

Official Journal

of the European Union

L 171

English edition

Legislation

Volume 50

29 June 2007

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

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⁽¹⁾ Text with EEA relevance

I

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

REGULATIONS

REGULATION (EC) No 715/2007 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 20 June 2007

on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

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

Whereas:

- (1) The internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital must be ensured. To that end a comprehensive Community type approval system for motor vehicles, established by Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type approval of motor vehicles and their trailers ⁽³⁾, is in place. The technical requirements for the type approval of motor vehicles with regard to emissions should therefore be harmonised to avoid requirements that differ from one Member State to another, and to ensure a high level of environmental protection.
- (2) This Regulation is one of a number of separate regulatory acts in the context of the Community type approval procedure under Directive 70/156/EEC. Therefore, that Directive should be amended accordingly.

- (3) At the request of the European Parliament a new regulatory approach has been introduced in EU vehicle legislation. Thus, this Regulation lays down fundamental provisions on vehicle emissions, whereas the technical specifications will be laid down by implementing measures adopted following comitology procedures.
- (4) In March 2001 the Commission launched the Clean Air For Europe (CAFE) programme, the major elements of which are outlined in a communication of 4 May 2005. This has led to the adoption of a thematic strategy on air pollution by a communication of 21 September 2005. One of the conclusions of the thematic strategy is that further reductions in emissions from the transport sector (air, maritime and land transport), from households and from the energy, agricultural and industrial sectors are needed to achieve EU air quality objectives. In this context, the task of reducing vehicle emissions should be approached as part of an overall strategy. The Euro 5 and 6 standards are one of the measures designed to reduce emissions of particulate matter and ozone precursors such as nitrogen oxides and hydrocarbons.
- (5) Achieving EU air quality objectives requires a continuing effort to reduce vehicle emissions. For that reason, industry should be provided with clear information on future emission limit values. This is why this Regulation includes, in addition to Euro 5, the Euro 6 stage of emission limit values.
- (6) In particular, a considerable reduction in nitrogen oxide emissions from diesel vehicles is necessary to improve air quality and comply with limit values for pollution. This requires reaching ambitious limit values at the Euro 6 stage without being obliged to forego the advantages of diesel engines in terms of fuel consumption and hydrocarbon and carbon monoxide emissions. Setting such a step for reducing nitrogen oxide emissions at an early stage will provide long-term, Europe-wide planning security for vehicle manufacturers.

⁽¹⁾ OJ C 318, 23.12.2006, p. 62.

⁽²⁾ Opinion of the European Parliament of 13 December 2006 (not yet published in the Official Journal) and Council Decision of 30 May 2007.

⁽³⁾ OJ L 42, 23.2.1970, p. 1. Directive as last amended by Directive 2006/96/EC (OJ L 363, 20.12.2006, p. 81).

- (7) In setting emissions standards it is important to take into account the implications for markets and manufacturers' competitiveness, the direct and indirect costs imposed on business and the benefits that accrue in terms of stimulating innovation, improving air quality, reducing health costs and increasing life expectancy, as well as the implications for the overall impact on carbon dioxide emissions.
- (8) Unrestricted access to vehicle repair information, via a standardised format which can be used to retrieve the technical information, and effective competition on the market for vehicle repair and maintenance information services are necessary to improve the functioning of the internal market, particularly as regards the free movement of goods, freedom of establishment and freedom to provide services. A great proportion of such information is related to on-board diagnostic (OBD) systems and their interaction with other vehicle systems. It is appropriate to lay down technical specifications that manufacturers' websites should follow, along with targeted measures to ensure reasonable access for small and medium-sized enterprises (SMEs). Common standards agreed with the involvement of stakeholders, such as the OASIS ⁽¹⁾ format, can facilitate the exchange of information between manufacturers and service providers. It is therefore appropriate to initially require the use of the technical specifications of the OASIS format and to ask the Commission to request CEN/ISO to further develop this format into a standard with a view to replacing the OASIS format in due course.
- (9) Not later than four years after the date of entry into force of this Regulation, the Commission should review the operation of the system of access to all vehicle repair and maintenance information with a view to determining whether it would be appropriate to consolidate all provisions governing access to vehicle repair and maintenance information within a revised framework Directive on type approval. If the provisions governing access to all vehicle information are incorporated into that Directive, the corresponding provisions in this Regulation should be repealed, as long as the existing rights for access to repair and maintenance information are preserved.
- (10) The Commission should keep under review emissions which are as yet unregulated and which arise as a consequence of the wider use of new fuel formulations, engine technologies and emission control systems and, where necessary, submit a proposal to the European Parliament and to the Council with a view to regulating such emissions.
- (11) In order to facilitate the introduction and to maintain the existence of alternative fuel vehicles, which can have low nitrogen oxide and particulate emissions, and at the same time to encourage reduced emissions from petrol-powered vehicles, this Regulation introduces separate limit values for total hydrocarbons and total non-methane hydrocarbons.
- (12) Efforts should be continued to implement stricter emission limits, including reduction of carbon dioxide emissions, and to ensure that those limits relate to the actual performance of vehicles when in use.
- (13) In order to ensure that emissions of ultra fine particulate matter (PM 0,1 µm and below) are controlled, the Commission should adopt as soon as possible, and introduce at the latest upon entry into force of the Euro 6 stage, a number based approach to emissions of PM in addition to the mass based approach which is currently used. The number based approach to emissions of PM should draw on the results of the UN/ECE's Particulate Measurement Programme (PMP) and be consistent with the existing ambitious objectives for the environment.
- (14) To provide greater repeatability in measuring the mass and number of particulate emissions in the laboratory, the Commission should adopt a new measurement procedure replacing the current one. This should be introduced as soon as possible and at the latest upon entry into force of the Euro 6 stage. It should be based on the results of the PMP. When the new measurement procedure is implemented, the PM mass emission limits set out in this Regulation should be recalibrated, as the new procedure records a lower level of mass than the current one.
- (15) The Commission should keep under review the need to revise the New European Drive Cycle as the test procedure that provides the basis of EC type approval emissions regulations. Updating or replacement of the test cycles may be required to reflect changes in vehicle specification and driver behaviour. Revisions may be necessary to ensure that real world emissions correspond to those measured at type approval. The use of portable emission measurement systems and the introduction of the 'not-to-exceed' regulatory concept should also be considered.
- (16) OBD systems are important in the control of emissions during the use of a vehicle. Due to the importance of controlling real world emissions, the Commission should keep under review the requirements for such systems and the tolerance thresholds for monitoring faults.
- (17) A standardised method of measuring fuel consumption and carbon dioxide emissions of vehicles is necessary to ensure that no technical barriers to trade arise between Member States. Furthermore, it is also necessary to ensure that customers and users are supplied with objective and precise information.

⁽¹⁾ Organisation for the Advancement of Structured Information Standards.

- (18) Before drawing up a proposal for future emission standards, the Commission should set up studies designed to determine whether the continued subdivision of vehicle categories into groups is still necessary and whether mass neutral emission limits can be applied.
- (19) Member States should be able, by means of financial incentives, to accelerate the placing on the market of vehicles which satisfy the requirements adopted at Community level. However, such incentives should comply with the provisions of the Treaty, in particular the rules on state aid. This is in order to avoid distortions of the internal market. This Regulation should not affect the Member States' right to include emissions in the basis for calculating taxes levied on vehicles.
- (20) Given that the legislation on vehicle emissions and fuel consumption has developed over more than 35 years and is now spread over more than 24 Directives, it is advisable to replace those Directives by a new regulation and a number of implementing measures. A regulation will ensure that the detailed technical provisions are directly applicable to manufacturers, approval authorities and technical services and that they can be updated in a much faster and more efficient way. Directives 70/220/EEC ⁽¹⁾, 72/306/EEC ⁽²⁾, 74/290/EEC ⁽³⁾, 80/1268/EEC ⁽⁴⁾, 83/351/EEC ⁽⁵⁾, 88/76/EEC ⁽⁶⁾, 88/436/EEC ⁽⁷⁾, 89/458/EEC ⁽⁸⁾, 91/441/EEC ⁽⁹⁾, 93/59/EEC ⁽¹⁰⁾, 94/12/EC ⁽¹¹⁾, 96/69/EC ⁽¹²⁾, 98/69/EC ⁽¹³⁾, 2001/1/EC ⁽¹⁴⁾, 2001/100/EC ⁽¹⁵⁾ and 2004/3/EC ⁽¹⁶⁾ should therefore be repealed. In addition, the Member States should also repeal the transposing legislation of the repealed Directives.
- (21) In order to clarify the scope of legislation on vehicle emissions, Directive 2005/55/EC of the European Parliament and of the Council of 28 September 2005 on the approximation of the laws of the Member States relating to the measures to be taken against the emission of gaseous and particulate pollutants from compression-ignition engines for use in vehicles, and the emission of gaseous pollutants from positive-ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles ⁽¹⁷⁾ should be amended in such a way as to cover all heavy-duty vehicles so as to make clear that this Regulation concerns light-duty vehicles.

⁽¹⁾ Council Directive 70/220/EEC of 20 March 1970 on the approximation of the laws of the Member States on measures to be taken against air pollution by emissions from motor vehicles (OJ L 76, 6.4.1970, p. 1). Directive as last amended by Commission Directive 2003/76/EC (OJ L 206, 15.8.2003, p. 29).

⁽²⁾ Council Directive 72/306/EEC of 2 August 1972 on the approximation of the laws of the Member States relating to the measures to be taken against the emission of pollutants from diesel engines for use in vehicles (OJ L 190, 20.8.1972, p. 1). Directive as last amended by Commission Directive 2005/21/EC (OJ L 61, 8.3.2005, p. 25).

⁽³⁾ Council Directive 74/290/EEC of 28 May 1974 adapting to technical progress Council Directive No 70/220/EEC on the approximation of the laws of the Member States relating to measures to be taken against air pollution by gases from positive-ignition engines of motor vehicles (OJ L 159, 15.6.1974, p. 61). Directive as amended by Directive 2006/101/EC (OJ L 363, 20.12.2006, p. 238).

⁽⁴⁾ Council Directive 80/1268/EEC of 16 December 1980 relating to the carbon dioxide emissions and the fuel consumption of motor vehicles (OJ L 375, 31.12.1980, p. 36). Directive as last amended by Directive 2004/3/EC of the European Parliament and of the Council (OJ L 49, 19.2.2004, p. 36).

⁽⁵⁾ Council Directive 83/351/EEC of 16 June 1983 amending Directive 70/220/EEC on the approximation of the laws of the Member States relating to measures to be taken against air pollution by gases from positive-ignition engines of motor vehicles (OJ L 197, 20.7.1983, p. 1).

⁽⁶⁾ Council Directive 88/76/EEC of 3 December 1987 amending Directive 70/220/EEC on the approximation of the laws of the Member States relating to measures to be taken against air pollution by gases from the engines of motor vehicles (OJ L 36, 9.2.1988, p. 1).

⁽⁷⁾ Council Directive 88/436/EEC of 16 June 1988 amending Directive 70/220/EEC on the approximation of the laws of the Member States relating to measures to be taken against air pollution by gases from engines of motor vehicles (Restriction of particulate pollutant emissions from diesel engines) (OJ L 214, 6.8.1988, p. 1).

⁽⁸⁾ Council Directive 89/458/EEC of 18 July 1989 amending with regard to European emission standards for cars below 1,4 litres Directive 70/220/EEC on the approximation of the laws of the Member States relating to measures to be taken against air pollution by emissions from motor vehicles (OJ L 226, 3.8.1989, p. 1).

⁽⁹⁾ Council Directive 91/441/EEC of 26 June 1991 amending Directive 70/220/EEC on the approximation of the laws of the Member States relating to measures to be taken against air pollution by emissions from motor vehicles (OJ L 242, 30.8.1991, p. 1).

⁽¹⁰⁾ Council Directive 93/59/EEC of 28 June 1993 amending Directive 70/220/EEC on the approximation of the laws of the Member States relating to measures to be taken against air pollution by emissions from motor vehicles (OJ L 186, 28.7.1993, p. 21).

⁽¹¹⁾ Directive 94/12/EC of the European Parliament and the Council of 23 March 1994 relating to measures to be taken against air pollution by emissions from motor vehicles (OJ L 100, 19.4.1994, p. 42).

⁽¹²⁾ Directive 96/69/EC of the European Parliament and of the Council of 8 October 1996 amending Directive 70/220/EEC on the approximation of the laws of the Member States relating to measures to be taken against air pollution by emissions from motor vehicles (OJ L 282, 1.11.1996, p. 64).

⁽¹³⁾ Directive 98/69/EC of the European Parliament and of the Council of 13 October 1998 relating to measures to be taken against air pollution by emissions from motor vehicles (OJ L 350, 28.12.1998, p. 1).

⁽¹⁴⁾ Directive 2001/1/EC of the European Parliament and of the Council of 22 January 2001 amending Council Directive 70/220/EEC concerning measures to be taken against air pollution by emissions from motor vehicles (OJ L 35, 6.2.2001, p. 34).

⁽¹⁵⁾ Directive 2001/100/EC of the European Parliament and of the Council of 7 December 2001 amending Council Directive 70/220/EEC on the approximation of the laws of the Member States on measures to be taken against air pollution by emissions from motor vehicles (OJ L 16, 18.1.2002, p. 32).

⁽¹⁶⁾ Directive 2004/3/EC of the European Parliament and of the Council of 11 February 2004 amending Council Directives 70/156/EEC and 80/1268/EEC as regards the measurement of carbon dioxide emissions and fuel consumption of N₁ vehicles (OJ L 49, 19.2.2004, p. 36).

⁽¹⁷⁾ OJ L 275, 20.10.2005, p. 1. Directive as last amended by Commission Directive 2006/51/EC (OJ L 152, 7.6.2006, p. 11).

(22) To ensure a smooth transition from the existing Directives to this Regulation, the applicability of this Regulation should be deferred by a certain period after its entry into force. However, during that period manufacturers should be able to choose to have vehicles approved under either the existing Directives or this Regulation. Moreover, the provisions on financial incentives should be applicable immediately after the entry into force of this Regulation. The validity of type approvals granted under the existing Directives is not to be affected by the entry into force of this Regulation.

(23) To ensure a smooth transition from the existing Directives to this Regulation, certain exceptions for vehicles designed to fulfil specific social needs should be foreseen in the Euro 5 stage. These exceptions should cease with the entry into force of the Euro 6 stage.

(24) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾.

(25) In particular, power should be conferred on the Commission to introduce particle number based limit values in Annex I, as well as to recalibrate the particulate mass based limit values set out in that Annex. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(26) Power should also be conferred on the Commission to establish specific procedures, tests and requirements for type approval, as well as a revised measurement procedure for particulates and a particle number based limit value, and to adopt measures concerning the use of defeat devices, access to vehicle repair and maintenance information and test cycles used to measure emissions. Since those measures are of general scope and are designed to supplement this Regulation by the addition of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(27) Since the objectives of this Regulation, namely the realisation of the internal market through the introduction of common technical requirements concerning emissions from motor vehicles and guaranteed access to vehicle repair and maintenance information for independent operators on the same basis as for authorised dealers and

repairers, 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,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject matter

1. This Regulation establishes common technical requirements for the type approval of motor vehicles (vehicles) and replacement parts, such as replacement pollution control devices, with regard to their emissions.

2. In addition, this Regulation lays down rules for in-service conformity, durability of pollution control devices, on-board diagnostic (OBD) systems, measurement of fuel consumption and accessibility of vehicle repair and maintenance information.

Article 2

Scope

1. This Regulation shall apply to vehicles of categories M₁, M₂, N₁ and N₂ as defined in Annex II to Directive 70/156/EEC with a reference mass not exceeding 2 610 kg.

2. At the manufacturer's request, type approval granted under this Regulation may be extended from vehicles covered by paragraph 1 to M₁, M₂, N₁ and N₂ vehicles as defined in Annex II to Directive 70/156/EEC with a reference mass not exceeding 2 840 kg and which meet the conditions laid down in this Regulation and its implementing measures.

Article 3

Definitions

For the purposes of this Regulation and its implementing measures the following definitions shall apply:

1. 'hybrid vehicle' means a vehicle with at least two different energy converters and two different energy storage systems (on vehicle) for the purpose of vehicle propulsion;

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

2. 'vehicles designed to fulfil specific social needs' means diesel vehicles of category M₁ which are either:
- (a) special purpose vehicles as defined in Directive 70/156/EEC with a reference mass exceeding 2 000 kg;
 - (b) vehicles with a reference mass exceeding 2 000 kg and designed to carry seven or more occupants including the driver with the exclusion, as from 1 September 2012, of vehicles of category M₁G as defined in Directive 70/156/EEC;
- or
- (c) vehicles with a reference mass exceeding 1 760 kg which are built specifically for commercial purposes to accommodate wheelchair use inside the vehicle;
3. 'reference mass' means the mass of the vehicle in running order less the uniform mass of the driver of 75 kg and increased by a uniform mass of 100 kg;
4. 'gaseous pollutants' means the exhaust gas emissions of carbon monoxide, oxides of nitrogen, expressed in nitrogen dioxide (NO₂) equivalent, and hydrocarbons;
5. 'particulate pollutants' means components of the exhaust gas which are removed from the diluted exhaust gas at a maximum temperature of 325 °K (52 °C) by means of the filters described in the test procedure for verifying average tailpipe emissions;
6. 'tailpipe emissions' means the emission of gaseous and particulate pollutants;
7. 'evaporative emissions' means the hydrocarbon vapours emitted from the fuel system of a vehicle other than those from tailpipe emissions;
8. 'crankcase' means the spaces in, or external to, an engine which are connected to the oil sump by internal or external ducts through which gases and vapours can be emitted;
9. 'on-board diagnostic system' or 'OBD system' means a system for emission control which has the capability of identifying the likely area of malfunction by means of fault codes stored in a computer memory;
10. 'defeat device' means any element of design which senses temperature, vehicle speed, engine speed (RPM), transmission gear, manifold vacuum or any other parameter for the purpose of activating, modulating, delaying or deactivating the operation of any part of the emission control system, that reduces the effectiveness of the emission control system under conditions which may reasonably be expected to be encountered in normal vehicle operation and use;
11. 'pollution control device' means those components of a vehicle that control and/or limit tailpipe and evaporative emissions;
12. 'original pollution control device' means a pollution control device or an assembly of such devices covered by the type approval granted for the vehicle concerned;
13. 'replacement pollution control device' means a pollution control device or an assembly of such devices intended to replace an original pollution control device and which can be approved as a separate technical unit as defined in Directive 70/156/EEC;
14. 'vehicle repair and maintenance information' means all information required for diagnosis, servicing, inspection, periodic monitoring, repair, re-programming or re-initialising of the vehicle and which the manufacturers provide for their authorised dealers and repairers, including all subsequent amendments and supplements to such information. This information includes all information required for fitting parts or equipment on vehicles;
15. 'independent operator' means undertakings other than authorised dealers and repairers which are directly or indirectly involved in the repair and maintenance of motor vehicles, in particular repairers, manufacturers or distributors of repair equipment, tools or spare parts, publishers of technical information, automobile clubs, roadside assistance operators, operators offering inspection and testing services, operators offering training for installers, manufacturers and repairers of equipment for alternative fuel vehicles;
16. 'biofuels' means liquid or gaseous fuels for transport, produced from biomass;
17. 'alternative fuel vehicle' means a vehicle designed to be capable of running on at least one type of fuel that is either gaseous at atmospheric temperature and pressure, or substantially non-mineral oil derived.

CHAPTER II

Article 5

MANUFACTURERS' TYPE-APPROVAL OBLIGATIONS**Requirements and tests**

Article 4

Manufacturers' obligations

1. Manufacturers shall demonstrate that all new vehicles sold, registered or put into service in the Community are type approved in accordance with this Regulation and its implementing measures. Manufacturers shall also demonstrate that all new replacement pollution control devices requiring type approval which are sold or put into service in the Community are type approved in accordance with this Regulation and its implementing measures.

These obligations include meeting the emission limits set out in Annex I and the implementing measures referred to in Article 5.

2. Manufacturers shall ensure that type approval procedures for verifying conformity of production, durability of pollution control devices and in-service conformity are met.

In addition, the technical measures taken by the manufacturer must be such as to ensure that the tailpipe and evaporative emissions are effectively limited, pursuant to this Regulation, throughout the normal life of the vehicles under normal conditions of use. Therefore, in-service conformity measures shall be checked for a period of up to five years or 100 000 km, whichever is the sooner. Durability testing of pollution control devices undertaken for type approval shall cover 160 000 km. To comply with this durability test, the manufacturers should have the possibility to make use of test bench ageing, subject to the implementing measures referred to in paragraph 4.

In-service conformity shall be checked, in particular, for tailpipe emissions as tested against emission limits set out in Annex I. In order to improve control of evaporative emissions and low ambient temperature emissions, the test procedures shall be reviewed by the Commission.

3. Manufacturers shall set out carbon dioxide emissions and fuel consumption figures in a document given to the purchaser of the vehicle at the time of purchase.

4. The specific procedures and requirements for the implementation of paragraphs 2 and 3 shall be established in accordance with the procedure referred to in Article 15(2).

1. The manufacturer shall equip vehicles so that the components likely to affect emissions are designed, constructed and assembled so as to enable the vehicle, in normal use, to comply with this Regulation and its implementing measures.

2. The use of defeat devices that reduce the effectiveness of emission control systems shall be prohibited. The prohibition shall not apply where:

- (a) the need for the device is justified in terms of protecting the engine against damage or accident and for safe operation of the vehicle;
- (b) the device does not function beyond the requirements of engine starting;

or

- (c) the conditions are substantially included in the test procedures for verifying evaporative emissions and average tailpipe emissions.

3. The specific procedures, tests and requirements for type approval set out in this paragraph, as well as requirements for the implementation of paragraph 2, which are designed to amend non-essential elements of this Regulation, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 15(3). This shall include establishing the requirements relating to:

- (a) tailpipe emissions, including test cycles, low ambient temperature emissions, emissions at idling speed, smoke opacity and correct functioning and regeneration of after-treatment systems;
- (b) evaporative emissions and crankcase emissions;
- (c) OBD systems and in-use performance of pollution control devices;
- (d) durability of pollution control devices, replacement pollution control devices, in-service conformity, conformity of production and roadworthiness;
- (e) measurement of greenhouse gas emissions and fuel consumption;
- (f) hybrid vehicles and alternative fuel vehicles;
- (g) extension of type approvals and requirements for small volume manufacturers;
- (h) test equipment;

and

- (i) reference fuels, such as petrol, diesel, gaseous fuels and bio-fuels, such as bioethanol, biodiesel and biogas.

The above requirements shall, where relevant, apply to vehicles regardless of the type of fuel by which they are powered.

CHAPTER III

ACCESS TO VEHICLE REPAIR AND MAINTENANCE INFORMATION

Article 6

Manufacturers' obligations

1. Manufacturers shall provide unrestricted and standardised access to vehicle repair and maintenance information to independent operators through websites using a standardised format in a readily accessible and prompt manner, and in a manner which is non-discriminatory compared to the provision given or access granted to authorised dealers and repairers. With a view to facilitating the achievement of this objective, the information shall be submitted in a consistent manner, initially in accordance with the technical requirements of the OASIS format ⁽¹⁾. Manufacturers shall also make training material available to independent operators and authorised dealers and repairers.
2. The information referred to in paragraph 1 shall include:
 - (a) an unequivocal vehicle identification;
 - (b) service handbooks;
 - (c) technical manuals;
 - (d) component and diagnosis information (such as minimum and maximum theoretical values for measurements);
 - (e) wiring diagrams;
 - (f) diagnostic trouble codes (including manufacturer specific codes);
 - (g) the software calibration identification number applicable to a vehicle type;
 - (h) information provided concerning, and delivered by means of, proprietary tools and equipment;

and

 - (i) data record information and two-directional monitoring and test data.

⁽¹⁾ The 'OASIS format' refers to the technical specifications of OASIS Document SC2-D5, Format of Automotive Repair Information, version 1.0, 28 May 2003 (available at: <http://www.oasis-open.org/committees/download.php/2412/Draft%20Committee%20Specification.pdf>) and of Sections 3.2, 3.5, 3.6, 3.7 and 3.8 of OASIS Document SC1-D2, Autorepair Requirements Specification, version 6.1, dated 10.1.2003 (available at: <http://lists.oasis-open.org/archives/autorepair/200302/pdf00005.pdf>), using only open text and graphic formats.

3. Authorised dealers or repairers within the distribution system of a given vehicle manufacturer shall be regarded as independent operators for the purposes of this Regulation to the extent that they provide repair or maintenance services for vehicles in respect of which they are not members of the vehicle manufacturer's distribution system.

4. The vehicle repair and maintenance information shall always be available, except as required for maintenance purposes of the information system.

5. For the purposes of manufacture and servicing of OBD-compatible replacement or service parts and diagnostic tools and test equipment, manufacturers shall provide the relevant OBD and vehicle repair and maintenance information on a non-discriminatory basis to any interested component, diagnostic tools or test equipment manufacturer or repairer.

6. For the purposes of the design and manufacture of automotive equipment for alternative fuel vehicles, manufacturers shall provide the relevant OBD and vehicle repair and maintenance information on a non-discriminatory basis to any interested manufacturer, installer or repairer of equipment for alternative fuel vehicles.

7. When applying for EC type approval or national type approval, the manufacturer shall provide the type approval authority with proof of compliance with this Regulation relating to access to vehicle repair and maintenance information and to the information referred to in paragraph 5. In the event that such information is not yet available, or does not yet conform to this Regulation and its implementing measures at that point in time, the manufacturer shall provide it within six months from the date of type approval. If such proof of compliance is not provided within that period, the approval authority shall take appropriate measures to ensure compliance.

The manufacturer shall make subsequent amendments and supplements to vehicle repair and maintenance information available on its websites at the same time they are made available to authorised repairers.

Article 7

Fees for access to vehicle repair and maintenance information

1. Manufacturers may charge reasonable and proportionate fees for access to vehicle repair and maintenance information covered by this Regulation; a fee is not reasonable or proportionate if it discourages access by failing to take into account the extent to which the independent operator uses it.

2. Manufacturers shall make available vehicle repair and maintenance information on a daily, monthly, and yearly basis, with fees for access to such information varying in accordance with the respective periods of time for which access is granted.

*Article 8***Implementing measures**

The measures necessary for implementation of Articles 6 and 7, which are designed to amend non-essential elements of this Regulation, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 15(3). This shall include the definition and updating of technical specifications relating to the way in which OBD and vehicle repair and maintenance information shall be provided, with special attention being paid to the specific needs of SMEs.

*Article 9***Report**

Not later than 2 July 2011, the Commission shall present to the European Parliament and to the Council a report on the operation of the system of access to vehicle repair and maintenance information, with particular consideration being given to the effect on competition and the operation of the internal market and the environmental benefits. The report shall consider whether it would be appropriate to consolidate all provisions governing access to vehicle repair and maintenance information within a revised framework directive on type approval.

CHAPTER IV

OBLIGATIONS OF MEMBER STATES*Article 10***Type approval**

1. With effect from 2 July 2007, if a manufacturer so requests, the national authorities may not, on grounds relating to emissions or fuel consumption of vehicles, refuse to grant EC type approval or national type approval for a new type of vehicle, or prohibit the registration, sale or entry into service of a new vehicle, where the vehicle concerned complies with this Regulation and its implementing measures, and in particular with the Euro 5 limit values set out in Table 1 of Annex I or with the Euro 6 limit values set out in Table 2 of Annex I.

2. With effect from 1 September 2009, and from 1 September 2010 in the case of category N₁ class II and III and category N₂ vehicles, the national authorities shall refuse, on grounds relating to emissions or fuel consumption, to grant EC type approval or national type approval for new types of vehicle which do not comply with this Regulation and its implementing measures, and in particular with the Annexes, with the exception of the Euro 6 limit values set out in Table 2 of Annex I. For the test on tailpipe emissions, the limit values applied to vehicles designed to fulfil specific social needs shall be the same as for category N₁ class III vehicles.

3. With effect from 1 January 2011, and from 1 January 2012 in the case of category N₁ class II and III and category N₂ vehicles and vehicles designed to fulfil specific social needs, national authorities shall, in the case of new vehicles which do not comply with this Regulation and its implementing measures, and in particular with the Annexes with the exception of the Euro 6 limit values set out in Table 2 of Annex I, consider certificates of conformity to be no longer valid for the purposes of Article 7(1) of Directive 70/156/EEC and shall, on grounds relating to emissions or fuel consumption, prohibit the registration, sale or entry into service of such vehicles. For the test on tailpipe emissions, the limit values applied to vehicles designed to fulfil specific social needs shall be the same as for category N₁ class III vehicles.

4. With effect from 1 September 2014, and from 1 September 2015 in the case of category N₁ class II and III and category N₂ vehicles, the national authorities shall refuse, on grounds relating to emissions or fuel consumption, to grant EC type approval or national type approval for new types of vehicle which do not comply with this Regulation and its implementing measures, and in particular with the Euro 6 limit values set out in Table 2 of Annex I.

5. With effect from 1 September 2015, and from 1 September 2016 in the case of category N₁ class II and III and category N₂ vehicles, national authorities shall, in the case of new vehicles which do not comply with this Regulation and its implementing measures, and in particular with the Euro 6 limit values set out in Table 2 of Annex I, consider certificates of conformity to be no longer valid for the purposes of Article 7(1) of Directive 70/156/EEC and shall, on grounds relating to emissions or fuel consumption, prohibit the registration, sale or entry into service of such vehicles.

*Article 11***Type approval of replacement parts**

1. For new replacement pollution control devices intended to be fitted on vehicles approved under this Regulation, national authorities shall prohibit their sale or installation on a vehicle if they are not of a type in respect of which a type approval has been granted in compliance with this Regulation and its implementing measures.

2. National authorities may continue to grant extensions to EC type approvals for replacement pollution control devices intended for standards preceding this Regulation under the terms which originally applied. National authorities shall prohibit the sale or installation on a vehicle of such replacement pollution control devices unless they are of a type in respect of which a relevant type approval has been granted.

3. Replacement pollution control devices intended to be fitted on vehicles type approved prior to the adoption of component type approval requirements are exempt from the requirements of paragraphs 1 and 2.

*Article 12***Financial incentives**

1. Member States may make provision for financial incentives that apply to vehicles in series production which comply with this Regulation and its implementing measures.

Those incentives shall be valid for all new vehicles offered for sale on the market of a Member State which comply at least with the emission limit values in Table 1 of Annex I in advance of the dates set out in Article 10(3); they shall cease on those dates.

Financial incentives that apply exclusively to vehicles which comply with the emission limit values in Table 2 of Annex I may be granted for such new vehicles offered for sale on the market of a Member State from the dates set out in Article 10(3) in advance of the dates set out in Article 10(5); they shall cease on the dates set out in Article 10(5).

2. Member States may grant financial incentives for the retrofitting of in-use vehicles and for scrapping vehicles which do not comply.

3. For each type of vehicle, the financial incentives referred to in paragraphs 1 and 2 shall not exceed the additional cost of the technical devices introduced to ensure compliance with the emission limits specified in Annex I, including the cost of installation on the vehicle.

4. The Commission shall be informed in sufficient time of plans to institute or change the financial incentives referred to in paragraphs 1 and 2.

*Article 13***Penalties**

1. Member States shall lay down the provisions on penalties applicable for infringement by manufacturers of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by 2 January 2009 and shall notify it without delay of any subsequent amendment affecting them.

2. The types of infringements which are subject to a penalty shall include:

- (a) making false declarations during the approval procedures or procedures leading to a recall;
- (b) falsifying test results for type approval or in-service conformity;
- (c) withholding data or technical specifications which could lead to recall or withdrawal of type approval;

(d) use of defeat devices;

and

(e) refusal to provide access to information.

CHAPTER V

FINAL PROVISIONS*Article 14***Redefinition of specifications**

1. The Commission shall consider including methane emissions in the calculation of carbon dioxide emissions. If necessary, the Commission shall present a proposal to the European Parliament and the Council with measures to account for, or limit, methane emissions.

2. After the completion of the UN/ECE Particulate Measurement Programme, conducted under the auspices of the World Forum for Harmonisation of Vehicle Regulations, and at the latest upon entry into force of Euro 6, the Commission shall adopt the following measures, which are designed to amend non-essential elements of this Regulation, inter alia by supplementing it, without lowering the existing ambition level with regard to the environment:

- (a) amendment of this Regulation in accordance with the regulatory procedure with scrutiny referred to in Article 15(3) for the purpose of recalibrating the particulate mass based limit values set out in Annex I to this Regulation, and introducing particle number based limit values in that Annex so that they correlate broadly with the petrol and diesel mass limit values;
- (b) adoption of a revised measurement procedure for particulates and a particle number limit value, in accordance with the regulatory procedure with scrutiny referred to in Article 15(3).

3. The Commission shall keep under review the procedures, tests and requirements referred to in Article 5(3) as well as the test cycles used to measure emissions. If the review finds that these are no longer adequate or no longer reflect real world emissions, they shall be adapted so as to adequately reflect the emissions generated by real driving on the road. The necessary measures, which are designed to amend non-essential elements of this Regulation, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 15(3).

4. The Commission shall keep under review the pollutants subject to the requirements and tests referred to in Article 5(3). If the Commission concludes that it is appropriate to regulate the emissions of additional pollutants it shall present a proposal to the European Parliament and to the Council to amend this Regulation accordingly.

5. The Commission shall review the emission limits set out in Table 4 of Annex I for the carbon monoxide and hydrocarbon tailpipe emissions after a cold start test and shall present, as appropriate, a proposal to the European Parliament and to the Council with a view to tightening the emission limits.

6. The relevant Annexes of Directive 2005/55/EC shall be amended in accordance with the regulatory procedure with scrutiny referred to in Article 15(3) so that they contain requirements for the type approval of all vehicles covered by the scope of that Directive.

Article 15

Committee procedure

1. The Commission shall be assisted by a committee.
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Article 16

Amendments to Directives 70/156/EEC and 2005/55/EC

1. Directive 70/156/EEC shall be amended in accordance with Annex II to this Regulation.
2. Directive 2005/55/EC is hereby amended as follows:

- (a) The title shall be replaced by the following:

'Directive 2005/55/EC of the European Parliament and of the Council of 28 September 2005 on type approval of heavy duty vehicles and engines with respect to their emissions (Euro IV and V)';

- (b) Article 1 shall be replaced by the following:

'Article 1

For the purposes of this Directive the following definitions shall apply:

- (a) "vehicle" means any motor vehicle as defined in Article 2 of Directive 70/156/EEC with a reference mass exceeding 2 610 kg;
- (b) "engine" means the motive propulsion source of a vehicle for which type-approval as a separate technical unit, as defined in Article 2 of Directive 70/156/EEC, may be granted;

- (c) "enhanced environment-friendly vehicle (EEV)" means a vehicle propelled by an engine which complies with the permissive emission limit values set out in row C of the tables in Section 6.2.1 of Annex I;

- (c) Section 1 of Annex I shall be replaced by the following:

1. This Directive applies to the control of gaseous and particulate pollutants, useful life of emission control devices, conformity of in-service vehicles/engines and on-board diagnostic (OBD) systems of all motor vehicles, and to engines as specified in Article 1 with the exception of those vehicles of category M₁, N₁, N₂ and M₂ for which type-approval has been granted under Regulation (EC) No 715/2007 (*).

(* OJ L 171, 29.6.2007, p. 1.'

Article 17

Repeal

1. The following Directives shall be repealed with effect from 2 January 2013:

- Directive 70/220/EEC,
- Directive 72/306/EEC,
- Directive 74/290/EEC,
- Directive 77/102/EEC,
- Directive 78/665/EEC,
- Directive 80/1268/EEC,
- Directive 83/351/EEC,
- Directive 88/76/EEC,
- Directive 88/436/EEC,
- Directive 89/458/EEC,
- Directive 91/441/EEC,
- Directive 93/59/EEC,
- Directive 93/116/EC,
- Directive 94/12/EC,
- Directive 96/44/EC,
- Directive 96/69/EC,
- Directive 98/69/EC,
- Directive 98/77/EC,

- Directive 1999/100/EC,
- Directive 1999/102/EC,
- Directive 2001/1/EC,
- Directive 2001/100/EC,
- Directive 2002/80/EC,
- Directive 2003/76/EC,
- Directive 2004/3/EC.

2. Annexes II and V of Commission Directive 89/491/EEC of 17 July 1989 adapting to technical progress Council Directives 70/157/EEC, 70/220/EEC, 72/245/EEC, 72/306/EEC, 80/1268/EEC and 80/1269/EEC relating to motor vehicles ⁽¹⁾ shall be deleted with effect from 2 January 2013.

3. References made to the repealed Directives shall be construed as being made to this Regulation.

4. Member States shall repeal their implementing legislation adopted under the Directives referred to in paragraph 1 with effect from 2 January 2013.

Article 18

Entry into force

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

2. This Regulation shall apply from 3 January 2009, with the exception of Articles 10(1) and 12 which shall apply from 2 July 2007.

3. The amendments or implementing measures referred to in Article 5(3) and Article 14(6) shall be adopted by 2 July 2008.

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

Done at Strasbourg, 20 June 2007.

For the European Parliament
The President
H.-G. PÖTTERING

For the Council
The President
G. GLOSER

⁽¹⁾ OJ L 238, 15.8.1989, p. 43.

ANNEX I

EMISSION LIMITS

Table 1

Euro 5 emission limits

Category	Class	Reference mass (RM) (kg)	Limit values													
			Mass of carbon monoxide (CO)		Mass of total hydrocarbons (THC)		Mass of non-methane hydrocarbons (NMHC)		Mass of oxides of nitrogen (NO _x)		Combined mass of total hydrocarbons and oxides of nitrogen (THC + NO _x)		Mass of particulate matter (PM)		Number of particles ⁽¹⁾ (P)	
			L ₁ (mg/km)		L ₂ (mg/km)		L ₃ (mg/km)		L ₄ (mg/km)		L ₂ + L ₄ (mg/km)		L ₅ (mg/km)		L ₆ (#/km)	
			PI	CI	PI	CI	PI	CI	PI	CI	PI	CI	PI ⁽²⁾	CI	PI	CI
M	—	All	1 000	500	100	—	68	—	60	180	—	230	5,0	5,0		
N ₁	I	RM ≤ 1 305	1 000	500	100	—	68	—	60	180	—	230	5,0	5,0		
	II	1 305 < RM ≤ 1 760	1 810	630	130	—	90	—	75	235	—	295	5,0	5,0		
	III	1 760 < RM	2 270	740	160	—	108	—	82	280	—	350	5,0	5,0		
N ₂			2 270	740	160	—	108	—	82	280	—	350	5,0	5,0		

Key: PI = Positive ignition, CI = Compression ignition

⁽¹⁾ A number standard is to be defined as soon as possible and at the latest upon entry into force of Euro 6.

⁽²⁾ Positive ignition particulate mass standards apply only to vehicles with direct injection engines.

Table 2
Euro 6 emission limits

Category	Class	Reference mass (RM) (kg)	Limit values													
			Mass of carbon monoxide (CO)		Mass of total hydrocarbons (THC)		Mass of non-methane hydrocarbons (NMHC)		Mass of oxides of nitrogen (NO _x)		Combined mass of total hydrocarbons and oxides of nitrogen (THC + NO _x)		Mass of particulate matter (PM)		Number of particles ⁽¹⁾ (P)	
			L ₁ (mg/km)		L ₂ (mg/km)		L ₃ (mg/km)		L ₄ (mg/km)		L ₂ + L ₄ (mg/km)		L ₅ (mg/km)		L ₆ (#/km)	
			PI	CI	PI	CI	PI	CI	PI	CI	PI	CI	PI ⁽²⁾	CI	PI	CI
M	—	All	1 000	500	100	—	68	—	60	80	—	170	5,0	5,0		
N ₁	I	RM ≤ 1 305	1 000	500	100	—	68	—	60	80	—	170	5,0	5,0		
	II	1 305 < RM ≤ 1 760	1 810	630	130	—	90	—	75	105	—	195	5,0	5,0		
	III	1 760 < RM	2 270	740	160	—	108	—	82	125	—	215	5,0	5,0		
N ₂			2 270	740	160	—	108	—	82	125	—	215	5,0	5,0		

Key: PI = Positive ignition, CI = Compression ignition

⁽¹⁾ A number standard is to be defined for this stage.

⁽²⁾ Positive ignition particulate mass standards apply only to vehicles with direct injection engines.

Table 3

Emission limit for the evaporative emissions test

Mass of Evaporative Emission (g/test)
2,0

Table 4

Emission limit for the carbon monoxide and hydrocarbon tailpipe emissions after a cold start test

Test temperature 266 K (- 7 °C)			
Vehicle Category	Class	Mass of carbon monoxide (CO) L ₁ (g/km)	Mass of hydrocarbons (HC) L ₂ (g/km)
M	—	15	1,8
N ₁	I	15	1,8
	II	24	2,7
	III	30	3,2
N ₂		30	3,2

ANNEX II

Amendments to Directive 70/156/EEC

Directive 70/156/EEC is hereby amended as follows:

1. in Article 2 the following sentence shall be added after the last indent:

'If reference is made in this Directive to a separate Directive or Regulation it shall also include their implementing acts.');

2. the words 'or Regulation' shall be added after the words 'separate Directive' in the following provisions:

Article 2, first indent; Article 2, ninth indent; Article 2, tenth indent; Article 2, fourteenth indent; Article 3(1); Article 3(4); Article 4(1)(c); Article 4(1)(d); Article 5(5); Article 6(3); Article 7(2); Article 13(4); Article 13(5); Annex I, first subparagraph; Annex III, Part III; Annex IV, Part II, first paragraph; Annex V Section 1(a); Annex V Section 1(b); Annex V Section 1(c); Annex VI, Side 2 of EC vehicle type-approval certificate; Annex VII(1), Section 4; Annex VII, footnote (1); Annex X, Section 2.1; Annex X, Section 3.3; Annex XI, Appendix 4, Meaning of letters: X; Annex XII, Section B(2); Annex XIV, Section 2(a); Annex XIV, Section 2(c); Annex XIV, Section 2(d);

3. the words 'or Regulations' shall be added after the words 'separate Directives' in the following provisions:

Article 2, eight indent; Article 3(1); Article 3(2); Article 4(1)(a) first and second indents; Article 4(1)(b); Article 4(3); Article 5(4) third subparagraph; Article 5(6); Article 8(2); Article 8(2)(c); Article 9(2); Article 10(2); Article 11(1); Article 13(2); Article 14(1)(i); List of Annexes: title of Annex XIII; Annex I, first subparagraph; Annex IV, Part I, first and second lines; Annex IV, Part II, footnote (1) to the table; Annex V Section 1(b); Annex V Section 3; Annex V Section 3(a); Annex V Section 3(b); Annex VI, points 1 and 2; Annex VI, Side 2 of EC vehicle type-approval certificate; Annex X, Section 2.2; Annex X, Section 2.3.5; Annex X, Section 3.5; Annex XII, title; Annex XIV, Section 1.1; Annex XIV, Section 2(c);

4. the words 'or Regulation' shall be added after the word 'Directive' in the following provisions:

Article 5(3) third subparagraph; Annex IV, Part I, footnote X to the table; Annex VI, Side 2 of EC vehicle type-approval certificate the heading of the tables; Annex VII(1) Section 2; Annex VII(1) Section 3; Annex VII(1) Section 4; Annex VIII, Sections 1, 2, 2.1, 2.2, and 3; Annex IX, Side 2 for complete or completed vehicles of category M₁ points 45, 46.1 and 46.2; Annex IX, Side 2 for complete or completed vehicles of categories M₂ and M₃ points 45 and 46.1; Annex IX, Side 2 for complete or completed vehicles of categories N₁, N₂ and N₃ points 45 and 46.1; Annex IX, Side 2 for incomplete vehicles of category M₁ points 45 and 46.1; Annex IX, Side 2 for incomplete vehicles of categories M₂ and M₃ points 45 and 46.1; Annex IX, Side 2 for incomplete vehicles of categories N₁, N₂ and N₃ points 45 and 46.1; Annex X, footnote 2; Annex X Section 1.2.2; Annex XI, Appendix 4, Meaning of letters: N/A; Annex XV, the heading of the table;

The words 'or Regulations' shall be added after the word 'Directives' in the following provisions:

Annex IX, Side 2 for complete or completed vehicles of category M₁; Annex IX, Side 2 for complete or completed vehicles of categories M₂ and M₃; Annex IX, Side 2 for complete or completed vehicles of categories N₁, N₂ and N₃; Annex IX, Side 2 for incomplete vehicles of category M₁; Annex IX, Side 2 for incomplete vehicles of categories M₂ and M₃; Annex IX, Side 2 for incomplete vehicles of categories N₁, N₂ and N₃; Annex XV;

5. in Article 8(2)(c) the words 'or Regulation(s)' shall be added after the word 'Directive(s)';

6. in Annex IV, part I, the heading of the table and point 2 shall be replaced by the following:

Subject	Directive/ Regulation number	Official Jour- nal reference	Applicability											
			M ₁	M ₂	M ₃	N ₁	N ₂	N ₃	O ₁	O ₂	O ₃	O ₄		
2. Emissions/Access to information	.../.../EC (EC) No .../...	L ..., ..., p. ...	X ⁽¹⁰⁾	X ⁽¹⁰⁾		X ⁽¹⁰⁾	X ⁽¹⁰⁾							

⁽¹⁰⁾ For vehicles with a reference mass not exceeding 2 610 kg. At the manufacturer's request may apply to vehicles with a reference mass not exceeding 2 840 kg.;

7. in Annex IV, part I, points 11 and 39 shall be deleted;
8. in Annex VII(4) the words 'or Regulation' shall be added after the words 'in the case of a Directive';
9. in Annex VII(5) the words 'or Regulation' shall be added after the words 'the latest Directive';
10. in Annex XI, Appendix 1, the heading of the table and point 2 shall be replaced by the following:

'Item	Subject	Directive/Regulation number	$M_1 \leq 2\,500$ (¹) kg	$M_1 > 2\,500$ (¹) kg	M_2	M_3
2	Emissions/Access to information	.../.../EC (EC) No .../...	Q	G + Q	G + Q'	

11. in Annex XI, Appendix 1, points 11 and 39 shall be deleted;
12. in Annex XI, Appendix 2, the heading of the table and point 2 shall be replaced by the following:

'Item	Subject	Directive/Regulation number	M_1	M_2	M_3	N_1	N_2	N_3	O_1	O_2	O_3	O_4
2	Emissions/Access to information	.../.../EC (EC) No .../...	A	A		A	A'					

13. in Annex XI, Appendix 2, points 11 and 39 shall be deleted;
14. in Annex XI, Appendix 3, the heading of the table and point 2 shall be replaced by the following:

'Item	Subject	Directive/Regulation number	M_2	M_3	N_1	N_2	N_3	O_1	O_2	O_3	O_4
2	Emissions/Access to information	.../.../EC (EC) No .../...	Q		Q	Q'					

15. in Annex XI, Appendix 3, point 11 shall be deleted;
16. in Annex XI, Appendix 4, the heading of the table and point 2 shall be replaced by the following:

'Item	Subject	Directive/Regulation number	Mobile crane of category N
2	Emissions/Access to information	.../.../EC (EC) No .../...	N/A'

17. in Annex XI, Appendix 4, point 11 shall be deleted.

**REGULATION (EC) No 716/2007 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 20 June 2007**

on Community statistics on the structure and activity of foreign affiliates

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 285(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Central Bank ⁽¹⁾,

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

Whereas:

- (1) Regular and good quality Community statistics on the structure and activity of foreign affiliates in the whole economy are essential for an adequate assessment of the impact of foreign-controlled enterprises on the European Union economy. This would also facilitate the monitoring of the effectiveness of the internal market and the gradual integration of the economies in the context of globalisation. In this context, multinational enterprises are playing a leading role, but small and medium-sized enterprises can also be concerned by foreign control.
- (2) The implementation and review of the General Agreement on Trade in Services (GATS) and of the Trade-Related Intellectual Property Rights Agreement (TRIPs) as well as the current and future negotiations on further agreements call for the relevant statistical information to be made available in order to assist the negotiations.
- (3) For the preparation of economic, competition, enterprise, research, technical development and employment policies in the context of the liberalisation process, statistics on foreign affiliates to measure direct and indirect effects of foreign control on employment, wages and productivity in particular countries and sectors are necessary.

⁽¹⁾ OJ C 144, 14.6.2005, p. 14.

⁽²⁾ Opinion of the European Parliament delivered on 12 December 2006 (not yet published in the Official Journal) and Council Decision of 25 May 2007.

- (4) The information provided under existing Community legislation or available in Member States is insufficient, inadequate or insufficiently comparable to serve as a reliable basis for the work of the Commission.

- (5) Regulation (EC) No 184/2005 ⁽³⁾ establishes a common framework for the systematic production of Community statistics on balance of payments, international trade in services and foreign direct investment. As balance of payments statistics cover only partially the data included in the GATS, it is essential that detailed statistics on foreign affiliates be produced regularly.

- (6) Council Regulation (EC, Euratom) No 58/97 of 20 December 1996 concerning structural business statistics ⁽⁴⁾ and Council Regulation (EEC) No 696/93 of 15 March 1993 on the statistical units for the observation and analysis of the production system in the Community ⁽⁵⁾ established a common framework for the collection, compilation, transmission and evaluation of Community statistics on the structure and activity of businesses in the Community.

- (7) The compilation of national accounts according to the Council Regulation (EC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community ⁽⁶⁾ requires comparable, complete and reliable business statistics on foreign affiliates.

- (8) Collectively, the Manual on Statistics of International Trade in Services of the United Nations, the Balance of Payments Manual (fifth edition) of the International Monetary Fund, the Benchmark Definition on foreign direct investment and the Handbook on Economic Globalisation Indicators of the Organisation for the Economic Cooperation and Development establish the general rules for compiling international comparable statistics on foreign affiliates.

⁽³⁾ OJ L 35, 8.2.2005, p. 23. Regulation as amended by Commission Regulation (EC) No 602/2006 (OJ L 106, 19.4.2006, p. 10).

⁽⁴⁾ OJ L 14, 17.1.1997, p. 1. Regulation as last amended by Regulation (EC) No 1893/2006 of the European Parliament and of the Council (OJ L 393, 30.12.2006, p. 1).

⁽⁵⁾ OJ L 76, 30.3.1993, p. 1. Regulation as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

⁽⁶⁾ OJ L 310, 30.11.1996, p. 1. Regulation as last amended by Regulation (EC) No 1267/2003 of the European Parliament and of the Council (OJ L 180, 18.7.2003, p. 1).

- (9) The production of specific Community statistics is governed by the rules set out in Council Regulation (EC) No 322/97 of 17 February 1997 on Community Statistics ⁽¹⁾.
- (10) Since the objective of this Regulation, namely the creation of common statistical standards for the production of comparable statistics on foreign affiliates, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the action, be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve that objective.
- (11) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾.
- (12) In particular, power should be conferred on the Commission to adapt the definitions in Annexes I and II and the level of detail in Annex III as well as to make any consequential changes to Annexes I and II, to implement the results of the pilot studies and to define the proper common quality standards and the contents and periodicity of the quality reports. Since those measures are of general scope and are designed to amend non-essential elements of, or to supplement, this Regulation by the addition of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny laid down in Article 5a of Decision 1999/468/EC.
- (13) The Statistical Programme Committee, established by Council Decision 89/382/EEC, Euratom ⁽³⁾, and the Committee on Monetary, Financial and Balance of Payments Statistics, established by Council Decision 2006/856/EC ⁽⁴⁾, have been consulted,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation establishes a common framework for the systematic production of Community statistics on the structure and activity of foreign affiliates.

⁽¹⁾ OJ L 52, 22.2.1997, p. 1. Regulation as amended by Regulation (EC) No 1882/2003.

⁽²⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽³⁾ OJ L 181, 28.6.1989, p. 47.

⁽⁴⁾ OJ L 332, 30.11.2006, p. 21.

Article 2

Definitions

For the purpose of this Regulation, the following definitions apply:

- (a) 'foreign affiliate' shall mean an enterprise resident in the compiling country over which an institutional unit not resident in the compiling country has control, or an enterprise not resident in the compiling country over which an institutional unit resident in the compiling country has control;
- (b) 'control' shall mean the ability to determine the general policy of an enterprise by choosing appropriate directors, if necessary. In this context, enterprise A is deemed to be controlled by an institutional unit B when B controls, whether directly or indirectly, more than half of the shareholders' voting power or more than half of the shares;
- (c) 'foreign control' shall mean that the controlling institutional unit is resident in a different country from the one where the institutional unit over which it has control is resident;
- (d) 'branches' shall mean local units not constituting separate legal entities, which are dependent on foreign-controlled enterprises. They are treated as quasi-corporate enterprises within the meaning of point 3(f) of the Explanatory notes to Section III (B) of the Annex to Regulation (EEC) No 696/93;
- (e) 'statistics on foreign affiliates' shall mean statistics describing the overall activity of foreign affiliates;
- (f) 'inward statistics on foreign affiliates' shall mean statistics describing the activity of foreign affiliates resident in the compiling country;
- (g) 'outward statistics on foreign affiliates' shall mean statistics describing the activity of foreign affiliates abroad controlled by an institutional unit resident in the compiling country;
- (h) 'ultimate controlling institutional unit of a foreign affiliate' shall mean the institutional unit, proceeding up a foreign affiliate's chain of control, which is not controlled by another institutional unit;
- (i) 'enterprise', 'local unit' and 'institutional unit' shall each have the same meaning as in Regulation (EEC) No 696/93.

*Article 3***Submission of data**

Member States shall submit to the Commission (Eurostat) data on foreign affiliates in respect of the characteristics, the economic activities and the geographical breakdown as referred to in Annexes I, II and III.

*Article 4***Data sources**

1. Member States shall, while complying with conditions as to quality referred to in Article 6, collect the information required under this Regulation using all the sources they consider relevant and appropriate.

2. Natural and legal persons required to supply information shall, when responding, comply with the time limits and definitions set by the national institutions responsible for the collection of data within the Member States in accordance with this Regulation.

3. Where the required data cannot be collected at a reasonable cost, best estimates, including zero values, may be transmitted.

*Article 5***Pilot studies**

1. The Commission shall draw up a programme for pilot studies to be carried out by national authorities within the meaning of Article 2 of Regulation (EC) No 322/97 on a voluntary basis on additional variables and breakdowns for inward and outward statistics on foreign affiliates.

2. The pilot studies shall be carried out in order to assess the relevance and feasibility of collecting data, taking into account the benefits of the availability of the data in relation to the cost of the statistical system and the burden on enterprises.

3. The Commission programme for pilot studies shall be consistent with Annexes I and II.

4. On the basis of the conclusions of the pilot studies, the Commission shall adopt the necessary implementation measures for inward and outward statistics on foreign affiliates in accordance with the regulatory procedure with scrutiny referred to in Article 10(3).

5. The pilot studies shall be completed by 19 July 2010.

*Article 6***Quality standards and reports**

1. Member States shall take all measures necessary to ensure the quality of the data transmitted according to common quality standards.

2. Member States shall supply the Commission (Eurostat) with a report on the quality of the data transmitted (quality reports).

3. The common quality standards as well as the content and periodicity of the quality reports shall be specified by the Commission in accordance with the regulatory procedure with scrutiny referred to in Article 10(3).

4. The Commission shall assess the quality of the data transmitted.

*Article 7***Recommendations manual**

The Commission shall, in close cooperation with the Member States, publish a recommendations manual which contains the relevant definitions and supplementary guidance concerning the Community statistics produced pursuant to this Regulation.

*Article 8***Timetable and derogations**

1. Member States shall compile the data according to the implementation timetable as specified in Annexes I and II.

2. During a transitional period that shall not exceed four years from the first reference year as referred to in Annexes I and II, derogations from the provisions of this Regulation may be granted for a limited period by the Commission to Member States, in accordance with the regulatory procedure referred to in Article 10(2), when their national systems require major adaptations.

*Article 9***Implementing measures**

1. The following measures for implementing this Regulation shall be adopted in accordance with the regulatory procedure referred to in Article 10(2):

(a) setting out the appropriate format and procedure for the transmission of results by Member States;

and

(b) granting derogations to Member States when their national systems require major adaptations, including granting derogations from any new requirements following pilot studies, pursuant to Article 8(2).

2. The following measures designed to amend non-essential elements of this Regulation, including by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 10(3):

- (a) adapting definitions in Annexes I and II, adapting the level of detail in Annex III, and making any consequential changes in Annexes I and II;
- (b) implementing the results of the pilot studies, pursuant to Article 5(4);

and

- (c) defining proper common quality standards and the contents and periodicity of the quality reports, pursuant to Article 6(3).

3. Particular consideration shall be given to the principle that the benefits of such measures must outweigh their costs, and to the principle that any additional financial burden on Member States or enterprises should remain within a reasonable limit.

Article 10
Committee

1. The Commission shall be assisted by the Statistical Programme Committee (the Committee).

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period referred to in Article 5(6) of Decision 1999/468/EC shall be three months.

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

4. The European Central Bank and the national central banks may attend the meetings of the Committee as observers.

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

Done at Strasbourg, 20 June 2007.

For the European Parliament
The President
H.-G. PÖTTERING

Article 11

Cooperation with the Committee on Monetary, Financial and Balance of Payments Statistics

In implementing this Regulation, the Commission shall request the opinion of the Committee on Monetary, Financial and Balance of Payments Statistics on all matters falling within that committee's competence, notably about all measures for adjustment to economic and technical developments concerning the collection and statistical processing of data, the processing and transmission of results.

Article 12

Report on implementation

The Commission shall, by 19 July 2012, submit a report to the European Parliament and the Council on the implementation of this Regulation. In particular, that report shall:

- (a) assess the quality of the statistics produced;
- (b) assess the benefits accruing to the Community, the Member States, the providers and users of statistical information of the statistics produced in relation to the costs;
- (c) assess the progress of the pilot studies and their implementation;

and

- (d) identify areas for potential improvement and amendments considered necessary in light of the results obtained and the costs involved.

Article 13

Entry into force

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

For the Council
The President
G. GLOSER

ANNEX I

COMMON MODULE FOR INWARD STATISTICS ON FOREIGN AFFILIATES

SECTION 1

Statistical unit

The statistical units are the enterprises and all branches, which are under foreign control according to the definitions contained in Article 2.

SECTION 2

Characteristics

The following characteristics as defined in the Annex to Commission Regulation (EC) No 2700/98 of 17 December 1998 concerning the definitions of characteristics for structural business statistics ⁽¹⁾ will be compiled:

Code	Title
11 11 0	Number of enterprises
12 11 0	Turnover
12 12 0	Production value
12 15 0	Value added at factor cost
13 11 0	Total purchases of goods and services
13 12 0	Purchases of goods and services purchased for resale in the same condition as received
13 31 0	Personnel costs
15 11 0	Gross investment in tangible goods
16 11 0	Number of persons employed
22 11 0	Total intra-mural R & D expenditure ^(*)
22 12 0	Total number of R & D personnel ^(*)

^(*) Variables 22 11 0 and 22 12 0 shall be reported every second year. If the total amount of turnover or the number of persons employed in a division of NACE Rev. 1.1 Sections C to F represent, in a Member State, less than 1 % of the Community total, the information necessary for the compilation of statistics relating to characteristics 22 11 0 and 22 12 0 need not be collated for the purposes of this Regulation.

If the number of persons employed is not available, the number of employees (code 16 13 0) will be compiled instead.

Variables total intra-mural R & D expenditure (code 22 11 0) and total number of R & D personnel (code 22 12 0) are only required to be compiled for activities in NACE sections C, D, E and F.

For NACE section J only the number of enterprises, turnover ^(?) and the number of persons employed (or the number of employees instead) will be compiled.

SECTION 3

Level of detail

Data will be provided according to the concept of 'ultimate controlling institutional unit' with the geographical breakdown level 2-IN combined with the activity breakdown level 3 as specified in Annex III and the geographical breakdown level 3 combined with Business Economy.

⁽¹⁾ OJ L 344, 18.12.1998, p. 49. Regulation as last amended by Regulation (EC) No 1670/2003 (OJ L 244, 29.9.2003, p. 74).

^(?) For NACE Rev. 1.1 division 65 turnover will be replaced by production value.

SECTION 4

First reference year and periodicity

1. The first reference year for which annual statistics will be compiled is the calendar year of the entry into force of this Regulation.
2. Member States will provide data for every calendar year thereafter.
3. The first reference year for which variables total intra-mural R & D expenditure (code 22 11 0) and total number of R & D personnel (code 22 12 0) will be compiled is 2007.

SECTION 5

Transmission of results

The results will be transmitted within 20 months after the end of the reference year.

SECTION 6

Reports and pilot studies

1. Member States will provide the Commission with a report relating to the definition, structure and availability of the statistical data to be compiled for the purposes of this common module.
2. For the level of detail covered by this Annex, the Commission will institute pilot studies to be carried out by national authorities within the meaning of Article 2 of Regulation (EC) No 322/97 pursuant to Article 5 of this Regulation.
3. The pilot studies will be carried out in order to assess the feasibility of obtaining data, taking into account the benefits of the availability of such data in relation to the cost of collection and the burden on business.
4. Pilot studies will be conducted for the following characteristics:

Code	Title
	Exports of goods and services
	Imports of goods and services
	Intra-group exports of goods and services
	Intra-group imports of goods and services

Exports, imports, intra-group exports and intra-group imports will be broken down into goods and services.

5. Pilot studies will also be conducted to study the feasibility of compiling data for activities in NACE sections M, N and O and of compiling the variables total intra-mural R & D expenditure (code 22 11 0) and total number of R & D personnel (code 22 12 0) for activities in NACE sections G, H, I, K, M, N and O. Pilot studies will also be conducted to assess the relevance, feasibility and costs of breaking down the data as specified in section 2 into size classes measured in terms of number of persons employed.

ANNEX II

COMMON MODULE FOR OUTWARD STATISTICS ON FOREIGN AFFILIATES

SECTION 1

Statistical unit

The statistical units are the enterprises and all branches abroad that are controlled by an institutional unit resident in the compiling country, according to the definitions contained in Article 2.

SECTION 2

Characteristics

The following characteristics, as defined in the Annex to Regulation (EC) No 2700/98, will be compiled:

Code	Title
12 11 0	Turnover
16 11 0	Number of persons employed
11 11 0	Number of enterprises

If the number of persons employed is not available, the number of employees (code 16 13 0) will be compiled instead.

SECTION 3

Level of detail

Data will be provided with the detail by country of location and by activity of the foreign affiliate specified in Annex III. The detail by country of location and activity will be combined as follows:

- Level 1 of the geographical breakdown combined with Level 2 of the activity breakdown.
- Level 2-OUT of the geographical breakdown combined with level 1 of the activity breakdown.
- Level 3 of the geographical breakdown combined with data on total activity only.

SECTION 4

First reference year and periodicity

1. The first reference year for which annual statistics will be compiled is the calendar year of the entry in force of this Regulation.
2. Member States will provide data for every calendar year thereafter.

SECTION 5

Transmission of results

The results will be transmitted within 20 months from the end of the reference year.

SECTION 6

Reports and pilot studies

1. Member States will provide the Commission with a report relating to the definition, structure and availability of the statistical data to be compiled for the purposes of this common module.
2. For the level of detail covered by this Annex, the Commission will institute pilot studies to be carried out by national authorities within the meaning of Article 2 of Regulation (EC) No 322/97, pursuant to Article 5 of this Regulation.
3. The pilot studies will be carried out in order to assess the relevance and feasibility of obtaining data, taking into account the benefits of the availability of such data in relation to the cost of collection and the burden on business.
4. Pilot studies will be conducted for the following characteristics:

Code	Title
13 31 0	Personnel costs
	Exports of goods and services
	Imports of goods and services
	Intra-group exports of goods and services
	Intra-group imports of goods and services
12 15 0	Value added at factor cost
15 11 0	Gross investment in tangible goods

ANNEX III

LEVELS FOR DETAILED INFORMATION BY GEOGRAPHY AND BY ACTIVITY

Geographical breakdown levels	Level 1		Level 2-OUT (Level 1 + 24 countries)
V2	Extra-EU 27	V2	Extra-EU 27
		IS	Iceland
		LI	Liechtenstein
		NO	Norway
CH	Switzerland	CH	Switzerland
		HR	Croatia
RU	Russian Federation	RU	Russian Federation
		TR	Turkey
		EG	Egypt
		MA	Morocco
		NG	Nigeria
		ZA	South Africa
CA	Canada	CA	Canada
US	United States of America	US	United States
		MX	Mexico
		AR	Argentina
BR	Brazil	BR	Brazil
		CL	Chile
		UY	Uruguay
		VE	Venezuela
		IL	Israel
CN	China	CN	China
HK	Hong Kong	HK	Hong Kong
IN	India	IN	India
		ID	Indonesia
JP	Japan	JP	Japan
		KR	South Korea
		MY	Malaysia
		PH	Philippines
		SG	Singapore
		TW	Taiwan
		TH	Thailand
		AU	Australia
		NZ	New Zealand
Z8	Extra-EU 27 not allocated	Z8	Extra-EU 27 not allocated
C4	Offshore Financial Centres	C4	Offshore Financial Centres
Z7	Equally-shared control of UCIs (*) of more than 1 Member State	Z7	Equally-shared control of UCIs (*) of more than one Member State

(*) Ultimate controlling institutional unit of a foreign affiliate

Level 2-IN

A1	World total (all entities including compiling country)
Z9	Rest of the World (excluding compiling country)
A2	Controlled by the compiling country
V1	EU-27 (Intra-EU-27) excluding compiling country
BE	Belgium
BG	Bulgaria
CZ	Czech Republic
DK	Denmark
DE	Germany
EE	Estonia
IE	Ireland
GR	Greece
ES	Spain
FR	France
IT	Italy
CY	Cyprus
LV	Latvia
LT	Lithuania
LU	Luxembourg
HU	Hungary
MT	Malta
NL	Netherlands
AT	Austria
PL	Poland
PT	Portugal
RO	Romania
SI	Slovenia
SK	Slovakia
FI	Finland
SE	Sweden
UK	United Kingdom
Z7	Equally-shared control of UCIs (*) of more than one Member State
V2	Extra-EU 27
AU	Australia
CA	Canada
CH	Switzerland
CN	China
HK	Hong Kong
IL	Israel
IS	Iceland
JP	Japan
LI	Liechtenstein
NO	Norway
NZ	New Zealand
RU	Russian Federation
TR	Turkey
US	United States
C4	Offshore financial centres
Z8	Extra-EU27 not allocated

(*) Ultimate controlling institutional unit of a foreign affiliate.

Level 3

AD	Andorra	EE	Estonia (*)	KZ	Kazakhstan	QA	Qatar
AE	United Arab Emirates	EG	Egypt	LA	Lao People's Democratic Republic	RO	Romania (*)
AF	Afghanistan	ER	Eritrea	LB	Lebanon	RS	Serbia
AG	Antigua and Barbuda	ES	Spain (*)	LC	Saint Lucia	RU	Russian Federation
AI	Anguilla	ET	Ethiopia	LI	Liechtenstein	RW	Rwanda
AL	Albania	FI	Finland (*)	LK	Sri Lanka	SA	Saudi Arabia
AM	Armenia	FJ	Fiji	LR	Liberia	SB	Solomon Islands
AN	Netherlands Antilles	FK	Falkland Islands (Malvinas)	LS	Lesotho	SC	Seychelles
AO	Angola	FM	Micronesia, Federated States of	LT	Lithuania (*)	SD	Sudan
AQ	Antarctica	FO	Faroe Islands	LU	Luxembourg (*)	SE	Sweden (*)
AR	Argentina	FR	France (*)	LV	Latvia (*)	SG	Singapore
AS	American Samoa	GA	Gabon	LY	Libyan Arab Jamahiriya	SH	St Helena
AT	Austria (*)	GD	Grenada	MA	Morocco	SI	Slovenia (*)
AU	Australia	GE	Georgia	MD	Moldova, Republic of	SK	Slovakia (*)
AW	Aruba	GG	Guernsey	ME	Montenegro	SL	Sierra Leone
AZ	Azerbaijan	GH	Ghana	MG	Madagascar	SM	San Marino
BA	Bosnia and Herzegovina	GI	Gibraltar	MH	Marshall Islands	SN	Senegal
BB	Barbados	GL	Greenland	MK ⁽¹⁾	the Former Yugoslav Republic of Macedonia	SO	Somalia
BD	Bangladesh	GM	Gambia	ML	Mali	SR	Suriname
BE	Belgium (*)	GN	Guinea	MM	Myanmar	ST	Sao Tome and Principe
BF	Burkina Faso	GQ	Equatorial Guinea	MN	Mongolia	SV	El Salvador
BG	Bulgaria (*)	GR	Greece (*)	MO	Macau	SY	Syrian Arab Republic
BH	Bahrain	GS	South Georgia and the South Sandwich Islands	MP	Northern Mariana Islands	SZ	Swaziland
BI	Burundi	GT	Guatemala	MR	Mauritania	TC	Turks and Caicos Islands
BJ	Benin	GU	Guam	MS	Montserrat	TD	Chad
BM	Bermuda	GW	Guinea-Bissau	MT	Malta (*)	TF	French Southern Territories
BN	Brunei Darussalam	GY	Guyana	MU	Mauritius	TG	Togo
BO	Bolivia	HK	Hong Kong	MV	Maldives	TH	Thailand
BR	Brazil	HM	Heard Island and McDonald Islands	MW	Malawi	TJ	Tajikistan
BS	Bahamas	HN	Honduras	MX	Mexico	TK	Tokelau
BT	Bhutan	HR	Croatia	MY	Malaysia	TM	Turkmenistan
BV	Bouvet Island	HT	Haiti	MZ	Mozambique	TN	Tunisia
BW	Botswana	HU	Hungary (*)	NA	Namibia	TO	Tonga

⁽¹⁾ Provisional code that does not affect the definitive denomination of the country to be attributed after the conclusion of the negotiation currently taking place at the United Nations.

BY	Belarus	ID	Indonesia	NC	New Caledonia	TP	East Timor
BZ	Belize	IE	Ireland (*)	NE	Niger	TR	Turkey
CA	Canada	IL	Israel	NF	Norfolk Island	TT	Trinidad and Tobago
CC	Cocos (Keeling) Islands	IM	Isle of Man	NG	Nigeria	TV	Tuvalu
CD	Congo, the Democratic Republic of the	IN	India	NI	Nicaragua	TW	Taiwan, Province of China
CF	Central African Republic	IO	British Indian Ocean Territory	NL	Netherlands (*)	TZ	Tanzania, United Republic of
CG	Congo	IQ	Iraq	NO	Norway	UA	Ukraine
CH	Switzerland	IR	Iran, Islamic Republic of	NP	Nepal	UG	Uganda
CI	Côte d'Ivoire	IS	Iceland	NR	Nauru	UK	United Kingdom (*)
CK	Cook Islands	IT	Italy (*)	NU	Niue	UM	United States Minor Outlying Islands
CL	Chile	JE	Jersey	NZ	New Zealand	US	United States
CM	Cameroon	JM	Jamaica	OM	Oman	UY	Uruguay
CN	China	JO	Jordan	PA	Panama	UZ	Uzbekistan
CO	Colombia	JP	Japan	PE	Peru	VA	Holy See (Vatican City State)
CR	Costa Rica	KE	Kenya	PF	French Polynesia	VC	St Vincent and the Grenadines
CU	Cuba	KG	Kyrgyzstan	PG	Papua New Guinea	VE	Venezuela
CV	Cape Verde	KH	Cambodia (Kampuchea)	PH	Philippines	VG	Virgin Islands, British
CX	Christmas Island	KI	Kiribati	PK	Pakistan	VI	Virgin Islands, US
CY	Cyprus (*)	KM	Comoros	PL	Poland (*)	VN	Viet Nam
CZ	Czech Republic (*)	KN	St Kitts and Nevis	PN	Pitcairn	VU	Vanuatu
DE	Germany (*)	KP	Korea, Democratic People's Republic of (North Korea)	PS	Palestinian Territory, Occupied	WF	Wallis and Futuna
DJ	Djibouti	KR	Korea, Republic of (South Korea)	PT	Portugal (*)	WS	Samoa
DK	Denmark (*)	KW	Kuwait	PW	Palau	YE	Yemen
DM	Dominica	KY	Cayman Islands	PY	Paraguay		
DO	Dominican Republic					ZA	South Africa
DZ	Algeria					ZM	Zambia
EC	Ecuador	Z8	Extra EU-27 not allocated			ZW	Zimbabwe
A2	Controlled by the compiling country	Z7	Equally-shared control of UCIs (**) of more than one Member State				

(*) Only for inward

(**) Ultimate controlling institutional unit of a foreign affiliate

Activity breakdown Levels

Level 1	Level 2	
		NACE Rev. 1.1 (!)
TOTAL ACTIVITY	TOTAL ACTIVITY	Sec C to O (excluding L)
MINING & QUARRYING	MINING AND QUARRYING Of which: Extraction of petroleum and gas	Sec C Div 11
MANUFACTURING	MANUFACTURING Food products Textiles and wearing apparel Wood, publishing and printing TOTAL textiles + wood activities Refined petroleum prod. And other treatments Manufacture of chemicals & chemical products Rubber and plastic products	Sec D Subsection DA Subsection DB Subsections DD & DE Div 23 Div 24 Div 25
Petrol., chem., rubber, plastic prod.	TOTAL petroleum, chemic., rubber, plastic products Metal products Mechanical products TOTAL metal and mechanical products Office machinery and computers Radio, TV, communication equipments	Subsection DJ Div 29 Div 30 Div 32
Office mach., comp., RTV, comm. eq.	TOTAL machin., comput., RTV, comm. equip. Motor vehicles Other transport equipment	Div 34 Div 35
Vehicles, other transport equip.	TOTAL vehicles + other transport equipment Manufacturing n.i.e.	
ELECTRIC., GAS & WATER	ELECTRICITY, GAS AND WATER	Sec E
CONSTRUCTION	CONSTRUCTION	Sec F
TOTAL SERVICES	TOTAL SERVICES	
TRADE AND REPAIRS	TRADE AND REPAIRS Sale, maintenance and repair of motor vehicles and motor cycles; retail sale of automotive fuel Wholesale trade and commission trade, except of motor vehicles and motor cycles Retail trade, except of motor vehicles and motor cycles; repair of personal and household goods	Sec G Div 50 Div 51 Div 52
HOTELS & RESTAURANTS	HOTELS AND RESTAURANTS	Sec H
TRANSP., STORAGE AND COM.	TRANSPORTS, STORAGE AND COMMUNICATION Transport and storage Land transport; transport via pipelines Water transport Air transport Supporting and auxiliary transport activities; activities of travel agencies Post and telecommunications Post and courier activities Telecommunications	Sec I Div 60, 61, 62, 63 Div 60 Div 61 Div 62 Div 63 Div 64 Group 64.1 Group 64.2
FINANCIAL INTERMED.	FINANCIAL INTERMEDIATION Financial intermediation, except insurance and pension funding Insurance and pension funding, except compulsory social security Activities auxiliary to financial intermediation REAL ESTATE ACTIVITIES RENTING OF MACHINERY AND EQUIPMENT WITHOUT OPERATOR AND OF PERSONAL AND HOUSEHOLD GOODS	Sec J Div 65 Div 66 Div 67 Sec K, Div 70 Sec K, Div 71

Level 1	Level 2	
		NACE Rev. 1.1 ⁽¹⁾
COMPUT. & RELATED ACT.	COMPUTER AND RELATED ACTIVITIES	Sec K, Div 72
RESEARCH & DEVELOP.	RESEARCH AND DEVELOPMENT	Sec K, Div 73
OTHER BUSINESS ACT.	OTHER BUSINESS ACTIVITIES	Sec K, Div 74
	Legal, account., market research, consultancy	Group 74.1
	Legal activities	Class 74.11
	Account., bookkeeping and audit.; tax consult.	Class 74.12
	Market research and public opinion polling	Class 74.13
	Business and management consultancy activities	Class 74.14
	Management activities of holding companies	Class 74.15
	Architectural, engineering and other tech. act.	Group 74.2
	Advertising	Group 74.4
	Business activities n.e.c.	Group 74.3, 74.5, 74.6, 74.7, 74.8
	EDUCATION	Sec M
	HEALTH AND SOCIAL WORK	Sec N
	SEWAGE AND REFUSE DISPOSAL	Sec O, Div 90
	ACTIVITIES OF MEMBERSHIP ORGANIS. N.E.C.	Sec O, Div 91
REC., CULT., SPORTING ACTIV.	RECREATIONAL, CULT., SPORTING ACTIVITIES	Sec O, Div 92
	Motion picture, radio, tel., other entertain. activ.	Group 92.1, 92.2, 92.3
	News agency activities	Group 92.4
	Library, archives, museums, other cultural act.	Group 92.5
	Sporting and other recreational activities	Group 92.6, 92.7
	OTHER SERVICE ACTIVITIES	Sec O, Div 93
	Not allocated	

⁽¹⁾ Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community (OJ L 293, 24.10.1990, p. 1). Regulation as last amended by Regulation (EC) No 1893/2006.

Level 3 (NACE Rev. 1.1)	
Heading	Requested level of detail
Business Economy	Sections C to K
Mining and quarrying	Section C
Manufacturing	Section D
	All subsections DA to DN
	All divisions 15 to 37
	Aggregates:
	High-technology (HIT) 24.4, 30, 32, 33, 35.3
	Medium-high-technology (MHT) 24 except 24.4, 29, 31, 34, 35.2, 35.4, 35.5
	Medium-low-technology (MLT) 23, 25-28, 35.1
	Low-Technology (LOT) 15-22, 36, 37
Electricity, gas and water supply	Section E
	All divisions (40 and 41)
Construction	Section F (Division 45)
	All Groups (45.1 to 45.5)
Wholesale and retail trade; repair of motor vehicles, motorcycles and personal and household goods	Section G
	All divisions (50 to 52)
	Groups 50.1 + 50.2 + 50.3, 50.4, 50.5, 51.1 to 51.9
	Groups 52.1 to 52.7
Hotels and restaurants	Section H (Division 55)
	Groups 55.1 to 55.5
Transport, storage and communication	Section I
	All divisions
	Groups 60.1, 60.2, 60.3, 63.1 + 63.2, 63.3, 63.4, 64.1, 64.2
Financial intermediation	Section J
	All divisions
Real estate, renting and business activities	Section K
	Division 70
	Division 71, groups 71.1 + 71.2, 71.3 and 71.4
	Division 72, groups 72.1 to 72.6
	Division 73
	Division 74, the aggregates 74.1 to 74.4 and 74.5 to 74.8

REGULATION (EC) No 717/2007 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 27 June 2007

**on roaming on public mobile telephone networks within the Community and amending
Directive 2002/21/EC**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having consulted the Committee of the Regions,

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

Whereas:

(1) The high level of the prices payable by users of public mobile telephone networks, such as students, business travellers and tourists, when using their mobile telephones when travelling abroad within the Community is a matter of concern for national regulatory authorities, as well as for consumers and the Community institutions. The excessive retail charges are resulting from high wholesale charges levied by the foreign host network operator and also, in many cases, from high retail mark-ups charged by the customer's own network operator. Reductions in wholesale charges are often not passed on to the retail customer. Although some operators have recently introduced tariff schemes that offer customers more favourable conditions and lower prices, there is still evidence that the relationship between costs and prices is not such as would prevail in fully competitive markets.

(2) The creation of a European social, educational and cultural area based on the mobility of individuals should facilitate communication between people in order to build a real 'Europe for Citizens'.

(3) Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive) ⁽³⁾, Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) ⁽⁴⁾, Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) ⁽⁵⁾, Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) ⁽⁶⁾ and Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) ⁽⁷⁾ (hereinafter together referred to as 'the 2002 regulatory framework for electronic communications') aim to create an internal market for electronic communications within the Community while ensuring a high level of consumer protection through enhanced competition.

(4) This Regulation is not an isolated measure, but complements and supports, insofar as Community-wide roaming is concerned, the rules provided for by the 2002 regulatory framework for electronic communications. That framework has not provided national regulatory authorities with sufficient tools to take effective and decisive action with regard to the pricing of roaming services within the Community and thus fails to ensure the smooth functioning of the internal market for roaming services. This Regulation is an appropriate means of correcting this situation.

⁽³⁾ OJ L 108, 24.4.2002, p. 7.

⁽⁴⁾ OJ L 108, 24.4.2002, p. 21.

⁽⁵⁾ OJ L 108, 24.4.2002, p. 33.

⁽⁶⁾ OJ L 108, 24.4.2002, p. 51.

⁽⁷⁾ OJ L 201, 31.7.2002, p. 37. Directive as amended by Directive 2006/24/EC (OJ L 105, 13.4.2006, p. 54).

⁽¹⁾ OJ C 324, 30.12.2006, p. 42.

⁽²⁾ Opinion of the European Parliament of 23 May 2007 (not yet published in the Official Journal) and Council Decision of 25 June 2007.

- (5) The 2002 regulatory framework for electronic communications draws on the principle that ex ante regulatory obligations should only be imposed where there is not effective competition, providing for a process of periodic market analysis and review of obligations by national regulatory authorities, leading to the imposition of ex ante obligations on operators designated as having significant market power. The elements constituting this process include the definition of relevant markets in accordance with the Commission's Recommendation ⁽¹⁾ on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive 2002/21/EC (hereinafter referred to as 'the Recommendation'), the analysis of the defined markets in accordance with the Commission's guidelines on market analysis and the assessment of significant market power under the Community regulatory framework for electronic communications networks and services ⁽²⁾, the designation of operators with significant market power and the imposition of ex ante obligations on operators so designated.
- (6) The Recommendation identifies as a relevant market susceptible to ex ante regulation the wholesale national market for international roaming on public mobile networks. However, the work undertaken by the national regulatory authorities (both individually and within the European Regulators Group) in analysing the wholesale national markets for international roaming has demonstrated that it has not yet been possible for a national regulatory authority to address effectively the high level of wholesale Community-wide roaming charges because of the difficulty in identifying undertakings with significant market power in view of the specific circumstances of international roaming, including its cross-border nature.
- (7) As regards the retail provision of international roaming services, the Recommendation does not identify any retail market for international roaming as a relevant market, owing among other things to the fact that international roaming services at retail level are not purchased independently but constitute only one element of a broader retail package purchased by customers from their home provider.
- (8) In addition, the national regulatory authorities responsible for safeguarding and promoting the interests of mobile customers normally resident within their territory are not able to control the behaviour of the operators of the visited network, situated in other Member States, on whom those customers depend when using international roaming services. This obstacle could also diminish the effectiveness of measures taken by Member States based on their residual competence to adopt consumer protection rules.
- (9) Accordingly, there is pressure for Member States to take measures to address the level of international roaming charges, but the mechanism for ex ante regulatory intervention by national regulatory authorities provided by the 2002 regulatory framework for electronic communications has not proved sufficient to enable those authorities to act decisively in the consumers' interest in this specific area.
- (10) Furthermore, the European Parliament resolution on European electronic communications regulation and markets 2004 ⁽³⁾ called on the Commission to develop new initiatives to reduce the high costs of cross-border mobile telephone traffic, while the European Council of 23 and 24 March 2006 concluded that focused, effective and integrated information and communication technology (ICT) policies both at European and national level are essential to achieving the renewed Lisbon Strategy's goals of economic growth and productivity and noted in this context the importance for competitiveness of reducing roaming charges.
- (11) The 2002 regulatory framework for electronic communications, on the basis of considerations apparent at that time, was aimed at removing all barriers to trade between Member States in the area that it harmonised, inter alia, measures which affect roaming charges. However, this should not prevent the adaptation of harmonised rules in step with other considerations in order to find the most effective means of achieving a high level of consumer protection whilst improving the conditions for the functioning of the internal market.
- (12) The 2002 regulatory framework for electronic communications, in particular the Framework Directive, should therefore be amended to allow for a departure from the rules otherwise applicable, namely that prices for service offerings should be determined by commercial agreement in the absence of significant market power, and to thereby accommodate the introduction of complementary regulatory obligations which reflect the specific characteristics of Community-wide roaming services.
- (13) The retail and wholesale roaming markets exhibit unique characteristics which justify exceptional measures which go beyond the mechanisms otherwise available under the 2002 regulatory framework for electronic communications.

⁽¹⁾ OJ L 114, 8.5.2003, p. 45.

⁽²⁾ OJ C 165, 11.7.2002, p. 6.

⁽³⁾ OJ C 285 E, 22.11.2006, p. 143.

- (14) Regulatory obligations should be imposed at both retail and wholesale level to protect the interests of roaming customers, since experience has shown that reductions in wholesale prices for Community-wide roaming services may not be reflected in lower retail prices for roaming owing to the absence of incentives for this to happen. On the other hand, action to reduce the level of retail prices without addressing the level of the wholesale costs associated with the provision of these services could risk disrupting the orderly functioning of the Community-wide roaming market.
- (15) These regulatory obligations should take effect as soon as possible, while providing the operators concerned with a reasonable period to adapt their prices and service offerings to ensure compliance, and apply directly in all Member States.
- (16) A common approach should be employed for ensuring that users of terrestrial public mobile telephone networks when travelling within the Community do not pay excessive prices for Community-wide roaming services when making or receiving voice calls, thereby achieving a high level of consumer protection while safeguarding competition between mobile operators and preserving both incentives for innovation and consumer choice. In view of the cross-border nature of the services concerned, this common approach is needed so that mobile operators can operate within a single coherent regulatory framework based on objectively established criteria.
- (17) The most effective and proportionate approach to regulating the level of prices for making and receiving intra-Community roaming calls is the setting at Community level of a maximum average per-minute charge at wholesale level and the limiting of charges at retail level through the introduction of a Eurotariff. The average wholesale charge should apply between any pair of operators within the Community over a specified period.
- (18) The Eurotariff should be set at a level which guarantees a sufficient margin to operators and encourages competitive roaming offerings at lower rates. Operators should actively offer a Eurotariff to all their roaming customers, free of charge, and in a clear and transparent manner.
- (19) This regulatory approach should ensure that retail charges for Community-wide roaming provide a more reasonable reflection of the underlying costs involved in the provision of the service than has been the case. The maximum Eurotariff that may be offered to roaming customers should therefore reflect a reasonable margin over the wholesale cost of providing a roaming service, whilst allowing operators the freedom to compete by differentiating their offerings and adapting their pricing structures to market conditions and consumer preferences. This regulatory approach should not apply to value added services.
- (20) This regulatory approach should be simple to implement and monitor in order to minimise the administrative burden both for the operators which are affected by its requirements and for the national regulatory authorities charged with its supervision and enforcement. It should also be transparent and immediately understandable to all mobile customers within the Community. Furthermore it should provide certainty and predictability to operators providing wholesale and retail roaming services. The level in monetary terms of the maximum per-minute charges at wholesale and retail level should therefore be specified in this Regulation.
- (21) The maximum average per-minute charge at wholesale level so specified should take account of the different elements involved in the making of a Community-wide roaming call, in particular the cost of originating and terminating calls over mobile networks and including overheads, signalling and transit. The most appropriate benchmark for call origination and for call termination is the average mobile termination rate for mobile network operators in the Community, based on information provided by the national regulatory authorities and published by the Commission. The maximum average per-minute charge established by this Regulation should therefore be determined taking into account the average mobile termination rate, which offers a benchmark for the costs involved. The maximum average per-minute charge at wholesale level should decrease annually to take account of reductions in mobile termination rates imposed by national regulatory authorities from time to time.
- (22) The Eurotariff applicable at retail level should provide roaming customers with the assurance that they will not be charged an excessive price when making or receiving a regulated roaming call, whilst leaving the home operators sufficient margin to differentiate the products they offer to customers.
- (23) All consumers should have the option of choosing without additional charges or preconditions a simple roaming tariff which will not exceed regulated rates. A reasonable margin between wholesale costs and retail prices should ensure that operators cover all their specific roaming costs at retail level including appropriate shares of marketing costs and handset subsidies and are left with an adequate residual to yield a reasonable return. A Eurotariff is an appropriate means to provide both the consumer with protection and the operator with flexibility. In line with the wholesale level the maximum levels of the Eurotariff should decrease annually.

- (24) New roaming customers should be fully informed of the range of tariffs that exist for roaming within the Community, including the tariffs which are compliant with the Eurotariff. Existing roaming customers should be given the opportunity to choose a new tariff compliant with the Eurotariff or any other roaming tariff within a certain time frame. For existing roaming customers who have not made their choice within this time frame, it is appropriate to distinguish between those who had already opted for a specific roaming tariff or package before the entry into force of this Regulation and those who had not. The latter should be automatically accorded a tariff that complies with this Regulation. Roaming customers who already benefit from specific roaming tariffs or packages which suit their individual requirements and which they have chosen on that basis should remain on their previously selected tariff or package if, after having been reminded of their current tariff conditions, they fail to express a choice within the relevant time period. Such specific roaming tariffs or packages could include, for example, roaming flat-rates, non-public tariffs, tariffs with additional fixed roaming charges, tariffs with per-minute charges lower than the maximum Eurotariff or tariffs with set-up charges.
- (25) Providers of retail Community-wide roaming services should have a period within which to adjust their prices to comply with the limits laid down in this Regulation.
- (26) Similarly, providers of wholesale Community-wide roaming services should have an adaptation period to comply with the limits laid down in this Regulation.
- (27) Since this Regulation provides that the Directives making up the 2002 regulatory framework for electronic communications are without prejudice to any specific measure adopted for the regulation of Community-wide roaming charges for mobile voice telephony calls, and since providers of Community-wide roaming services may be required by this Regulation to make changes to their retail roaming tariffs in order to comply with the requirements of this Regulation, such changes should not trigger for mobile customers any right under national laws transposing the 2002 regulatory framework for electronic communications to withdraw from their contracts.
- (28) This Regulation should not prejudice innovative offers to consumers which are more advantageous than the maximum Eurotariff as defined in this Regulation, but rather should encourage innovative offers to roaming customers at lower rates. This Regulation does not require roaming charges to be reintroduced in cases where they have been abolished altogether, nor does it require existing roaming charges to be increased to the level of the limits set out in this Regulation.
- (29) Home providers may offer a fair-use, all-inclusive, monthly flat-rate to which no charge limits apply. This flat-rate could cover Community-wide roaming voice and/or data communication services (including Short Message Service (SMS) and Multimedia Messaging Service (MMS)) within the Community.
- (30) To ensure that all users of mobile voice telephony may benefit from the provisions of this Regulation, the retail pricing requirements should apply regardless of whether roaming customers have a pre-paid or a post-paid contract with their home provider, and regardless of whether the home provider has its own network, is a mobile virtual network operator or is a reseller of mobile voice telephony services.
- (31) Where Community providers of mobile telephony services find the benefits of interoperability and end-to-end connectivity for their customers jeopardised by the termination, or threat of termination, of their roaming arrangements with mobile network operators in other Member States, or are unable to provide their customers with service in another Member State as a result of a lack of agreement with at least one wholesale network provider, national regulatory authorities should make use, where necessary, of the powers under Article 5 of the Access Directive to ensure adequate access and interconnection in order to guarantee such end-to-end connectivity and the interoperability of services, taking into account the objectives of Article 8 of the Framework Directive, in particular the creation of a fully functioning single market for electronic communications services.
- (32) In order to improve the transparency of retail prices for making and receiving regulated roaming calls within the Community and to help roaming customers make decisions on the use of their mobile telephones while abroad, providers of mobile telephony services should enable their roaming customers easily to obtain information free of charge on the roaming charges applicable to them when making or receiving voice calls in a visited Member State. Moreover, providers should give their customers, on request and free of charge, additional information on the per-minute or per-unit data charges (including VAT) for the making or receiving of voice calls and also for the sending and receiving of SMS, MMS and other data communication services in the visited Member State.

- (33) Transparency also requires that providers furnish information on roaming charges, in particular on the Eurotariff and the all-inclusive flat-rate should they offer one, when subscriptions are taken out and each time there is a change in roaming charges. Home providers should provide information on roaming charges by appropriate means such as invoices, the internet, TV advertisements or direct mail. Home providers should ensure that all their roaming customers are aware of the availability of regulated tariffs and should send a clear and unbiased communication to these customers describing the conditions of the Eurotariff and the right to switch to and from it.
- (34) The national regulatory authorities which are responsible for carrying out tasks under the 2002 regulatory framework for electronic communications should have the powers needed to supervise and enforce the obligations under this Regulation within their territory. They should also monitor developments in the pricing of voice and data services for mobile customers when roaming within the Community including, where appropriate, the specific costs related to roaming calls made and received in the outermost regions of the Community and the need to ensure that these costs can be adequately recovered on the wholesale market, and that traffic steering techniques are not used to limit choice to the detriment of customers. They should ensure that up-to-date information on the application of this Regulation is made available to interested parties and publish the results of such monitoring every six months. Information should be provided on corporate, post-paid and pre-paid customers separately.
- (35) In-country roaming in the outermost regions of the Community where mobile telephony licences are distinct from those issued in respect of the rest of the national territory could benefit from rate reductions equivalent to those practised on the Community roaming market. The implementation of this Regulation should not give rise to less favourable pricing treatment for customers using in-country roaming services as opposed to customers using Community-wide roaming services. To this end, the national authorities may take additional measures consistent with Community law.
- (36) In view of the fact that, in addition to voice telephony, new mobile data communication services are gaining ever more ground, this Regulation should make it possible to monitor market developments in those services too. The Commission, therefore, should also monitor the market for roaming data communication services, including SMS and MMS.
- (37) Member States should provide for a system of penalties to be applied in the event of breach of this Regulation.
- (38) Since the objectives of this Regulation, namely to establish a common approach to ensure that users of public mobile telephone networks when travelling within the Community do not pay excessive prices for Community-wide roaming services when making or receiving voice calls, thereby achieving a high level of consumer protection while safeguarding competition between mobile operators, cannot be sufficiently achieved by the Member States in a secure, harmonised and timely manner 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.
- (39) This common approach should be established for a limited time period. This Regulation may, in the light of a review to be carried out by the Commission, be extended or amended. The Commission should review the effectiveness of this Regulation and the contribution which it makes to the implementation of the regulatory framework and the smooth functioning of the internal market and also examine the impact of this Regulation on the smaller mobile telephony providers in the Community and their position in the Community-wide roaming market,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1. This Regulation introduces a common approach to ensuring that users of public mobile telephone networks when travelling within the Community do not pay excessive prices for Community-wide roaming services when making calls and receiving calls, thereby contributing to the smooth functioning of the internal market while achieving a high level of consumer protection, safeguarding competition between mobile operators and preserving both incentives for innovation and consumer choice. It lays down rules on the charges that may be levied by mobile operators for the provision of international roaming services for voice calls originating and terminating within the Community and applies both to charges levied between network operators at wholesale level and to charges levied by home providers at retail level.

2. This Regulation also lays down rules aimed at increasing price transparency and improving the provision of information on charges to users of Community-wide roaming services.

3. This Regulation constitutes a specific measure within the meaning of Article 1(5) of the Framework Directive.

4. The charge limits set out in this Regulation are expressed in Euro. Where charges governed by Articles 3 and 4 are denominated in other currencies, the initial limits pursuant to those Articles shall be determined in those currencies by applying the reference exchange rates prevailing on 30 June 2007, as published by the European Central Bank in the *Official Journal of the European Union*. For the purposes of the subsequent reductions in those limits provided for in Article 3(2) and Article 4(2), the revised values shall be determined by applying the reference exchange rates so published one month preceding the date from which the revised values apply.

Article 2

Definitions

1. For the purposes of this Regulation, the definitions set out in Article 2 of the Access Directive, Article 2 of the Framework Directive, and Article 2 of the Universal Service Directive shall apply.

2. In addition to the definitions referred to in paragraph 1, the following definitions shall apply:

- (a) 'Eurotariff' means any tariff not exceeding the maximum charge, provided for in Article 4, which a home provider may levy for the provision of regulated roaming calls in compliance with that Article;
- (b) 'home provider' means an undertaking that provides a roaming customer with terrestrial public mobile telephony services either via its own network or as a mobile virtual network operator or reseller;
- (c) 'home network' means a terrestrial public mobile telephone network located within a Member State and used by a home provider for the provision of terrestrial public mobile telephony services to a roaming customer;
- (d) 'Community-wide roaming' means the use of a mobile telephone or other device by a roaming customer to make or receive intra-Community calls while in a Member State other than that in which his home network is located, by means of arrangements between the operator of the home network and the operator of the visited network;

(e) 'regulated roaming call' means a mobile voice telephony call made by a roaming customer, originating on a visited network and terminating on a public telephone network within the Community or received by a roaming customer, originating on a public telephone network within the Community and terminating on a visited network;

(f) 'roaming customer' means a customer of a provider of terrestrial public mobile telephony services, by means of a terrestrial public mobile network situated in the Community, whose contract or arrangement with his home provider permits the use of a mobile telephone or other device to make or to receive calls on a visited network by means of arrangements between the operator of the home network and the operator of the visited network;

(g) 'visited network' means a terrestrial public mobile telephone network situated in a Member State other than that of the home network and permitting a roaming customer to make or receive calls by means of arrangements with the operator of the home network.

Article 3

Wholesale charges for the making of regulated roaming calls

1. The average wholesale charge that the operator of a visited network may levy from the operator of a roaming customer's home network for the provision of a regulated roaming call originating on that visited network, inclusive inter alia of origination, transit and termination costs, shall not exceed EUR 0,30 per minute.

2. This average wholesale charge shall apply between any pair of operators and shall be calculated over a twelve month period or any such shorter period as may remain before the expiry of this Regulation. The maximum average wholesale charge shall decrease to EUR 0,28 and EUR 0,26, on 30 August 2008 and on 30 August 2009 respectively.

3. The average wholesale charge referred to in paragraph 1 shall be calculated by dividing the total wholesale roaming revenue received by the total number of wholesale roaming minutes sold for the provision of wholesale roaming calls within the Community by the relevant operator over the relevant period. The operator of the visited network shall be permitted to make a distinction between peak and off-peak charges.

Article 4

Retail charges for regulated roaming calls

1. Home providers shall make available and actively offer to all their roaming customers, clearly and transparently, a Eurotariff as provided for in paragraph 2. This Eurotariff shall not entail any associated subscription or other fixed or recurring charges and may be combined with any retail tariff.

When making this offer, home providers shall remind any of their roaming customers who, before 30 June 2007, had chosen a specific roaming tariff or package of the conditions applicable to that tariff or package.

2. The retail charge (excluding VAT) of a Eurotariff which a home provider may levy from its roaming customer for the provision of a regulated roaming call may vary for any roaming call but shall not exceed EUR 0,49 per minute for any call made or EUR 0,24 per minute for any call received. The price ceiling for calls made shall decrease to EUR 0,46 and EUR 0,43, and for calls received to EUR 0,22 and EUR 0,19, on 30 August 2008 and on 30 August 2009 respectively.

3. All roaming customers shall be offered a tariff as set out in paragraph 2.

All existing roaming customers shall be given the opportunity by 30 July 2007 to opt deliberately for a Eurotariff or any other roaming tariff, and shall be allowed a period of two months within which to make their choice known to their home provider. The requested tariff shall be activated no later than one month after receipt by the home provider of the customer's request.

Roaming customers who within that period of two months have not expressed their choice shall automatically be provided with a Eurotariff as set out in paragraph 2.

However, roaming customers who before 30 June 2007 had already made a deliberate choice of a specific roaming tariff or package other than the roaming tariff which they would have been accorded in the absence of such choice, and who fail to express a choice pursuant to this paragraph, shall remain on their previously chosen tariff or package.

4. Any roaming customer may request, at any point after the process set out in paragraph 3 has been completed, to switch to or from a Eurotariff. Any switch must be made within one working day of receipt of the request and free of charge and shall not entail conditions or restrictions pertaining to other elements of the subscription. A home provider may delay such a switch until the previous roaming tariff has been effective for a minimum specified period not exceeding three months.

Article 5

Application of Articles 3 and 6

1. Article 3 shall apply from 30 August 2007.
2. Article 6(1) and (2) shall apply from 30 September 2007.

Article 6

Transparency of retail charges

1. To alert a roaming customer to the fact that he will be subject to roaming charges when making or receiving a call, each home provider shall, except when the customer has notified his home provider that he does not require this service, provide the customer, automatically by means of a Message Service, without undue delay and free of charge, when he enters a Member State other than that of his home network, with basic personalised pricing information on the roaming charges (including VAT) that apply to the making and receiving of calls by that customer in the visited Member State.

This basic personalised pricing information shall include the maximum charges the customer may be subject to under his tariff scheme for making calls within the visited country and back to the Member State of his home network, as well as for calls received. It shall also include the free of charge number referred to in paragraph 2 for obtaining more detailed information.

A customer who has given notice that he does not require the automatic Message Service shall have the right at any time and free of charge to require the home provider to provide the service again.

Home providers shall provide blind or partially-sighted customers with this basic personalised pricing information automatically, by voice call, free-of-charge, if they so request.

2. In addition to paragraph 1, customers shall have the right to request and receive, free of charge, more detailed personalised pricing information on the roaming charges that apply to voice calls, SMS, MMS and other data communication services, by means of a mobile voice call or by SMS. Such a request shall be to a free of charge number designated for this purpose by the home provider.

3. Home providers shall provide all users with full information on applicable roaming charges, in particular on the Eurotariff, when subscriptions are taken out. They shall also provide their roaming customers with updates on applicable roaming charges without undue delay each time there is a change in these charges.

Home providers shall take the necessary steps to secure awareness by all their roaming customers of the availability of the Eurotariff. They shall in particular communicate to all roaming customers by 30 July 2007 the conditions relating to the Eurotariff in a clear and unbiased manner. They shall send a reminder at reasonable intervals thereafter to all customers who have opted for another tariff.

*Article 7***Supervision and enforcement**

1. National regulatory authorities shall monitor and supervise compliance with this Regulation within their territory.

2. National regulatory authorities shall make up-to-date information on the application of this Regulation, in particular Articles 3 and 4, publicly available in a manner that enables interested parties to have easy access to it.

3. National regulatory authorities shall in preparation for the review provided for in Article 11, monitor developments in wholesale and retail charges for the provision to roaming customers of voice and data communications services, including SMS and MMS, including in the outermost regions referred to in Article 299(2) of the Treaty. National regulatory authorities shall also be alert to the particular case of involuntary roaming in the border regions of neighbouring Member States and monitor whether traffic steering techniques are used to the disadvantage of customers. They shall communicate the results of such monitoring to the Commission, including separate information on corporate, post-paid and pre-paid customers, every six months.

4. National regulatory authorities shall have the power to require undertakings subject to obligations under this Regulation to supply all information relevant to the implementation and enforcement of this Regulation. Those undertakings shall provide such information promptly on request and to the timescales and level of detail required by the national regulatory authority.

5. National regulatory authorities may intervene on their own initiative in order to ensure compliance with this Regulation. In particular, they shall, where necessary, make use of the powers under Article 5 of the Access Directive to ensure adequate access and interconnection in order to guarantee the end-to-end connectivity and interoperability of roaming services.

6. Where a national regulatory authority finds that a breach of the obligations set out in this Regulation has occurred, it shall have the power to require the immediate cessation of such a breach.

*Article 8***Dispute resolution**

1. In the event of a dispute in connection with the obligations laid down in this Regulation between undertakings providing electronic communications networks or services in a Member State, the dispute resolution procedures laid down in Articles 20 and 21 of the Framework Directive shall apply.

2. In the event of an unresolved dispute involving a consumer or end-user and concerning an issue falling within the scope of this Regulation, the Member States shall ensure that the out-of-court dispute resolution procedures laid down in Article 34 of the Universal Service Directive are available.

*Article 9***Penalties**

Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission no later than 30 March 2008 and shall notify it without delay of any subsequent amendment affecting them.

*Article 10***Amendment to Directive 2002/21/EC (Framework Directive)**

The following paragraph shall be added to Article 1 of Directive 2002/21/EC (Framework Directive):

'5. This Directive and the Specific Directives shall be without prejudice to any specific measure adopted for the regulation of international roaming on public mobile telephone networks within the Community.'

*Article 11***Review**

1. The Commission shall review the functioning of this Regulation and report to the European Parliament and the Council no later than 30 December 2008. The Commission shall evaluate in particular whether the objectives of this Regulation have been achieved. In its report the Commission shall review developments in wholesale and retail charges for the provision to roaming customers of voice and data communication services, including SMS and MMS, and shall, if appropriate, include recommendations regarding the need to regulate these services. For this purpose the Commission may use the information supplied pursuant to Article 7(3).

2. In its report, the Commission shall assess whether, in the light of developments in the market and with regard to both competition and consumer protection, there is need to extend the duration of this Regulation beyond the period set out in Article 13 or to amend it, taking into account the developments in charges for mobile voice and data communication services at national level and the effects of this Regulation on the competitive situation of smaller, independent or newly started operators. If the Commission finds that there is such a need, it shall submit a proposal to the European Parliament and the Council.

*Article 12***Notification requirements**

Member States shall notify to the Commission no later than 30 August 2007 the identity of the national regulatory authorities responsible for carrying out tasks under this Regulation.

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

Done at Brussels, 27 June 2007.

For the European Parliament
The President
H.-G. PÖTTERING

*Article 13***Entry into force and expiry**

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

It shall expire on 30 June 2010.

For the Council
The President
A. MERKEL
