

Official Journal

of the European Union

L 61



English edition

Legislation

Volume 54

8 March 2011

Contents

II *Non-legislative acts*

REGULATIONS

- ★ **Commission Regulation (EU) No 224/2011 of 7 March 2011 on fixing the standard fee per farm return from the 2011 accounting year of the farm accountancy data network** 1
- ★ **Commission Regulation (EU) No 225/2011 of 7 March 2011 amending Commission Regulation (EC) No 1277/2005 laying down implementing rules for Regulation (EC) No 273/2004 of the European Parliament and of the Council on drug precursors and for Council Regulation (EC) No 111/2005 laying down rules for the monitoring of trade between the Community and third countries in drug precursors** 2
- Commission Implementing Regulation (EU) No 226/2011 of 7 March 2011 establishing the standard import values for determining the entry price of certain fruit and vegetables 5
- Commission Implementing Regulation (EU) No 227/2011 of 7 March 2011 amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EU) No 867/2010 for the 2010/11 marketing year 7

Price: EUR 3

(Continued overleaf)

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.

DIRECTIVES

- ★ **Commission Directive 2011/29/EU of 7 March 2011 amending Council Directive 91/414/EEC to include etridiazole as active substance and amending Commission Decision 2008/934/EC ⁽¹⁾** 9
- ★ **Commission Directive 2011/30/EU of 7 March 2011 amending Council Directive 91/414/EEC to include fenbutatin oxide as active substance and amending Commission Decision 2008/934/EC ⁽¹⁾** 14
- ★ **Commission Directive 2011/31/EU of 7 March 2011 amending Council Directive 91/414/EEC as regards a restriction of the use of the active substance pirimiphos-methyl ⁽¹⁾** 18

DECISIONS

- ★ **Council Decision 2011/146/CFSP of 7 March 2011 amending Decision 2010/145/CFSP renewing measures in support of the effective implementation of the mandate of the International Criminal Tribunal for the former Yugoslavia (ICTY)** 21

- 2011/147/EU:
- ★ **Commission Decision of 29 September 2010 concerning the aid scheme C 4/09 (ex N 679/97) implemented by France to promote radio broadcasting (notified under document C(2010) 6483) ⁽¹⁾** 22

- 2011/148/EU:
- ★ **Commission Decision of 2 March 2011 amending Decision 2008/456/EC laying down rules for the implementation of Decision No 574/2007/EC of the European Parliament and of the Council establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme ‘Solidarity and Management of Migration Flows’ as regards Member States’ management and control systems, the rules for administrative and financial management and the eligibility of expenditure on projects co-financed by the Fund (notified under document C(2011) 1160)** 28

- 2011/149/EU:
- ★ **Commission Decision of 7 March 2011 on historical aviation emissions pursuant to Article 3c(4) of Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community (notified under document C(2011) 1328) ⁽¹⁾** 42



⁽¹⁾ Text with EEA relevance

II

(Non-legislative acts)

REGULATIONS

COMMISSION REGULATION (EU) No 224/2011

of 7 March 2011

on fixing the standard fee per farm return from the 2011 accounting year of the farm accountancy data network

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1217/2009 of 30 November 2009 setting up a network for the collection of accountancy data on the incomes and business operation of agricultural holdings in the European Community ⁽¹⁾,

Having regard to Commission Regulation (EEC) No 1915/83 of 13 July 1983 on certain detailed implementing rules concerning the keeping of accounts for the purpose of determining the incomes of agricultural holdings ⁽²⁾, and in particular Article 5(3) thereof,

Whereas:

(1) Article 5(1) of Regulation (EEC) No 1915/83 provides that a standard fee shall be paid by the Commission to the Member States for each duly completed farm return and forwarded to it within the period prescribed in Article 3 of that Regulation.

(2) Commission Regulation (EC) No 1264/2008 of 16 December 2008 fixing the standard fee per farm return from the 2009 accounting year of the farm accountancy data network ⁽³⁾ fixed the amount of the standard fee for the 2009 accounting year at EUR 155 per farm return. The trend in costs and its effects on the cost of completing the farm return justify a revision of the fee.

(3) The measures provided for in this Regulation are in accordance with the opinion of the Community Committee for the Farm Accountancy Data Network,

HAS ADOPTED THIS REGULATION:

Article 1

The standard fee provided for in Article 5(1) of Regulation (EEC) No 1915/83 shall be fixed at EUR 157.

Article 2

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

It shall apply from the 2011 accounting year.

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

Done at Brussels, 7 March 2011.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ OJ L 328, 15.12.2009, p. 27.

⁽²⁾ OJ L 190, 14.7.1983, p. 25.

⁽³⁾ OJ L 338, 17.12.2008, p. 31.

COMMISSION REGULATION (EU) No 225/2011

of 7 March 2011

amending Commission Regulation (EC) No 1277/2005 laying down implementing rules for Regulation (EC) No 273/2004 of the European Parliament and of the Council on drug precursors and for Council Regulation (EC) No 111/2005 laying down rules for the monitoring of trade between the Community and third countries in drug precursors

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 111/2005 of 22 December 2004 laying down rules for the monitoring of trade between the Community and third countries in drug precursors⁽¹⁾, and in particular Article 11(1) and the third subparagraph of Article 12(1) thereof,

Whereas:

(1) Commission Regulation (EC) No 1277/2005⁽²⁾ determines whether specific monitoring measures upon export of drug precursors from the European Union are required. Annex IV to that Regulation lists for each of the scheduled substances of categories 2 and 3 of the Annex to Regulation (EC) No 111/2005, the countries for which a pre-export notification is required. The lists involve third countries which have requested to receive pre-export notifications in accordance with Article 12(10) of the United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances of 1988.

(2) The United Nations Commission on Narcotic Drugs has, at its second meeting, on 8 March 2010, decided to include phenylacetic acid in Table I of the United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances of 1988. Article 12(10) of that Convention sets out that each Party from whose territory a substance in Table I is to be exported shall ensure that, prior to such export, information on the export consignment is supplied by its competent authorities to the competent authorities of the importing country.

(3) Following the decision to include phenylacetic acid in Table I of the United Nations Convention, it is necessary to amend Annex IV to Regulation (EC) No 1277/2005 to ensure that pre-export notifications are sent for all exports of phenylacetic acid from the European Union.

(4) Annex IV to Regulation (EC) No 1277/2005 does not list all third countries which have requested to receive pre-export notifications for certain scheduled substances of categories 2 and 3 since the entry into force of Commission Regulation (EC) No 297/2009⁽³⁾. Afghanistan, Australia and Ghana have made such requests and should therefore be added.

(5) Regulation (EC) No 1277/2005 should be amended accordingly.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 30(1) of Regulation (EC) No 111/2005,

HAS ADOPTED THIS REGULATION:

Article 1

Annex IV to Regulation (EC) No 1277/2005 is replaced by the text set out in the Annex to this Regulation.

*Article 2*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, 7 March 2011.

For the Commission
The President
José Manuel BARROSO

⁽¹⁾ OJ L 22, 26.1.2005, p. 1.

⁽²⁾ OJ L 202, 3.8.2005, p. 7.

⁽³⁾ OJ L 95, 9.4.2009, p. 13.

ANNEX

'ANNEX IV

1. List of countries referred to in Article 20 for which a pre-export notification is required for exports of scheduled substances of category 2 of the Annex to Regulation (EC) No 111/2005

Substance	Destination	
Acetic anhydride Potassium permanganate Phenylacetic acid	Any third country	
Anthranilic acid	Afghanistan Australia Antigua and Barbuda Benin Bolivia Brazil Canada Cayman Islands Chile Colombia Costa Rica Dominican Republic Ecuador Ethiopia Ghana Haiti India Indonesia Jordan Kazakhstan Lebanon Madagascar	Malaysia Maldives Mexico Nigeria Oman Paraguay Peru Philippines Republic of Moldova Russian Federation Saudi Arabia South Africa Tajikistan Turkey United Arab Emirates United Republic of Tanzania Venezuela
Piperidine	Afghanistan Australia Antigua and Barbuda Benin Bolivia Brazil Canada Cayman Islands Chile Colombia Costa Rica Dominican Republic Ecuador Ethiopia Ghana Haiti India Indonesia Jordan Kazakhstan Lebanon Madagascar	Malaysia Maldives Mexico Nigeria Oman Paraguay Peru Philippines Republic of Moldova Russian Federation Saudi Arabia Tajikistan Turkey United Arab Emirates United Republic of Tanzania United States of America Venezuela

2. List of countries referred to in Articles 20 and 22 for which a pre-export notification and an export authorisation is required for exports of scheduled substances of category 3 of the Annex to Regulation (EC) No 111/2005

Substance	Destination	
Methylethyl ketone (MEK) ⁽¹⁾	Afghanistan	Lebanon
Toluene ⁽¹⁾	Australia	Madagascar
Acetone ⁽¹⁾	Antigua and Barbuda	Malaysia
Ethyl ether ⁽¹⁾	Argentina	Maldives
	Benin	Mexico
	Bolivia	Nigeria
	Brazil	Oman
	Canada	Pakistan
	Cayman Islands	Paraguay
	Chile	Peru
	Colombia	Philippines
	Costa Rica	Republic of Moldova
	Dominican Republic	Republic of Korea
	Ecuador	Russian Federation
	Egypt	Saudia Arabia
	El Salvador	Tajikistan
	Ethiopia	Turkey
	Ghana	United Arab Emirates
	Guatemala	United Republic of Tanzania
	Haiti	Uruguay
	Honduras	Venezuela
	India	
	Jordan	
	Kazakhstan	
Hydrochloric acid	Bolivia	Peru
Sulphuric acid	Chile	Turkey
	Colombia	Venezuela
	Ecuador	

⁽¹⁾ This includes the salts of these substances whenever the existence of such salts is possible.

COMMISSION IMPLEMENTING REGULATION (EU) No 226/2011**of 7 March 2011****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 8 March 2011.

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

Done at Brussels, 7 March 2011.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
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	IL	122,2
	MA	45,1
	TN	115,9
	TR	93,9
	ZZ	94,3
0707 00 05	TR	162,5
	ZZ	162,5
0709 90 70	MA	32,9
	TR	93,3
	ZZ	63,1
0805 10 20	EG	55,8
	IL	78,1
	MA	57,1
	TN	43,4
	TR	65,8
	ZA	37,9
	ZZ	56,4
0805 50 10	EG	42,1
	MA	45,9
	TR	41,4
	ZZ	43,1
0808 10 80	CA	99,3
	CL	90,0
	CN	75,4
	MK	54,8
	US	128,9
	ZZ	89,7
0808 20 50	AR	89,0
	CL	107,3
	CN	54,8
	US	79,9
	ZA	94,0
	ZZ	85,0

⁽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 IMPLEMENTING REGULATION (EU) No 227/2011**of 7 March 2011****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EU) No 867/2010 for the 2010/11 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 2010/11 marketing year are fixed by Commission Regulation (EU) No 867/2010 ⁽³⁾. These prices and duties have been last amended by Commission Regulation (EU) No 219/2011 ⁽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 (EU) No 867/2010 for the 2010/11, marketing year, are hereby amended as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 8 March 2011.

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

Done at Brussels, 7 March 2011.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
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 259, 1.10.2010, p. 3.⁽⁴⁾ OJ L 59, 4.3.2011, p. 23.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 8 March 2011

(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⁾	57,33	0,00
1701 11 90 ⁽¹⁾	57,33	0,00
1701 12 10 ⁽¹⁾	57,33	0,00
1701 12 90 ⁽¹⁾	57,33	0,00
1701 91 00 ⁽²⁾	52,87	1,61
1701 99 10 ⁽²⁾	52,87	0,00
1701 99 90 ⁽²⁾	52,87	0,00
1702 90 95 ⁽³⁾	0,53	0,20

⁽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.

DIRECTIVES

COMMISSION DIRECTIVE 2011/29/EU

of 7 March 2011

amending Council Directive 91/414/EEC to include etridiazole as active substance and amending Commission Decision 2008/934/EC

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

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

Whereas:

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

(2) In accordance with Article 11e of Regulation (EC) No 1490/2002 the notifier withdrew its support of the inclusion of that active substance in Annex I to Directive 91/414/EEC within 2 months from receipt of the draft assessment report. Consequently, Commission Decision 2008/934/EC of 5 December 2008 concerning the non-inclusion of certain active substances in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing these substances ⁽⁴⁾ was adopted on the non-inclusion of etridiazole.

(3) Pursuant to Article 6(2) of Directive 91/414/EEC the original notifier (hereinafter 'the applicant') submitted a new application requesting the accelerated procedure to be applied, as provided for in Articles 14 to 19 of Commission Regulation (EC) No 33/2008 of 17 January 2008 laying down detailed rules for the application of Council Directive 91/414/EEC as regards a regular and an accelerated procedure for the assessment of active substances which were part of the programme of work referred to in Article 8(2) of that Directive but have not been included into its Annex I ⁽⁵⁾.

(4) The application was submitted to the Netherlands, which had been designated rapporteur Member State by Regulation (EC) No 1490/2002. The time period for the accelerated procedure was respected. The specification of the active substance and the supported uses are the same as were the subject of Decision 2008/934/EC. That application also complies with the remaining substantive and procedural requirements of Article 15 of Regulation (EC) No 33/2008.

(5) The Netherlands evaluated the additional data submitted by the applicant and prepared an additional report. It communicated that report to the European Food Safety Authority (hereinafter 'the Authority') and to the Commission on 2 December 2009. The Authority communicated the additional report to the other Member States and the applicant for comments and forwarded the comments it had received to the Commission. In accordance with Article 20(1) of Regulation (EC) No 33/2008 and at the request of the Commission, the Authority presented its conclusion on etridiazole to the Commission on 24 September 2010 ⁽⁶⁾. The draft assessment report, the additional report and the conclusion of the Authority were reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 28 January 2011 in the format of the Commission review report for etridiazole.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1.

⁽²⁾ OJ L 55, 29.2.2000, p. 25.

⁽³⁾ OJ L 224, 21.8.2002, p. 23.

⁽⁴⁾ OJ L 333, 11.12.2008, p. 11.

⁽⁵⁾ OJ L 15, 18.1.2008, p. 5.

⁽⁶⁾ European Food Safety Authority; Conclusion on the peer review of the pesticide risk assessment of the active substance etridiazole. EFSA Journal 2010;8(10):1823. [66 pp.]. doi:10.2903/j.efsa.2010.1823. Available online: www.efsa.europa.eu/efsajournal.htm

- (6) It has appeared from the various examinations made that plant protection products containing etridiazole may be expected to satisfy, in general, the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC, in particular with regard to the uses which have been examined and detailed in the Commission review report. It is therefore appropriate to include etridiazole in Annex I, in order to ensure that in all Member States the authorisations of plant protection products containing this active substance can be granted in accordance with the provisions of that Directive.
- (7) Without prejudice to that conclusion, it is appropriate to obtain further information on certain specific points. Article 6(1) of Directive 91/414/EEC provides that inclusion of a substance in Annex I may be subject to conditions. Therefore, in assessing applications to authorise plant protection products containing etridiazole for uses other than on ornamental plants, Member States shall ensure that any necessary information is provided before such an authorisation is granted. Moreover, it is appropriate to require that the applicant submit further information confirming: the specification of the technical material as commercially manufactured by appropriate analytical data, the relevance of the impurities, the equivalence between the specifications of the technical material, as commercially manufactured, and those of the test material used in the ecotoxicity dossiers, the relevance of the plant metabolites 5-hydroxy-ethoxyetridiazole acid and 3-hydroxymethyletridiazole, the indirect exposure of groundwater and soil-dwelling organisms to etridiazole and to its soil metabolites dichloro-etridiazole and etridiazole acid, and the long-range and short-range transport through the atmosphere of etridiazole acid.
- (8) A reasonable period should be allowed to elapse before an active substance is included in Annex I in order to permit Member States and the interested parties to prepare themselves to meet the new requirements which will result from the inclusion.
- (9) Without prejudice to the obligations defined by Directive 91/414/EEC as a consequence of including an active substance in Annex I, Member States should be allowed a period of 6 months after inclusion to review existing authorisations of plant protection products containing etridiazole to ensure that the requirements laid down by Directive 91/414/EEC, in particular in its Article 13 and the relevant conditions set out in Annex I, are satisfied. Member States should vary, replace or withdraw, as appropriate, existing authorisations, in accordance with the provisions of Directive 91/414/EEC. By derogation from the above deadline, a longer period should be provided for the submission and assessment of the complete Annex III dossier of each plant protection product for each intended use in accordance with the uniform principles laid down in Directive 91/414/EEC.
- (10) The experience gained from previous inclusions in Annex I to Directive 91/414/EEC of active substances assessed in the framework of Commission Regulation (EEC) No 3600/92 of 11 December 1992 laying down the detailed rules for the implementation of the first stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC concerning the placing of plant protection products on the market ⁽¹⁾ has shown that difficulties can arise in interpreting the duties of holders of existing authorisations in relation to access to data. In order to avoid further difficulties it therefore appears necessary to clarify the duties of the Member States, especially the duty to verify that the holder of an authorisation demonstrates access to a dossier satisfying the requirements of Annex II to that Directive. However, this clarification does not impose any new obligations on Member States or holders of authorisations compared to the directives which have been adopted until now amending Annex I.
- (11) It is therefore appropriate to amend Directive 91/414/EEC accordingly.
- (12) Decision 2008/934/EC provides for the non-inclusion of etridiazole and the withdrawal of authorisations for plant protection products containing that substance by 31 December 2011. It is necessary to delete the line concerning etridiazole in the Annex to that Decision.
- (13) It is therefore appropriate to amend Decision 2008/934/EC accordingly.
- (14) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DIRECTIVE:

Article 1

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

Article 2

The line concerning etridiazole in the Annex to Decision 2008/934/EC is deleted.

Article 3

Member States shall adopt and publish by 30 November 2011 at the latest the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 1 December 2011.

⁽¹⁾ OJ L 366, 15.12.1992, p. 10.

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

Article 4

1. Member States shall in accordance with Directive 91/414/EEC, where necessary, amend or withdraw existing authorisations for plant protection products containing etridiazole as an active substance by 30 November 2011.

By that date they shall in particular verify that the conditions in Annex I to that Directive relating to etridiazole are met, with the exception of those identified in part B of the entry concerning that active substance, and that the holder of the authorisation has, or has access to, a dossier satisfying the requirements of Annex II to that Directive in accordance with the conditions of Article 13 of that Directive.

2. By way of derogation from paragraph 1, for each authorised plant protection product containing etridiazole as either the only active substance or as one of several active substances all of which were listed in Annex I to Directive 91/414/EEC by 31 May 2011 at the latest, Member States shall re-evaluate the product in accordance with the uniform principles provided for in Annex VI to Directive 91/414/EEC, on the basis of a dossier satisfying the requirements of Annex III to that Directive and taking into account part B of the entry in Annex I to that Directive concerning etridiazole. On the basis of that evaluation, they shall determine whether the product satisfies the conditions set out in Article 4(1)(b), (c), (d) and (e) of Directive 91/414/EEC.

Following that determination Member States shall:

- (a) in the case of a product containing etridiazole as the only active substance, where necessary, amend or withdraw the authorisation by 31 May 2015 at the latest; or
- (b) in the case of a product containing etridiazole as one of several active substances, where necessary, amend or withdraw the authorisation by 31 May 2015 or by the date fixed for such an amendment or withdrawal in the respective Directive or Directives which added the relevant substance or substances to Annex I to Directive 91/414/EEC, whichever is the latest.

Article 5

This Directive shall enter into force on 1 June 2011.

Article 6

This Directive is addressed to the Member States.

Done at Brussels, 7 March 2011.

For the Commission

The President

José Manuel BARROSO

ANNEX

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

No	Common Name, Identification Numbers	IUPAC Name	Purity (1)	Entry into force	Expiration of inclusion	Specific provisions
'332	Etridiazole CAS No: 2593-15-9 CIPAC No: 518	<i>ethyl-3-trichloromethyl-1,2,4-thiadiazol-5-yl ether</i>	≥ 970 g/kg	1 June 2011	31 May 2021	<p>PART A</p> <p>Only uses as fungicide in non-soil bound systems in greenhouse may be authorised.</p> <p>PART B</p> <p>In assessing applications to authorise plant protection products containing etridiazole for uses other than on ornamental plants, Member States shall pay particular attention to the criteria in Article 4(1)(b), and shall ensure that any necessary information is provided before such an authorisation is granted.</p> <p>For the implementation of the uniform principles of Annex VI the conclusions of the review report on etridiazole, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 28 January 2011, shall be taken into account.</p> <p>In this overall assessment Member States shall:</p> <ol style="list-style-type: none"> 1. pay particular attention to the risk to operators and workers and ensure that conditions of use include the application of appropriate risk mitigation measures; 2. ensure that appropriate waste management practices are applied as regards waste water from irrigation of non-soil bound growing systems; Member States permitting the release of waste water into the sewage system or into natural water bodies, shall ensure that an appropriate risk assessment is carried out; 3. pay particular attention to the risk to aquatic organisms and ensure that conditions of use include the application of appropriate risk mitigation measures. <p>The Member States concerned shall request the submission of confirmatory information as regards:</p> <ol style="list-style-type: none"> 1. the specification of the technical material, as commercially manufactured, by appropriate analytical data; 2. the relevance of the impurities;

No	Common Name, Identification Numbers	IUPAC Name	Purity ⁽¹⁾	Entry into force	Expiration of inclusion	Specific provisions
						<p>3. the equivalence between the specifications of the technical material, as commercially manufactured, and those of the test material used in the ecotoxicity dossiers;</p> <p>4. the relevance of the plant metabolites 5-hydroxy-ethoxyetridiazole acid and 3-hydroxymethyletridiazole;</p> <p>5. indirect exposure of groundwater and soil-dwelling organisms to etridiazole and to its soil metabolites dichloro-etridiazole and etridiazole acid;</p> <p>6. long-range and short-range transport through the atmosphere of etridiazole acid.</p> <p>The Member States concerned shall ensure that the applicant submits to the Commission the information set out in points 1, 2 and 3 by 1 December 2011 and the information set out in points 4, 5 and 6 by 31 May 2013.'</p>

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

COMMISSION DIRECTIVE 2011/30/EU**of 7 March 2011****amending Council Directive 91/414/EEC to include fenbutatin oxide as active substance and amending Commission Decision 2008/934/EC****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Commission Regulations (EC) No 451/2000 ⁽²⁾ and (EC) No 1490/2002 ⁽³⁾ lay down the detailed rules for the implementation of the third stage of the programme of work referred to in Article 8(2) of Directive 91/414/EEC and establish a list of active substances to be assessed, with a view to their possible inclusion in Annex I to Directive 91/414/EEC. That list included fenbutatin oxide.
- (2) In accordance with Article 11e of Regulation (EC) No 1490/2002 the notifier withdrew its support of the inclusion of that active substance in Annex I to Directive 91/414/EEC within 2 months from receipt of the draft assessment report. Consequently, Commission Decision 2008/934/EC of 5 December 2008 concerning the non-inclusion of certain active substances in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing these substances ⁽⁴⁾ was adopted on the non-inclusion of fenbutatin oxide.
- (3) Pursuant to Article 6(2) of Directive 91/414/EEC the original notifier (hereinafter 'the applicant') submitted a new application requesting the accelerated procedure to be applied, as provided for in Articles 14 to 19 of Commission Regulation (EC) No 33/2008 of 17 January 2008 laying down detailed rules for the application of Council Directive 91/414/EEC as regards

a regular and an accelerated procedure for the assessment of active substances which were part of the programme of work referred to in Article 8(2) of that Directive but have not been included into its Annex I ⁽⁵⁾.

- (4) The application was submitted to Belgium, which had been designated rapporteur Member State by Regulation (EC) No 451/2000. The time period for the accelerated procedure was respected. The specification of the active substance and the supported uses are the same as were the subject of Decision 2008/934/EC. That application also complies with the remaining substantive and procedural requirements of Article 15 of Regulation (EC) No 33/2008.
- (5) Belgium evaluated the additional data submitted by the applicant and prepared an additional report. It communicated that report to the European Food Safety Authority (hereinafter 'the Authority') and to the Commission on 1 December 2009. The Authority communicated the additional report to the other Member States and the applicant for comments and forwarded the comments it had received to the Commission. In accordance with Article 20(1) of Regulation (EC) No 33/2008 and at the request of the Commission, the Authority presented its conclusion on fenbutatin oxide to the Commission on 23 August 2010 ⁽⁶⁾. The draft assessment report, the additional report and the conclusion of the Authority were reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 28 January 2011 in the format of the Commission review report for fenbutatin oxide.
- (6) It has appeared from the various examinations made that plant protection products containing fenbutatin oxide may be expected to satisfy, in general, the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC, in particular with regard to the uses which have been examined and detailed in the Commission review report. It is therefore appropriate to include fenbutatin oxide in Annex I, in order to ensure that in all Member States the authorisations of plant protection products containing this active substance can be granted in accordance with the provisions of that Directive.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1.

⁽²⁾ OJ L 55, 29.2.2000, p. 25.

⁽³⁾ OJ L 224, 21.8.2002, p. 23.

⁽⁴⁾ OJ L 333, 11.12.2008, p. 11.

⁽⁵⁾ OJ L 15, 18.1.2008, p. 5.

⁽⁶⁾ European Food Safety Authority; Conclusion on the peer review of the pesticide risk assessment of the active substance fenbutatin oxide. EFSA Journal 2010; 8(9):1711. [73 pp.]. doi:10.2903/j.efsa.2010.1711. Available online: www.efsa.europa.eu

- (7) Without prejudice to that conclusion, it is appropriate to obtain further information on certain specific points. Article 6(1) of Directive 91/414/EC provides that inclusion of a substance in Annex I may be subject to conditions. Therefore, it is appropriate to require that the applicant submit further information confirming the results of the risk assessment, on the basis of most recent scientific knowledge; as regards the relevant impurity bis[hydroxybis(2-methyl-2-phenylpropyl)tin]oxide (SD 31723). That information should concern the following points: genotoxicological potential, ecotoxicological relevance, as well as spectra, storage stability of the impurity and methods of analysis in plant protection products.
- (8) A reasonable period should be allowed to elapse before an active substance is included in Annex I in order to permit Member States and the interested parties to prepare themselves to meet the new requirements which will result from the inclusion.
- (9) Without prejudice to the obligations defined by Directive 91/414/EEC as a consequence of including an active substance in Annex I, Member States should be allowed a period of 6 months after inclusion to review existing authorisations of plant protection products containing fenbutatin oxide to ensure that the requirements laid down by Directive 91/414/EEC, in particular in its Article 13 and the relevant conditions set out in Annex I, are satisfied. Member States should vary, replace or withdraw, as appropriate, existing authorisations, in accordance with the provisions of Directive 91/414/EEC. By derogation from the above deadline, a longer period should be provided for the submission and assessment of the complete Annex III dossier of each plant protection product for each intended use in accordance with the uniform principles laid down in Directive 91/414/EEC.
- (10) The experience gained from previous inclusions in Annex I to Directive 91/414/EEC of active substances assessed in the framework of Commission Regulation (EEC) No 3600/92 of 11 December 1992 laying down the detailed rules for the implementation of the first stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC concerning the placing of plant protection products on the market⁽¹⁾ has shown that difficulties can arise in interpreting the duties of holders of existing authorisations in relation to access to data. In order to avoid further difficulties it therefore appears necessary to clarify the duties of the Member States, especially the duty to verify that the holder of an authorisation demonstrates access to a dossier satisfying the requirements of Annex II to that Directive. However, this clarification does not impose any new obligations on Member States or holders of authorisations compared to the Directives which have been adopted until now amending Annex I.
- (11) It is therefore appropriate to amend Directive 91/414/EEC accordingly.

- (12) Decision 2008/934/EC provides for the non-inclusion of fenbutatin oxide and the withdrawal of authorisations for plant protection products containing that substance by 31 December 2011. It is necessary to delete the line concerning fenbutatin oxide in the Annex to that Decision.
- (13) It is therefore appropriate to amend Decision 2008/934/EC accordingly.
- (14) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DIRECTIVE:

Article 1

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

Article 2

The line concerning fenbutatin oxide in the Annex to Decision 2008/934/EC is deleted.

Article 3

Member States shall adopt and publish by 30 November 2011 at the latest the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 1 December 2011.

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

Article 4

1. Member States shall in accordance with Directive 91/414/EEC, where necessary, amend or withdraw existing authorisations for plant protection products containing fenbutatin oxide as an active substance by 30 November 2011.

By that date they shall in particular verify that the conditions in Annex I to that Directive relating to fenbutatin oxide are met, with the exception of those identified in part B of the entry concerning that active substance, and that the holder of the authorisation has, or has access to, a dossier satisfying the requirements of Annex II to that Directive in accordance with the conditions of Article 13 of that Directive.

⁽¹⁾ OJ L 366, 15.12.1992, p. 10.

2. By way of derogation from paragraph 1, for each authorised plant protection product containing fenbutatin oxide as either the only active substance or as one of several active substances all of which were listed in Annex I to Directive 91/414/EEC by 31 May 2011 at the latest, Member States shall re-evaluate the product in accordance with the uniform principles provided for in Annex VI to Directive 91/414/EEC, on the basis of a dossier satisfying the requirements of Annex III to that Directive and taking into account part B of the entry in Annex I to that Directive concerning fenbutatin oxide. On the basis of that evaluation, they shall determine whether the product satisfies the conditions set out in Article 4(1)(b), (c), (d) and (e) of Directive 91/414/EEC.

Following that determination Member States shall:

- (a) in the case of a product containing fenbutatin oxide as the only active substance, where necessary, amend or withdraw the authorisation by 31 May 2015 at the latest; or
- (b) in the case of a product containing fenbutatin oxide as one of several active substances, where necessary, amend or

withdraw the authorisation by 31 May 2015 or by the date fixed for such an amendment or withdrawal in the respective Directive or Directives which added the relevant substance or substances to Annex I to Directive 91/414/EEC, whichever is the latest.

Article 5

This Directive shall enter into force on 1 June 2011.

Article 6

This Directive is addressed to the Member States.

Done at Brussels, 7 March 2011.

For the Commission

The President

José Manuel BARROSO

ANNEX

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

No	Common Name, Identification Numbers	IUPAC Name	Purity ⁽¹⁾	Entry into force	Expiration of inclusion	Specific provisions
'338	Fenbutatin oxide CAS No: 13356-08-6 CIPAC No: 359	bis[tris(2-methyl-2-phenylpropyl)-tin]oxide	≥ 970 g/kg Impurities: bis[hydroxybis(2-methyl-2-phenylpropyl)tin]oxide (SD 31723): not more than 3 g/kg	1 June 2011	31 May 2021	<p>PART A</p> <p>Only uses as acaricide in greenhouses may be authorised.</p> <p>PART B</p> <p>For the implementation of the uniform principles of Annex VI, the conclusions of the review report on fenbutatin oxide, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 28 January 2011 shall be taken into account.</p> <p>In this overall assessment Member States shall pay particular attention to:</p> <ul style="list-style-type: none"> — the technical specification of the impurity content, — the residue levels in small tomato varieties (cherry tomatoes), — the operator safety. Conditions of use shall prescribe the application of adequate personal protective equipment, where appropriate, — the risk to aquatic organisms. <p>Conditions of authorisation shall include risk mitigation measures, where appropriate.</p> <p>The Member States concerned shall request the submission of information confirming the results of the risk assessment, on the basis of most recent scientific knowledge, as regards the impurity SD 31723. That information shall concern the following points:</p> <ul style="list-style-type: none"> (a) genotoxicological potential; (b) ecotoxicological relevance; (c) spectra, storage stability and methods of analysis in the formulation. <p>The Member States concerned shall ensure that the applicant submits such confirmatory information to the Commission by 31 May 2013.'</p>

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

COMMISSION DIRECTIVE 2011/31/EU
of 7 March 2011
amending Council Directive 91/414/EEC as regards a restriction of the use of the active substance
pirimiphos-methyl
(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) In accordance with Article 5(5) of Directive 91/414/EEC an inclusion may be reviewed at any time if there are indications that the criteria referred to in paragraphs 1 and 2 of that Article are no longer satisfied.
- (2) By Commission Directive 2007/52/EC ⁽²⁾ pirimiphos-methyl was included as active substance in Annex I to Directive 91/414/EEC. The specific provision concerning that substance required the notifier however, to submit further studies confirming the operator exposure assessment.
- (3) On 22 September 2009 the notifier submitted such studies to the United Kingdom, which had been designated rapporteur Member State by Commission Regulation (EC) No 451/2000 ⁽³⁾.
- (4) The United Kingdom evaluated those studies and submitted to the Commission an addendum to the draft assessment report on 25 February 2010, which was circulated for comments to the other Member States, the European Food Safety Authority (EFSA) and the notifier. Account being taken of the draft assessment report, that addendum was reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 28 January 2011 in the format of a revision of the Commission review report for pirimiphos-methyl of 16 March 2007.
- (5) The studies included in the review report, as finalised on 28 January 2011, show that the risk to operators is not acceptable when hand-held equipment is used.

(6) Taking into account the draft assessment report, its addendum and the comments received from Member States, from EFSA and from the notifier, the conclusion continues to apply that plant protection products containing pirimiphos-methyl may be expected to satisfy, in general, the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC, in particular with regard to the uses which have been examined and detailed in the Commission review report. It is, however, necessary to restrict the inclusion of pirimiphos-methyl by excluding hand-held applications.

(7) It is therefore appropriate to amend Directive 91/414/EEC accordingly.

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

HAS ADOPTED THIS DIRECTIVE:

Article 1

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

Article 2

Member States shall adopt and publish by 31 October 2011 at the latest the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 1 November 2011.

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

Article 3

Member States shall in accordance with Directive 91/414/EEC, where necessary, amend or withdraw existing authorisations for plant protection products containing pirimiphos-methyl as active substance by 31 October 2011.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1.

⁽²⁾ OJ L 214, 17.8.2007, p. 3.

⁽³⁾ OJ L 55, 29.2.2000, p. 25.

Article 4

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

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 7 March 2011.

For the Commission
The President
José Manuel BARROSO

ANNEX

In Annex I to Directive 91/414/EEC, row 162 is replaced by the following:

162	pirimiphos-methyl CAS No 29232-93-7 CIPAC No 239	O-2-diethylamino-6-methylpyrimidin-4-yl O,O- dimethylphosphorothioate	≥ 880 g/kg	1 October 2007	30 September 2017	<p>PART A</p> <p>Only uses as insecticide for post harvest storage can be authorised.</p> <p>Hand-held applications shall not be authorised.</p> <p>PART B</p> <p>In assessing applications to authorise plant protection products containing pirimiphos-methyl for uses other than applications with automated systems in empty cereals store-houses, Member States shall pay particular attention to the criteria in Article 4(1)(b), and shall ensure that any necessary data and information is provided before such an authorisation is granted.</p> <p>For the implementation of the uniform principles of Annex VI, the conclusions of the review report on pirimiphos-methyl, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 16 March 2007 shall be taken into account.</p> <p>In this overall assessment Member States must pay particular attention to:</p> <ul style="list-style-type: none"> — the operators safety. Authorised conditions of use must prescribe the application of adequate personal protective equipment including respiratory protective equipment and risk mitigation measures to reduce the exposure, — the dietary exposure of consumers in view of future revisions of Maximum Residue Levels.'
-----	--	--	-----------------	----------------	-------------------	--

DECISIONS

COUNCIL DECISION 2011/146/CFSP

of 7 March 2011

amending Decision 2010/145/CFSP renewing measures in support of the effective implementation of the mandate of the International Criminal Tribunal for the former Yugoslavia (ICTY)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Whereas:

- (1) On 8 March 2010, the Council adopted Decision 2010/145/CFSP ⁽¹⁾.
- (2) The measures provided for in Decision 2010/145/CFSP should be renewed for a further period of 12 months,

HAS ADOPTED THIS DECISION:

Article 1

Article 4(1) of Decision 2010/145/CFSP is hereby replaced by the following:

'1. This Decision shall enter into force on the date of its adoption. It shall expire on 16 March 2012.'

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 7 March 2011.

For the Council

The President

CZOMBA S.

⁽¹⁾ OJ L 58, 9.3.2010, p. 8.

COMMISSION DECISION

of 29 September 2010

concerning the aid scheme C 4/09 (ex N 679/97) implemented by France to promote radio broadcasting

(notified under document C(2010) 6483)

(Only the French text is authentic)

(Text with EEA relevance)

(2011/147/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 108(2) thereof ⁽¹⁾,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof ⁽²⁾,

Having called on interested parties to submit their comments pursuant to the provisions cited above ⁽³⁾,

Whereas:

1. PROCEDURE

- (1) By letter of 2 October 1997 the French Republic notified the Commission of aid scheme N 679/97, a draft decree envisaging a change in the existing aid scheme in favour of radio broadcasting services ⁽⁴⁾. By Decision of 10 November 1997 ⁽⁵⁾ the Commission approved the renewal of this radio broadcasting aid scheme for a period of 10 years.
- (2) A change in that aid scheme was approved by the Commission Decision of 28 July 2003 ⁽⁶⁾. The modification proposed by the French authorities referred,

among other things, to a change in the methods of financing the aid scheme ⁽⁷⁾. In that Decision the Commission concluded that the amended aid scheme was compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty on the Functioning of the European Union (hereinafter 'TFEU'). The modification entered into force on 1 January 2003 for a period of 10 years.

- (3) On 22 December 2008 the Court of Justice of the European Union declared that the Commission Decision of 10 November 1997 concerning the period 1997-2002 was invalid. Consequently, the Commission took all the necessary measures to rectify the illegality identified and has re-examined the information provided by the French authorities (for a detailed description of this procedure, see chapter 3 'Grounds for initiating the procedure').
- (4) By letter of 11 February 2009, the Commission informed the French Republic of its decision to initiate the procedure laid down in Article 108(2) TFEU in respect of the aid.
- (5) The Commission's decision to initiate that procedure was published in the *Official Journal of the European Union* ⁽⁸⁾. The Commission called on interested parties to submit their comments on the aid in question.
- (6) By letter of 23 April 2009 the French Republic submitted its comments on the measure.
- (7) The Commission has not received other comments from interested third parties on this subject.

2. DETAILED DESCRIPTION OF THE AID

- (8) The measure in question is an aid scheme in support of small French local radio stations that play a local social communication role and have commercial revenue from advertising and sponsorship that is not greater than 20 % of their turnover.

⁽¹⁾ From 1 December 2009, Articles 87 and 88 of the EC Treaty have become Articles 107 and 108 of the Treaty on the Functioning of the European Union (TFEU). The two sets of provisions are identical in substance. For the purposes of this Decision, references to Articles 107 and 108 TFEU should be understood as references to Articles 87 and 88 of the EC Treaty where appropriate.

⁽²⁾ OJ L 1, 3.1.1994, p. 3.

⁽³⁾ OJ C 223, 16.9.2009, p. 15. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:223:0015:0019:EN:PDF>

⁽⁴⁾ Decree 92-1053 of 30 September 1992.

⁽⁵⁾ Letter to the French authorities of 10 November 1997, State aid N 679/97, OJ C 120, 1.5.1999, p. 2; <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:1999:120:0002:0002:EN:PDF>

⁽⁶⁾ State aid NN 42/03 (ex N 752/02), OJ C 219, 16.9.2003, p. 3. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2003:219:0002:0003:EN:PDF>; http://ec.europa.eu/community_law/state_aids/comp-2003/nn042-03.pdf

⁽⁷⁾ See recital 14.

⁽⁸⁾ See footnote 1.

- (9) The aid scheme was financed by receipts from a para-fiscal charge levied on resources obtained from radio and television advertising broadcasts.
- (10) The competent authority, namely the Support Fund for Radio Broadcasting (SFRB), can grant three types of aid:
- (a) an installation grant for community radio stations recently licensed by the High Audiovisual Council, which cannot exceed a ceiling specified in a scale;
 - (b) an operating grant representing an amount specified in a scale which starts progressively and then becomes degressive, established by the committee responsible for granting the subsidies. The committee can increase the amount within predefined limits by taking into account the beneficiary's achievements relating to internal management and educational, community and cultural projects or local social communication;
 - (c) an equipment grant paying for up to 50 % of the cost of renewing the equipment of eligible radio stations. This can be awarded only once every five years and cannot exceed the ceiling specified in a scale.
- (11) The scheme has been in place since 1989 and has been subject to several changes, all notified to and approved by the Commission in 1990, 1992, 1997 and 2003, respectively.

2.1. Beneficiaries of the aid scheme

- (12) The draft decree notified by the French authorities concerns the implementation of the aid scheme set out in Article 80 of Law No 86-1067 of 30 September 1986 on freedom of communication, as amended by Article 25 of Law No 89-25 of 17 January 1989 and Article 27 of Law No 90-1170 of 29 December 1990, which provides as follows:

'Radio broadcasting services whose commercial revenue from broadcasting brand or sponsorship advertising represents less than 20 % of their total turnover shall benefit from aid in accordance with the rules laid down by decree of the Council of State.

The aid scheme shall be financed by a charge levied on resources obtained from radio and television advertising broadcasts.

The remuneration received by the radio broadcasting services for messages aimed at supporting community or general interest projects shall not be taken into account when determining the ceiling referred to in the first paragraph of this section.'

2.2. Method of financing the aid scheme

- (13) As regards the financing component of the aid scheme, Article 1 of the draft decree notified by the French authorities on 2 October 1997 which became Decree No 97-1263 of 29 December 1997, introducing a para-fiscal charge to be paid into a support fund for radio broadcasting ⁽⁹⁾, states:

'With effect from 1 January 1998, a para-fiscal charge on advertisements broadcast on sound radio and television ("the charge on advertising companies") shall be introduced for a period of five years to fund an aid scheme for the benefit of those holding a licence to provide sound radio broadcasting services in respect of which the commercial revenue deriving from broadcasts of brand or sponsorship advertising is less than 20 % of the total turnover. The objective of this charge is to promote radio broadcasting.'

Article 2 of the same decree states:

'The charge shall be levied on the sums, exclusive of agency fees and value added tax, paid by advertisers for the broadcasting of their advertisements to French territory.

Those liable to pay the tax are the persons responsible for marketing such advertisements.

The rate of tax shall be determined in a joint order by the Ministers responsible for Budget and Communications and shall be paid in stages on the basis of the quarterly revenue of the companies liable for the charge and the following upper limits shall apply:

[...]

Article 4 of the same decree provides that the charge referred to in Article 2 is to be levied, collected and recovered by the Directorate-General for Taxation for the radio broadcasting support fund, in accordance with the same rules, guarantees and penalties as those referring to the VAT.

⁽⁹⁾ *Official Journal of the French Republic*, 30.12.1997, p. 19194.

(14) These provisions have been amended following the change in the aid scheme notified to the Commission and approved by the decision of 28 July 2003⁽¹⁰⁾. Under the new rules, the parafiscal charge applies only to companies established on French territory.

3. GROUNDS FOR INITIATING THE PROCEDURE

(15) In 1997, by Decision N 679/97, the Commission approved a change in the aid scheme consisting in a financing mechanism based on a parafiscal charge levied on radio and television advertising broadcasts. That decision did not include any assessment of the method of financing. The 1997 decision was in force until 2003, when it was replaced by a new positive decision, Decision NN 42/03⁽¹¹⁾.

(16) On 3 August 2004, *Régie Network*, the advertising arm of a major French radio station, NRJ, challenged the charge paid in 2001 (EUR 152 524) before the Lyon courts. The case was referred to the Court of Justice for a preliminary ruling on the validity of the Commission Decision of 10 November 1997 approving the aid.

(17) The judgment⁽¹²⁾ of the Court of Justice, delivered on 22 December 2008, declared that the 1997 decision was invalid on the grounds that the Commission had omitted to assess the method of financing the measure under investigation.

(18) Under paragraph 89 of its judgment, the Court pointed out that consideration of an aid measure by the Commission must necessarily also take into account the method of financing the aid in cases where that method forms an integral part of the measure. Under paragraph 99 of its judgment, the Court stated that for a tax to be regarded as forming an integral part of an aid measure, it must be hypothecated to the aid under the relevant national rules, in the sense that the revenue from the charge is necessarily allocated for the financing of the aid and has a direct impact on the amount of the aid and, consequently, on the assessment of the compatibility of that aid with the internal market.

(19) After having verified that all the requirements have been met in that case, the Court concluded, under paragraph 112 of its judgment, that the charge on advertising companies forms an integral part of the radio broadcasting aid scheme which that charge is intended to finance. Accordingly, the Commission should have taken that charge into account when it examined the aid scheme in question, which it omitted to do in Decision NN 42/03.

(20) Following the judgment declaring that the Commission Decision of 10 November 1997 was invalid, the Commission took all the necessary measures to rectify the illegality identified and has re-examined the information provided by the French authorities. Consequently, on 11 February 2009 the Commission initiated the formal investigation procedure in accordance with Article 108(2) TFEU, under procedure number C4/2009⁽¹³⁾.

4. COMMENTS FROM FRANCE

(21) By letter of 23 April 2009 the French authorities submitted the following comments to the Commission:

(a) An annual average of EUR 20 million was collected and paid during the period in question, and distributed to over 500 recipients.

(b) It is not disputed that the parafiscal charge has also been paid by foreign operators providing radio broadcasting services in France delivered by radio stations or companies established in other Member States, but it would be impossible to identify them.

(c) The aid cannot give rise to any recovery primarily for two reasons: first, the aid scheme was duly notified to and approved by the Commission on several occasions, which gave its recipients legitimate expectations; secondly, given the current financial situation of the recipients it would be impossible for the French authorities to recover the amounts paid.

5. ASSESSMENT OF THE AID

5.1. Legal basis for the assessment

(22) The assessment of the aid scheme in question is based on Article 107(3) TFEU.

5.2. Existence of aid within the meaning of Article 107(1) TFEU

(23) Article 107(1) TFEU provides as follows:

'Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.'

⁽¹⁰⁾ State aid NN 42/03 (ex N 752/02), OJ C 219, 16.9.2003, p. 3. See note 5.

⁽¹¹⁾ See footnote 10.

⁽¹²⁾ Case C-333/07, *Régie Networks v Direction de Contrôle Fiscal Rhône-Alpes Bourgogne*; <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62007C0333:EN:HTML>

⁽¹³⁾ See footnote 1.

(24) Examination of this case according to the conditions laid down in Article 107(1) TFEU.

(a) *Aid granted by the State or through State resources*

The aid scheme is financed by resources obtained from a parafiscal charge provided for by legislative and regulatory provisions, collected by the tax authorities and levied on radio and television advertising broadcasts.

The aid is therefore granted through French State resources.

(b) *Distortion or the threat to distort competition by favouring certain undertakings or the production of certain goods*

The aid scheme promotes only radio broadcasting services. The beneficiaries of the aid scheme are providers of such services whose advertising revenue is less than 20 % of their total turnover. These broadcasting services are competing to attract listeners and advertising revenue, in particular with other radio broadcasting services in France whose commercial revenue exceeds this threshold and which do not receive public assistance under the aid scheme.

Therefore, the aid in question distorts or at least threatens to distort competition between the service providers receiving the aid and those not receiving it.

(c) *Effect on trade between Member States*

The radio broadcasting services delivered from locations on French territory, for instance by those benefiting under the aid scheme, can also be received in other Member States, albeit only in cross-border areas. At the same time, the parafiscal charge provided for by the legislative and regulatory provisions notified also applies to the advertising revenue of the services delivered in France from other Member States.

It follows that trade between Member States is affected or likely to be affected by the aid scheme notified.

(d) *Conclusion on the existence of State aid*

Under these circumstances, the Commission considers that the radio broadcasting aid scheme notified by the French authorities falls within the scope of Article 107(1) TFEU. Given that the scheme in question constitutes State aid, the Commission has the duty to examine its

compatibility with the internal market. In accordance with the abovementioned *Régie Networks* judgment, the charge levied on advertising companies and used to finance the aid in question must be taken into account when assessing the compatibility of the scheme.

5.3. Compatibility of the aid in the light of Article 107(2) and (3) TFEU

(25) Because of its object and scope, the aid measure notified clearly fails to meet the requirements laid down in Article 107(2) TFEU and Article 107(3)(a) and (b) TFEU.

(26) Because its goal is to favour radio stations providing radio broadcasting services on French territory, in particular by assisting those with the lowest advertising revenue, the aid scheme aims to ensure media pluralism on French territory, which is a legitimate general objective. Thus, the aid component can be examined from the point of view of the criteria laid down in Article 107(3)(c) TFEU. That Article provides as follows: 'The following may be considered to be compatible with the internal market: (...) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest (...)'. In this case, the Commission must weigh the positive and negative effects of the measure.

(27) In its previous decisions, the Commission concluded that the aid scheme in question has positive effects and is compatible with the internal market, in particular because the aid scheme contributes to a clearly specified objective of general interest. It aims to promote the plurality of radio stations providing radio broadcasting services on French territory. It supports small radio stations serving local audiences by taking into account social, cultural and local interests, which is a legitimate general objective. Moreover, any distortion of competition potentially caused by the aid scheme favouring these local radio stations is slight and does not change trading conditions to an extent contrary to the common interest. Given the mission and size of the radio stations in question, the distortion of competition between them and providers of the same type of service in another Member State is quite small. Consequently, this scheme's impact on trade is particularly weak.

(28) However, the assessment of Articles 3 and 6 of Decree No 97-1263 indicates that the financing of the aid scheme by means of the parafiscal charge in question forms an integral part of the measure, as was already stated by the Court in its *Régie Networks* judgment (paragraphs 99 to 112).

- (29) As the Court pointed out in paragraph 89 of the *Régie Networks* judgment: ‘the method by which aid is financed may render the entire aid scheme which it is intended to finance incompatible with the internal market. Therefore, the aid cannot be considered separately from the effects of its method of financing. Quite to the contrary, consideration of an aid measure by the Commission must necessarily also take into account the aid’s method of financing in cases where that method forms an integral part of the measure (see to that effect, *inter alia*, *van Calster and Others*, paragraph 49, and Case C-345/02 *Pearle and Others* [2004] ECR I-7139, paragraph 29).’
- (30) It follows that the Commission must take this charge into account when examining the compatibility of the aid scheme with the internal market. The charge in question, levied on advertising companies, appears to run counter to the general principle, regularly asserted by the Commission and confirmed by the Court in its judgment in Case 47/69 *France v Commission* [1970] ECR 487, that imported products and services must be exempt from all parafiscal charges intended to finance an aid scheme which benefits national undertakings only. The Court referred to this assessment in paragraph 115 of its *Régie Networks* judgment.
- (31) The Commission takes the view that the non-exemption of radio broadcasting services delivered in France by radio stations which are located in other Member States and cannot benefit from aid under the notified aid scheme adversely affects trading conditions to an extent contrary to the common interest. Even though the general purpose of the aid component of the notified scheme may be legitimate and may be regarded as compatible with the internal market, the same cannot be said of the method of financing it.

6. CONCLUSION

- (32) Under these circumstances, the Commission concludes that the aid scheme can be declared compatible with the internal market, in particular as regards the criteria set out in Article 107(3)(c) TFEU. On the other hand, the Commission cannot approve the method of financing the scheme.
- (33) The Commission has noted the impossibility, alleged by the French authorities in their letter of 23 April 2009, of identifying (among the payers of the parafiscal charge used to finance the aid scheme) the foreign operators who provided radio broadcasting services in France delivered by radio stations or companies located in other Member States during the period covered by the aid scheme in question. The Commission can admit the

existence of administrative difficulties preventing their identification, given that the facts date far back in time. Nevertheless, on the basis of the explanations submitted by the French authorities, in the case in question the passage of time does not in itself appear to constitute an insurmountable obstacle to identifying who is liable to pay the charge. In reply, the French authorities stated that it was not always possible to establish, on the basis of the data available to them, whether the persons liable for the charge were companies broadcasting from French territory or from another Member State. In this case, they have to send individual notices to the persons liable for the charge, within six months of the date when this decision is notified, informing them of their specific right to reimbursement if they have been broadcasting to France from another Member State. The authorities must use all the available means to identify the persons liable for the charge. However, since it is not certain that the French authorities can identify all the persons liable for the charge, they also have the duty to conduct an adequate campaign advertising the reimbursement measures, so that the operators concerned can come forward.

- (34) There is nothing to prevent France from enabling these unknown operators to exercise their right to the reimbursement of undue taxes paid between 1997 and 2002. France could rectify the incompatibility of the method of financing aid scheme by reimbursing the amount that is incompatible with the internal market in accordance with the following criteria:
- France shall send the operators concerned individual notices informing them of their specific right to reimbursement in each case where the French authorities are able to identify them and shall also ensure adequate publicity, especially by publishing advertisements in specialist periodicals throughout the European Union ⁽¹⁴⁾,
 - the persons liable for the charge shall be given three years from the date of the adequate publicity to submit the reimbursement request ⁽¹⁵⁾,
 - reimbursement shall be made within a maximum period of six months from the date of submission of the request ⁽¹⁶⁾,

⁽¹⁴⁾ Within its 2003 borders.

⁽¹⁵⁾ This is the normal response time in relations between the tax authorities and taxpayers in France and can be regarded as reasonable.

⁽¹⁶⁾ This period was specified in the Commission Decision of 14 December 2004 concerning the tax on meat purchases (rendering tax) implemented by France. It appears to be reasonable and there is no reason not to apply it in this case.

- added to the amounts reimbursed shall be the interest actually accrued from the date when they were collected until the date of the actual reimbursement, calculated on a compound basis using as an objective benchmark rate, by analogy, the rate referred to in Article 9 of Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽¹⁷⁾,
- the French authorities shall accept all reasonable proof submitted by the operators in question demonstrating that they have paid the charge,
- the right to reimbursement cannot be subjected to any other conditions,
- the French authorities shall send the Commission regular reports concerning the reimbursement procedure, every six months starting from the date when this decision is notified,

HAS ADOPTED THIS DECISION:

Article 1

The aid scheme introduced by France is compatible with the internal market subject to the conditions laid down in Article 2.

Article 2

To remove the discrimination suffered by foreign broadcasters who paid the charge on advertising companies to the French State without the possibility of benefiting from the aid scheme, the French authorities shall reimburse the parafiscal charge collected from foreign operators between 1997 and 2002.

Within six months of the date when this decision is notified, they shall inform all the operators who paid the charges to be reimbursed, in each case where they can identify them and send notices, by means of adequate publicity, so that the operators concerned can come forward. The French authorities shall give them three years to submit a reimbursement request ⁽¹⁸⁾. Following such a call and on the basis of the evidence presented by the operators in question, France shall, within six months at most from the date of submission of the reimbursement request, reimburse the amount of charges incompatible with the internal market plus the interest actually accrued, calculated on a compound basis using as an objective benchmark rate, by analogy, the rate referred to in Article 9 of Regulation (EC) No 794/2004.

Article 3

Within two months of the date on which this Decision is notified, France shall inform the Commission of the measures taken to comply with it.

It shall send the Commission regular reports concerning the reimbursement procedure referred to in Article 2, every six months starting from the date on which this Decision is notified until the end of a three-year period starting from the date of the last adequate publicity measures referred to in Article 2.

Article 4

This Decision is addressed to the French Republic.

Done at Brussels, 29 September 2010.

For the Commission
Joaquín ALMUNIA
Vice-President

⁽¹⁷⁾ OJ L 140, 30.4.2004, p. 1.

⁽¹⁸⁾ In accordance with the conditions set out in recital 34.

COMMISSION DECISION

of 2 March 2011

amending Decision 2008/456/EC laying down rules for the implementation of Decision No 574/2007/EC of the European Parliament and of the Council establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme ‘Solidarity and Management of Migration Flows’ as regards Member States’ management and control systems, the rules for administrative and financial management and the eligibility of expenditure on projects co-financed by the Fund

(notified under document C(2011) 1160)

(Only the Bulgarian, Czech, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish texts are authentic)

(2011/148/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme ‘Solidarity and Management of Migration Flows’⁽¹⁾, and in particular Article 25 and Article 37(4) thereof,

Whereas:

- (1) In the light of the experience gained since the launch of the External Borders Fund, it is appropriate to clarify the obligations in Commission Decision 2008/456/EC⁽²⁾ relating to transparency, equal treatment and non-discrimination when implementing projects.
- (2) Member States are required to report on the implementation of the annual programmes. It is therefore appropriate to clarify which information Member States have to provide.
- (3) In order to reduce the administrative burden on the Member States and to provide greater legal certainty the rules on the eligibility of expenditure of actions co-financed by the External Borders Fund should be simplified and clarified.
- (4) Most of the changes introduced by this Decision should apply immediately. However, since the 2009 and 2010

annual programmes are ongoing, the revised rules on the eligibility of expenditure of actions co-financed by the External Borders Fund should apply from the 2011 annual programme. Member States should nonetheless be given the possibility to apply those rules earlier under certain conditions.

- (5) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and the Treaty establishing the European Community, Denmark has implemented Decision No 574/2007/EC in its national law and is therefore bound by this Decision.
- (6) This Decision constitutes a development of the provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis*⁽³⁾ and the subsequent Council Decision 2004/926/EC of 22 December 2004 on the putting into effect of parts of the Schengen *acquis* by the United Kingdom of Great Britain and Northern Ireland⁽⁴⁾. The United Kingdom is therefore not bound by it or subject to its application.
- (7) This Decision constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland’s request to take part in some of the provisions of the Schengen *acquis*⁽⁵⁾. Ireland is therefore not bound by it or subject to its application.

⁽¹⁾ OJ L 144, 6.6.2007, p. 22.

⁽²⁾ OJ L 167, 27.6.2008, p. 1.

⁽³⁾ OJ L 131, 1.6.2000, p. 43.

⁽⁴⁾ OJ L 395, 31.12.2004, p. 70.

⁽⁵⁾ OJ L 64, 7.3.2002, p. 20.

- (8) As regards Iceland and Norway, Decision No 574/2007/EC constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* ⁽¹⁾, which fall within the areas referred to in Article 1, points A and B of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* ⁽²⁾.
- (9) As regards Switzerland, Decision No 574/2007/EC constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement signed by the European Union, the European Community and the Swiss Confederation on the latter's association with the implementation, application and development of the Schengen *acquis* which fall within the areas referred to in Article 4(1) of the Council decision on the signing, on behalf of the European Community, and on the provisional application of certain provisions of this Agreement.
- (10) The measures provided for in this Decision are in accordance with the opinion of the common Committee 'Solidarity and management of Migration Flows' established by Decision No 574/2007/EC.
- (11) Decision 2008/456/EC should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2008/456/EC is amended as follows:

1. in Article 9(1), the second sentence is replaced by the following:

'Any substantial change to the content of the calls for proposals shall also be published under the same conditions.';

2. Article 11 is replaced by the following:

'Article 11

Implementation contracts

When awarding contracts for the implementation of the projects, the State, regional or local authorities, bodies governed by public law, associations formed by one or

several of such authorities or several of such bodies governed by public law shall act in accordance with the applicable Union and national public procurement law and principles.

Entities other than those referred to in the first paragraph shall award contracts for the implementation of the projects following appropriate publicity in order to ensure compliance with the principles of transparency, non-discrimination and equal treatment. Contracts with a value of less than EUR 100 000 may be awarded provided the concerned entity requests at least three offers. Without prejudice to national rules, contracts with a value of less than EUR 5 000 shall not be subject to any procedural obligations.';

3. in Article 21, paragraph 1 is replaced by the following:

'1. The responsible authority shall notify the Commission by formal letter of any substantial change in the management and control system and shall send a revised description of the management and control system to the Commission as soon as possible and at the latest at the time any such change takes effect.';

4. in Article 24, paragraph 3 is replaced by the following:

'3. The financial tables linked to the progress reports and final reports shall present a breakdown of the amounts both by priority and by specific priority, as defined in the strategic guidelines.';

5. Article 25 is amended as follows:

- (a) in paragraph 1 the following sentences are added:

'Any changes to the audit strategy submitted in respect of Article 32(1)(c) of the basic act and accepted by the Commission shall be sent to the Commission as soon as possible. The revised audit strategy shall be established in accordance with the model in Annex VI, marking the revisions introduced.';

- (b) paragraph 2 is replaced by the following:

'2. Except when each of the last two annual programmes adopted by the Commission corresponds to an annual Community contribution of less than EUR 1 million, the audit authority shall submit an annual audit plan before 15 February each year, as from 2010. The audit plan shall be established in accordance with the model in Annex VI. Member States are not required to resubmit the audit strategy when submitting the annual audit plans. In the case of a combined audit strategy, as provided for in Article 32(2) of the basic act, a combined annual audit plan may be submitted.';

⁽¹⁾ OJ L 176, 10.7.1999, p. 36.

⁽²⁾ OJ L 176, 10.7.1999, p. 31.

6. Article 26 is replaced by the following:

‘Article 26

Documents established by the certifying authority

1. The certification relating to the request for a second pre-financing payment referred to in Article 41(4) of the basic act shall be drawn up by the certifying authority and transmitted by the responsible authority to the Commission in the format in Annex VIII.

2. The certification relating to the request for a final payment referred to in Article 42(1)(a) of the basic act shall be drawn up by the certifying authority and transmitted by the responsible authority to the Commission in the format in Annex IX.’;

7. Article 37 is replaced by the following:

‘Article 37

Electronic exchange of documents

In addition to the duly signed paper versions of the documents referred to in Chapter 3, the information shall also be sent by electronic means.’;

8. Article 40(3)(b) is replaced by the following:

‘(b) for all other additional costs, until 30 June of the year N () +2.*

() Where “N” is the year referred to in the financing decision approving the annual programmes of the Member States.’;*

9. the Annexes are amended in accordance with the Annex to this Decision.

Article 2

1. Points 1 to 8 of Article 1 and points 1 to 5 of the Annex shall apply from the date of adoption of this Decision.

2. Point 6 of the Annex shall apply from the implementation of the 2011 annual programmes at the latest.

3. Member States may decide to apply point 6 of the Annex in respect of ongoing or future projects as from the 2009 and 2010 annual programmes in full respect of the principles of equal treatment, transparency and non-discrimination. In that case Member States shall apply the new rules in their entirety to the project concerned and, where necessary, shall amend the grant agreement. In respect of technical assistance expenditure only, Member States may decide to apply point 6 of the Annex as from the 2008 annual programme.

Article 3

This Decision is addressed to the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland and the Kingdom of Sweden.

Done at Brussels, 2 March 2011.

For the Commission

Cecilia MALMSTRÖM

Member of the Commission

ANNEX

The Annexes to Decision 2008/456/EC are amended as follows:

1. Annex III is amended as follows:

1.1. point 2 is deleted;

1.2. point 4.2 is deleted;

2. Annex IV is amended as follows:

2.1. Part A, point 1.2 is replaced by the following:

'1.2. Description of the process concerning selection of projects (at the level of the Responsible Authority/Delegated authority or associated bodies) and their results';

2.2. in Part A, point 2, table 1, last column the word 'eligible' is deleted;

3. Annex V, Part A is amended as follows:

3.1. point 1.2 is replaced by the following:

'1.2. Update from the progress report on the description of the organisation of the selection of projects (at the level of the Responsible Authority/Delegated authority or associated bodies) and their results, if appropriate';

3.2. the following point 1.8 is added:

'1.8. Confirmation that no substantial changes to the Management and control system have taken place since the last revision notified to the Commission on ...';

3.3. point 4 is replaced by the following:

4. FINANCIAL IMPLEMENTATION

Final report on the implementation of the annual programme

Table 1
Detailed financial report

Member State: [...]
Annual programme concerned: [...]
Situation at: [day/month/year]

<i>(all figures in euro)</i>				Programmed by MS (as in the Commission approved annual programme)			Committed at the level of the MS			Actual figures accepted by the responsible authority (costs incurred by the beneficiaries and final EC contribution)					
Actions	Projects	Ref. priority	Ref. specific priority ⁽¹⁾	Total programmed costs (a)	EC contribution (b)	% EC contribution (c = b/a)	Total eligible costs (d)	EC contribution (e)	% EC contribution (f = e/d)	Total eligible costs (g)	EC contribution (h)	% EC contribution (i = h/g)	Contributions from third parties (j)	Receipts generated by the project (k)	Payment/Recovery to be made by the RA (l)
Action 1: [...]	project 1: [...]														
	project N: [...]														
Total Action 1															
Action ...: [...]	project 1: [...]														
	project N: [...]														
Total Action ...: [...]															
Action N: [...]	project 1: [...]														
	project N: [...]														
Total Action N															
Technical assistance															
Other operations ⁽¹⁾															
TOTAL				0	0	0 %	0	0	0 %	0	0	0 %	0		

⁽¹⁾ If applicable.;

3.4. point 6 is replaced by the following:

'6. ANNEXES

Project eligible expenditure and income compliance with the non-profit rule and project summary description.

Final report on the implementation of the annual programme							
Table 6 A							
Project eligible cost and sources of income Compliance with the principle of non-profit as set out in item I.3.3 of Annex XI							
Situation at: day/month/year							
	Eligible cost			Sources of income			
	Direct costs	Indirect costs	Total eligible cost	Contribution from the EU	Contribution from third parties	Receipts generated by the project	Total income (as set out in item I.3.3 of Annex XI)
	(a)	(b)	(c) = (a) + (b)	(e)	(f)	(g)	(h)= (e) + (f) + (g)
Project reference							
Project reference							
Project reference							
etc.							
TOTAL ACTION 1							
Project reference							
Project reference							
Project reference							
etc.							
TOTAL ACTION 2							
Project reference							
Project reference							
Project reference							
etc.							
TOTAL ACTION N							
TECHNICAL ASSISTANCE							
TOTAL ANNUAL PROGRAMME							

Final report on the implementation of the annual programme	
Table 6 B	
Report per project	
Situation at: (day/month/year)	
Project reference and title:	<input type="text"/>
Final beneficiary:	<input type="text"/>
Action (number):	<input type="text"/>
Priority (number):	<input type="text"/>
If applicable, Specific Priority	<input type="text"/>
Short technical summary	<input type="text"/>
If applicable, justification of Specific Priority	<input type="text"/>
Indicator-based objectives and results — achievements of the project'	<input type="text"/>

4. Annex VIII is amended as follows:
- 4.1. the title is replaced by the following:
- ‘MODEL CERTIFICATION FOR SECOND PRE-FINANCING’;
- 4.2. in footnote 1 the word ‘eligible’ is deleted;
- 4.3. point 2 is replaced by the following:
- ‘2. the expenditure declared has been incurred in respect of actions selected for funding in accordance with the criteria applicable to the annual programme;’;
5. in Annex IX, the title is replaced by the following:
- ‘MODEL CERTIFICATION FOR FINAL PAYMENT’;
6. Annex XI is replaced by the following:

‘ANNEX XI

RULES ON THE ELIGIBILITY OF EXPENDITURE EXTERNAL BORDERS FUND

I. General Principles

I.1. *Basic Principles*

1. In accordance with the basic act, for it to be eligible, expenditure must be:
- (a) within the scope of the Fund and within its objectives, as described in Articles 1 and 3 of the basic act;
 - (b) within the eligible actions listed in Articles 4 and 6 of the basic act;
 - (c) needed to carry out the activities covered by the project, forming part of the multiannual and annual programmes, as approved by the Commission;
 - (d) reasonable and comply with the principles of sound financial management, in particular, value for money and cost-effectiveness;
 - (e) incurred by the final beneficiary and/or the partners in the project, who shall be established and registered in a Member State, except in the case of international public sector organisations set up by intergovernmental agreements, and specialised agencies set up by such organisations, the International Committee of the Red Cross (ICRC) and the International Federation of National Red Cross and Red Crescent Societies. With regard to Article 39 of this Decision, the rules applicable to the final beneficiary shall apply *mutatis mutandis* to the partners in the project;
 - (f) incurred in accordance with the specific provisions in the grant agreement.
2. In the case of multiannual actions within the meaning of Article 16(6) of the basic act, only the part of the action co-financed by an annual programme is considered to be a project for the application of these eligibility rules.
3. Projects supported by the Fund shall not be financed by other sources covered by the Community budget. Projects supported by the Fund shall be co-financed by public or private sources.

I.2. *Budget of a project*

The budget of a project shall be presented as follows:

<i>Expenditure</i>	<i>Income</i>
+ Direct costs (DC)	+ Contribution from the EC (<i>defined as the lowest of the three amounts indicated in Article 12 of this Decision</i>)
+ Indirect costs (<i>fixed percentage of DC, defined in the grant agreement</i>)	+ Contribution from the final beneficiary and the partners in the project
	+ Contribution from third parties
	+ Receipts generated by the project
= Total Eligible Cost (TEC)	= Total Income (TI)

The budget shall be balanced: Total Eligible Cost shall be equal to Total Income.

I.3. *Income and Non-Profit Principle*

1. Projects supported by the Fund must be of a non-profit-making nature. If, at the end of the project, the sources of income, including receipts, exceed expenditure, the contribution to the project from the Fund shall be reduced accordingly. All sources of income for the project must be recorded in the final beneficiary's accounts or tax documents, and must be identifiable and controllable.
2. Project income shall come from all financial contributions granted to the project by the Fund, from public or private sources, including the final beneficiary's own contribution, and from any receipts generated by the project. "Receipts" for the purpose of this rule covers revenue received by a project during the eligibility period as described in point I.4, from sales, rentals, services, enrolment/fees or other equivalent income.
3. The Community contribution resulting from the application of the principle of non-profit, as referred to under Article 12(c) of this Decision, will be the "total eligible cost" minus the "contribution from third parties" and "receipts generated by the project".

I.4. *Eligibility Period*

1. Costs relating to a project must be incurred and the respective payments (except for depreciation) made after 1 January of the year referred to in the financing decision approving the annual programmes of the Member States. The eligibility period is until 30 June of the year N (*) + 2, meaning that the costs relating to a project must be incurred before this date.
2. An exception to the eligibility period provided for in paragraph 1 is made for technical assistance for Member States (refer to point IV.3).

(*) Where "N" is the year referred to in the financing decision approving the annual programmes of the Member States.

I.5. *Record of expenditure*

1. Expenditure shall correspond to payments made by the final beneficiary. These must be in the form of financial (cash) transactions, with the exception of depreciation.
2. As a rule, expenditure shall be justified by official invoices. Where this cannot be done, expenditure shall be supported by accounting documents or supporting documents of equivalent evidential value.
3. Expenditure must be identifiable and verifiable. In particular,
 - (a) it must be recorded in the accounting records of the final beneficiary;
 - (b) it must be determined in accordance with the applicable accounting standards of the country where the final beneficiary is established and with the usual cost accounting practices of the final beneficiary; and
 - (c) it must be declared in accordance with the requirements of applicable tax and social legislation.
4. As necessary, the final beneficiaries are obliged to keep certified copies of the accounting documents justifying income and expenditure incurred by the partners in relation to the project concerned.
5. The storage and processing of records provided for in paragraphs 2 to 4 must comply with the national data protection legislation.

I.6. *Territorial scope*

1. Expenditure for actions described in Articles 4 and 6 of the basic act must be incurred in the territory of the Member States, by the final beneficiaries defined in point I.1.1.(e), with the exception of:
 - expenditure implementing actions relating to the general objective defined in Article 3(1)(d) of the basic act; expenditures for those actions may be incurred in the territory of the Member States and in third countries,

— actions relating to the surveillance of external borders; those actions may take place both within and beyond the territory of Member States.

2. Partners in the project registered and established in third countries may participate in projects only on a no-cost basis, except in the case of international public sector organisations set up by intergovernmental agreements, and specialised agencies set up by such organisations, the International Committee of the Red Cross (ICRC) and the International Federation of National Red Cross and Red Crescent Societies.

II. Categories of eligible costs (at project level)

II.1. Direct eligible costs

The direct eligible costs of the project are costs that, with due regard to the general conditions of eligibility set out in part I, are identifiable as specific costs directly linked to the implementation of the project. Direct costs shall be included in the estimated overall budget of the project.

The following direct costs are eligible:

II.1.1. Staff costs

1. The cost of staff assigned to the project, comprising actual salaries plus social security charges and other statutory costs is eligible, provided that this corresponds to the beneficiary's usual policy on remuneration.
2. For international organisations, the eligible staff cost may include provisions to cover statutory obligations and entitlements relating to remuneration.
3. The corresponding staff costs of staff of public bodies are eligible to the extent that they relate to the cost of activities which the relevant public body would not carry out if the project concerned were not undertaken; this staff shall be seconded or assigned to the implementation of the project by a written decision of the final beneficiary.
4. Staff costs shall be detailed in the forward budget, indicating functions and number of staff.

II.1.2. Travel and subsistence costs

1. Travel and subsistence costs are eligible as direct costs for staff or other persons who participate in the activities of the project and whose travel is necessary for the implementation of the project.
2. Travel costs shall be eligible on the basis of the actual costs incurred. Reimbursement rates shall be based on the cheapest form of public transport and flights shall, as a rule, be permitted only for journeys over 800 km (return trip), or where the geographical destination justifies travelling by air. Where a private car is used, reimbursement is normally made either on the basis of the cost of public transport, or on the basis of mileage rates in accordance with published official rules in the Member State concerned or used by the final beneficiary.
3. Subsistence costs shall be eligible on the basis of real costs or a daily allowance. Where an organisation has its own daily rates (subsistence allowances), they shall be applied within ceilings established by the Member State in accordance with national legislation and practice. Subsistence allowances are normally understood to cover local transport (including taxis), accommodation, meals, local telephone calls and sundries.

II.1.3. Equipment

II.1.3.1. General rules

Costs pertaining to the acquisition of equipment (based on any of the following: rental, leasing, purchase based on the full or partial cost, or depreciation of purchased assets) are only eligible if they are essential to the implementation of the project. Equipment shall have the technical properties needed for the project and comply with applicable norms and standards.

II.1.3.2. Renting and leasing

Expenditure in relation to renting and leasing operations is eligible for co-financing subject to the rules established in the Member State, national legislation and practice and the duration of the rental or lease for the purpose of the project.

II.1.3.3. Purchasing

1. Costs pertaining to the acquisition of equipment (systems, operating equipment, means of transport, inter alia, as referred to in Article 5(1)(c) to (f) of the basic act) are eligible in accordance with national rules. Such costs are eligible for co-financing on the basis of the full or partial cost of the purchase if:
 - (a) they are directly linked to the realisation of the project;
 - (b) incurred in accordance with national procurement rules established in the Member State;
 - (c) the equipment has the technical characteristics necessary for the project and complies with applicable norms and standards;
 - (d) the equipment will continue to be used for the same objectives pursued by the project, after the day of purchase and for a minimum duration of:
 - three years or more for Information and Communication Technology (ICT) equipment,
 - five years or more for other types of equipment such as operating equipment and means of transport, except for the ones indicated below,
 - ten years for helicopters, vessels and aircrafts.
2. Alternatively, costs for the abovementioned equipment may be eligible on the basis of depreciation in accordance with national rules. In that case conditions in (a), (b) and (c) in paragraph 1 shall apply. Furthermore, the following conditions must also be satisfied:
 - (a) Where equipment is purchased before or during the lifetime of the project, the portion of equipment depreciation is eligible on the basis of the duration of use for the project and the rate of actual use for the project.
 - (b) Equipment that was purchased before the lifetime of the project, but which is used for the purpose of the project, is eligible on the basis of depreciation. However these costs are ineligible if the equipment was originally purchased through a Community grant.
 - (c) Purchase costs of equipment shall correspond to normal market costs and the value of the items concerned is written off in accordance with the tax and accounting rules applicable to the final beneficiary.

II.1.4. Real estate

II.1.4.1. General rules

In the case of either purchase of real estate, construction or renovation of real estate, or rental of real estate, it shall have the technical properties needed for the project and comply with the applicable norms and standards.

II.1.4.2. Purchase, construction or renovation

1. Where the acquisition of real estate is essential for implementation of the project and is clearly linked with its objectives, the purchase of real estate, i.e. buildings already constructed, or construction of real estate, is eligible for co-financing on the basis of the full or partial cost, or on the basis of depreciation, under the conditions set out below, without prejudice to the application of stricter national rules:
 - (a) a certificate is obtained from an independent qualified valuer or duly authorised official body establishing that the price does not exceed the market value, either attesting that the real estate is in conformity with national regulations or specifying the points which are not in conformity that the final beneficiary plans to rectify as part of the project;
 - (b) the real estate has not been purchased through a Community grant at any time prior to the implementation of the project;

- (c) the real estate is to be used solely for the purpose stated in the project for a period of at least 10 years after the end date of the project unless the Commission specifically authorises otherwise in the case of co-financing of the full or partial costs; in the case of co-financing on the basis of depreciation this period is reduced to 5 years;
- (d) the purchase of the real estate respects the principles of value for money and cost-effectiveness and is being considered as proportionate to the aim to be achieved through the implementation of the project;
- (e) in the case of co-financing on the basis of depreciation, only the portion of the depreciation of these assets corresponding to the duration of use for the project and the rate of actual use for the project is eligible; depreciation shall be calculated according to national accounting rules.

2. Expenses for renovation of real estate are eligible for co-financing on the basis of the full or partial cost or on the basis of depreciation. In the case of renovation costs only conditions (c) and (e) in paragraph 1 apply.

II.1.4.3. Rental

Rental of real estate is eligible for co-financing where there is a clear link between the rental and the objectives of the project concerned, under the conditions set out below and without prejudice to the application of stricter national rules:

- (a) the real estate has not been purchased through a Community grant;
- (b) the real estate is to be used solely for implementation of the project. If not, only the portion of the costs corresponding to the use for the project is eligible.

II.1.5. Consumables, supplies and general services

The costs of consumables, supplies and general services are eligible provided that they are identifiable and directly necessary for the implementation of the project.

II.1.6. Subcontracting

1. As a general rule, final beneficiaries must have the capacity to manage the projects themselves. The amount corresponding to tasks to be subcontracted under the project will have to be clearly indicated in the grant agreement.
2. Expenditure relating to the following subcontracts is not eligible for co-financing by the Fund:
 - (a) subcontracting of tasks relating to the overall management of the project;
 - (b) subcontracting that adds to the cost of the project without adding proportionate value to it;
 - (c) subcontracting with intermediaries or consultants where payment is defined as a percentage of the total cost of the project, unless such payment is justified by the final beneficiary by reference to the actual value of the work or services provided.
3. For all subcontracts, subcontractors shall undertake to provide all audit and control bodies with all the necessary information relating to subcontracted activities.

II.1.7. Costs deriving directly from the requirements linked to Union co-financing

Costs needed to meet the requirements linked to Union co-financing, such as publicity, transparency, evaluation of the project, external audit, bank guarantees, translation costs, etc., are eligible as direct costs.

II.1.8. Expert fees

Legal consultancy fees, notarial fees and costs of technical and financial experts are eligible.

II.2. Indirect eligible costs

1. The eligible indirect costs for the action are those costs which, with due regard for the conditions of eligibility described in point I.1.1, are not identifiable as specific costs directly linked to performance of the project.

2. By way of derogation from point I.1.1(e) and point I.5, the indirect costs incurred in carrying out the action may be eligible for flat rate funding fixed at not more than 2,5 % of the total eligible direct costs.
3. Organisations receiving an operating grant from the Union budget cannot include indirect costs in their forward budget.

III. Ineligible expenditure

The following costs are not eligible:

- (a) VAT, except where the final beneficiary can show that he is unable to recover it;
- (b) return on capital, debt and debt service charges, debit interest, foreign exchange commissions and exchange losses, provisions for losses or potential future liabilities, interest owed, doubtful debts, fines, financial penalties, litigation costs, and excessive or reckless expenditure;
- (c) entertainment costs exclusively for project staff; reasonable hospitality costs at social events justified by the project, such as an event at the end of the project or meetings of the project steering group, are permitted;
- (d) costs declared by the final beneficiary and covered by another project or work programme receiving a Community grant;
- (e) purchase of land;
- (f) contributions in kind.

IV. Technical assistance at the initiative of Member States

1. All the costs necessary for the implementation of the Fund by the responsible authority, delegated authority, audit authority, certifying authority or other bodies assisting in the tasks listed in paragraph 2 are eligible under technical assistance within the limits specified in Article 18 of the basic act.
2. This includes the following measures:
 - (a) expenditure relating to the preparation, selection, appraisal, management and monitoring of actions;
 - (b) expenditure relating to audits and on-the-spot checks of actions or projects;
 - (c) expenditure relating to evaluations of actions or projects;
 - (d) expenditure relating to information, dissemination and transparency in relation to actions;
 - (e) expenditure on the acquisition, installation and maintenance of computerised systems for the management, monitoring and evaluation of the Funds;
 - (f) expenditure on meetings of monitoring committees and sub-committees relating to the implementation of actions; this expenditure may also include the costs of experts and other participants in these committees, including third-country participants, where their presence is essential to the effective implementation of actions;
 - (g) expenditure for the reinforcement of the administrative capacity for the implementation of the Fund.
3. Activities linked to technical assistance must be performed and the corresponding payments made after 1 January of the year referred to in the financing decision approving the annual programmes of the Member States. The eligibility period lasts until the deadline for the submission of the final report on the implementation of the annual programme.
4. Any procurement must be carried out in accordance with national procurement rules established in the Member State.

5. Member States may implement technical assistance measures for this Fund together with technical assistance measures for some or all of the four Funds. However, in that case only the portion of the costs used to implement the common measure corresponding to this Fund shall be eligible for financing under this Fund, and Member States shall ensure that:

- (a) the portion of costs for common measures is charged to the corresponding Fund in a reasonable and verifiable manner; and
- (b) there is no double financing of costs.

V. Special Transit Scheme

In accordance with Article 40(1), the rules in the basic act and this Decision regarding the implementation of annual programmes shall apply *mutatis mutandis* to the support for the implementation of the Special Transit Scheme. However, with regard to the eligibility rules contained in this Annex, the following specific rules shall apply in the case of the Special Transit Scheme:

- (a) the eligibility period for expenditure shall be in accordance with Article 40(3) of this Decision;
 - (b) by virtue of Article 6(2)(c) of the basic act, staff costs of public bodies are eligible expenditure provided that they are based on real additional costs related to the implementation of the Special Transit Scheme (STS) and are allocated to the operation according to a duly justified and equitable method; the expenditure must be certified on the basis of documents which permit the identification of real costs paid by the public body concerned in relation to the STS, arising beyond its statutory responsibilities or day-to-day tasks.
-

COMMISSION DECISION

of 7 March 2011

on historical aviation emissions pursuant to Article 3c(4) of Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community*(notified under document C(2011) 1328)***(Text with EEA relevance)**

(2011/149/EU)

THE EUROPEAN COMMISSION

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

Having regard 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⁾, and in particular Article 3c(4) thereof,

Whereas:

- (1) Article 3c of Directive 2003/87/EC sets the total quantity of allowances to be allocated to aircraft operators. This quantity is defined as a percentage of historical aviation emissions. Point (s) of Article 3 of Directive 2003/87/EC defines historical aviation emissions as the mean average of the annual emissions in the calendar years 2004, 2005 and 2006 from aircraft performing an aviation activity listed in Annex I to Directive 2003/87/EC. According to paragraphs 2 and 3 of Article 3c of that Directive, the total quantity of allowances to be allocated to aircraft operators should be calculated on the basis of that historical average.
- (2) The Commission has been assisted by Eurocontrol as foreseen in Article 18b of Directive 2003/87/EC. The best available data for calculation of the historic emissions was considered to be the comprehensive air traffic data contained in Eurocontrol's databases from the Central Route Charges Office (CRCO) and the Central Flow Management Unit (CFMU). These provide among other things a calculation of the actual route length for each individual flight. Emissions were then calculated on a flight-by-flight basis using the ANCAT 3 (Abatement of Nuisances Caused by Air Transport) methodology and the CASE (Calculation of Emissions by Selective Equivalence) methodology. This approach to calculating historic emissions was further enhanced through use of actual fuel consumption information provided voluntarily by a representative number of

aircraft operators which helped to improve the accuracy of the modelling approach. Additional calculations were carried out to account for fuel consumption associated with the use of the auxiliary power units (APUs). The approach taken was first to determine the average APU fuel consumption for different aircraft types. The individual emission factors of APU fuel consumption were then extrapolated to calculate total APU emissions applying a process which took into account the actual share of fuel burn for the flights under the EU ETS of each aircraft type and the use of ground power in airports. The emissions corresponding to the resulting total APU fuel consumption were included in the historical aviation emissions for each of the years 2004, 2005 and 2006.

- (3) The annual emissions in the calendar year 2004 from aircraft performing an aviation activity listed in Annex I to Directive 2003/87/EC have been considered to be 209 123 585 tonnes of CO₂. The annual emissions in the calendar year 2005 from such aircraft have been considered to be 220 703 342 tonnes of CO₂, and the annual emissions in the calendar year 2006 from such aircraft have been considered to be 228 602 103 tonnes of CO₂. The historical aviation emissions being defined as the arithmetic mean average of those emissions amounts therefore to 219 476 343 tonnes of CO₂.
- (4) The Commission consulted the Climate Change Committee established pursuant to Article 9 of Decision No 280/2004/EC of the European Parliament and of the Council of 11 February 2004 concerning a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol⁽²⁾,

HAS ADOPTED THIS DECISION:

Article 1

Historical aviation emissions for the purposes of paragraphs 1 and 2 of Article 3c of Directive 2003/87/EC are set at 219 476 343 tonnes of CO₂.

⁽¹⁾ OJ L 275, 25.10.2003, p. 32.

⁽²⁾ OJ L 49, 19.2.2004, p. 1.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 7 March 2011.

For the Commission
Connie HEDEGAARD
Member of the Commission

2011 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 DVD	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 DVD (cumulative)	22 official EU languages	EUR 400 per year
Supplement to the Official Journal (S series), tendering procedures for public contracts, DVD, one edition 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 DVD.

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*.

Sales and subscriptions

Subscriptions to various priced periodicals, such as the subscription to the *Official Journal of the European Union*, are available from our sales agents. The list of sales agents 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>

