in delegations shall comprise EEAS staff and, where appropriate for the implementation of the Union budget and Union policies other than those under the remit of the EEAS, Commission staff.

3. The Head of Delegation shall receive instructions from the High Representative and the EEAS, and shall be responsible for their execution.

In areas where the Commission exercises the powers conferred upon it by the Treaties, the Commission may, in accordance with Article 221(2) TFEU, also issue instructions to delegations, which shall be executed under the overall responsibility of the Head of Delegation.

4. The Head of Delegation shall implement operational credits in relation to the Union's projects in the corresponding third country, where sub-delegated by the Commission, in accordance with the Financial Regulation.

5. The operation of each delegation shall be periodically evaluated by the Executive Secretary-General of the EEAS; evaluation shall include financial and administrative audits. For this purpose, the Executive Secretary-General of the EEAS may request assistance from the relevant Commission departments. In addition to internal measures by the EEAS, OLAF shall exercise its powers, notably by conducting anti-fraud measures, in accordance with Regulation (EC) No 1073/1999.

6. The High Representative shall enter into the necessary arrangements with the host country, the international organisation, or the third country concerned. In particular, the High Representative shall take the necessary measures to ensure that host States grant the Union delegations, their staff and their property, privileges and immunities equivalent to those

referred to in the Vienna Convention on Diplomatic Relations of 18 April 1961.

7. Union delegations shall have the capacity to respond to the needs of other institutions of the Union, in particular the European Parliament, in their contacts with the international organisations or third countries to which the delegations are accredited.

8. The Head of Delegation shall have the power to represent the Union in the country where the delegation is accredited, in particular for the conclusion of contracts, and as a party to legal proceedings.

9. The Union delegations shall work in close cooperation and share information with the diplomatic services of the Member States.

10. The Union delegations shall, acting in accordance with the third paragraph of Article 35 TEU, and upon request by Member States, support the Member States in their diplomatic relations and in their role of providing consular protection to citizens of the Union in third countries on a resource-neutral basis.

*Article 6***Staff**

1. This Article, except paragraph 3, shall apply without prejudice to the Staff Regulations of Officials of the European Communities ('Staff Regulations') and the Conditions of Employment of Other Servants of those Communities ('CEOS'), including the amendments made to those rules, in accordance with Article 336 TFEU, in order to adapt them to the needs of the EEAS.

2. The EEAS shall comprise officials and other servants of the European Union, including personnel from the diplomatic services of the Member States appointed as temporary agents.

The Staff Regulations and the CEOS shall apply to this staff.

3. If necessary, the EEAS may, in specific cases, have recourse to a limited number of specialised seconded national experts (SNEs).

The High Representative shall adopt rules, equivalent to those laid down in Council Decision 2003/479/EC of 16 June 2003 concerning the rules applicable to national experts and military staff on secondment to the General Secretariat of the Council ⁽¹⁾, under which SNEs are put at the disposal of the EEAS in order to provide specialised expertise.

⁽¹⁾ OJ L 160, 28.6.2003, p. 72.

4. The staff of the EEAS shall carry out their duties and conduct themselves solely with the interests of the Union in mind. Without prejudice to the third indent of Article 2(1) and Articles 2(2) and 5(3), they shall neither seek nor take instructions from any government, authority, organisation or person outside the EEAS or from any body or person other than the High Representative. In accordance with the second paragraph of Article 11 of the Staff Regulations, EEAS staff shall not accept any payments of any kind whatever from any other source outside the EEAS.

5. The powers conferred on the appointing authority by the Staff Regulations and on the authority authorised to conclude contracts by the CEOS shall be vested in the High Representative, who may delegate those powers inside the EEAS.

6. Recruitment to the EEAS shall be based on merit whilst ensuring adequate geographical and gender balance. The staff of the EEAS shall comprise a meaningful presence of nationals from all the Member States. The review provided for in Article 13(3) shall also cover this issue, including, as appropriate, suggestions for additional specific measures to correct possible imbalances.

7. Officials of the Union and temporary agents coming from the diplomatic services of the Member States shall have the same rights and obligations and be treated equally, in particular as concerns their eligibility to assume all positions under equivalent conditions. No distinction shall be made between temporary agents coming from national diplomatic services and officials of the Union as regards the assignment of duties to perform in all areas of activities and policies implemented by the EEAS. In accordance with the provisions of the Financial Regulation, the Member States shall support the Union in the enforcement of financial liabilities of EEAS temporary agents coming from the Member States' diplomatic services which result from a liability under Article 66 of the Financial Regulation.

8. The High Representative shall establish the selection procedures for EEAS staff, which shall be undertaken through a transparent procedure based on merit with the objective of securing the services of staff of the highest standard of ability, efficiency and integrity, while ensuring adequate geographical and gender balance, and a meaningful presence of nationals from all Member States in the EEAS. Representatives of the Member States, the General Secretariat of the Council and of the Commission shall be involved in the recruitment procedure for vacant posts in the EEAS.

9. When the EEAS has reached its full capacity, staff from Member States, as referred to in the first subparagraph of

paragraph 2, should represent at least one third of all EEAS staff at AD level. Likewise, permanent officials of the Union should represent at least 60 % of all EEAS staff at AD level, including staff coming from the diplomatic services of the Member States who have become permanent officials of the Union in accordance with the provisions of the Staff Regulations. Each year, the High Representative shall present a report to the European Parliament and the Council on the occupation of posts in the EEAS.

10. The High Representative shall lay down the rules on mobility so as to ensure that the members of the staff of the EEAS are subject to a high degree of mobility. Specific and detailed arrangements shall apply to the personnel referred to in the third indent of Article 4(3)(a). In principle, all EEAS staff shall periodically serve in Union delegations. The High Representative shall establish rules to that effect.

11. In accordance with the applicable provisions of its national law, each Member State shall provide its officials who have become temporary agents in the EEAS with a guarantee of immediate reinstatement at the end of their period of service to the EEAS. This period of service, in accordance with the provisions of Article 50b of the CEOS, shall not exceed eight years, unless, it is extended for a maximum period of two years in exceptional circumstances and in the interest of the service.

Officials of the Union serving in the EEAS shall have the right to apply for posts in their institution of origin on the same terms as internal applicants.

12. Steps shall be taken in order to provide EEAS staff with adequate common training, building in particular on existing practices and structures at national and Union level. The High Representative shall take appropriate measures to that effect within the year following the entry into force of this Decision.

Article 7

Transitional provisions regarding staff

1. The relevant departments and functions in the General Secretariat of the Council and in the Commission listed in the Annex shall be transferred to the EEAS. Officials and temporary agents occupying a post in departments or functions listed in the Annex shall be transferred to the EEAS. This shall apply *mutatis mutandis* to contract and local staff assigned to such departments and functions. SNEs working in those departments or functions shall also be transferred to the EEAS with the consent of the authorities of the originating Member State.

These transfers shall take effect on 1 January 2011.

In accordance with the Staff Regulations, upon their transfer to the EEAS, the High Representative shall assign each official to a post in his/her function group which corresponds to that official's grade.

2. The procedures for recruiting staff for posts transferred to the EEAS which are ongoing at the date of entry into force of this Decision shall remain valid; they shall be carried on and completed under the authority of the High Representative in accordance with the relevant vacancy notices and the applicable rules of the Staff Regulations and the CEOS.

Article 8

Budget

1. The duties of authorising officer for the EEAS section of the general budget of the European Union shall be delegated in accordance with Article 59 of the Financial Regulation. The High Representative shall adopt the internal rules for the management of the administrative budget lines. Operational expenditure shall remain within the Commission section of the budget.

2. The EEAS shall exercise its powers in accordance with the Financial Regulation applicable to the general budget of the European Union within the limits of the appropriations allocated to it.

3. When drawing up estimates of administrative expenditure for the EEAS, the High Representative will hold consultations with, respectively, the Commissioner responsible for Development Policy and the Commissioner responsible for Neighbourhood Policy regarding their respective responsibilities.

4. In accordance with Article 314(1) TFEU, the EEAS shall draw up estimates of its expenditure for the following financial year. The Commission shall consolidate those estimates in a draft budget, which may contain different estimates. The Commission may amend the draft budget as provided for in Article 314(2) TFEU.

5. In order to ensure budgetary transparency in the area of external action of the Union, the Commission will transmit to the budgetary authority, together with the draft general budget of the European Union, a working document presenting, in a comprehensive way, all expenditure related to the external action of the Union.

6. The EEAS shall be subject to the procedures regarding the discharge provided for in Article 319 TFEU and in Articles 145 to 147 of the Financial Regulation. The EEAS will, in this context, fully cooperate with the institutions involved in the

discharge procedure and provide, as appropriate, the additional necessary information, including through attendance at meetings of the relevant bodies.

Article 9

External action instruments and programming

1. The management of the Union's external cooperation programmes is under the responsibility of the Commission without prejudice to the respective roles of the Commission and of the EEAS in programming as set out in the following paragraphs.

2. The High Representative shall ensure overall political coordination of the Union's external action, ensuring the unity, consistency and effectiveness of the Union's external action, in particular through the following external assistance instruments:

- the Development Cooperation Instrument ⁽¹⁾,
- the European Development Fund ⁽²⁾,
- the European Instrument for Democracy and Human Rights ⁽³⁾,
- the European Neighbourhood and Partnership Instrument ⁽⁴⁾,
- the Instrument for Cooperation with Industrialised Countries ⁽⁵⁾,
- the Instrument for Nuclear Safety Cooperation ⁽⁶⁾,
- the Instrument for Stability, regarding the assistance provided for in Article 4 of Regulation (EC) No 1717/2006 ⁽⁷⁾.

⁽¹⁾ Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation (OJ L 378, 27.12.2006, p. 41).

⁽²⁾ Council Regulation No 5 laying down rules relating to calls for and transfers of financial contributions, budgetary arrangements and administration of the resources of the Development Fund for the Overseas Countries and Territories (OJ 33, 31.12.1958, p. 681/58).

⁽³⁾ Regulation (EC) No 1889/2006 of the European Parliament and of the Council of 20 December 2006 on establishing a financing instrument for the promotion of democracy and human rights worldwide (OJ L 386, 29.12.2006, p. 1).

⁽⁴⁾ Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument (OJ L 310, 9.11.2006, p. 1).

⁽⁵⁾ Council Regulation (EC) No 382/2001 of 26 February 2001 concerning the implementation of projects promoting cooperation and commercial relations between the European Union and the industrialised countries of North America, the Far East and Australasia (OJ L 57, 27.2.2001, p. 10).

⁽⁶⁾ Council Regulation (Euratom) No 300/2007 of 19 February 2007 establishing an Instrument for Nuclear Safety Cooperation (OJ L 81, 22.3.2007, p. 1).

⁽⁷⁾ Regulation (EC) No 1717/2006 of the European Parliament and of the Council of 15 November 2006 establishing an Instrument for Stability (OJ L 327, 24.11.2006, p. 1).

3. In particular, the EEAS shall contribute to the programming and management cycle for the instruments referred to in paragraph 2, on the basis of the policy objectives set out in those instruments. It shall have responsibility for preparing the following decisions of the Commission regarding the strategic, multiannual steps within the programming cycle:

- (i) country allocations to determine the global financial envelope for each region, subject to the indicative breakdown of the multiannual financial framework. Within each region, a proportion of funding will be reserved for regional programmes;
- (ii) country and regional strategic papers;
- (iii) national and regional indicative programmes.

In accordance with Article 3, throughout the whole cycle of programming, planning and implementation of the instruments referred to in paragraph 2, the High Representative and the EEAS shall work with the relevant members and services of the Commission without prejudice to Article 1(3). All proposals for decisions will be prepared by following the Commission's procedures and will be submitted to the Commission for adoption.

4. With regard to the European Development Fund and the Development Cooperation Instrument, any proposals, including those for changes in the basic regulations and the programming documents referred to in paragraph 3, shall be prepared jointly by the relevant services in the EEAS and in the Commission under the responsibility of the Commissioner responsible for Development Policy and shall be submitted jointly with the High Representative for adoption by the Commission.

Thematic programmes, other than the European Instrument for Democracy and Human Rights, the Instrument for Nuclear Safety Cooperation and that part of the Instrument for Stability referred to in the seventh indent of paragraph 2, shall be prepared by the appropriate Commission service under the guidance of the Commissioner responsible for Development Policy and presented to the College of Commissioners in agreement with the High Representative and the other relevant Commissioners.

5. With regard to the European Neighbourhood and Partnership Instrument, any proposals, including those for changes in the basic regulations and the programming documents referred to in paragraph 3, shall be prepared jointly by the relevant services in the EEAS and in the Commission under the responsibility of the Commissioner responsible for Neighbourhood Policy and shall be submitted

jointly with the High Representative for adoption by the Commission.

6. Actions undertaken under: the CFSP budget; the Instrument for Stability other than the part referred to in the seventh indent of paragraph 2; the Instrument for Cooperation with Industrialised Countries; communication and public Diplomacy actions, and election observation missions, shall be under the responsibility of the High Representative/the EEAS. The Commission shall be responsible for their financial implementation under the authority of the High Representative in his/her capacity as Vice-President of the Commission. The Commission department responsible for this implementation shall be co-located with the EEAS.

Article 10

Security

1. The High Representative shall, after consulting the Committee referred to in point 3 of Section I of Part II of the Annex to Council Decision 2001/264/EC of 19 March 2001 adopting the Council's security regulations⁽¹⁾, decide on the security rules for the EEAS and take all appropriate measures in order to ensure that the EEAS manages effectively the risks to its staff, physical assets and information, and that it fulfils its duty of care and responsibilities in this regard. Such rules shall apply to all EEAS staff, and all staff in Union Delegations, regardless of their administrative status or origin.

2. Pending the Decision referred to in paragraph 1:

- with regard to the protection of classified information, the EEAS shall apply the security measures set out in the Annex to Decision 2001/264/EC,
- with regard to other aspects of security, the EEAS shall apply the Commission's Provisions on Security, as set out in the relevant Annex to the Rules of Procedure of the Commission⁽²⁾.

3. The EEAS shall have a department responsible for security matters, which shall be assisted by the relevant services of the Member States.

4. The High Representative shall take any measure necessary in order to implement security rules in the EEAS, in particular as regards the protection of classified information and the measures to be taken in the event of a failure by EEAS staff to comply with the security rules. For that purpose, the EEAS shall seek advice from the Security Office of the General Secretariat of the Council, from the relevant services of the Commission and from the relevant services of the Member States.

⁽¹⁾ OJ L 101, 11.4.2001, p. 1.

⁽²⁾ OJ L 308, 8.12.2000, p. 26.

*Article 11***Access to documents, archives and data protection**

1. The EEAS shall apply the rules laid down in Regulation (EC) 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents⁽¹⁾. The High Representative shall decide on the implementing rules for the EEAS.

2. The Executive Secretary-General of the EEAS shall organise the archives of the service. The relevant archives of the departments transferred from the General Secretariat of the Council and the Commission shall be transferred to the EEAS.

3. The EEAS shall protect individuals with regard to the processing of their personal data in accordance with the rules laid down in Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data⁽²⁾. The High Representative shall decide on the implementing rules for the EEAS.

*Article 12***Immovable property**

1. The General Secretariat of the Council and the relevant Commission services shall take all necessary measures so that the transfers referred to in Article 7 can be accompanied by the transfers of the Council and Commission buildings necessary for the functioning of the EEAS.

2. The terms on which immovable property is made available to the EEAS central administration and to the Union Delegations shall be decided on jointly by the High Representative and the General Secretariat of the Council and the Commission, as appropriate.

*Article 13***Final and general provisions**

1. The High Representative, the Council, the Commission and the Member States shall be responsible for implementing

this Decision and shall take all measures necessary in furtherance thereof.

2. The High Representative shall submit a report to the European Parliament, the Council and the Commission on the functioning of the EEAS by the end of 2011. That report shall, in particular, cover the implementation of Article 5(3) and (10) and Article 9.

3. By mid-2013, the High Representative shall provide a review of the organisation and functioning of the EEAS, which will cover inter alia the implementation of Article 6(6), (8) and (11). The review shall, if necessary, be accompanied by appropriate proposals for the revision of this Decision. In that case, the Council shall, in accordance with Article 27(3) TEU, revise this Decision in the light of the review by the beginning of 2014.

4. This Decision shall enter into force on the date of its adoption. The provisions on financial management and recruitment shall take effect once the necessary amendments to the Staff Regulations, the CEOS and the Financial Regulation, as well as the amending budget, have been adopted. To ensure a smooth transition, the High Representative, the General Secretariat of the Council and the Commission shall enter into the necessary arrangements, and they shall undertake consultations with the Member States.

5. Within one month after the entry into force of this Decision, the High Representative shall submit to the Commission an estimate of the revenue and expenditure of the EEAS, including an establishment plan, in order for the Commission to present a draft amending budget.

6. This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 26 July 2010.

For the Council

The President

S. VANACKERE

⁽¹⁾ OJ L 145, 31.5.2001, p. 43.

⁽²⁾ OJ L 8, 12.1.2001, p. 1.

ANNEX

DEPARTMENTS AND FUNCTIONS TO BE TRANSFERRED TO THE EEAS ⁽¹⁾

The following is a list of all the administrative entities to be transferred en bloc to the EEAS. This prejudices neither the additional needs and the allocation of resources to be determined in the overall budget negotiations establishing the EEAS, nor decisions on the provision of adequate staff responsible for support functions, nor the linked need for service-level arrangements between the General Secretariat of the Council and the Commission and the EEAS.

1. GENERAL SECRETARIAT OF THE COUNCIL

All staff in the departments and functions listed below shall be transferred en bloc to the EEAS, except for a very limited number of staff to perform the normal tasks of the General Secretariat of the Council in line with the second indent of Article 2(1), and except for certain specific functions which are indicated below:

Policy Unit**CSDP and crisis management structures**

- Crisis Management and Planning Directorate (CMPD)
- Civilian Planning and Conduct Capability (CPCC)
- European Union Military Staff (EUMS)
 - Departments under the direct authority of DGEUMS
 - Concepts and Capability Directorate
 - Intelligence Directorate
 - Operations Directorate
 - Logistics Directorate
 - Communications and Information Systems Directorate
- EU Situation Centre (SITCEN)

Exception:

- Staff in the SITCEN supporting the Security Accreditation Authority

Directorate-General E

- Entities placed under the direct authority of the Director-General
- Directorate for the Americas and the United Nations
- Directorate for the Western Balkans, Eastern Europe and Central Asia
- Directorate for Non-Proliferation of Weapons of Mass Destruction
- Directorate for Parliamentary Affairs in the area of CFSP
- New York Liaison Office
- Geneva Liaison Office

⁽¹⁾ The human resources to be transferred are all financed from the expenditure heading 5 (Administration) of the multiannual financial framework.

Officials of the General Secretariat of the Council on secondment to European Union Special Representatives and CSDP missions**2. COMMISSION (INCLUDING DELEGATIONS)**

All staff in the departments and functions listed below shall be transferred en bloc to the EEAS, except for a limited number of staff mentioned below as exceptions.

Directorate-General for External Relations

- All hierarchy posts and support staff directly attached to them
- Directorate A (Crisis Platform and Policy Coordination in CFSP)
- Directorate B (Multilateral Relations and Human Rights)
- Directorate C (North America, East Asia, Australia, New Zealand, EEA, EFTA, San Marino, Andorra, Monaco)
- Directorate D (European Neighbourhood Policy Coordination)
- Directorate E (Eastern Europe, Southern Caucasus, Central Asia Republics)
- Directorate F (Middle East, South Mediterranean)
- Directorate G (Latin America)
- Directorate H (Asia, except Japan and Korea)
- Directorate I (Headquarters resources, information, interinstitutional relations)
- Directorate K (External Service)
- Directorate L (Strategy, Coordination and Analysis)
- Task Force on the Eastern Partnership
- Unit Relex-01 (Audit)

Exceptions:

- Staff responsible for the management of financial instruments
- Staff responsible for the payment of salaries and allowances to staff in delegations

External Service

- All Heads of Delegation and Deputy Heads of Delegation and support staff directly attached to them
- All political sections or cells and staff
- All information and public diplomacy sections and staff
- All administration sections

Exceptions

- Staff responsible for the implementation of financial instruments

Directorate-General for Development

- Directorate D (ACP II – West and Central Africa, Caribbean and OCT) except OCT task force
 - Directorate E (Horn of Africa, East and Southern Africa, Indian Ocean and Pacific)
 - Unit CI (ACP I: Aid programming and management): Staff responsible for programming
 - Unit C2 (Pan-African issues and institutions, governance and migration): Staff responsible for Pan-African relations
 - Applicable hierarchy posts and support staff directly attached to them.
-

COMMISSION DECISION

of 28 July 2010

authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize 59122x1507xNK603 (DAS-59122-7xDAS-Ø15Ø7xMON-ØØ6Ø3-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council

(notified under document C(2010) 5138)

(Only the Dutch and French texts are authentic)

(Text with EEA relevance)

(2010/428/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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

Whereas:

(1) On 26 August 2005, Pioneer Overseas Corporation submitted to the competent authority of the United Kingdom an application, in accordance with Article 5 and Article 17 of Regulation (EC) No 1829/2003, for the placing on the market of foods, food ingredients, and feed containing, consisting of, or produced from 59122x1507xNK603 maize (the application).

(2) The application also covers the placing on the market of products other than food and feed containing or consisting of 59122x1507xNK603 maize for the same uses as any other maize with the exception of cultivation. Therefore, in accordance with Article 5(5) and Article 17(5) of Regulation (EC) No 1829/2003, it includes the data and information required by Annexes III and IV 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⁽²⁾ and information and conclusions about the risk assessment carried out in accordance with the principles set out in Annex II to Directive 2001/18/EC. It also includes a monitoring plan for environmental effects conforming with Annex VII to Directive 2001/18/EC.

(3) On 8 April 2009, the European Food Safety Authority (EFSA) gave a favourable opinion in accordance with Article 6 and Article 18 of Regulation (EC) No 1829/2003. It considered that 59122x1507xNK603

maize is as safe as its non-genetically modified counterpart with respect to potential effects on human and animal health or the environment. Therefore it concluded that it is unlikely that the placing on the market of the products containing, consisting of, or produced from 59122x1507xNK603 maize as described in the application (the products) will have any adverse effects on human or animal health or the environment in the context of their intended uses⁽³⁾. In its opinion, EFSA considered all the specific questions and concerns raised by the Member States in the context of the consultation of the national competent authorities as provided for by Article 6(4) and Article 18(4) of that Regulation.

(4) In its opinion, EFSA also concluded that the environmental monitoring plan, consisting of a general surveillance plan, submitted by the applicant is in line with the intended use of the products.

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

(6) A unique identifier should be assigned to each GMO as provided for in Commission Regulation (EC) No 65/2004 of 14 January 2004 establishing a system for the development and assignment of unique identifiers for genetically modified organisms⁽⁴⁾.

(7) On the basis of the EFSA opinion, no specific labelling requirements other than those provided for in Article 13(1) and Article 25(2) of Regulation (EC) No 1829/2003, appear to be necessary for foods, food ingredients and feed containing, consisting of, or produced from 59122x1507xNK603 maize. However, in order to ensure the use of the products within the limits of the authorisation provided for by this Decision, the labelling of feed containing or consisting of the GMO and products other than food and feed containing or consisting of the GMO for which authorisation is requested should be complemented by a clear indication that the products in question must not be used for cultivation.

⁽¹⁾ OJ L 268, 18.10.2003, p. 1.

⁽²⁾ OJ L 106, 17.4.2001, p. 1.

⁽³⁾ <http://registerofquestions.efsa.europa.eu/roqFrontend/questionLoader?question=EFS-Q-2005-248>

⁽⁴⁾ OJ L 10, 16.1.2004, p. 5.

- (8) The authorisation holder should submit annual reports on the implementation and the results of the activities set out in the monitoring plan for environmental effects. Those results should be presented in accordance with Commission Decision 2009/770/EC of 13 October 2009 establishing standard reporting formats for presenting the monitoring results of the deliberate release into the environment of genetically modified organisms, as or in products, for the purpose of placing on the market, pursuant to Directive 2001/18/EC of the European Parliament and of the Council ⁽¹⁾.
- (9) The EFSA opinion does not justify the imposition of specific conditions or restrictions for the placing on the market and/or specific conditions or restrictions for the use and handling, including post-market monitoring requirements for the use of the food and feed, or of specific conditions for the protection of particular ecosystems/environment and/or geographical areas, as provided for in Article 6(5)(e) and Article 18(5) of Regulation (EC) No 1829/2003.
- (10) All relevant information on the authorisation of the products should be entered in the Community register of genetically modified food and feed, as provided for in Regulation (EC) No 1829/2003.
- (11) Article 4(6) of Regulation (EC) No 1830/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC ⁽²⁾, lays down labelling requirements for products consisting of, or containing GMOs.
- (12) This Decision is to be notified through the Biosafety Clearing House to the Parties to the Cartagena Protocol on Biosafety to the Convention on Biological Diversity, pursuant to Article 9(1) and Article 15(2)(c) of Regulation (EC) No 1946/2003 of the European Parliament and of the Council of 15 July 2003 on transboundary movements of genetically modified organisms ⁽³⁾.
- (13) The applicant has been consulted on the measures provided for in this Decision.
- (14) The Standing Committee on the Food Chain and Animal Health has not delivered an opinion within the time limit laid down by its Chairman.
- (15) At its meeting on 29 June 2010, the Council was unable to reach a decision by qualified majority either for or

against the proposal. The Council indicated that its proceedings on this file were concluded. It is accordingly for the Commission to adopt the measures,

HAS ADOPTED THIS DECISION:

Article 1

Genetically modified organism and unique identifier

Genetically modified maize (*Zea mays* L.) 59122x1507xNK603, as specified in point (b) of the Annex to this Decision, is assigned the unique identifier DAS-59122-7xDAS-Ø15Ø7xMON-ØØ6Ø3-6, as provided for in Regulation (EC) No 65/2004.

Article 2

Authorisation

The following products are authorised for the purposes of Article 4(2) and Article 16(2) of Regulation (EC) No 1829/2003 in accordance with the conditions set out in this Decision:

- (a) foods and food ingredients containing, consisting of, or produced from DAS-59122-7xDAS-Ø15Ø7xMON-ØØ6Ø3-6 maize;
- (b) feed containing, consisting of, or produced from DAS-59122-7xDAS-Ø15Ø7xMON-ØØ6Ø3-6 maize;
- (c) products other than food and feed containing or consisting of DAS-59122-7xDAS-Ø15Ø7xMON-ØØ6Ø3-6 maize for the same uses as any other maize with the exception of cultivation.

Article 3

Labelling

1. For the purposes of the labelling requirements laid down in Article 13(1) and Article 25(2) of Regulation (EC) No 1829/2003 and in Article 4(6) of Regulation (EC) No 1830/2003, the 'name of the organism' shall be 'maize'.

2. The words 'not for cultivation' shall appear on the label of and in documents accompanying products containing or consisting of DAS-59122-7xDAS-Ø15Ø7xMON-ØØ6Ø3-6 maize referred to in Article 2(b) and (c).

Article 4

Monitoring for environmental effects

1. The authorisation holder shall ensure that the monitoring plan for environmental effects, as set out in point (h) of the Annex, is put in place and implemented.

⁽¹⁾ OJ L 275, 21.10.2009, p. 9.

⁽²⁾ OJ L 268, 18.10.2003, p. 24.

⁽³⁾ OJ L 287, 5.11.2003, p. 1.

2. The authorisation holder shall submit to the Commission annual reports on the implementation and the results of the activities set out in the monitoring plan in accordance with Decision 2009/770/EC.

Article 5

Community register

The information set out in the Annex to this Decision shall be entered in the Community register of genetically modified food and feed, as provided for in Article 28 of Regulation (EC) No 1829/2003.

Article 6

Authorisation holder

The authorisation holder shall be Pioneer Overseas Corporation, Belgium, representing Pioneer Hi-Bred International, Inc., United States.

Article 7

Validity

This Decision shall apply for a period of 10 years from the date of its notification.

Article 8

Addressee

This Decision is addressed to Pioneer Overseas Corporation, Avenue des Arts 44, 1040 Brussels, Belgium.

Done at Brussels, 28 July 2010.

For the Commission

John DALLI

Member of the Commission

ANNEX

(a) Applicant and authorisation holder:

Name: Pioneer Overseas Corporation

Address: Avenue des Arts 44, 1040 Brussels, Belgium

On behalf of Pioneer Hi-Bred International, Inc., 7100 NW 62nd Avenue, PO Box 1014, Johnston, IA 50131-1014, United States of America

(b) Designation and specification of the products:

1. foods and food ingredients containing, consisting of, or produced from DAS-59122-7xDAS-Ø15Ø7xMON-ØØ6Ø3-6 maize;
2. feed containing, consisting of, or produced from DAS-59122-7xDAS-Ø15Ø7xMON-ØØ6Ø3-6 maize;
3. products other than food and feed containing or consisting of DAS-59122-7xDAS-Ø15Ø7xMON-ØØ6Ø3-6 maize for the same uses as any other maize with the exception of cultivation.

The genetically modified DAS-59122-7xDAS-Ø15Ø7xMON-ØØ6Ø3-6 maize, as described in the application, is produced by crosses between maize containing DAS-59122-7, DAS-Ø15Ø7 and MON-ØØ6Ø3-6 events and expresses the Cry34Ab1 and Cry35Ab1 proteins which confer protection against certain coleopteran pests, the Cry1F protein which confers protection against certain lepidopteran pests, the PAT protein, used as a selectable marker, which confers tolerance to the glufosinate-ammonium herbicide and the CP4 EPSPS protein which confers tolerance to glyphosate herbicide.

(c) Labelling:

1. for the purposes of the specific labelling requirements laid down in Article 13(1) and Article 25(2) of Regulation (EC) No 1829/2003, and in Article 4(6) of Regulation (EC) No 1830/2003, the 'name of the organism' shall be 'maize';
2. the words 'not for cultivation' shall appear on the label of and in documents accompanying products containing or consisting of DAS-59122-7xDAS-Ø15Ø7xMON-ØØ6Ø3-6 maize referred to in Article 2(b) and (c) of this Decision.

(d) Method for detection:

- event specific real-time quantitative PCR-based methods for genetically modified maize DAS-59122-7, DAS-Ø15Ø7 and MON-ØØ6Ø3-6 maize validated on DAS-59122-7xDAS-Ø15Ø7xMON-ØØ6Ø3-6 maize,
- validated on seeds by the Community reference laboratory established under Regulation (EC) No 1829/2003, published at <http://gmo-crl.jrc.ec.europa.eu/statusof doss.htm>
- reference material: ERM®-BF424 (for DAS-59122-7), ERM®-BF418 (for DAS-Ø15Ø7) and ERM®-BF415 (for MON-ØØ6Ø3-6) accessible via the Joint Research Centre (JRC) of the European Commission, Institute for Reference Materials and Measurements (IRMM) at <https://irmm.jrc.ec.europa.eu/rmcatalogue>

(e) Unique identifier:

DAS-59122-7xDAS-Ø15Ø7xMON-ØØ6Ø3-6.

(f) Information required under Annex II to the Cartagena Protocol on Biosafety to the Convention on Biological Diversity:

Biosafety Clearing House, Record ID: see [to be completed when notified].

(g) Conditions or restrictions on the placing on the market, use or handling of the products:

Not required.

(h) Monitoring plan:

Monitoring plan for environmental effects conforming with Annex VII to Directive 2001/18/EC.

[Link: *plan published on the Internet*]

(i) **Post-market monitoring requirements for the use of the food for human consumption:**

Not required.

Note: Links to relevant documents may need to be modified over time. Those modifications will be made available to the public via the updating of the Community register of genetically modified food and feed.

COMMISSION DECISION

of 28 July 2010

authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize MON 88017 x MON 810 (MON-88017-3 x MON-00810-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council

(notified under document C(2010) 5139)

(Only the Dutch and French texts are authentic)

(Text with EEA relevance)

(2010/429/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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

Whereas:

(1) On 29 November 2005, Monsanto Europe SA submitted to the competent authority of the Czech Republic an application, in accordance with Article 5 and Article 17 of Regulation (EC) No 1829/2003, for the placing on the market of foods, food ingredients, and feed containing, consisting of, or produced from MON 88017 x MON 810 maize (the application).

(2) The application also covers the placing on the market of products other than food and feed containing or consisting of MON 88017 x MON 810 maize for the same uses as any other maize with the exception of cultivation. Therefore, in accordance with Article 5(5) and Article 17(5) of Regulation (EC) No 1829/2003, it includes the data and information required by Annexes III and IV 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⁽²⁾ and information and conclusions about the risk assessment carried out in accordance with the principles set out in Annex II to Directive 2001/18/EC. It also includes a monitoring plan for environmental effects conforming with Annex VII to Directive 2001/18/EC.

(3) On 21 July 2009, the European Food Safety Authority (EFSA) gave a favourable opinion in accordance with Article 6 and Article 18 of Regulation (EC) No 1829/2003. It considered that MON 88017 x MON 810 maize is as safe as its non-genetically modified

counterpart with respect to potential effects on human and animal health or the environment. Therefore it concluded that it is unlikely that the placing on the market of the products containing, consisting of, or produced from MON 88017 x MON 810 maize as described in the application (the products) will have any adverse effects on human or animal health or the environment in the context of their intended uses⁽³⁾. In its opinion, EFSA considered all the specific questions and concerns raised by the Member States in the context of the consultation of the national competent authorities as provided for by Article 6(4) and Article 18(4) of that Regulation.

(4) In its opinion, EFSA also concluded that the environmental monitoring plan, consisting of a general surveillance plan, submitted by the applicant is in line with the intended use of the products.

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

(6) A unique identifier should be assigned to each GMO as provided for in Commission Regulation (EC) No 65/2004 of 14 January 2004 establishing a system for the development and assignment of unique identifiers for genetically modified organisms⁽⁴⁾.

(7) On the basis of the EFSA opinion, no specific labelling requirements other than those provided for in Article 13(1) and Article 25(2) of Regulation (EC) No 1829/2003, appear to be necessary for foods, food ingredients and feed containing, consisting of, or produced from MON 88017 x MON 810 maize. However, in order to ensure the use of the products within the limits of the authorisation provided for by this Decision, the labelling of feed containing or consisting of the GMO and products other than food and feed containing or consisting of the GMO for which authorisation is requested should be complemented by a clear indication that the products in question must not be used for cultivation.

⁽¹⁾ OJ L 268, 18.10.2003, p. 1.

⁽²⁾ OJ L 106, 17.4.2001, p. 1.

⁽³⁾ <http://registerofquestions.efsa.europa.eu/roqFrontend/questionLoader?question=EFSA-Q-2006-020>

⁽⁴⁾ OJ L 10, 16.1.2004, p. 5.

- (8) The authorisation holder should submit annual reports on the implementation and the results of the activities set out in the monitoring plan for environmental effects. Those results should be presented in accordance with Commission Decision 2009/770/EC of 13 October 2009 establishing standard reporting formats for presenting the monitoring results of the deliberate release into the environment of genetically modified organisms, as or in products, for the purpose of placing on the market, pursuant to Directive 2001/18/EC of the European Parliament and of the Council ⁽¹⁾.
- (9) The EFSA opinion does not justify the imposition of specific conditions or restrictions for the placing on the market and/or specific conditions or restrictions for the use and handling, including post-market monitoring requirements for the use of the food and feed, or of specific conditions for the protection of particular ecosystems/environment and/or geographical areas, as provided for in Article 6(5)(e) and Article 18(5) of Regulation (EC) No 1829/2003.
- (10) All relevant information on the authorisation of the products should be entered in the Community register of genetically modified food and feed, as provided for in Regulation (EC) No 1829/2003.
- (11) Article 4(6) of Regulation (EC) No 1830/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC ⁽²⁾, lays down labelling requirements for products consisting of, or containing GMOs.
- (12) This Decision is to be notified through the Biosafety Clearing House to the Parties to the Cartagena Protocol on Biosafety to the Convention on Biological Diversity, pursuant to Article 9(1) and Article 15(2)(c) of Regulation (EC) No 1946/2003 of the European Parliament and of the Council of 15 July 2003 on transboundary movements of genetically modified organisms ⁽³⁾.
- (13) The applicant has been consulted on the measures provided for in this Decision.
- (14) The Standing Committee on the Food Chain and Animal Health has not delivered an opinion within the time limit laid down by its Chairman.
- (15) At its meeting on 29 June 2010, the Council was unable to reach a decision by qualified majority either for or

against the proposal. The Council indicated that its proceedings on this file were concluded. It is accordingly for the Commission to adopt the measures,

HAS ADOPTED THIS DECISION:

Article 1

Genetically modified organism and unique identifier

Genetically modified maize (*Zea mays* L.), MON 88017 x MON 810 as specified in point (b) of the Annex to this Decision, is assigned the unique identifier MON-88017-3 x MON-00810-6, as provided for in Regulation (EC) No 65/2004.

Article 2

Authorisation

The following products are authorised for the purposes of Article 4(2) and Article 16(2) of Regulation (EC) No 1829/2003 in accordance with the conditions set out in this Decision:

- (a) foods and food ingredients containing, consisting of, or produced from MON-88017-3 x MON-00810-6 maize;
- (b) feed containing, consisting of, or produced from MON-88017-3 x MON-00810-6 maize;
- (c) products other than food and feed containing or consisting of MON-88017-3 x MON-00810-6 maize for the same uses as any other maize with the exception of cultivation.

Article 3

Labelling

1. For the purposes of the labelling requirements laid down in Article 13(1) and Article 25(2) of Regulation (EC) No 1829/2003 and in Article 4(6) of Regulation (EC) No 1830/2003, the 'name of the organism' shall be 'maize'.
2. The words 'not for cultivation' shall appear on the label of and in documents accompanying products containing or consisting of MON-88017-3 x MON-00810-6 maize referred to in Article 2(b) and (c).

Article 4

Monitoring for environmental effects

1. The authorisation holder shall ensure that the monitoring plan for environmental effects, as set out in point (h) of the Annex, is put in place and implemented.

⁽¹⁾ OJ L 275, 21.10.2009, p. 9.

⁽²⁾ OJ L 268, 18.10.2003, p. 24.

⁽³⁾ OJ L 287, 5.11.2003, p. 1.

2. The authorisation holder shall submit to the Commission annual reports on the implementation and the results of the activities set out in the monitoring plan in accordance with Decision 2009/770/EC.

Article 5

Community register

The information set out in the Annex to this Decision shall be entered in the Community register of genetically modified food and feed, as provided for in Article 28 of Regulation (EC) No 1829/2003.

Article 6

Authorisation holder

The authorisation holder shall be Monsanto Europe SA, Belgium, representing Monsanto Company, United States.

Article 7

Validity

This Decision shall apply for a period of 10 years from the date of its notification.

Article 8

Addressee

This Decision is addressed to Monsanto Europe SA, Avenue de Tervuren 270-272, 1150 Brussels, Belgium.

Done at Brussels, 28 July 2010.

For the Commission

John DALLI

Member of the Commission

ANNEX

(a) Applicant and authorisation holder:

Name: Monsanto Europe SA

Address: Avenue de Tervuren 270-272, 1150 Brussels, Belgium

On behalf of Monsanto Company, 800 N. Lindbergh Boulevard, St Louis, Missouri 63167, United States of America

(b) Designation and specification of the products:

1. foods and food ingredients containing, consisting of, or produced from MON-88Ø17-3 x MON-ØØ81Ø-6 maize;
2. feed containing, consisting of, or produced from MON-88Ø17-3 x MON-ØØ81Ø-6 maize;
3. products other than food and feed containing or consisting of MON-88Ø17-3 x MON-ØØ81Ø-6 maize for the same uses as any other maize with the exception of cultivation.

The genetically modified MON-88Ø17-3 x MON-ØØ81Ø-6 maize, as described in the application, is produced by crosses between maize containing MON-88Ø17-3 and MON-ØØ81Ø-6 events and expresses the Cry3Bb1 and Cry1Ab proteins which respectively confer protection against certain coleopteran and lepidopteran pests and the CP4 EPSPS protein which confers tolerance to glyphosate herbicides.

(c) Labelling:

1. for the purposes of the specific labelling requirements laid down in Article 13(1) and Article 25(2) of Regulation (EC) No 1829/2003, and in Article 4(6) of Regulation (EC) No 1830/2003, the 'name of the organism' shall be 'maize';
2. the words 'not for cultivation' shall appear on the label of and in documents accompanying products containing or consisting of MON-88Ø17-3 x MON-ØØ81Ø-6 maize referred to in Article 2(b) and (c) of this Decision.

(d) Method for detection:

- event specific real-time quantitative PCR based method for genetically modified maize MON-88Ø17-3 and MON-ØØ81Ø-6 validated on MON-88Ø17-3 x MON-ØØ81Ø-6 maize,
- validated on seeds by the Community Reference Laboratory established under Regulation (EC) No 1829/2003, published at <http://gmo-crl.jrc.ec.europa.eu/statusofdoss.htm>
- reference material: AOCs 0406-D (for MON-88Ø17-3) accessible via the American Oil Chemists Society at <http://www.aocs.org/tech/crm/> and ERM@-BF413 (for MON-ØØ81Ø-6) accessible via the Joint Research Centre (JRC) of the European Commission, Institute for reference Materials and Measurements (IRMM) accessible at <https://irmm.jrc.ec.europa.eu/rmcatalogue>

(e) Unique identifier:

MON-88Ø17-3 x MON-ØØ81Ø-6.

(f) Information required under Annex II to the Cartagena Protocol on Biosafety to the Convention on Biological Diversity:

Biosafety Clearing House, Record ID: see [to be completed when notified].

(g) Conditions or restrictions on the placing on the market, use or handling of the products:

Not required.

(h) Monitoring plan:

Monitoring plan for environmental effects conforming with Annex VII to Directive 2001/18/EC.

[Link: plan published on the Internet]

(i) Post-market monitoring requirements for the use of the food for human consumption:

Not required.

Note: Links to relevant documents may need to be modified over time. Those modifications will be made available to the public via the updating of the Community register of genetically modified food and feed.

2010 SUBSCRIPTION PRICES (excluding VAT, including normal transport charges)

EU Official Journal, L + C series, paper edition only	22 official EU languages	EUR 1 100 per year
EU Official Journal, L + C series, paper + annual CD-ROM	22 official EU languages	EUR 1 200 per year
EU Official Journal, L series, paper edition only	22 official EU languages	EUR 770 per year
EU Official Journal, L + C series, monthly CD-ROM (cumulative)	22 official EU languages	EUR 400 per year
Supplement to the Official Journal (S series), tendering procedures for public contracts, CD-ROM, two editions per week	multilingual: 23 official EU languages	EUR 300 per year
EU Official Journal, C series — recruitment competitions	Language(s) according to competition(s)	EUR 50 per year

Subscriptions to the *Official Journal of the European Union*, which is published in the official languages of the European Union, are available for 22 language versions. The Official Journal comprises two series, L (Legislation) and C (Information and Notices).

A separate subscription must be taken out for each language version.

In accordance with Council Regulation (EC) No 920/2005, published in Official Journal L 156 of 18 June 2005, the institutions of the European Union are temporarily not bound by the obligation to draft all acts in Irish and publish them in that language. Irish editions of the Official Journal are therefore sold separately.

Subscriptions to the Supplement to the Official Journal (S Series — tendering procedures for public contracts) cover all 23 official language versions on a single multilingual CD-ROM.

On request, subscribers to the *Official Journal of the European Union* can receive the various Annexes to the Official Journal. Subscribers are informed of the publication of Annexes by notices inserted in the *Official Journal of the European Union*.

CD-Rom formats will be replaced by DVD formats during 2010.

Sales and subscriptions

Subscriptions to various priced periodicals, such as the subscription to the *Official Journal of the European Union*, are available from our commercial distributors. The list of commercial distributors is available at:

http://publications.europa.eu/others/agents/index_en.htm

EUR-Lex (<http://eur-lex.europa.eu>) offers direct access to European Union legislation free of charge. The *Official Journal of the European Union* can be consulted on this website, as can the Treaties, legislation, case-law and preparatory acts.

For further information on the European Union, see: <http://europa.eu>

