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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2007/2004**of 26 October 2004****establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 62(2)(a) and 66 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Whereas:

(1) Community policy in the field of the EU external borders aims at an integrated management ensuring a uniform and high level of control and surveillance, which is a necessary corollary to the free movement of persons within the European Union and a fundamental component of an area of freedom, security and justice. To this end, the establishment of common rules on standards and procedures for the control of external borders is foreseen.

(2) The efficient implementation of the common rules calls for increased coordination of the operational cooperation between the Member States.

(3) Taking into account the experiences of the External Borders Practitioners' Common Unit, acting within the Council, a specialised expert body tasked with improving the coordination of operational cooperation between Member States in the field of external border management should therefore be established in the shape of a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (hereinafter referred to as the Agency).

(4) The responsibility for the control and surveillance of external borders lies with the Member States. The Agency should facilitate the application of existing and future Community measures relating to the management of external borders by ensuring the coordination of Member States' actions in the implementation of those measures.

(5) Effective control and surveillance of external borders is a matter of the utmost importance to Member States regardless of their geographical position. Accordingly, there is a need for promoting solidarity between Member States in the field of external border management. The establishment of the Agency, assisting Member States with implementing the operational aspects of external border management, including return of third-country nationals illegally present in the Member States, constitutes an important step in this direction.

(6) Based on a common integrated risk analysis model, the Agency should carry out risk analyses in order to provide the Community and the Member States with adequate information to allow for appropriate measures to be taken or to tackle identified threats and risks with a view to improving the integrated management of external borders.

(7) The Agency should provide training at European level for national instructors of border guards and additional training and seminars related to control and surveillance at external borders and removal of third-country nationals illegally present in the Member States for officers of the competent national services. The Agency may organise training activities in cooperation with Member States on their territory.

(8) The Agency should follow up on the developments in scientific research relevant for its field and disseminate this information to the Commission and to the Member States.

(9) The Agency should manage lists of technical equipment provided by the Member States, thereby contributing to the 'pooling' of material resources.

⁽¹⁾ Opinion of 9 March 2004 (not yet published in the Official Journal).

⁽²⁾ OJ C 108, 30.4.2004, p. 97.

- (10) The Agency should also support Member States in circumstances requiring increased technical and operational assistance at external borders.
- (11) In most Member States, the operational aspects of return of third-country nationals illegally present in the Member States fall within the competencies of the authorities responsible for controlling external borders. As there is a clear added value in performing these tasks at European level, the Agency should, subject to the Community return policy, accordingly provide the necessary assistance for organising joint return operations of Member States and identify best practices on the acquisition of travel documents and the removal of third-country nationals illegally present in the territories of the Member States.
- (12) For the purpose of fulfilling its mission and to the extent required for the accomplishment of its tasks, the Agency may cooperate with Europol, the competent authorities of third countries and the international organisations competent in matters covered by this Regulation in the framework of working arrangements concluded in accordance with the relevant provisions of the Treaty. The Agency should facilitate the operational cooperation between Member States and third countries in the framework of the external relations policy of the European Union.
- (13) Building upon the experiences of the External Borders Practitioners' Common Unit and the operational and training centres specialised in the different aspects of control and surveillance of land, air and maritime borders respectively, which have been set up by Member States, the Agency may itself create specialised branches responsible for dealing with land, air and maritime borders.
- (14) The Agency should be independent as regards technical matters and have legal, administrative and financial autonomy. To that end, it is necessary and appropriate that it should be a Community body having legal personality and exercising the implementing powers, which are conferred upon it by this Regulation.
- (15) The Commission and the Member States should be represented within a Management Board in order to control effectively the functions of the Agency. The Board should, where possible, consist of the operational heads of the national services responsible for border guard management or their representatives. This Board should be entrusted with the necessary powers to establish the budget, verify its execution, adopt the appropriate financial rules, establish transparent working procedures for decision making by the Agency and appoint the Executive Director and his/her deputy.
- (16) In order to guarantee the full autonomy and independence of the Agency, it should be granted an autonomous budget whose revenue comes essentially from a contribution from the Community. The Community budgetary procedure should be applicable as far as the Community contribution and any other subsidies chargeable to the general budget of the European Union are concerned. The auditing of accounts should be undertaken by the Court of Auditors.
- (17) Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF)⁽¹⁾ should apply without restriction to the Agency, which should accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-Fraud Office (OLAF)⁽²⁾.
- (18) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents⁽³⁾ should apply to the Agency.
- (19) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data⁽⁴⁾ applies to the processing of personal data by the Agency.
- (20) The development of the policy and legislation on external border control and surveillance remains a responsibility of the EU institutions, in particular the Council. Close coordination between the Agency and these institutions should be guaranteed.
- (21) Since the objectives of this Regulation, namely the need for creating an integrated management of operational cooperation at the external borders of the Member States of the European Union, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (22) This Regulation respects the fundamental rights and observes the principles recognised by Article 6(2) of the Treaty on European Union and reflected in the Charter of Fundamental Rights of the European Union.
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- ⁽¹⁾ OJ L 136, 31.5.1999, p. 1.
⁽²⁾ OJ L 136, 31.5.1999, p. 15.
⁽³⁾ OJ L 145, 31.5.2001, p. 43.
⁽⁴⁾ OJ L 8, 12.1.2001, p. 1.

(23) As regards Iceland and Norway, this Regulation constitutes a development 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, which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC⁽¹⁾ on certain arrangements for the application of that Agreement. Consequently, delegations of the Republic of Iceland and the Kingdom of Norway should participate as members of the Management Board of the Agency, albeit with limited voting rights. In order to determine the further modalities allowing for the full participation of the Republic of Iceland and the Kingdom of Norway in the activities of the Agency, a further arrangement should be concluded between the Community and these States.

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

(25) This Regulation constitutes a development of provisions of the Schengen acquis in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis⁽²⁾. The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.

(26) This Regulation constitutes a development of provisions of the Schengen acquis in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen acquis⁽³⁾. Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.

(27) The Agency should facilitate the organisation of operational actions in which the Member States may avail

themselves of the expertise and facilities which Ireland and the United Kingdom may be willing to offer, in accordance with modalities to be decided on a case-by-case basis by the Management Board. To that end, representatives of Ireland and the United Kingdom should be invited to attend all the meetings of the Management Board in order to allow them to participate fully in the deliberations for the preparation of such operational actions.

(28) A controversy exists between the Kingdom of Spain and the United Kingdom on the demarcation of the borders of Gibraltar.

(29) The suspension of the applicability of this Regulation to the borders of Gibraltar does not imply any change in the respective positions of the States concerned,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER

Article 1

Establishment of the Agency

1. A European Agency for the Management of Operational Cooperation at the External Borders (the Agency) is hereby established with a view to improving the integrated management of the external borders of the Member States of the European Union.

2. While considering that the responsibility for the control and surveillance of external borders lies with the Member States, the Agency shall facilitate and render more effective the application of existing and future Community measures relating to the management of external borders. It shall do so by ensuring the coordination of Member States' actions in the implementation of those measures, thereby contributing to an efficient, high and uniform level of control on persons and surveillance of the external borders of the Member States.

3. The Agency shall also provide the Commission and the Member States with the necessary technical support and expertise in the management of the external borders and promote solidarity between Member States.

4. For the purposes of this Regulation, references to the external borders of the Member States shall mean the land and sea borders of the Member States and their airports and seaports, to which the provisions of Community law on the crossing of external borders by persons apply.

⁽¹⁾ OJ L 176, 10.7.1999, p. 31.

⁽²⁾ OJ L 131, 1.6.2000, p. 43.

⁽³⁾ OJ L 64, 7.3.2002, p. 20.

CHAPTER II

TASKS*Article 2***Main tasks**

1. The Agency shall perform the following tasks:
 - (a) coordinate operational cooperation between Member States in the field of management of external borders;
 - (b) assist Member States on training of national border guards, including the establishment of common training standards;
 - (c) carry out risk analyses;
 - (d) follow up on the development of research relevant for the control and surveillance of external borders;
 - (e) assist Member States in circumstances requiring increased technical and operational assistance at external borders;
 - (f) provide Member States with the necessary support in organising joint return operations.
2. Without prejudice to the competencies of the Agency, Member States may continue cooperation at an operational level with other Member States and/or third countries at external borders, where such cooperation complements the action of the Agency.

Member States shall refrain from any activity which could jeopardise the functioning of the Agency or the attainment of its objectives.

Member States shall report to the Agency on these operational matters at the external borders outside the framework of the Agency.

*Article 3***Joint operations and pilot projects at external borders**

1. The Agency shall evaluate, approve and coordinate proposals for joint operations and pilot projects made by Member States.

The Agency may itself, and in agreement with the Member State(s) concerned, launch initiatives for joint operations and pilot projects in cooperation with Member States.

It may also decide to put its technical equipment at the disposal of Member States participating in the joint operations or pilot projects.

2. The Agency may operate through its specialised branches provided for in Article 16, for the practical organisation of joint operations and pilot projects.

3. The Agency shall evaluate the results of the joint operations and pilot projects and make a comprehensive comparative analysis of those results with a view to enhancing the quality, coherence and efficiency of future operations and projects to be included in its general report provided for in Article 20(2)(b).

4. The Agency may decide to co-finance the operations and projects referred to in paragraph 1, with grants from its budget in accordance with the financial rules applicable to the Agency.

*Article 4***Risk analysis**

The Agency shall develop and apply a common integrated risk analysis model.

It shall prepare both general and tailored risk analyses to be submitted to the Council and the Commission.

The Agency shall incorporate the results of a common integrated risk analysis model in its development of the common core curriculum for border guards' training referred to in Article 5.

*Article 5***Training**

The Agency shall establish and further develop a common core curriculum for border guards' training and provide training at European level for instructors of the national border guards of Member States.

The Agency shall also offer additional training courses and seminars on subjects related to the control and surveillance of the external borders and return of third country nationals for officers of the competent national services of Member States.

The Agency may organise training activities in cooperation with Member States on their territory.

*Article 6***Follow-up to research**

The Agency shall follow up on the developments in research relevant for the control and surveillance of external borders and disseminate this information to the Commission and the Member States.

*Article 7***Management of technical equipment**

The Agency shall set up and keep centralised records of technical equipment for control and surveillance of external borders belonging to Member States, which they, on a voluntary basis and upon request from another Member State, are willing to put at the disposal of that Member State for a temporary period following a needs and risks analysis carried out by the Agency.

*Article 8***Support to Member States in circumstances requiring increased technical and operational assistance at external borders**

1. Without prejudice to Article 64(2) of the Treaty, one or more Member States confronted with circumstances requiring increased technical and operational assistance when implementing their obligations with regard to control and surveillance of external borders may request the Agency for assistance. The Agency can organise the appropriate technical and operational assistance for the requesting Member State(s).

2. Under the circumstances referred to in paragraph 1, the Agency can:

- (a) assist on matters of coordination between two or more Member States with a view to tackling the problems encountered at external borders;
- (b) deploy its experts to support the competent national authorities of the Member State(s) involved for the appropriate duration.

3. The Agency may acquire technical equipment for control and surveillance of external borders to be used by its experts for the duration of the deployment in the Member State(s) in question.

*Article 9***Return cooperation**

1. Subject to the Community return policy, the Agency shall provide the necessary assistance for organising joint return operations of Member States. The Agency may use Community financial means available in the field of return.

2. The Agency shall identify best practices on the acquisition of travel documents and the removal of illegally present third-country nationals.

*Article 10***Exercise of executive powers**

Exercise of executive powers by the Agency's staff and the Member States' experts acting on the territory of another Member State shall be subject to the national law of that Member State.

*Article 11***Information exchange systems**

The Agency may take all necessary measures to facilitate the exchange of information relevant for its tasks with the Commission and the Member States.

*Article 12***Cooperation with Ireland and the United Kingdom**

1. The Agency shall facilitate operational cooperation of the Member States with Ireland and the United Kingdom in matters covered by its activities and to the extent required for the fulfilment of its tasks set out in Article 2(1).

2. Support to be provided by the Agency pursuant to Article 2(1)(f) shall cover the organisation of joint return operations of Member States in which Ireland or the United Kingdom, or both, also participate.

3. The application of this Regulation to the borders of Gibraltar shall be suspended until the date on which an agreement is reached on the scope of the measures concerning the crossing by persons of the external borders of the Member States.

*Article 13***Cooperation with Europol and international organisations**

The Agency may cooperate with Europol and the international organisations competent in matters covered by this Regulation in the framework of working arrangements concluded with those bodies, in accordance with the relevant provisions of the Treaty and the provisions on the competence of those bodies.

*Article 14***Facilitation of operational cooperation with third countries and cooperation with competent authorities of third countries**

In matters covered by its activities and to the extent required for the fulfilment of its tasks, the Agency shall facilitate the operational cooperation between Member States and third countries, in the framework of the European Union external relations policy.

The Agency may cooperate with the authorities of third countries competent in matters covered by this Regulation in the framework of working arrangements concluded with these authorities, in accordance with the relevant provisions of the Treaty.

CHAPTER III

STRUCTURE

Article 15

Legal status and location

The Agency shall be a body of the Community. It shall have legal personality.

In each of the Member States, the Agency shall enjoy the most extensive legal capacity accorded to legal persons under their laws. It may, in particular, acquire or dispose of movable and immovable property and may be party to legal proceedings.

The Agency shall be independent in relation to technical matters.

It shall be represented by its Executive Director.

The seat of the Agency shall be decided by unanimity of the Council.

Article 16

Specialised branches

The Management Board of the Agency shall evaluate the need for, and decide upon the setting up of, specialised branches in the Member States, subject to their consent, taking into account that due priority should be given to the operational and training centres already established and specialised in the different aspects of control and surveillance of the land, air and maritime borders respectively.

The specialised branches of the Agency shall develop best practices with regard to the particular types of external borders for which they are responsible. The Agency shall ensure the coherence and uniformity of such best practices.

Each specialised branch shall submit a detailed annual report to the Executive Director of the Agency on its activities and shall provide any other type of information relevant for the coordination of operational cooperation.

Article 17

Staff

1. The Staff Regulations of officials of the European Communities, the Conditions of employment of other servants of the European Communities and the rules adopted jointly by the institutions of the European Communities for the purposes of applying those Regulations and Conditions shall apply to the Agency's staff.

2. The powers conferred on the appointing authority by the Staff Regulations, and by the Conditions of employment of other servants, shall be exercised by the Agency in respect of its own staff.

3. The Agency's staff shall consist of a sufficient number of officials and of national experts in the field of control and surveillance of the external borders seconded by the Member States to carry out management duties. The remaining staff shall consist of other employees recruited by the Agency as necessary to carry out its tasks.

Article 18

Privileges and immunities

The Protocol on the privileges and immunities of the European Communities shall apply to the Agency.

Article 19

Liability

1. The contractual liability of the Agency shall be governed by the law applicable to the contract in question.

2. The Court of Justice of the European Communities shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by the Agency.

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

4. The Court of Justice shall have jurisdiction in disputes relating to compensation for the damage referred to in paragraph 3.

5. The personal liability of its servants towards the Agency shall be governed by the provisions laid down in the Staff Regulations or Conditions of employment applicable to them.

Article 20

Powers of the Management Board

1. The Agency shall have a Management Board.

2. The Management Board shall:

(a) appoint the Executive Director on a proposal from the Commission in accordance with Article 26;

(b) before 31 March each year, adopt the general report of the Agency for the previous year and forward it by 15 June at the latest to the European Parliament, the Council, the Commission, the European Economic and Social Committee and the Court of Auditors. The general report shall be made public;

- (c) before 30 September each year, and after receiving the opinion of the Commission, adopt, by a three-quarters majority of its members with a right to vote, the Agency's programme of work for the coming year and forward it to the European Parliament, the Council and the Commission; this programme of work shall be adopted according to the annual Community budgetary procedure and the Community legislative programme in relevant areas of the management of external borders;
- (d) establish procedures for taking decisions related to the operational tasks of the Agency by the Executive Director;
- (e) carry out its functions relating to the Agency's budget pursuant to Articles 28, 29(5), (9) and (11), Article 30(5) and Article 32;
- (f) exercise disciplinary authority over the Executive Director and over the Deputy Director, in agreement with the Executive Director;
- (g) establish its Rules of Procedure;
- (h) establish the organisational structure of the Agency and adopt the Agency's staffing policy.

3. Proposals for decisions on specific activities to be carried out at, or in the immediate vicinity of, the external border of any particular Member State shall require a vote in favour of their adoption by the Member of the Management Board representing that Member State.

4. The Management Board may advise the Executive Director on any matter strictly related to the development of operational management of the external borders, including follow-up to research as defined in Article 6.

5. Should Ireland and/or the United Kingdom request to participate in the Agency's activities, the Management Board shall decide thereon.

The Management Board shall take its decision on a case-by-case basis in an absolute majority of its members with a right to vote. In its decision, the Management Board shall consider if the participation of Ireland and/or the United Kingdom contributes to the achievement of the activity in question. The decision shall set out the financial contribution of Ireland and/or the United Kingdom to the activity for which a request for participation has been made.

6. The Management Board shall forward annually to the budgetary authority any information relevant to the outcome of the evaluation procedures.

7. The Management Board may establish an Executive Bureau to assist it and the Executive Director with regard to the preparation of the decisions, programmes and activities to be adopted by the Management Board and when necessary, because of urgency, to take certain provisional decisions on behalf of the Management Board.

Article 21

Composition of the Management Board

1. Without prejudice to paragraph 3, the Management Board shall be composed of one representative of each Member State and two representatives of the Commission. To this effect, each Member State shall appoint a member of the Management Board as well as an alternate who will represent the member in his/her absence. The Commission shall appoint two members and their alternates. The duration of the terms of office shall be four years. This term of office shall be extendable once.

2. The Management Board members shall be appointed on the basis of their degree of high level relevant experience and expertise in the field of operational cooperation on border management.

3. Countries associated with the implementation, application and development of the Schengen acquis shall participate in the Agency. They shall have one representative and an alternate each in the Management Board. Under the relevant provisions of their association agreements, arrangements will be developed which shall, *inter alia*, specify the nature and extent of, and the detailed rules for, the participation by these countries in the work of the Agency, including provisions on financial contributions and staff.

Article 22

Chairmanship of the Management Board

1. The Management Board shall elect a Chairperson and a Deputy Chairperson from among its members. The Deputy Chairperson shall ex-officio replace the Chairperson in the event of his/her being prevented from attending to his/her duties.

2. The term of office of the Chairperson and Deputy Chairperson shall expire when their respective membership of the Management Board ceases. Subject to this provision, the duration of the terms of office of the Chairperson or Deputy Chairperson shall be two years. These terms of office shall be extendable once.

Article 23

Meetings

1. Meetings of the Management Board shall be convened by its Chairperson.

2. The Executive Director of the Agency shall take part in the deliberations.

3. The Management Board shall hold at least two ordinary meetings a year. In addition, it shall meet at the instance of the Chairperson or at the request of at least one third of its members.

4. Ireland and the United Kingdom shall be invited to attend the meetings of the Management Board.

5. The Management Board may invite any other person whose opinion may be of interest to attend its meetings as an observer.

6. The members of the Management Board may, subject to the provisions of its Rules of Procedure, be assisted by advisers or experts.

7. The secretariat for the Management Board shall be provided by the Agency.

Article 24

Voting

1. Without prejudice to Article 20(2)(c) as well as 26(2) and (4), the Management Board shall take its decisions by an absolute majority of its members with a right to vote.

2. Each member shall have one vote. The Executive Director of the Agency shall not vote. In the absence of a member, his/her alternate shall be entitled to exercise his/her right to vote.

3. The rules of procedure shall establish the more detailed voting arrangements, in particular, the conditions for a member to act on behalf of another member as well as any quorum requirements, where appropriate.

Article 25

Functions and powers of the Executive Director

1. The Agency shall be managed by its Executive Director, who shall be completely independent in the performance of his/her duties. Without prejudice to the respective competencies of the Commission, the Management Board and the Executive Bureau, the Executive Director shall neither seek nor take instructions from any government or from any other body.

2. The European Parliament or the Council may invite the Executive Director of the Agency to report on the carrying out of his/her tasks.

3. The Executive Director shall have the following functions and powers:

(a) to prepare and implement the decisions and programmes and activities adopted by the Agency's Management Board within the limits specified by this Regulation, its implementing rules and any applicable law;

(b) to take all necessary steps, including the adoption of internal administrative instructions and the publication of notices, to ensure the functioning of the Agency in accordance with the provisions of this Regulation;

(c) to prepare each year a draft working programme and an activity report and submit them to the Management Board;

(d) to exercise in respect of the staff the powers laid down in Article 17(2);

(e) to draw up estimates of the revenues and expenditure of the Agency pursuant to Article 29, and implement the budget pursuant to Article 30;

(f) to delegate his/her powers to other members of the Agency's staff subject to rules to be adopted in accordance with the procedure referred to in Article 20(2)(g).

4. The Executive Director shall be accountable for his activities to the Management Board.

Article 26

Appointment of senior officials

1. The Commission shall propose candidates for the post of the Executive Director based on a list following publication of the post in the *Official Journal of the European Union* and other press or internet sites as appropriate.

2. The Executive Director of the Agency shall be appointed by the Management Board on the grounds of merit and documented administrative and management skills, as well as his/her relevant experience in the field of management of the external borders. The Management Board shall take its decision by a two-thirds majority of all members with a right to vote.

Power to dismiss the Executive Director shall lie with the Management Board, according to the same procedure.

3. The Executive Director shall be assisted by a Deputy Executive Director. If the Executive Director is absent or indisposed, the Deputy Executive Director shall take his/her place.

4. The Deputy Executive Director shall be appointed by the Management Board on the grounds of merit and documented administrative and management skills, as well as his/her relevant experience in the field of management of the external borders on the proposal of the Executive Director. The Management Board shall take its decision by a two-thirds majority of all members with a right to vote.

Power to dismiss the Deputy Executive Director shall be with the Management Board, according to the same procedure.

5. The terms of the offices of the Executive Director and the Deputy Executive Director shall be five years. They may be extended by the Management Board once for another period of up to five years.

Article 27

Translation

1. The provisions laid down in Regulation No 1 of 15 April 1958 determining the languages to be used in the European Economic Community⁽¹⁾ shall apply to the Agency.

2. Without prejudice to decisions taken on the basis of Article 290 of the Treaty, the general report and programme of work referred to in Article 20(2)(b) and (c), shall be produced in all official languages of the Community.

3. The translation services required for the functioning of the Agency shall be provided by the Translation Centre for the bodies of the European Union.

Article 28

Transparency and communication

1. Six months after the entry into force of this Regulation, the Agency shall be subject to Regulation (EC) No 1049/2001 when handling applications for access to documents held by it.

2. The Agency may communicate on its own initiative in the fields within its mission. It shall ensure in particular that, in addition to the publication specified in Article 20(2)(b), the public and any interested party are rapidly given objective, reliable and easily understandable information with regard to its work.

3. The Management Board shall lay down the practical arrangements for the application of paragraphs 1 and 2.

4. Any natural or legal person shall be entitled to address himself/herself in writing to the Agency in any of the languages referred to in Article 314 of the Treaty. He/she shall have the right to receive an answer in the same language.

5. Decisions taken by the Agency pursuant to Article 8 of Regulation (EC) No 1049/2001 may give rise to the lodging of a complaint to the Ombudsman or form the subject of an action before the Court of Justice of the European Communities, under the conditions laid down in Articles 195 and 230 of the Treaty respectively.

CHAPTER IV

FINANCIAL REQUIREMENTS

Article 29

Budget

1. The revenue of the Agency shall consist, without prejudice to other types of income, of:

— a subsidy from the Community entered in the general budget of the European Union (Commission section),

— a contribution from the countries associated with the implementation, application and development of the Schengen acquis,

— fees for services provided,

— any voluntary contribution from the Member States.

2. The expenditure of the Agency shall include the staff, administrative, infrastructure and operational expenses.

3. The Executive Director shall draw up an estimate of the revenue and expenditure of the Agency for the following financial year and shall forward it to the Management Board together with an establishment plan.

4. Revenue and expenditure shall be in balance.

5. The Management Board shall adopt the draft estimate, including the provisional establishment plan accompanied by the preliminary work programme, and forward them by 31 March to the Commission and to the countries associated with the implementation, application and development of the Schengen acquis.

6. The estimate shall be forwarded by the Commission to the European Parliament and the Council (hereinafter referred to as the budgetary authority) together with the preliminary draft budget of the European Union.

7. On the basis of the estimate, the Commission shall enter in the preliminary draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the subsidy to be charged to the general budget, which it shall place before the budgetary authority in accordance with Article 272 of the Treaty.

8. The budgetary authority shall authorise the appropriations for the subsidy to the Agency.

The budgetary authority shall adopt the establishment plan for the Agency.

⁽¹⁾ OJ L 7, 6.10.1958, p. 385. Regulation as last amended by the 2003 Act of Accession.

9. The Management Board adopts the Agency's budget. It shall become final following the final adoption of the general budget of the European Union. Where appropriate, it shall be adjusted accordingly.

10. Any modification to the budget, including the establishment plan, shall follow the same procedure.

11. The Management Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project, which may have significant financial implications for the funding of its budget, in particular any projects relating to property such as the rental or purchase of buildings. It shall inform the Commission thereof as well as the countries associated with the implementation, application and development of the Schengen acquis.

Where a branch of the budgetary authority has notified its intention to deliver an opinion, it shall forward its opinion to the Management Board within a period of six weeks from the date of notification of the project.

Article 30

Implementation and control of the budget

1. The Executive Director shall implement the Agency's budget.

2. By 1 March at the latest following each financial year, the Agency's accounting officer shall communicate the provisional accounts to the Commission's accounting officer together with a report on the budgetary and financial management for that financial year. The Commission's accounting officer shall consolidate the provisional accounts of the institutions and decentralised bodies in accordance with Article 128 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities⁽¹⁾ (hereafter referred to as the general Financial Regulation).

3. By 31 March at the latest following each financial year, the Commission's accounting officer shall forward the Agency's provisional accounts to the Court of Auditors, together with a report on the budgetary and financial management for that financial year. The report on the budgetary and financial management for that financial year shall also be forwarded to the European Parliament and the Council.

4. On receipt of the Court of Auditors' observations on the Agency's provisional accounts, pursuant to Article 129 of the general Financial Regulation, the Director shall draw up the Agency's final accounts under his/her own responsibility and forward them to the Management Board for an opinion.

5. The Management Board shall deliver an opinion on the Agency's final accounts.

6. By 1 July of the following year at the latest, the Executive Director shall send the final accounts, together with the opinion of the Management Board, to the Commission, the Court of Auditors, the European Parliament and the Council as well as the countries associated with the implementation, application and development of the Schengen acquis.

7. The final accounts shall be published.

8. The Director shall send the Court of Auditors a reply to its observations by 30 September at the latest. He shall also send this reply to the Management Board.

9. Upon a recommendation from the Council, the European Parliament shall, before 30 April of the discharge year + 2, give a discharge to the Executive Director of the Agency in respect of the implementation of the budget for the discharge year.

Article 31

Combating fraud

1. In order to combat fraud, corruption and other unlawful activities the provisions of Regulation (EC) No 1073/1999 shall apply without restriction.

2. The Agency shall accede to the Interinstitutional Agreement of 25 May 1999 and shall issue, without delay, the appropriate provisions applicable to all the employees of the Agency.

3. The decisions concerning funding and the implementing agreements and instruments resulting from them shall explicitly stipulate that the Court of Auditors and OLAF may carry out, if necessary, on-the-spot checks among the recipients of the Agency's funding and the agents responsible for allocating it.

Article 32

Financial provision

The financial rules applicable to the Agency shall be adopted by the Management Board after consultation of the Commission. They may not depart from Commission Regulation (EC, Euratom) No 2343/2002⁽²⁾ on the framework Financial Regulation for the bodies referred to in Article 185 of the general Financial Regulation, unless specifically required for the Agency's operation and with the Commission's prior consent.

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.

⁽²⁾ OJ L 357, 31.12.2002, p. 72.

CHAPTER V

FINAL PROVISIONS

Article 33

Evaluation

1. Within three years from the date of the Agency having taken up its responsibilities, and every five years thereafter, the Management Board shall commission an independent external evaluation on the implementation of this Regulation.

2. The evaluation shall examine how effectively the Agency fulfils its mission. It shall also assess the impact of the Agency and its working practices. The evaluation shall take into account the views of stakeholders, at both European and national level.

3. The Management Board shall receive the findings of the evaluation and issue recommendations regarding changes to this Regulation, the Agency and its working practices to the Commission, which shall forward them, together with its own opinion as well as appropriate proposals, to the Council. An action plan with a timetable shall be included, if appropriate. Both the findings and the recommendations of the evaluation shall be made public.

Article 34

Entry into force

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

The Agency shall take up its responsibilities from 1 May 2005.

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

Done at Luxembourg, 26 October 2004.

For the Council

The President

R. VERDONK

COUNCIL REGULATION (EC) No 2008/2004

of 16 November 2004

amending Regulation (EC) No 1268/1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries of central and eastern Europe in the pre-accession period

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 181a thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

After consulting the Committee of the Regions,

Whereas:

- (1) The support possibilities to prepare rural communities to conceive and implement local rural development strategies in beneficiary countries, which are not acceding to the Union in 2004, namely Bulgaria and Romania, should be aligned on those in beneficiary countries that acceded to the Union on 1 May 2004. Therefore a suitable measure should be introduced corresponding to Article 33f of Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) ⁽³⁾.
- (2) The provisions of Regulation (EC) No 1268/1999 ⁽⁴⁾ as regards limits on aid rates should be clarified. At the same time those provisions should be amended in such a way that subsidies of a nature to facilitate access to credits granted under other instruments are not taken into account in the application of those aid limits. As this would remove a possible ambiguity, that amendment should apply with retrospective effect for all beneficiary countries. It is however necessary to ensure that in all cases the ceilings laid down in the Europe Agreements are complied with.
- (3) The aid intensity limits in hill and mountain regions of Bulgaria and Romania should be aligned from 1 January 2004 on those in less-favoured areas of countries that acceded to the Union on 1 May 2004, for investments in agricultural holdings and for young farmers, as provided for in Article 331(2) of Regulation (EC) No 1257/1999.

- (4) The aid intensities and the proportion of the Community contribution in total eligible public expenditure for rural development measures involving infrastructure and certain other measures in beneficiary countries which are not acceding to the Union in 2004, namely Bulgaria and Romania, should be aligned on those in countries that acceded to the Union on 1 May 2004.

- (5) Regulation (EC) No 1268/1999 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1268/1999 is hereby amended as follows:

1. in Article 2, the following indent shall be added:

‘— with regard to Bulgaria and Romania, preparation of rural communities to conceive and implement local rural development strategies, and integrated territorial rural development strategies of a pilot nature, within the limits set by Article 33f of Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) (*).

(*) OJ L 160, 26.6.1999, p. 80. Regulation as last amended by Regulation (EC) No 583/2004 (OJ L 91, 30.3.2004, p. 1).

2. Article 8 shall be replaced by the following:

*‘Article 8***Rate of Community contribution and aid intensities**

1. The Community contribution shall not exceed the ceiling of 75 % of the total eligible public expenditure.

However, that ceiling shall be:

- (a) 80 % for measures referred to in the fourth, seventh, eleventh and sixteenth indents of Article 2, and any project concerning infrastructure;
- (b) 85 % for relevant projects under any measure where the Commission determines that exceptional natural disasters have occurred;

⁽¹⁾ Opinion delivered on 14 October 2004 (not yet published in the Official Journal).

⁽²⁾ Opinion delivered on 2 June 2004 (not yet published in the Official Journal).

⁽³⁾ OJ L 160, 26.6.1999, p. 80. Regulation last amended by Regulation (EC) No 583/2004 (OJ L 91, 30.3.2004, p. 1).

⁽⁴⁾ OJ L 161, 26.6.1999, p. 87. Regulation last amended by Regulation (EC) No 769/2004 (OJ L 23, 27.4.2004, p. 1).

(c) 100 % for the measure referred to in the fifteenth indent of Article 2 and in Article 7(4).

2. Public aid shall not exceed the ceiling of 50 % of the total eligible cost of the investment.

However, that ceiling shall be:

(a) 55 % for investments in agricultural holdings made by young farmers;

(b) 60 % for investments in agricultural holdings in mountain areas;

(c) 65 % for investments in agricultural holdings in mountain areas made by young farmers;

(d) 75 % for investments referred to in paragraph 1(b);

(e) 100 % for investments in infrastructure not of a nature to generate substantial net revenue;

(f) 100 % for measures referred to under the sixteenth indent of Article 2.

In determining the rate of public aid for the purposes of this paragraph, account shall not be taken of national aid of a nature to facilitate access to credits granted without the benefit of any Community contribution provided under the present instrument.

In any case the Community contribution shall comply with the ceilings on rates of aid and cumulation laid down for State aid in the Europe Agreements.

3. The amount of the Community contribution shall be expressed in euro.'

Article 2

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

It shall apply from 1 January 2004.

However, point 2 of Article 1 shall apply from 1 January 2000 as far as the newly introduced second last subparagraph of Article 8(2) of Regulation (EC) No 1268/1999 is concerned.

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

Done at Brussels, 16 November 2004.

For the Council

The President

G. ZALM

COMMISSION REGULATION (EC) No 2009/2004**of 24 November 2004****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables⁽¹⁾, and in particular Article 4(1) thereof,

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

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

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 25 November 2004.

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

Done at Brussels, 24 November 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 1947/2002 (OJ L 299, 1.11.2002, p. 17).

ANNEX

to Commission Regulation of 24 November 2004 establishing the 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	052	76,4
	070	62,9
	204	100,4
	999	79,9
0707 00 05	052	101,7
	204	41,8
	999	71,8
0709 90 70	052	96,9
	204	79,8
	999	88,4
0805 20 10	204	67,6
	999	67,6
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	75,3
	624	79,3
	999	77,3
0805 50 10	052	55,7
	388	49,8
	524	65,7
	528	21,2
	999	48,1
0808 10 20, 0808 10 50, 0808 10 90	388	139,3
	400	73,6
	404	76,8
	720	63,4
	800	194,0
0808 20 50	999	109,4
	052	120,9
	999	120,9

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 2010/2004**of 24 November 2004****laying down the reduction coefficient to be applied under tariff subquota II for common wheat of a quality other than high quality opened by Regulation (EC) No 2375/2002**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals⁽¹⁾,

Having regard to Commission Regulation (EC) No 2375/2002 of 27 December 2002 opening and providing for the administration of Community tariff quotas for common wheat of a quality other than high quality from third countries and derogating from Council Regulation (EEC) No 1766/92⁽²⁾, and in particular Article 5(3) thereof,

Whereas:

- (1) Regulation (EC) No 2375/2002 opens an annual tariff quota of 2 981 600 tonnes of common wheat of a quality other than high quality. That quota is divided into three subquotas.

- (2) Article 3(1) of Regulation (EC) No 2375/2002 fixes a quantity of 38 000 tonnes for subquota II for the period 1 January to 31 December 2004.

- (3) The quantities applied for on 22 November 2004, in accordance with Article 5(1) of Regulation (EC) No 2375/2002, exceed the quantities available. The extent to which licences may be issued should therefore be determined and a reduction coefficient laid down to be applied to the quantities applied for,

HAS ADOPTED THIS REGULATION:

Article 1

Each application for an import licence for subquota II for common wheat of a quality other than high quality lodged and forwarded to the Commission on 22 November 2004 in accordance with Article 5(1) and (2) of Regulation (EC) No 2375/2002 shall be accepted at a rate of 16,1214 % of the quantity applied for.

Article 2

This Regulation shall enter into force on 25 November 2004.

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

Done at Brussels, 24 November 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 358, 31.12.2002, p. 88. Regulation as last amended by Regulation (EC) No 1111/2003 (OJ L 158, 27.6.2003, p. 21).

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 15 November 2004

concluding the consultation procedure with the Togolese Republic under Article 96 of the Cotonou Agreement

(2004/793/EC)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Community,

Article 1

The consultations opened with the Togolese Republic under Article 96(2)(a) of the Cotonou Agreement are hereby terminated.

Having regard to the ACP-EC Partnership Agreement signed in Cotonou on 23 June 2000 ('the Cotonou Agreement')⁽¹⁾, and in particular Article 96 thereof,

Article 2

Having regard to the Internal Agreement on measures to be taken and procedures to be followed for the implementation of the ACP-EC Partnership Agreement⁽²⁾, and in particular Article 3 thereof,

The measures set out in the draft letter in the Annex are hereby adopted as appropriate measures within the meaning of Article 96(2)(c) of the Cotonou Agreement.

Having regard to the proposal from the Commission,

Article 3

Whereas:

The decision of 14 December 1998 addressing a letter of the Council and the Commission to the Togolese Republic is hereby repealed.

(1) The Government of the Togolese Republic has violated the rules defined by the essential elements referred to in Article 9 of the Cotonou Agreement.

Article 4

(2) On 14 April 2004, pursuant to Article 96 of that Agreement, consultations started with the ACP countries and the Togolese Republic during which the Togolese authorities gave specific undertakings designed to remedy problems identified by the European Union, to be implemented during a period of intensive dialogue lasting three months.

This decision shall enter into force on the day it is adopted. It shall be published in the *Official Journal of the European Union*.

(3) At the conclusion of this period some substantive initiatives have been taken in respect of some of the undertakings referred to above and some undertakings have been met. Nevertheless, several important measures concerning essential elements of the Cotonou Agreement have still to be taken,

It shall be valid for 24 months from the date of its adoption by Council. It shall be regularly reviewed at least every six months.

Done at Brussels, 15 November 2004.

For the Council
The President

M. VAN DER HOEVEN

⁽¹⁾ OJ L 317, 15.12.2000, p. 3.

⁽²⁾ OJ L 317, 15.12.2000, p. 376.

ANNEX

FOR THE ATTENTION OF THE PRIME MINISTER, HEAD OF GOVERNMENT OF THE TOGOLESE REPUBLIC

Dear Sir,

The European Union attaches great importance to the provisions of Article 9 of the Cotonou Agreement. The ACP-EU partnership is founded on respect for human rights, democratic principles and the rule of law; these are essential elements of the Agreement and thus form the basis for relations between us.

The European Union believes that the political situation in Togo is deadlocked and that the democratic deficit and scant consideration for human rights and fundamental freedoms constitute a violation of the essential elements set out in Article 9 of the abovementioned Agreement.

In view of this Article and the current political deadlock in Togo the European Union decided on 30 March 2004 to start consultations under Article 96 of the Agreement in order to thoroughly review the situation and find a remedy if possible.

These consultations started in Brussels on 14 April 2004. Several fundamental issues were addressed, and you were able to present the Togolese authorities' point of view and their analysis of the situation. The European Union was pleased to note that Togo made certain undertakings as stated in the Annex and proposed positive steps to improve the climate for democracy and the rule of law in the country.

It was agreed that an intensive dialogue on the various points raised would be held in Togo over a period of three months, and that the situation would be assessed at the end of this period.

This regular in-depth dialogue on a list of measures to be taken in order to implement the agreed undertakings has taken place.

A number of significant measures have been taken by the Togolese authorities. In particular:

- the authorities have organised information and awareness-raising meetings with prefects and police concerning various aspects of human rights and fundamental freedoms. They have distributed instructions and circulars setting out the existing directives and rules. This has produced some positive results, confirmed by the opposition,
- the authorities have instructed the courts to bring to trial all persons remanded in custody in cases where preliminary investigations have been completed. This call for a speeding-up of procedures has led to the setting of 214 trial dates, including the cases of a number of prisoners considered political. The government ensured that lawyers had access to their clients during the preliminary inquiries. Nearly 500 prisoners were released in August, either through remittance of their sentences, or release on bail,
- access to the media, hitherto a preserve of the government and the party in power outside election campaigns, has been extended in recent weeks to opposition parties, though access is not yet balanced,
- the government has embarked on reform of the National Commission for Human Rights and the High Authority for Audiovisual and Communications,
- a new press code was adopted by the Assemblée Nationale on 24 August,
- an analysis of the justice system has been carried out with the aid of the United Nations Development Programme (UNDP),
- the government is continuing efforts towards decentralisation and recently adopted a policy letter on the subject,
- an initial meeting was held with the traditional opposition on 25 August, in order to establish a national dialogue in an organised and transparent framework.

These initiatives have undoubtedly improved respect for human rights and fundamental freedoms in your country. Nevertheless, a number of points continue to give rise to concern, especially as regards the restoration of democracy:

In this connection the European Union is anxious for the following substantive measures to be taken, which are in keeping with the undertakings annexed hereto:

- the implementation of the national dialogue in an organised and transparent framework in accordance with Undertaking 1.1,
- in the context of this dialogue, a revision of the electoral arrangements ensuring a transparent and democratic process in accordance with Undertaking 1.3,
- the establishment of a legal framework for the financing of political parties in accordance with Undertaking 1.4,
- the organisation of parliamentary and local elections in accordance with Undertakings 1.5 and 1.6,
- continuation of the process of decentralisation in accordance with Undertaking 1.7,
- continued action on political prisoners followed by their possible liberation, as stipulated in Undertaking 2.2,
- revision of the articles of association and terms of reference of the National Commission for Human Rights and the High Authority for Audiovisual and Communications in accordance with Undertakings 2.5 and 3.6,
- continued reform of the legal and justice system in accordance with the recommendations of the UNDP diagnostic study.

The European Union also attaches great importance to the continuation and consolidation of the initiatives already undertaken in the context of Undertakings 1.2, 1.4, 2.1, 2.3, 2.4, 2.6, 3.2, 3.3, 3.4 and 3.5.

In follow-up to the consultations, and in light of the undertakings given thus far and the important measures still to be put in hand, it has been decided to adopt the following appropriate measures under Article 96(2)(c) of the Cotonou Agreement:

1. continued implementation of projects financed with the unexpended balances of the sixth and seventh European Development Funds (EDF) that will meet the needs of the population and promote compliance with the essential elements of the Cotonou Agreement, namely, respect for human rights, democratic principles and the rule of law. The national programme of decentralised environmental management projects and the 1990-1994 Framework of Mutual Obligations for Stabex Funds will also be implemented;
2. institutional aid for the implementation of measures to carry out the undertakings made during the consultations may be provided from the unexpended balances of the sixth and seventh EDF funds. In this connection the Commission will, amongst other things, adopt a financing decision on the programme to carry out a fourth general population and housing census;
3. the ninth EDF allocation will be notified once electoral arrangements that will ensure transparent and democratic elections acceptable to all parties are established and a date for the holding of parliamentary elections is set. This will be the signal for the programming of resources;
4. once the ninth EDF allocation is notified, aid for preparing the elections may be given as long as the conditions stipulated in the above electoral arrangements are adhered to;
5. once free and fair parliamentary elections have been held, cooperation with the European Union will resume in full, with implementation of the ninth EDF and the 1995-1999 Framework of Mutual Obligations for Stabex Funds;
6. contributions to regional projects will be considered on a case-by-case basis;
7. humanitarian operations, trade cooperation and trade-linked preferences will not be affected.

The Presidency of the European Union and the European Commission will carry out regular joint reviews, at intervals of not more than six months.

The European Union will continue monitoring the situation in Togo closely; an enhanced political dialogue will be conducted with your Government over a 24-month monitoring period in order to ensure that it continues on the path mapped out towards democracy and the rule of law and pursues and consolidates its efforts in the field of human rights and fundamental freedoms.

If implementation of the Togolese authorities' undertakings speeds up, or on the contrary breaks down, the European Union reserves the right to adjust the appropriate measures.

I have the honour to be, Sir, yours faithfully.

Done at Brussels, 15 November 2004.

For the Commission

For the Council

10/1/2010

*ANNEX to the ANNEX***LIST OF UNDERTAKINGS GIVEN BY THE TOGOLESE REPUBLIC**

The Government of the Togolese Republic has given the following undertakings to the European Union during consultations held under Article 96 of the Cotonou Agreement.

Undertaking 1.1:

Announce immediately, to ensure that democratic principles are fully upheld, the resumption of an open, credible national dialogue with the traditional opposition and civil society in an organised and transparent framework.

Undertaking 1.2:

Guarantee all political parties, without delay, freedom of action without fear of harassment, intimidation or censorship

Undertaking 1.3:

Revise the electoral arrangements on the basis of the Lomé Framework Agreement so as to ensure transparent and democratic elections that are acceptable to all parties within six months.

Undertaking 1.4:

Ensure that all political parties have equitable access to public media and set up a fair system for the public funding of political parties.

Undertaking 1.5:

Organise fresh parliamentary elections that are transparent, with international observers present at all stages of the process, as soon as possible, in keeping with the implementation of Undertaking 1.3 above.

Undertaking 1.6:

Organise local elections that are transparent, with observers present at all stages of the process, within 12 months.

Undertaking 1.7:

Create the conditions necessary for democratically elected municipal assemblies to have a mandate and the resources needed to establish effective and democratically legitimate local government within 12 months.

Undertaking 2.1:

Ensure that there are no instances of extrajudicial killings, torture or other forms of inhuman or degrading treatment on Togolese soil; this includes the proper training of those managing the police and the justice system.

Undertaking 2.2:

Free all political prisoners who are clearly held for their political opposition, criticism of the government or other reasons not justifying detention. The list of prisoners concerned by this measure will be drawn up in collaboration with one or more recognised NGOs that are experienced in this field and accepted by all parties. This undertaking must be implemented within not more than six weeks.

Undertaking 2.3:

Transfer all files on persons remanded in custody or released on bail to the public prosecutor's office within three months so that their cases can be examined in accordance with the law.

Undertaking 2.4:

Give lawyers and humanitarian/human rights organisations, accompanied by a doctor of their choice, free access to detainees wherever they are held (prison, gendarmerie, police station, etc.) so that the absence of torture or other inhuman treatment can be verified before the end of the consultations.

Undertaking 2.5:

Revise the articles of association and terms of reference of the National Commission for Human Rights with a view to making it truly independent vis-à-vis the administration within nine months.

Undertaking 2.6:

Take legal or disciplinary action against the known perpetrators of extrajudicial killings, acts of torture and inhuman and degrading treatment. This undertaking also includes the amendment of relevant legislation and regulations where necessary.

Undertaking 2.7:

Take adequate measures (to be specified later) to ensure that the justice system works impartially and independently of the executive. A diagnostic study providing the basis for an action plan will be presented before the end of the consultations.

Undertaking 3.1:

Revise the press and communication code so as to align it on international standards within six months. Above all, we expect the abolition of prison terms for the offences of 'defamation and besmirching honour' currently provided for in the press code.

Undertaking 3.2:

Immediately ensure that the media, NGOs and civil society representatives do not suffer harassment, censure or intimidation.

Undertaking 3.3:

Immediately ensure that all political and civil society representatives and ordinary citizens enjoy the right to freedom of expression and peaceful assembly in all public places throughout Togolese territory without fear of harassment, censure or intimidation.

Undertaking 3.4:

Ensure the freedom of movement of all political and civil society representatives, both as citizens and in the exercise of their political or representative functions.

Undertaking 3.5:

Ensure, before the end of the consultations, that all citizens have free access to information through the media, including the websites of opposition parties, NGOs and so on.

Undertaking 3.6:

Revise the articles of association and terms of reference of the High Authority for Audiovisual and Communications within six months with a view to making it truly independent vis-à-vis the administration.

Undertaking 4.1:

Present progress reports on the dialogue and performance of undertakings to the European Union authorities on 1 June and 1 July 2004.

Undertaking 4.2:

Willingness of the Togolese authorities to take part in the dialogue on the ground and facilitate any mission of officials from the Commission and the Presidency in the framework of this dialogue.

EUROPEAN ECONOMIC AREA
THE EEA JOINT COMMITTEE

DECISION OF THE EEA JOINT COMMITTEE

No 69/2004

of 8 June 2004

amending Annex I (Veterinary and phytosanitary matters) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular 98 thereof,

Whereas:

- (1) Annex I to the Agreement was amended by the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area signed on 14 October 2003 in Luxembourg ⁽¹⁾.
- (2) Commission Decision 2004/205/EC of 1 March 2004 laying down transitional measures for intra-Community trade in semen, ova and embryos of the bovine, porcine, ovine, caprine and equine species obtained in the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia ⁽²⁾ is to be incorporated into the Agreement.
- (3) This Decision is not to apply to Iceland and Liechtenstein,

HAS DECIDED AS FOLLOWS:

Article 1

The following point shall be inserted after point 68 (Commission Decision 2002/878/EC) in Part 4.2 of Chapter I of Annex I to the Agreement:

- '69. **32004 D 0205:** Commission Decision 2004/205/EC of 1 March 2004 laying down transitional measures for intra-Community trade in semen, ova and embryos of the bovine, porcine, ovine, caprine and equine species obtained in the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (OJ L 65, 3.3.2004, p. 23).'

Article 2

The text of Decision 2004/205/EC in the Norwegian language, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

⁽¹⁾ OJ L 130, 29.4.2004, p. 3.

⁽²⁾ OJ L 65, 3.3.2004, p. 23.

Article 3

This Decision shall enter into force on 9 June 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 June 2004.

For the EEA Joint Committee

The President

S. GILLESPIE

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 70/2004

of 8 June 2004

amending Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex II to the Agreement was amended by the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area signed on 14 October 2003 in Luxembourg ⁽¹⁾.
- (2) Directive 2003/15/EC of the European Parliament and of the Council of 27 February 2003 amending Council Directive 76/768/EEC on the approximation of the laws of the Member States relating to cosmetic products ⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following indent shall be added in point 1 (Council Directive 76/768/EEC) of Chapter XVI of Annex II to the Agreement:

‘— **32003 L 0015:** Directive 2003/15/EC of the European Parliament and of the Council of 27 February 2003 (OJ L 66, 11.3.2003, p. 26).’

Article 2

The texts of Directive 2003/15/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 9 June 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 June 2004.

For the EEA Joint Committee

The President

S. GILLESPIE

⁽¹⁾ OJ L 130, 29.4.2004, p. 3.

⁽²⁾ OJ L 66, 11.3.2003, p. 26.

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 71/2004

of 8 June 2004

amending Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 102/2002 of 12 July 2002 ⁽¹⁾.
- (2) Council Regulation (EC) No 2679/98 of 7 December 1998 on the functioning of the internal market in relation to the free movement of goods among the Member States ⁽²⁾ is to be incorporated into the Agreement.
- (3) The resolution of the Council and of the representatives of the governments of the Member States, meeting within the Council of 7 December 1998 on the free movement of goods ⁽³⁾, is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

Chapter XX of Annex II to the Agreement shall be amended as follows:

1. The following heading and point shall be inserted after the heading '**XX. FREE MOVEMENT OF GOODS — GENERAL**':

'ACTS REFERRED TO

1. **398 R 2679**: Council Regulation (EC) No 2679/98 of 7 December 1998 on the functioning of the internal market in relation to the free movement of goods among the Member States (OJ L 337, 12.12.1998, p. 8).'
2. Points 1, 2, 3 and 4 shall become points 2, 3, 4 and 5 respectively.
3. The following point shall be inserted after point 5 (Commission Recommendation 2001/893/EC):

'6. **498 X 1212(01)**: Resolution of the Council and the representatives of the governments of the Member States, meeting within the Council of 7 December 1998 on the free movement of goods (OJ L 337, 12.12.1998, p. 10).'

⁽¹⁾ OJ L 298, 31.10.2002, p. 17.

⁽²⁾ OJ L 337, 12.12.1998, p. 8.

⁽³⁾ OJ L 337, 12.12.1998, p. 10.

Article 2

The texts of Regulation (EC) No 2679/98 and the Resolution of the Council and of the representatives of the governments of the Member States, meeting within the Council of 7 December 1998 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 9 June 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 June 2004.

For the EEA Joint Committee

The President

S. GILLESPIE

(*) Constitutional requirements indicated.

ANNEX

DECLARATION BY THE EFTA STATES

concerning the Resolution of the Council and of the representatives of the governments of the Member States, meeting within the Council of 7 December 1998 on the free movement of goods

(inserting a new point 6 in Chapter XX (free movement of goods — general) of Annex ii to the EEA Agreement)

The EFTA States undertake to do all within their powers to take on the same obligations as EU Member States in implementing the Resolution of the Council and the representatives of the governments of the Member States, meeting within the Council of 7 December 1998 on the free movement of goods.

JOINT DECLARATION

concerning the incorporation of Council Regulation (EC) No 2679/98 of 7 December 1998 on the functioning of the internal market in relation to the free movement of goods among the Member States into the Agreement

(inserting a new point 1 in Chapter XX (free movement of goods — general) of Annex ii to the EEA Agreement)

The Contracting Parties agree that concerns addressed by Council Regulation (EC) No 2679/98 are important in relation to the completion of the internal market.

The Parties therefore wish to apply Regulation (EC) No 2679/98 as incorporated into the EEA Agreement.

This is without prejudice to the understanding that justice and home affairs as such fall outside the scope of the EEA Agreement.

DECISION OF THE EEA JOINT COMMITTEE

No 72/2004

of 8 June 2004

amending Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex II to the Agreement was amended by the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area signed on 14 October 2003 in Luxembourg ⁽¹⁾.
- (2) Commission Directive 2003/32/EC of 23 April 2003 introducing detailed specifications as regards the requirements laid down in Council Directive 93/42/EEC with respect to medical devices manufactured utilising tissues of animal origin ⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following point shall be inserted after point 4 (Commission Directive 2003/12/EC) in Chapter XXX of Annex II to the Agreement:

- '5. **32003 L 0032:** Commission Directive 2003/32/EC of 23 April 2003 introducing detailed specifications as regards the requirements laid down in Council Directive 93/42/EEC with respect to medical devices manufactured utilising tissues of animal origin (OJ L 105, 26.4.2003, p. 18).'

Article 2

The texts of Directive 2003/32/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 9 June 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 June 2004.

For the EEA Joint Committee

The President

S. GILLESPIE

⁽¹⁾ OJ L 130, 29.4.2004, p. 3.

⁽²⁾ OJ L 105, 26.4.2003, p. 18.

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 73/2004

of 8 June 2004

amending Annex IX (Financial services) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex IX to the Agreement was amended by the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area signed on 14 October 2003 in Luxembourg ⁽¹⁾.
- (2) Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC ⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

Annex IX to the Agreement is amended as follows:

1. The following is added in point 24 (Directive 2001/34/EC of the European Parliament and of the Council):

‘, as amended by:

— **32003 L 0071**: Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 (OJ L 345, 31.12.2003, p. 64).’

2. The following point are inserted after point 29a (Directive 2003/6/EC of the European Parliament and of the Council):

‘29b. **32003 L 0071**: Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC (OJ L 345, 31.12.2003, p. 64).’

Article 2

The texts of Directive 2003/71/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

⁽¹⁾ OJ L 130, 29.4.2004, p. 3.

⁽²⁾ OJ L 345, 31.12.2003, p. 64.

Article 3

This Decision shall enter into force on 9 June 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 June 2004.

For the EEA Joint Committee

The President

S. GILLESPIE

(*) Constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 74/2004

of 8 June 2004

amending Annex XI (Telecommunication services) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex XI to the Agreement was amended by the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area signed on 14 October 2003 in Luxembourg ⁽¹⁾.
- (2) Commission Recommendation 2003/558/EC of 25 July 2003 on the processing of caller location information in electronic communication networks for the purpose of location-enhanced emergency call services ⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following point shall be inserted after point 5cn (Commission Decision 2003/548/EC) of Annex XI to the Agreement:

'5co. **32003 H 0558:** Commission Recommendation 2003/558/EC of 25 July 2003 on the processing of caller location information in electronic communication networks for the purpose of location-enhanced emergency call services (OJ L 189, 29.7.2003, p. 49).'

Article 2

The texts of Recommendation 2003/558/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 9 June 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 June 2004.

For the EEA Joint Committee

The President

S. GILLESPIE

⁽¹⁾ OJ L 130, 29.4.2004, p. 3.

⁽²⁾ OJ L 189, 29.7.2003, p. 49.

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 75/2004

of 8 June 2004

amending Annex XI (Telecommunication services) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex XI to the Agreement was amended by the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area signed on 14 October 2003 in Luxembourg ⁽¹⁾.
- (2) Commission Decision 2003/490/EC of 30 June 2003 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data in Argentina ⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following point shall be inserted after point 5ef (Commission Decision 2002/16/EC) of Annex XI to the Agreement:

'5eg. **32003 D 0490**: Commission Decision 2003/490/EC of 30 June 2003 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data in Argentina (OJ L 168, 5.7.2003, p. 19).'

Article 2

The texts of Decision 2003/490/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 9 June 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 June 2004.

For the EEA Joint Committee

The President

S. GILLESPIE

⁽¹⁾ OJ L 130, 29.4.2004, p. 3.

⁽²⁾ OJ L 168, 5.7.2003, p. 19.

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE
No 76/2004
of 8 June 2004
amending Annex XIII (Transport) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex XIII to the Agreement was amended by the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area signed on 14 October 2003 in Luxembourg ⁽¹⁾.
- (2) Regulation (EC) No 2327/2003 of the European Parliament and of the Council of 22 December 2003 establishing a transitional points system applicable to heavy goods vehicles travelling through Austria for 2004 within the framework of a sustainable transport policy ⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following point shall be inserted after point 26d (Commission Regulation (EC) No 792/94) of Annex XIII to the Agreement:

- '26e. **32003 R 2327:** Regulation (EC) No 2327/2003 of the European Parliament and of the Council of 22 December 2003 establishing a transitional points system applicable to heavy goods vehicles travelling through Austria for 2004 within the framework of a sustainable transport policy (OJ L 345, 31.12.2003, p. 30).

The provisions of the Regulation shall, for the purposes of the present Agreement, be read with the following adaptations:

- (a) Annex II to the Regulation is renamed Annex III;
- (b) the following shall be inserted after Annex I to the Regulation:

"ANNEX II

Points available for 2004, 2005 and 2006

	2004	2005	2006
Iceland	572	544	515
Liechtenstein	104 000	98 527	93 053
Norway	26 299	24 915	23 531''

Article 2

The texts of Regulation (EC) No 2327/2003 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

⁽¹⁾ OJ L 130, 29.4.2004, p. 3.

⁽²⁾ OJ L 345, 31.12.2003, p. 30.

Article 3

This Decision shall enter into force on 9 June 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 June 2004.

For the EEA Joint Committee

The President

S. GILLESPIE

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE
No 77/2004
of 8 June 2004
amending Annex XIII (Transport) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex XIII to the Agreement was amended by the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area signed on 14 October 2003 in Luxembourg ⁽¹⁾.
- (2) Regulation (EC) No 1726/2003 of the European Parliament and of the Council of 22 July 2003 amending Regulation (EC) No 417/2002 on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers ⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following indent shall be added in point 56m (Regulation (EC) No 417/2002 of the European Parliament and of the Council) of Annex XIII to the Agreement:

‘— **32003 R 1726:** Regulation (EC) No 1726/2003 of the European Parliament and of the Council of 22 July 2003 (OJ L 249, 1.10.2003, p. 1).’

Article 2

The texts of Regulation (EC) No 1726/2003 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 9 June 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 June 2004.

For the EEA Joint Committee
The President
S. GILLESPIE

⁽¹⁾ OJ L 130, 29.4.2004, p. 3.

⁽²⁾ OJ L 249, 1.10.2003, p. 1.

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 80/2004

of 8 June 2004

amending Annex XV (State Aid) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex XV to the Agreement was amended by the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area signed on 14 October 2003 in Luxembourg ⁽¹⁾.
- (2) Council Regulation (EC) No 502/2004 of 11 March 2004 amending Regulation (EC) No 1177/2002 concerning a temporary defensive mechanism to shipbuilding ⁽²⁾, is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following shall be added in point 1ca (Council Regulation (EC) No 1177/2002) in Annex XV to the Agreement:

‘, as amended by:

- **32004 R 0502:** Council Regulation (EC) No 502/2004 of 11 March 2004 (OJ L 81, 19.3.2004, p. 6).’

Article 2

The texts of Regulation (EC) No 502/2004 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 9 June 2004, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 June 2004.

For the EEA Joint Committee

The President

S. GILLESPIE

⁽¹⁾ OJ L 130, 29.4.2004, p. 3.

⁽²⁾ OJ L 81, 19.3.2004, p. 6.

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 81/2004

of 8 June 2004

amending Annex XVI (Procurement) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex XVI to the Agreement was amended by the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area signed on 14 October 2003 in Luxembourg⁽¹⁾.
- (2) Council Regulation (EC) No 2151/2003 of 16 December 2003 amending Regulation (EC) No 2195/2002 of the European Parliament and of the Council on the Common Procurement Vocabulary⁽²⁾, is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following shall be added in point 6a (Council Regulation (EC) No 2195/2002 of the European Parliament and of the Council) of Annex XVI to the Agreement:

‘, as amended by:

- **32003 R 2151:** Commission Regulation (EC) No 2151/2003 of 16 December 2003 amending Regulation (EC) No 2195/2002 of the European Parliament and of the Council (OJ L 329, 17.12.2003, p. 1).’

Article 2

The texts of Regulation (EC) No 2151/2003 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 9 June 2004, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee^(*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 June 2004.

For the EEA Joint Committee

The President

S. GILLESPIE

⁽¹⁾ OJ L 130, 29.4.2004, p. 3.

⁽²⁾ OJ L 329, 17.12.2003, p. 1, as corrected by OJ L 330, 18.12.2003, p. 34.

^(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 82/2004

of 8 June 2004

amending Annex XX (Environment) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex XX to the Agreement was amended by the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area signed on 14 October 2003 in Luxembourg ⁽¹⁾.
- (2) Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE) ⁽²⁾, is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following point shall be inserted after point 32f (Directive 2000/76/EC of the European Parliament and of the Council) of Annex XX to the Agreement:

'32fa. **32002 L 0096:** Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE) (OJ L 37, 13.2.2003, p. 24).

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptation:

In Article 17(4)(a), the word "Iceland" shall be inserted after the word "Greece".'

Article 2

The texts of Directive 2002/96/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 9 June 2004, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 June 2004.

For the EEA Joint Committee

The President

S. GILLESPIE

⁽¹⁾ OJ L 130, 29.4.2004, p. 3.

⁽²⁾ OJ L 37, 13.2.2003, p. 24.

(*) Constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE
No 83/2004
of 8 June 2004
amending Annex XXI (Statistics) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex XXI to the Agreement was amended by the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area signed on 14 October 2003 in Luxembourg ⁽¹⁾.
- (2) Regulation (EC) No 2257/2003 of the European Parliament and of the Council of 25 November 2003 amending Council Regulation (EC) No 577/98 on the organisation of a labour force sample survey in the Community to adapt the list of survey characteristics ⁽²⁾, is to be incorporated into the Agreement.
- (3) This Decision is not to apply to Liechtenstein,

HAS DECIDED AS FOLLOWS:

Article 1

Point 18a (Council Regulation (EC) No 577/98) of Annex XXI to the Agreement shall be amended as follows:

1. The following indent shall be added:

‘— **32003 R 2257**: Regulation (EC) No 2257/2003 of the European Parliament and of the Council of 25 November 2003 (OJ L 336, 23.12.2003, p. 6).’

2. The introductory phrase to the adaptation and the adaptation shall be replaced by the following:

‘The provisions of the Regulation shall, for the purposes of the present Agreement, be read with the following adaptations:

- (a) This Regulation shall not apply to Liechtenstein.
- (b) The text of the last sentence in Article 4(4) shall be replaced by:

“Norway, Spain, Finland and the United Kingdom may survey the structural variables with reference to a single quarter during a transition period until the end of 2007.”’

⁽¹⁾ OJ L 130, 29.4.2004, p. 3.

⁽²⁾ OJ L 336, 23.12.2003, p. 6.

Article 2

The texts of Regulation (EC) No 2257/2003 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 9 June 2004, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 June 2004.

For the EEA Joint Committee

The President

S. GILLESPIE

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE
No 84/2004
of 8 June 2004
amending Annex XXI (Statistics) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex XXI to the Agreement was amended by the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area signed on 14 October 2003 in Luxembourg ⁽¹⁾.
- (2) Commission Regulation (EC) No 29/2004 of 8 January 2004 adopting the specifications of the 2005 ad hoc module on reconciliation between work and family life provided for by Council Regulation (EC) No 577/98 ⁽²⁾, is to be incorporated into the Agreement.
- (3) Council Regulation (EC) No 1165/98 of 19 May 1998 concerning short-term statistics ⁽³⁾, is incorporated into the Agreement.
- (4) Regulation (EC) No 1165/98 repeals Council Directive 78/166/EEC of 13 February 1978 ⁽⁴⁾, as subsequently amended, which is incorporated into the Agreement and which is consequently to be repealed under the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

Annex XXI to the Agreement shall be amended as follows:

1. The following point shall be inserted after point 18ae (Commission Regulation (EC) No 247/2003):

'18af. **32004 R 0029**: Commission Regulation (EC) No 29/2004 of 8 January 2004 adopting the specifications of the 2005 ad hoc module on reconciliation between work and family life provided for by Council Regulation (EC) No 577/98 (OJ L 5, 9.1.2004, p. 57).

The provisions of the Regulation shall, for the purposes of the present Agreement, be read with the following adaptation:

This Regulation shall not apply to Liechtenstein.'

2. The text of point 4 shall be deleted.

⁽¹⁾ OJ L 130, 29.4.2004, p. 3.

⁽²⁾ OJ L 5, 9.1.2004, p. 57.

⁽³⁾ OJ L 162, 5.6.1998, p. 1.

⁽⁴⁾ OJ L 52, 23.1.1978, p. 17.

Article 2

The texts of Regulation (EC) No 29/2004 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 9 June 2004, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 June 2004.

For the EEA Joint Committee

The President

S. GILLESPIE

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE
No 85/2004
of 8 June 2004
amending Annex XXI (Statistics) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex XXI to the Agreement was amended by the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area signed on 14 October 2003 in Luxembourg ⁽¹⁾.
- (2) Commission Regulation (EC) No 1980/2003 of 21 October 2003 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards definitions and updated definitions ⁽²⁾, is to be incorporated into the Agreement.
- (3) Commission Regulation (EC) No 1981/2003 of 21 October 2003 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the fieldwork aspects and the imputation procedures ⁽³⁾, is to be incorporated into the Agreement.
- (4) Commission Regulation (EC) No 1982/2003 of 21 October 2003 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the sampling and tracing rules ⁽⁴⁾, is to be incorporated into the Agreement.
- (5) Commission Regulation (EC) No 1983/2003 of 7 November 2003 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the list of target primary variables ⁽⁵⁾, is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following points shall be inserted after point 18i (Regulation (EC) No 1177/2003 of the European Parliament and of the Council) of Annex XXI to the Agreement:

- '18j. **32003 R 1980:** Commission Regulation (EC) No 1980/2003 of 21 October 2003 implementing Reg. (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards definitions and updated definitions (OJ L 298, 17.11.2003 p. 1).

⁽¹⁾ OJ L 130, 29.4.2004, p. 3.

⁽²⁾ OJ L 298, 17.11.2003 p. 1.

⁽³⁾ OJ L 298, 17.11.2003 p. 23.

⁽⁴⁾ OJ L 298, 17.11.2003 p. 29.

⁽⁵⁾ OJ L 298, 17.11.2003 p. 34.

- 18k. **32003 R 1981:** Commission Regulation (EC) No 1981/2003 of 21 October 2003 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the fieldwork aspects and the imputation procedures (OJ L 298, 17.11.2003 p. 23).
- 18l. **32003 R 1982:** Commission Regulation (EC) No 1982/2003 of 21 October 2003 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the sampling and tracing rules (OJ L 298, 17.11.2003 p. 29).
- 18m. **32003 R 1983:** Commission Regulation (EC) No 1983/2003 of 7 November 2003 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the list of target primary variables (OJ L 298, 17.11.2003 p. 34).'

Article 2

The texts of Regulations (EC) No 1980/2003, (EC) No 1981/2003, (EC) No 1982/2003 and (EC) No 1983/2003 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 9 June 2004, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 June 2004.

For the EEA Joint Committee

The President

S. GILLESPIE

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE
No 86/2004
of 8 June 2004
amending Annex XXI (Statistics) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex XXI to the Agreement was amended by the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area signed on 14 October 2003 in Luxembourg⁽¹⁾.
- (2) Commission Regulation (EC) No 16/2004 of 6 January 2004 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the list of target secondary variables relating to the 'intergenerational transmission of poverty'⁽²⁾, is to be incorporated into the Agreement.
- (3) Commission Regulation (EC) No 28/2004 of 5 January 2004 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the detailed content of intermediate and final quality reports⁽³⁾, is to be incorporated into the Agreement.
- (4) Regulation (EC) No 48/2004 of the European Parliament and of the Council of 5 December 2003 on the production of annual Community statistics on the steel industry for the reference years 2003 to 2009⁽⁴⁾, is to be incorporated into the Agreement.
- (5) Directive 2003/107/EC of the European Parliament and of the Council of 5 December 2003 amending Council Directive 96/16/EC on statistical surveys of milk and milk products⁽⁵⁾, is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

Annex XXI to the Agreement shall be amended as follows:

1. The following points shall be inserted after point 18m (Commission Regulation (EC) No 1983/2003):

⁽¹⁾ OJ L 130, 29.4.2004, p. 3.

⁽²⁾ OJ L 4, 8.1.2004, p. 3.

⁽³⁾ OJ L 5, 9.1.2004, p. 42.

⁽⁴⁾ OJ L 7, 13.1.2004, p. 1.

⁽⁵⁾ OJ L 7, 13.1.2004, p. 40.

‘18n. **32004 R 0016**: Commission Regulation (EC) No 16/2004 of 6 January 2004 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the list of target secondary variables relating to the “intergenerational transmission of poverty” (OJ L 4, 8.1.2004, p. 3).

18o. **32004 R 0028**: Commission Regulation (EC) No 28/2004 of 5 January 2004 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the detailed content of intermediate and final quality reports (OJ L 5, 9.1.2004, p. 42).’

2. The following point shall be inserted after point 4b (Council Regulation (EEC) No 2186/93):

‘4c. **32004 R 0048**: Regulation (EC) No 48/2004 of the European Parliament and of the Council of 5 December 2003 on the production of annual Community statistics on the steel industry for the reference years 2003-2009 (OJ L 7, 13.1.2004, p. 1).’

3. The following shall be added in point 21 (Council Directive 96/16/EC):

‘, as amended by:

— **32003 L 0107**: Directive 2003/107/EC of the European Parliament and of the Council of 5 December 2003 (OJ L 7, 13.1.2004, p. 40).’

Article 2

The texts of Regulations (EC) No 16/2004, (EC) No 28/2004, (EC) No 48/2004 and Directive 2003/107/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 9 June 2004, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 June 2004.

For the EEA Joint Committee

The President

S. GILLESPIE

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 87/2004

of 8 June 2004

amending Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Articles 86 and 98 thereof,

Whereas:

- (1) Protocol 31 to the Agreement was amended by Decision of the EEA Joint Committee No 58/2004 of 23 April 2004 ⁽¹⁾.
- (2) It is appropriate to extend the cooperation of the Contracting Parties to the Agreement to include Decision No 2256/2003/EC of the European Parliament and of the Council of 17 November 2003 adopting a multiannual programme (2003 to 2005) for the monitoring of the eEurope 2005 action plan, dissemination of good practices and the improvement of network and information security (Modinis) ⁽²⁾.
- (3) Protocol 31 to the Agreement should therefore be amended in order to allow for this extended cooperation to take place with effect from 1 January 2004,

HAS DECIDED AS FOLLOWS:

Article 1

The following indent shall be added in Article 2(5) of Protocol 31 to the Agreement:

‘— **32003 D 2256:** Decision No 2256/2003/EC of the European Parliament and of the Council of 17 November 2003 (OJ L 336, 23.12.2003, p. 1).’

Article 2

This Decision shall enter into force on 9 June 2004 provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

It shall apply from 1 January 2004.

Article 3

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 June 2004.

For the EEA Joint Committee

The President

S. GILLESPIE

⁽¹⁾ OJ L 277, 26.8.2004, p. 29.

⁽²⁾ OJ L 336, 23.12.2003, p. 1.

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE**No 88/2004****of 8 June 2004****amending Protocol 31 to the Agreement, on cooperation in specific fields outside the four freedoms**

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Articles 86 and 98 thereof,

Whereas:

- (1) Protocol 31 to the Agreement was amended by Decision of the EEA Joint Committee No 65/2004 of 26 April 2004 ⁽¹⁾.
- (2) According to Article 3(2) of Protocol 31 to the Agreement, the EFTA States participate fully in the European Environment Agency as set up in Council Regulation (EEC) No 1210/90 ⁽²⁾.
- (3) Council Regulation (EEC) No 1210/90 has been amended by Regulation (EC) No 1641/2003 of the European Parliament and of the Council of 22 July 2003 amending Council Regulation (EEC) No 1210/90 on the establishment of the European Environment Agency and the European Environment Information and Observation Network ⁽³⁾.
- (4) Protocol 31 to the Agreement should therefore be amended in order to reflect the changes to the European Environment Agency and the European environment information and observation network made by Regulation (EC) No 1641/2003,

HAS DECIDED AS FOLLOWS:

Article 1

Protocol 31 to the Agreement shall be amended as follows:

1. The following shall be added at the end of Article 3(2)(a):

'and Regulation (EC) No 1641/2003 of the European Parliament and of the Council ⁽³⁾.

⁽³⁾ OJ L 245, 29.9.2003, p. 1.'

2. The following subparagraph shall be inserted after Article 3(2)(m):

'(n) Regulation (EC) No 1049/2001 of the European Parliament and the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents shall, for the application of Regulation (EEC) No 1210/90, apply to any documents of the Agency regarding the EFTA States as well.'

⁽¹⁾ OJ L 277, 26.8.2004, p. 182.

⁽²⁾ OJ L 120, 11.5.1990, p. 1.

⁽³⁾ OJ L 245, 29.9.2003, p. 1.

Article 2

This Decision shall enter into force on the day following the last notification to the EEA Joint Committee under Article 103(1) of the Agreement (*).

Article 3

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 June 2004.

For the EEA Joint Committee

The President

S. GILLESPIE

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 89/2004

of 8 June 2004

amending Protocol 31 to the Agreement, on cooperation in specific fields outside the four freedoms

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Articles 86 and 98 thereof,

Whereas:

- (1) Protocol 31 to the Agreement was amended by Decision of the EEA Joint Committee No 173/1999 of 26 November 1999 ⁽¹⁾.
- (2) It is appropriate to extend the cooperation of the Contracting Parties to the Agreement to include Decision No 20/2004/EC of the European Parliament and of the Council of 8 December 2003 establishing a general framework for financing Community actions in support of consumer policy for the years 2004 to 2007 ⁽²⁾.
- (3) Protocol 31 to the Agreement should therefore be amended in order to allow for this extended cooperation to take place with effect from 1 January 2004,

HAS DECIDED AS FOLLOWS:

Article 1

The following subparagraph shall be added in Article 6(3) of Protocol 31 to the Agreement:

'The EFTA States shall, from 1 January 2004, participate in the Community activities, which may result from the following act as well as from acts deriving therefrom:

- **32004 D 0020:** Decision No 20/2004/EC of the European Parliament and of the Council of 8 December 2003 establishing a general framework for financing Community actions in support of consumer policy for the years 2004 to 2007 (OJ L 5, 9.1.2004, p. 1).'

Article 2

This Decision shall enter into force on the day following the last notification to the EEA Joint Committee under Article 103(1) of the Agreement (*).

It shall apply from 1 January 2004.

Article 3

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 June 2004.

For the EEA Joint Committee

The President

S. GILLESPIE

⁽¹⁾ OJ L 61, 1.3.2001, p. 33.

⁽²⁾ OJ L 5, 9.1.2004, p. 1.

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE**No 90/2004****of 8 June 2004**

amending Protocol 30 to the EEA Agreement, on specific provisions on the organisation of cooperation in the field of statistics and Protocol 31 to the Agreement, on cooperation in specific fields outside the four freedoms

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Articles 86 and 98 thereof,

Whereas:

- (1) Protocol 30 to the Agreement was amended by Decision of the EEA Joint Committee No 163/2003 of 7 November 2003 ⁽¹⁾.
- (2) Protocol 31 to the Agreement was amended by Decision of the EEA Joint Committee No 65/2004 of 26 April 2004 ⁽²⁾.
- (3) It is appropriate to extend the cooperation of the Contracting Parties to the Agreement to include Regulation (EC) No 788/2004 of the European Parliament and of the Council of 21 April 2004 amending Regulations (EC) No 2236/95, (EC) No 1655/2000, (EC) No 1382/2003 and (EC) No 2152/2003 with a view to adapting the reference amounts to take account of the enlargement of the European Union ⁽³⁾.
- (4) It is appropriate to extend the cooperation of the Contracting Parties to the Agreement to include Decision No 786/2004/EC of the European Parliament and of the Council of 21 April 2004 amending Decisions No 1720/1999/EC, No 253/2000/EC, No 508/2000/EC, No 1031/2000/EC, No 1445/2000/EC, No 163/2001/EC, No 1411/2001/EC, No 50/2002/EC, No 466/2002/EC, No 1145/2002/EC, No 1513/2002/EC, No 1786/2002/EC, No 291/2003/EC and No 20/2004/EC with a view to adapting the reference amounts to take account of the enlargement of the European Union ⁽⁴⁾.
- (5) It is appropriate to extend the cooperation of the Contracting Parties to the Agreement to include Decision No 787/2004/EC of the European Parliament and of the Council of 21 April 2004 amending Council Decision 96/411/EC and Decisions No 276/1999/EC, No 1719/1999/EC, No 2850/2000/EC, No 507/2001/EC, No 2235/2002/EC, No 2367/2002/EC, No 253/2003/EC, No 1230/2003/EC and No 2256/2003/EC with a view to adapting the reference amounts to take account of the enlargement of the European Union ⁽⁵⁾.
- (6) Protocol 30 to the Agreement is therefore to be amended in order to allow for such extended cooperation to take place with effect from 1 May 2004.
- (7) Protocol 31 to the Agreement should therefore be amended in order to allow for this extended cooperation to take place with effect from 1 May 2004,

⁽¹⁾ OJ L 41, 12.2.2004, p. 64.

⁽²⁾ OJ L 277, 26.8.2004, p. 182.

⁽³⁾ OJ L 138, 30.4.2004, p. 17.

⁽⁴⁾ OJ L 138, 30.4.2004, p. 7.

⁽⁵⁾ OJ L 138, 30.4.2004, p. 12.

HAS DECIDED AS FOLLOWS:

Article 1

The following shall be added in the indent of Article 3(7)(c) (Regulation (EC) No 1382/2003 of the European Parliament and of the Council) of Protocol 31 to the Agreement:

‘, as amended by:

- **32004 R 0788**: Regulation (EC) No 788/2004 of the European Parliament and of the Council of 21 April 2004 (OJ L 138, 30.4.2004, p. 17).’

Article 2

Protocol 31 to the Agreement shall be amended as follows:

1. The following indent shall be added in the third indent of Article 17(4) (Decision No 1720/1999/EC of the European Parliament and of the Council) and in the third indent of Article 4(2c) (Decision No 253/2000/EC of the European Parliament and of the Council):

- ‘— **32004 D 0786**: Decision No 786/2004/EC of the European Parliament and of the Council of 21 April 2004 (OJ L 138, 30.4.2004, p. 7).’

2. The following shall be added in the fourth indent of Article 1(5) (Decision No 1513/2002/EC of the European Parliament and of the Council), in the indent of Article 3(7)(b) (Decision No 1411/2001/EC of the European Parliament and of the Council), in the fourth indent of Article 4(2c) (Decision No 1031/2000/EC of the European Parliament and of the Council), in the indent of Article 4(2g) (Decision No 291/2003/EC of the European Parliament and of the Council), in the sixth indent of Article 5(8) (Decision No 50/2002/EC of the European Parliament and of the Council), in the second indent of Article 6(3) (Decision No 20/2004/EC of the European Parliament and of the Council), in the fourth indent of Article 9(4) (Decision No 163/2001/EC of the European Parliament and of the Council), in the fourth indent of Article 13(4) (Decision No 508/2000/EC of the European Parliament and of the Council), in the second indent of Article 15(8) (Decision No 1145/2002/EC of the European Parliament and of the Council) and in the second indent of Article 16(1) (Decision No 1786/2002/EC of the European Parliament and of the Council):

‘, as amended by:

- **32004 D 0786**: Decision No 786/2004/EC of the European Parliament and of the Council of 21 April 2004 (OJ L 138, 30.4.2004, p. 7).’

Article 3

1. Protocol 31 to the Agreement shall be amended as follows:

- (a) the following indent shall be added in the seventh indent of Article 2(5) (Decision No 276/1999/EC of the European Parliament and of the Council) and in the second indent of Article 17(4) (Decision No 1719/1999/EC of the European Parliament and of the Council):

- ‘— **32004 D 0787**: Decision No 787/2004/EC of the European Parliament and of the Council of 21 April 2004 (OJ L 138, 30.4.2004, p. 12).’

- (b) the following shall be added in the ninth indent of Article 2(5) (Decision No 2256/2003/EC of the European Parliament and of the Council), in the indent of Article 3(7)(a) (Decision No 2850/2000/EC of the European Parliament and of the Council) and in Article 14(5)(g) (Decision No 1230/2003/EC of the European Parliament and of the Council):

‘, as amended by:

- **32004 D 0787**: Decision No 787/2004/EC of the European Parliament and of the Council of 21 April 2004 (OJ L 138, 30.4.2004, p. 12).’

2. Protocol 30 to the Agreement shall be amended as follows:

the following shall be added in the second indent of paragraph 7 (Decision No 2367/2002/EC of the European Parliament and of the Council) of Chapter II (Statistical programme 2003 to 2007):

‘, as amended by:

- **32004 D 0787**: Decision No 787/2004/EC of the European Parliament and of the Council of 21 April 2004 (OJ L 138, 30.4.2004, p. 12).’

Article 4

This Decision shall enter into force on the first day following the last notification to the EEA Joint Committee under Article 103(1) of the Agreement (*).

It shall apply from 1 May 2004.

Article 5

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 June 2004.

For the EEA Joint Committee
The President
S. GILLESPIE

(*) No constitutional requirements indicated.

(Acts adopted under Title V of the Treaty on European Union)

COUNCIL JOINT ACTION 2004/794/CFSP
of 22 November 2004
prolonging Joint Action 2002/921/CFSP extending the mandate of the European Union Monitoring Mission (EUMM)

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS JOINT ACTION:

Article 1

Having regard to the Treaty on European Union, and in particular Article 14 thereof,

Joint Action 2002/921/CFSP is hereby prolonged and the mandate of the EUMM is extended.

Article 2

Whereas:

Joint Action 2002/921/CFSP is hereby amended as follows:

(1) On 26 November 2002, the Council adopted Joint Action 2002/921/CFSP extending the mandate of the European Union Monitoring Mission⁽¹⁾ (EUMM).

(a) in Article 3(3), the date '30 September 2004' shall be replaced by '30 September 2005';

(b) in Article 6(1), the financial reference amount shall be EUR 4 186 482;

(c) in the second paragraph of Article 8, the date '31 December 2004' shall be replaced by '31 December 2005'.

Article 3

(2) On 5 December 2003, the Council adopted Joint Action 2003/852/CFSP⁽²⁾ prolonging Joint Action 2002/921/CFSP and extending the mandate of the EUMM until 31 December 2004.

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

Article 4

(3) The EUMM should continue its activities in the Western Balkans in support of the European Union's policy towards that region.

This Joint Action shall be published in the *Official Journal of the European Union*.

Done at Brussels, 22 November 2004.

(4) The mandate of the EUMM should therefore be extended and Joint Action 2002/921/CFSP should be prolonged and amended accordingly,

For the Council
The President
B. R. BOT

⁽¹⁾ OJ L 321, 26.11.2002, p. 51 and corrigendum in, OJ L 324, 29.11.2002, p. 76.

⁽²⁾ OJ L 322, 9.12.2003, p. 31.

COUNCIL DECISION 2004/795/CFSP**of 22 November 2004****extending the mandate of the Head of Mission of the European Union Monitoring Mission (EUMM)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 23(2) thereof,

Having regard to Council Joint Action 2002/921/CFSP of 26 November 2002 extending the mandate of the European Union Monitoring Mission ⁽¹⁾, and in particular Article 5(1) thereof,

Whereas:

- (1) On 5 December 2003, the Council adopted Decision 2003/853/CFSP ⁽²⁾ extending the mandate of Ms Maryse DAVIET as Head of Mission of the European Monitoring Mission (EUMM). This Decision expires on 31 December 2004.
- (2) On 22 November 2004, the Council adopted Joint Action 2004/794/CFSP prolonging Joint Action 2002/921/CFSP extending the mandate of the European Union Monitoring Mission (EUMM) ⁽³⁾.
- (3) The mandate of the Head of Mission of the EUMM should therefore also be extended,

HAS DECIDED AS FOLLOWS:

Article 1

The mandate of Ms Maryse DAVIET as Head of Mission of the EUMM is hereby extended.

Article 2

This Decision shall take effect on the date of its adoption.

It shall apply until 31 December 2005.

Article 3

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

Done at Brussels, 22 November 2004.

For the Council

The President

B. R. BOT

⁽¹⁾ OJ L 321, 26.11.2002, p. 51 and corrigendum in OJ L 324, 29.11.2002, p. 76. Joint Action as amended by Joint Action 2003/852/CFSP (OJ L 322, 9.12.2003, p. 31).

⁽²⁾ OJ L 322, 9.12.2003, p. 32.

⁽³⁾ See page 55 of this Official Journal.

COUNCIL JOINT ACTION 2004/796/CFSP**of 22 November 2004****for the support of the physical protection of a nuclear site in the Russian Federation**

THE COUNCIL OF THE EUROPEAN UNION,

Article 2

Having regard of the Treaty on European Union, and in particular Article 14 thereof,

The Presidency, assisted by the Secretary-General of the Council/High Representative for the CSFP, shall be responsible for the implementation of this Joint Action.

Whereas:

Article 3

(1) The European Union Cooperation Programme for Non-proliferation and Disarmament in the Russian Federation, adopted in the framework of the Common Strategy 1999/414/CFSP of the European Union of 4 June 1999 on Russia⁽¹⁾ and established by Council Joint Action 1999/878/CFSP⁽²⁾, ended on 24 June 2004.

The Federal Republic of Germany shall be responsible for the technical implementation of this Joint Action in the framework of its bilateral programme in this area.

Article 4

(2) The EU Strategy against the Proliferation of Weapons of Mass Destruction which was adopted by the European Council on 12 December 2003 contains, in its Chapter III, a list of measures to combat such proliferation and which needs to be taken both within the European Union and in third countries.

1. The financial reference amount intended to cover the costs for the implementation of this Joint Action shall be EUR 7 937 000.

(3) In line with Chapter III of the EU Strategy against the Proliferation of Weapons of Mass Destruction, the European Union must make use of all its instruments to prevent, deter, halt, and if possible eliminate proliferation that causes concern at global level.

2. The Commission shall be entrusted with the task of controlling and evaluating the financial aspects of the implementation of this Joint Action.

(4) The physical protection of nuclear materials and facilities, including obsolete reactors and their spent fuel is one of the specific measures contained in the EU Strategy against the Proliferation of Weapons of Mass Destruction.

3. The management of the expenditure financed by the general budget of the European Union specified in paragraph 1 shall be subject to the procedures and rules of the Community applying to budget matters with the exception that any pre-financing shall not remain the property of the Community.

(5) To ensure coherence of the European Union's external actions, its activities should take place in a coordinated way with activities carried out by the European Community and Member States.

4. The Commission shall be assisted by one expert, whose responsibilities are set out in Annex II, in the fulfilment of its tasks under this Article.

(6) Measures to reinforce the physical protection of Russian nuclear sites have been already undertaken by Federal Republic of Germany,

Article 5

HAS ADOPTED THIS JOINT ACTION:

The Council and the Commission shall ensure appropriate coordination between this Joint Action, other Community assistance and any other bilateral assistance provided by Member States.

Article 1

The objective of this Joint Action is to support a project for the implementation of physical protection measures at the Bochvar Institute in Moscow of the Russian Federal Agency for Atomic Energy. A detailed description of the objectives and activities envisaged by the project are set out in Annex I.

Article 6

1. The Presidency, assisted by the Secretary-General of the Council/High Representative for the CFSP, shall report to the Council every six months on the implementation of this Joint Action and on the basis of the reports provided by the implementing entity referred to in point 5 of Annex I. These reports shall also assess the capacity of the Russian Federation to absorb and utilise the assistance provided. The Commission shall be fully associated in the reporting and other related tasks.

⁽¹⁾ OJ L 157, 24.6.1999, p. 1. Common Strategy as amended by Common Strategy 2003/471/CFSP of the European Council (OJ L 157, 26.6.2003, p. 68).

⁽²⁾ OJ L 331, 23.12.1999, p. 11. Joint Action as amended by Decision 2002/381/CFSP (OJ L 136, 24.5.2002, p. 1).

2. The Council may decide to suspend the implementation of the project if the Russian Federation fails:

(a) to cooperate fully in the implementation of this Joint Action;

(b) to allow European Union's monitoring and/or evaluations and audits to that effect;

(c) to meet its obligations under the Agreement on Partnership and Cooperation establishing a Partnership between the European Communities and their Member States, of one part, and the Russian Federation, of the other part ⁽¹⁾.

Article 7

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

It shall expire three years after the date of its adoption, unless the Council decides otherwise.

Article 8

This Joint Action shall be published in the *Official Journal of the European Union*.

Done at Brussels, 22 November 2004.

For the Council
The President
B. R. BOT

⁽¹⁾ OJ L 327, 28.11.1997, p. 3.

ANNEX I

SUPPORT OF PHYSICAL PROTECTION OF NUCLEAR SITES IN RUSSIA**1. Background**

On 12 December 2003, the European Council adopted the EU Strategy against the Proliferation of Weapons of Mass Destruction which, *inter alia*, expresses the desire of the European Union to promote a stable international and regional environment by reinforcing Union cooperative threat reduction programmes with other countries, targeted at support for disarmament, control and security of sensitive materials, facilities and expertise.

The physical protection of nuclear materials and facilities, including obsolete reactors and their spent fuel is one of the specific measures contained in the EU Strategy against the Proliferation of Weapons of Mass Destruction.

Furthermore efforts have been made in the field of physical protection of nuclear sites in the Russian Federation under international initiatives. Among Member States, Germany has been particularly active in this area.

2. Description

The project will finance the implementation of physical protection measures at one nuclear site in Russia. This complements the bilateral projects implemented by Germany in the Russian Federation.

The plant of Bochvar Institute (VNIINM), located in Moscow, contains fissile materials which need to be secured from any attempt of diversion. A new, reinforced and secure storage will be constructed to that end. This storage will be equipped with modern, specialised protection measures like access control systems and physical barriers.

The project will finance the design and construction of the secure storage and the purchase and installation of its specialised physical protection equipment. For evident security reasons the exact description of activities and equipment cannot be disclosed. Typical pieces of equipment are e.g. perimeter fences, access control systems, physical barriers, control and monitoring systems.

3. Objectives

Overall objective: To contribute to reinforcing the physical protection of nuclear sites in Russia, so as to reduce the risk of theft of nuclear fissile material and of sabotage.

Project purpose: To improve the physical protection for fissile materials at the Bochvar Institute in Moscow (VNIINM) of the Russian Federal Agency for Atomic Energy FAAE (formerly MINATOM).

Project results: To deliver and install a new secure storage for fissile materials equipped with specialised protection measures.

4. Beneficiaries

The main entities benefiting from the outcome of the project are the Federal Agency for Atomic Energy (FAAE) and the Bochvar Institute (VNIINM).

5. Member State entity to be entrusted with the technical implementation of the project

Member State: Federal Republic of Germany

Implementing entity: Federal Ministry of Foreign Affairs (Auswärtiges Amt), assisted in monitoring the project by the Bundesamt für Wehrtechnik und Beschaffung. Technical project implementation tasks will be performed by the company GRS (Gesellschaft für Anlagen- und Reaktor-Sicherheit mbH).

6. Third party participants

The Russian Federation will provide an amount equivalent to EUR 7 730 000. The overall cost of the equipped secure storage is estimated at EUR 13 000 000.

GRS experts will supervise the implementation of the tasks assigned to be performed by Russian entities and ensure full coherence with activities financed by Germany and the Russian Federation. Equipment will be provided by companies having the necessary certification from the Russian authorities.

7. Required means

Components and services for the construction of the new secure storage and specialised physical protection equipment.

EUR 5 750 000 for the construction of the central storage and EUR 1 840 000 for the purchase of specialised physical protection equipment. In addition, the overall project costs include an amount of EUR 40 000 to cover travel costs and allowances of the implementing entity, directly related to the management of the project, as well as translation costs. A contingency reserve of EUR 100 000 is also foreseen.

8. Duration

The planned duration of the project is three years.

9. Reporting

The implementing entity will prepare:

- an inception report after the first six months of implementation,
- progress reports every six months during the duration of the project,
- a final report two months before the completion of the tasks.

Reports will be sent to the Secretary-General of the Council/High Representative for the CFSP and to the Commission.

10. Financial reference amount to cover the cost of the action

The total cost of the project is EUR 7 937 000.

BUDGET FOR THE PROJECT

Budget Heading	Thousands of EUR ⁽¹⁾
I. Construction of central storage:	
(a) technical description and design	300
(b) dismantling of old storage	500
(c) studies and dossier for licensing	200
(d) main construction works	3 000
(e) construction fitting and commissioning	1 000
(f) GRS engineering support for construction	750
Subtotal I	5 750
II. Specific protection equipment:	
(a) specifications of equipment	100
(b) equipment, consisting of:	1 100
— perimeter security	400
— access control system	200
— physical barriers (doors, windows)	100
— control and monitoring system security	200
— radiation monitoring	200
(c) licensing, commissioning, reception of equipment	100
(d) installation of equipment	300
(e) GRS engineering support	240
Subtotal II	1 840

Budget Heading	Thousands of EUR ⁽¹⁾
III. Costs of the implementing entity:	
— travel (and allowance) costs ⁽²⁾	30
— translation costs ⁽³⁾	10
IV. Contingencies ⁽⁴⁾	100
Subtotal III + IV	140
V. Total cost of one expert (Article 4(4))	207
TOTAL I - V	7 937

⁽¹⁾ Maximum estimates.

⁽²⁾ Missions for the personnel of the implementing entity, directly related to the implementation.

⁽³⁾ Translation of contractual documents and correspondence from English to German and vice-versa.

⁽⁴⁾ Only to be used with the prior written approval of the Commission.

ANNEX II

TERMS OF REFERENCE FOR THE EXPERT REFERRED TO IN ARTICLE 4(4)

In accordance with Article 4, the Commission will be assisted by one expert.

This expert will be selected by the Commission, in cooperation with the Presidency assisted by the Secretary General/High Representative for the CSFP and the Federal Republic of Germany.

As provided in Article 4, the expert will assist the Commission in implementing the project related to the support of the physical protection of a nuclear site in the Russian Federation.

The expert might be proposed by the Member States as seconded national expert or, as an alternative, be recruited by the Commission as auxiliary or contract staff of the Commission.

He/She will be based in Brussels. If required for the effectiveness of the implementation, he/she might be placed temporarily in another location at a Delegation of the Commission.

The expert will provide expertise to the Commission to fulfil its tasks under Article 4, with respect to:

- the financial supervision, control and evaluation of the project,
- the assessment of the progress in the implementation of the project,
- the liaison with the Russian authorities as required, therefore facilitating the effective implementation of the Joint Action.

Upon request the expert will provide the Presidency, the Secretary General/High Representative for the CSFP or the Government of the Federal Republic of Germany with expert advice for their tasks under the Joint Action.

The total cost of expertise for the three year period is EUR 207 000.

COUNCIL JOINT ACTION 2004/797/CFSP**of 22 November 2004****on support for OPCW activities in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction**

THE COUNCIL OF THE EUROPEAN UNION,

— Promotion of universality of the Chemical Weapons Convention (CWC);

Having regard to the Treaty on European Union, and in particular Article 14 thereof,

— Support for full implementation of the CWC by States Parties;

Whereas:

— International cooperation in the field of chemical activities, as accompanying measures to the implementation of the CWC.

(1) On 12 December 2003, the European Council adopted the EU Strategy against the Proliferation of Weapons of Mass Destruction, which contains, in its Chapter III, a list of measures to combat such proliferation.

2. The projects of the OPCW, corresponding to measures of the EU Strategy, are the projects which aim at strengthening:

(2) The European Union is actively implementing the above EU Strategy and is giving effect to the measures listed in its Chapter III, in particular those related to the universalisation of the Chemical Weapons Convention (CWC) and of the provision of financial resources to support specific projects conducted by multilateral institutions.

— The promotion of the CWC by carrying out activities, including regional and sub-regional workshops and seminars, aiming at increasing the membership of the OPCW;

(3) The objectives of the EU Strategy, as set out in recital (2), are complementary to the objectives pursued by the Organisation for the Prohibition of Chemical Weapons (OPCW), in the context of its responsibility for the implementation of the CWC.

— The provision of sustained technical support to States Parties that request it for the establishment and effective functioning of National Authorities and the enactment of national implementation measures as foreseen in the CWC;

(4) The Commission has accepted to be entrusted with the supervision of the proper implementation of the EU contribution,

— International cooperation in the field of chemical activities through the exchange of scientific and technical information, chemicals and equipment for purposes not prohibited under the CWC, in order to contribute to the development of the States Parties' capacities to implement the CWC.

A detailed description of the projects above is set out in the Annex.

HAS ADOPTED THIS JOINT ACTION:

Article 2

1. The financial reference amount for the three projects listed in Article 1(2) is EUR 1 841 000.

Article 1

1. For the purpose of giving immediate and practical application to some elements of the EU Strategy against the Proliferation of Weapons of Mass Destruction, the European Union shall support activities of the Organisation for the Prohibition of Chemical Weapons (OPCW), with the following objectives:

2. The expenditure financed by the amount stipulated in paragraph 1 shall be managed in accordance with the European Community procedures and rules applicable to the general budget of the European Union with the exception that any pre-financing shall not remain the property of the Community.

3. For the purpose of implementing the projects referred to in Article 1, the Commission shall conclude a financing agreement with the OPCW on the conditions for the use of the EU contribution, which will take the form of a grant. The financing agreement to be concluded will stipulate that the OPCW shall ensure visibility of the EU contribution, appropriate to its size.

4. The Commission shall report on the implementation of the EU contribution to the Council, in association with its Presidency.

Article 3

The EU Council Presidency shall be responsible for the implementation of this Joint Action in full association with the Commission. The Commission shall supervise the proper implementation of the EU contribution referred to in Article 2.

Article 4

This Joint Action shall enter into force on the day of its adoption.

It shall expire one year after its adoption.

Article 5

This Joint Action shall be published in the *Official Journal of the European Union*.

Done at Brussels, 22 November 2004.

For the Council

The President

B. R. BOT

ANNEX

EU support for OPCW activities, in the framework of the implementation of the EU strategy against proliferation of Weapons of Mass Destruction*1. Objective and Description*

Overall objective: to support the universalisation of the CWC and in particular to promote the accession to the CWC by States not Party (signatory States as well as non-signatory States) and to support the implementation of the CWC by the States Parties.

Description: EU assistance to the OPCW will be focused on the following areas identified by the CWC States Parties as requiring urgent action:

- (i) Promotion of universality of the CWC;
- (ii) Support for implementation of the CWC by the States Parties;
- (iii) International cooperation in the field of chemical activities.

The projects described below will benefit exclusively from EU support. EU funding will only cover expenditures specifically related to the implementation of the projects. Accordingly, these projects will not be financed under the OPCW 2005 Regular Budget. In addition, the procurement of any goods, work or services shall be made by the OPCW.

*2. Project description**2.1. Project 1: Promotion of universality of the CWC:*

Project purpose: Enhanced membership of the CWC.

Project results:

- (i) Enhanced membership of the CWC in various geographical regions (in the Caribbean region, Africa, the Mediterranean countries, South East Asia and the Pacific Islands);
- (ii) Strengthened regional networking (involving relevant sub-regional organisations and networks in various areas relevant to the CWC).

Project description: Universality-related regional, sub-regional, and bilateral activities

The participation of States not Party to regional/sub-regional activities offers opportunities for the OPCW to establish/-develop contacts with representatives from the capitals and to highlight the advantages and benefits of accessing the CWC, as well as associated obligations. Assistance and technical support are also provided on specific issues relevant to the preparation for accession to the CWC.

In general, the level of funding has limited the OPCW to the conduct of a small number of regional seminars and workshops, designed primarily to raise political awareness of the benefits of the CWC for States not Party.

Since the entry into force of the CWC in 1997, three to four regional events were held each year.

The level of funding available, including voluntary contributions, has not permitted more intensive and targeted ways to assist States not Party in the process of preparing for accession to the CWC, for example through bilateral visits, or regional/sub regional meetings focusing on issues of national implementation measures in conjunction with the ratification of the CWC.

The project will finance the following activities in 2005:

- (i) Workshop on the CWC for States not Party in the Caribbean to enable participation by decision-makers and regional/sub-regional organisations, e.g. CARICOM, OECS (venue in an OECS Member State, second quarter 2005, two days, dates tbc). Representatives, including from Antigua and Barbuda, Bahamas, Barbados, Dominican Republic, Haiti, Honduras and Grenada, will be invited. One or two guest speakers from EU would be most helpful to brief the participants on EU initiatives on non-proliferation and disarmament relating to Weapons of Mass Destruction (WMD).

Total Estimated Cost of Event: EUR 28 000.

- (ii) Workshop on the CWC for States not Party in Africa (venue in Southern/Central Africa, tbd, three days, first quarter 2005), participants to be sponsored from decision-making bodies in States not Party, and relevant regional/sub-regional organisations. Representatives from Angola, Central African Republic, the Comoros, Congo, Democratic Republic of the Congo, Djibouti, Egypt, Guinea-Bissau, Liberia, Madagascar, Sierra Leone, and Somalia will be invited. A guest speaker from the EU would be most useful to brief participants on EU initiatives relevant to Africa on non-proliferation and disarmament relating to WMD.

Total Estimated Cost of Event: EUR 69 000.

- (iii) Workshop on the CWC for countries of the Mediterranean Basin and the Middle East. Representatives from Egypt, Iraq, Israel, Lebanon and Syria will be invited. In addition, decision-making and advisory bodies in States not Party, as well as key representatives from regional States Parties and organisations will be invited. One or two guest speakers from the EU may be requested to brief participants on EU initiatives on non-proliferation and disarmament relating to WMD, the political-security aspects of the Euro-Mediterranean Partnership, export control measures implemented by the EU, etc.

Total Estimated Cost of Event: EUR 62 000.

- (iv) Targeted sub-regional training and support for States not Party in Asia (venue tbc, two-three days, third-quarter 2005). Representatives from Bhutan, Cambodia, DPR Korea, Iraq, Lebanon, Myanmar, Niue, Syria, Solomon Islands, and Vanuatu will be invited. Sponsorship of participants from States not Party and regional actors in small sub-regional groups or meetings of national decision-makers. One or two guest speakers from EU would be most helpful to brief the participants on EU initiatives on non-proliferation and disarmament relating to WMD.

Total Estimated Cost of Event: EUR 48 000.

Total Estimated Cost of Project 1: EUR 207 000.

2.2. Project 2: National Implementation of the CWC

Project purpose: Establishment and effective functioning of National Authorities, the enactment of national implementation measures, and the adoption of any administrative measures required in accordance with Article VII obligations of the CWC.

Project results:

- (i) To facilitate the establishment and effective functioning of National Authorities and adoption of adequate implementation measures in all regions, through legal and technical assistance and implementation support to National Authorities;
- (ii) Putting in place legislation that provides States Parties with adequate information and control over import and export of CWC scheduled chemicals from their territories as well as a wider dissemination of information about and appreciation of EU export control regulations;
- (iii) Removing discrepancies in import export data provided by States Parties to enhance confidence in the ability to ensure that transfers of scheduled chemicals are taking place for purposes not prohibited by the CWC.

Project description: the project will contribute to the improvement of the effective functioning of National Authorities and the adoption of adequate implementation measures through:

- (a) Assistance visits on legal and technical aspects to respond to specific needs of requesting States Parties who are yet to fulfil their Article VII obligations. Such assistance will be provided by experts/resources from the OPCW staff with the inclusion of EU experts, as necessary. The duration of each visit will be about 5 days. These visits will comprise no more than 3 experts for each visit.

Total Estimated Cost: EUR 135 000.

- (b) The participation of National Authorities and other concerned agencies in a technical meeting on the transfers provisions of the CWC which will allow for a wider dissemination of information about these provisions as well as an appreciation of EU export control regulations.

Total Estimated Cost: EUR 189 000.

- (c) The participation of customs officials in a meeting related to export control regulations related to the CWC. A critical component for ensuring that transfers of chemicals take place for intended purposes is the proper sensitisation of customs officials to the provisions of the CWC. This meeting will also involve tabletop exercises, discussions on scenarios and sharing of experiences by experts from the EU and other participating Member States.

Total Estimated Cost: EUR 165 000.

Total Estimated Cost of Project 2: EUR 489 000.

2.3. Project 3: International cooperation in the field of chemical activities

Project purpose:

To facilitate the development of the States Parties' capacities to implement the CWC in the field of chemical activities in accordance with the provisions of Article XI thereto.

This project essentially focuses on the building of capacities through equipment support, technical assistance for laboratories and training in the area of analytical skills.

Project results/activities:

- (i) Identification of donor institutions, which are willing to transfer, used but still functional laboratory equipment to a publicly-funded laboratory, research or academic institution or government agency in States Parties whose economies are either developing or in transition;
- (ii) Supply of 50 new desktop PCs of standard configuration with printers as donation to national authorities, in the abovementioned targeted States Parties;
- (iii) Provision of some essential equipment to improve the quality and accuracy of chemical analysis in publicly-funded laboratories in States Parties;
- (iv) Enabling such laboratories in these targeted States Parties to upgrade their level of technical competence;
- (v) Assisting qualified analytical chemists from States Parties to acquire further experience and practical knowledge to facilitate the analysis of chemicals related to the national implementation of the CWC.

Project description:

The EU contribution will focus on the following three aspects:

- (a) Equipment support: it relates to the building of capacities of National Authorities and other relevant institutions in States Parties whose economies are either developing or in transition so as to enable them to implement the CWC and to engage in peaceful application of chemistry.

A number of National Authorities have identified the lack of availability of essential office equipment like computers and accessories to organise and run their offices.

The project supplies National Authorities in targeted States Parties with 50 new desktop PCs of standard configuration with accessories including printers.

Clearance mechanism:

A clearance mechanism will be set up involving a representative of the EU in regard to the selection of the National Authorities for the new PCs.

Total Estimated Cost: EUR 75 000.

(b) Laboratory assistance

Under a Laboratory Assistance Programme, OPCW has been providing assistance to improve the technical competence of laboratories engaged in chemical analysis and monitoring. The assistance is basically in the form of financial support for conducting technical evaluation or audit of a laboratory so as to improve its level of competence and training of technical personnel at an advanced laboratory/institution for development of skills, for allowing internships at an accredited laboratory for skills development and for conducting small scale research projects relating to method development, validation, etc.

However, the support provided by the OPCW does not cover cost of acquisition of hardware or other investment costs. Also, since expert assistance available in the OPCW is limited due to other commitments, it is necessary that such assistance has to be availed from external sources. EU support for meeting the cost of these requirements will go a long way in enabling the laboratories in the targeted States Parties to improve their technical competence significantly and to improve the quality and accuracy of chemical analysis.

The project covers technical assistance as well as some essential hardware support (gas chromatographs, GCMS, etc) for a limited number of eight publicly funded laboratories engaged in the area of application of chemistry for purposes not prohibited under the CWC in States Parties whose economies are either developing or in transition. Applications will be invited from interested institutions from the targeted States Parties which will have to be routed through their National Authorities/Permanent Delegations.

Clearance mechanism:

A clearance mechanism for the purpose of project 3 will be set up involving representatives of the EU Council Presidency, the Office of the Personal Representative of the High Representative on non-proliferation of WMD, the Commission Services and the OPCW, regarding the selection of beneficiaries to be funded against this grant. Prior agreement by the EU Member States is needed for projects regarding the eight publicly funded laboratories, including hardware support. Any transfers under this project shall be made in accordance with Council Regulation (EC) No 1334/2000 of 22 June 2000 setting up a Community regime for the control of exports of dual-use items and technology⁽¹⁾ as well as the guidelines of the relevant export control regime, in the framework of which the OPCW Technical Secretariat may be invited to perform a supervisory role. The States Parties to the CWC that will be beneficiaries under this project shall guarantee the use of the transferred goods in accordance with the provisions of the CWC by signing a Memorandum of Understanding to this end with the OPCW Technical Secretariat.

Total Estimated Cost: EUR 900 000.

(c) Analytical skills development course

A course on analytical skills development is to be conducted at an academic institution in Europe. The course will accommodate 20 participants. Its aims are to assist qualified analytical chemists from States Parties whose economies are either developing or in transition to acquire further experience and practical knowledge; to facilitate the analysis of chemicals related to the national implementation of the CWC; to enhance national capacities in the Member States by offering training in analytical chemistry to personnel from the industry, academic institutions and government laboratories; to facilitate the adoption of good laboratory practices; and to broaden the pool of manpower from which the National Authorities and the OPCW Technical Secretariat can draw in future. The course will be for duration of 2 weeks in June-July 2005. It will cover both theoretical and practical training in areas relating to system validation, trouble shooting, sample preparation and analysis.

Total Estimated Cost of Event: EUR 115 000.

Total Estimated Cost of Project 3: EUR 1 090 000.

3. *Duration*

The total estimated duration for the implementation of this Joint Action is 12 months.

4. *Beneficiaries*

The beneficiaries of universality related activities are States not Party to the CWC (both signatory States and non-signatory States). The beneficiaries of implementation related activities are non EU-States Parties to the CWC. The selection of the countries Beneficiaries will be identified by the OPCW in coordination with the EU Council Presidency.

5. *Implementing entity*

The OPCW will be entrusted with the implementation of the three projects. The implementation of these three projects will be done by the OPCW staff with the help of the OPCW Member States and their institutions, selected experts or contractors, as above. In the case of contractors, the procurement of any goods, works or services by the OPCW in the context of this Joint Action shall be carried out in accordance with the applicable rules and procedures of the OPCW, as detailed in the European Community Contribution Agreement with an International Organisation.

6. *Third party participants*

These projects will be financed 100 % by this Joint Action. Experts of OPCW Member States may be considered as third party participants. They will work under the standard rules of operation for OPCW experts.

⁽¹⁾ OJ L 159, 30.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 1504/2004 (OJ L 281, 31.8.2004, p. 1).

7. *Estimated required means*

The EU contribution will cover 100 % of the implementation of the three projects as described in this Annex. The estimated costs are as follows:

Project 1: EUR 207 000

Project 2: EUR 489 000

Project 3: EUR 1 090 000

Total cost (excluding contingencies): EUR 1 786 000

In addition, a contingency reserve of about 3 % of eligible costs (EUR 55 000) is included.

Total cost (including contingencies): EUR 1 841 000.

8. *Financial reference amount to cover the cost of the project*

The total cost of the project is EUR 1 841 000.

CORRIGENDA

Corrigendum to Decision of the EEA Joint Committee No 78/2004 of 8 June 2004 amending Annex XIV (Competition rules), Protocol 21 (on the implementation of competition rules applicable to undertakings), Protocol 22 (concerning the definition of 'undertaking' and 'turnover' (Article 56) and Protocol 24 (on cooperation in the field of control of concentrations) to the EEA Agreement

(Official Journal of the European Union L 219 of 19 June 2004)

On page 22, in Annex IV, Article 8, point 7:

for: '7. Where the EC Commission carries out investigations ...',

read: '7. Where the EC Commission carries out inspections ...'.

Corrigendum to Decision of the EEA Joint Committee No 79/2004 of 8 June 2004, amending Annex XIV (Competition rules), Protocol 21 (on the implementation of competition rules applicable to undertakings) and Protocol 24 (on cooperation in the field of control of concentrations) to the EEA Agreement

(Official Journal of the European Union L 219 of 19 June 2004)

On page 25, in Article 3, point 2, in indents 4, 5 and 6 the word 'investigations' shall be replaced by 'inspections'.

Corrigendum to Decision of the EEA Joint Committee No 91/2003 of 11 July 2003 amending Annex XIII (Transport) to the EEA Agreement

(Official Journal of the European Union L 272 of 23 October 2003)

On page 27, after the second recital, a third recital shall be added as follows:

'(3) Commission Regulation (EC) No 980/2002 is not to apply to Iceland.'

In Article 2 of the Decision,

for: '... in the Icelandic and Norwegian languages,'

read: '... in the Norwegian language,'.

NOTICE TO READERS

EEA Joint Committee Decisions 78/2004 and 79/2004 were published in OJ L 219 of 19 June 2004, on pages 13 and 24 respectively.