

# Official Journal

## of the European Union

L 8



English edition

Legislation

Volume 52

13 January 2009

Contents

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

## REGULATIONS

Commission Regulation (EC) No 17/2009 of 12 January 2009 establishing the standard import values for determining the entry price of certain fruit and vegetables ..... 1

## DIRECTIVES

★ **Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008 amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community <sup>(1)</sup>** ..... 3

## II Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory

## DECISIONS

## Commission

2009/14/EC:

★ **Commission Decision of 17 December 2008 amending Decision 2006/636/EC fixing the annual breakdown by Member State of the amount for Community support to rural development for the period from 1 January 2007 to 31 December 2013 (notified under document number C(2008) 8370)** ..... 22

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

(Continued overleaf)

2009/15/EC:

- ★ **Commission Decision of 19 December 2008 rejecting an application for entry in the register of protected designations of origin and protected geographical indications provided for in Council Regulation (EC) No 510/2006 (*Džiugas*) (PGI) (notified under document number C(2008) 8423).....** 24

2009/16/EC:

- ★ **Commission Decision of 19 December 2008 rejecting an application for entry in the register of protected designations of origin and protected geographical indications provided for in Council Regulation (EC) No 510/2006 (*Germantas*) (PGI) (notified under document number C(2008) 8430)...** 25

2009/17/EC:

- ★ **Commission Decision of 19 December 2008 setting up the Committee of Experts on Posting of Workers** ..... 26

2009/18/EC:

- ★ **Commission Decision of 22 December 2008 on the compliance of standard EN 1273:2005 on baby walking frames with the general safety requirement of Directive 2001/95/EC of the European Parliament and of the Council and publication of the reference of the standard in the Official Journal (notified under document number C(2008) 8616) <sup>(1)</sup>.....** 29

2009/19/EC:

- ★ **Commission Decision of 9 January 2009 amending Decision 2008/655/EC as regards the approval of the emergency vaccination plans against bluetongue of certain Member States and fixing the level of the Community's financial contribution for 2007 and 2008 (notified under document number C(2008) 8966).....** 31

---

**Corrigenda**

- ★ **Corrigendum to Commission Regulation (EC) No 543/2008 of 16 June 2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultrymeat (OJ L 157, 17.6.2008) .....** 33

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**Note to the reader** (see page 3 of the cover)



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

## I

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

## REGULATIONS

## COMMISSION REGULATION (EC) No 17/2009

of 12 January 2009

**establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>,

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector <sup>(2)</sup>, and in particular Article 138(1) thereof,

Whereas:

Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 13 January 2009.

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

Done at Brussels, 12 January 2009.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

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

## ANNEX

## Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	MA	52,1
	TN	134,4
	TR	125,7
	ZZ	104,1
0707 00 05	JO	167,2
	MA	110,0
	TR	151,4
	ZZ	142,9
0709 90 70	MA	87,6
	TR	113,3
	ZZ	100,5
0805 10 20	EG	53,0
	IL	55,0
	MA	62,8
	TR	77,9
	ZA	44,1
	ZZ	58,6
0805 20 10	MA	65,7
	ZZ	65,7
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	55,3
	IL	70,0
	TR	52,7
	ZZ	59,3
0805 50 10	EG	47,1
	MA	57,3
	TR	56,4
	ZZ	53,6
0808 10 80	CA	87,4
	CN	95,7
	MK	35,0
	US	114,6
	ZZ	83,2
0808 20 50	CN	57,4
	US	115,7
	ZZ	86,6

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

## DIRECTIVES

## DIRECTIVE 2008/101/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 19 November 2008

## amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community

(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 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

Having regard to the opinion of the Committee of the Regions <sup>(2)</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(3)</sup>,

Whereas:

(1) Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community <sup>(4)</sup> established a scheme for greenhouse gas emission allowance trading within the Community in order to promote reductions of greenhouse gas emissions in a cost-effective and economically efficient manner.

<sup>(1)</sup> OJ C 175, 27.7.2007, p. 47.

<sup>(2)</sup> OJ C 305, 15.12.2007, p. 15.

<sup>(3)</sup> Opinion of the European Parliament of 13 November 2007 (not yet published in the Official Journal), Council Common Position of 18 April 2008 (OJ C 122 E, 20.5.2008, p. 19) and Position of the European Parliament of 8 July 2008 (not yet published in the Official Journal). Council Decision of 24 October 2008.

<sup>(4)</sup> OJ L 275, 25.10.2003, p. 32.

(2) The ultimate objective of the United Nations Framework Convention on Climate Change (UNFCCC), which was approved on behalf of the European Community by Council Decision 94/69/EC <sup>(5)</sup>, is to stabilise greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.

(3) The European Council meeting in Brussels on 8 and 9 March 2007 underlined the vital importance of achieving the strategic objective of limiting the global average temperature increase to not more than 2 °C above pre-industrial levels. The latest scientific findings reported by the Intergovernmental Panel on Climate Change (IPCC) in its Fourth Assessment Report demonstrate even more clearly that the negative impacts of climate change are increasingly posing a serious risk to ecosystems, food production and the attainment of sustainable development and of the Millennium Development Goals, as well as to human health and security. Keeping the 2 °C objective within reach requires stabilisation of the concentration of greenhouse gases in the atmosphere in line with about 450 ppmv CO<sub>2</sub> equivalent, which requires global greenhouse gas emissions to peak within the next 10 to 15 years and substantial global emission reductions to at least 50 % below 1990 levels by 2050.

(4) The European Council emphasised that the European Union is committed to transforming Europe into a highly energy-efficient and low greenhouse gas-emitting economy and, until a global and comprehensive post-2012 agreement is concluded, made a firm independent commitment for the EU to reduce its greenhouse gas emissions to at least 20 % below 1990 levels by 2020. The limitation of greenhouse gas emissions from aviation is an essential contribution in line with this commitment.

<sup>(5)</sup> OJ L 33, 7.2.1994, p. 11.

- (5) The European Council emphasised that the EU is committed to a global and comprehensive agreement for reductions in greenhouse gas emissions beyond 2012, providing an effective, efficient and equitable response on the scale required to face climate change challenges. It endorsed a 30 % reduction in the EU's greenhouse gas emissions below 1990 levels by 2020 as its contribution to a global and comprehensive agreement for the period beyond 2012, provided that other developed countries commit themselves to comparable emission reductions and economically more advanced developing countries to contributing adequately according to their responsibilities and respective capabilities. The EU is continuing to take the lead in the negotiation of an ambitious international agreement that will achieve the objective of limiting the global temperature increase to 2 °C and is encouraged by the progress made towards this objective at the 13th Conference of the Parties to the UNFCCC in Bali in December 2007. The EU will seek to ensure that such a global agreement includes measures to reduce greenhouse gas emissions from aviation and, in this event, the Commission should consider which amendments to this Directive as it applies to aircraft operators are necessary.
- (6) On 14 February 2007 the European Parliament adopted a resolution on climate change <sup>(1)</sup> in which it referred to the objective to limit the average global temperature increase to 2 °C above pre-industrialisation levels, and in which it urged the EU to maintain its leading role in the negotiations with a view to establishing a post-2012 international framework on climate change and to maintain a high level of ambition in future discussions with its international partners, and it emphasised the need to undertake overall emission reductions for all industrialised countries of 30 % compared to 1990 emission levels by 2020 with a view to achieving a reduction in the order of 60 to 80 % by 2050.
- (7) The UNFCCC requires all parties to formulate and implement national and, where appropriate, regional programmes containing measures to mitigate climate change.
- (8) The Kyoto Protocol to the UNFCCC, which was approved on behalf of the European Community by Council Decision 2002/358/EC <sup>(2)</sup>, requires developed countries to pursue the limitation or reduction of emissions of greenhouse gases not controlled by the Montreal Protocol from aviation, working through the International Civil Aviation Organisation (ICAO).
- (9) While the Community is not a Contracting Party to the 1944 Chicago Convention on International Civil Aviation (the Chicago Convention), all Member States are Contracting Parties to that Convention and members of the ICAO. Member States continue to support work with other States in the ICAO on the development of measures, including market-based instruments, to address the climate change impacts of aviation. At the sixth meeting of the ICAO Committee on Aviation Environmental Protection in 2004, it was agreed that an aviation-specific emissions trading system based on a new legal instrument under ICAO auspices seemed sufficiently unattractive that it should not then be pursued further. Consequently, Resolution A35-5 of the ICAO's 35th Assembly held in September 2004 did not propose a new legal instrument but instead endorsed open emissions trading and the possibility for States to incorporate emissions from international aviation into their emissions trading schemes. Appendix L to Resolution A36-22 of the ICAO's 36th Assembly held in September 2007 urges Contracting States not to implement an emissions trading system on other Contracting States' aircraft operators except on the basis of mutual agreement between those States. Recalling that the Chicago Convention recognises expressly the right of each Contracting Party to apply on a non-discriminatory basis its own air laws and regulations to the aircraft of all States, the Member States of the European Community and fifteen other European States placed a reservation on this resolution and reserved the right under the Chicago Convention to enact and apply market-based measures on a non-discriminatory basis to all aircraft operators of all States providing services to, from or within their territory.
- (10) The Sixth Community Environment Action Programme established by Decision No 1600/2002/EC of the European Parliament and of the Council <sup>(3)</sup> provided for the Community to identify and undertake specific actions to reduce greenhouse gas emissions from aviation if no such action were agreed within the ICAO by 2002. In its conclusions of October 2002, December 2003 and October 2004, the Council has repeatedly called on the Commission to propose action to reduce the climate change impact of international air transport.
- (11) Policies and measures should be implemented at Member State and Community level across all sectors of the Community economy in order to generate the substantial reductions needed. If the climate change impact of the aviation sector continues to grow at the current rate, it would significantly undermine reductions made by other sectors to combat climate change.

<sup>(1)</sup> OJ C 287 E, 29.11.2007, p. 344.

<sup>(2)</sup> OJ L 130, 15.5.2002, p. 1.

<sup>(3)</sup> OJ L 242, 10.9.2002, p. 1.

- (12) In its Communication of 27 September 2005 to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions entitled 'Reducing the Climate Change Impact of Aviation', the Commission outlined a strategy for reducing the climate impact of aviation. As part of a comprehensive package of measures, the strategy proposed the inclusion of aviation in the Community scheme for greenhouse gas emission allowance trading and provided for the creation of a multi-stakeholder working group on aviation as part of the second phase of the European Climate Change Programme to consider ways of including aviation in the Community scheme. In its Conclusions of 2 December 2005, the Council recognised that, from an economic and environmental point of view, the inclusion of the aviation sector in the Community scheme seemed to be the best way forward and called on the Commission to bring forward a legislative proposal by the end of 2006. In its resolution of 4 July 2006 on reducing the climate change impact of aviation<sup>(1)</sup>, the European Parliament recognised that emissions trading has the potential to play a role as part of a comprehensive package of measures to address the climate impact of aviation, provided that it is appropriately designed.
- (13) A comprehensive package of measures should also include operational and technological measures. Improvements in air traffic management under the Single European Sky and SESAR programmes could help increase overall fuel efficiency by up to 12%. Research into new technologies, including into methods for improving the fuel efficiency of aircraft, can further cut emissions from aviation.
- (14) The objective of the amendments made to Directive 2003/87/EC by this Directive is to reduce the climate change impact attributable to aviation by including emissions from aviation activities in the Community scheme.
- (15) Aircraft operators have the most direct control over the type of aircraft in operation and the way in which they are flown and should therefore be responsible for complying with the obligations imposed by this Directive, including the obligation to prepare a monitoring plan and to monitor and report emissions in accordance with that plan. An aircraft operator may be identified by the use of an ICAO designator or any other recognised designator used in the identification of the flight. If the identity of the aircraft operator is not known, the owner of the aircraft should be regarded as the aircraft operator unless it proves which other person was the aircraft operator.
- (16) In order to avoid distortions of competition and improve environmental effectiveness, emissions from all flights arriving at and departing from Community aerodromes should be included from 2012.
- (17) The Community and its Member States should continue to seek an agreement on global measures to reduce greenhouse gas emissions from aviation. The Community scheme may serve as a model for the use of emissions trading worldwide. The Community and its Member States should continue to be in contact with third parties during the implementation of this Directive and to encourage third countries to take equivalent measures. If a third country adopts measures, which have an environmental effect at least equivalent to that of this Directive, to reduce the climate impact of flights to the Community, the Commission should consider the options available in order to provide for optimal interaction between the Community scheme and that country's measures, after consulting with that country. Emissions trading schemes being developed in third countries are beginning to provide for optimal interaction with the Community scheme in relation to their coverage of aviation. Bilateral arrangements on linking the Community scheme with other trading schemes to form a common scheme or taking account of equivalent measures to avoid double regulation could constitute a step towards global agreement. Where such bilateral arrangements are made, the Commission may amend the types of aviation activities included in the Community scheme, including consequential adjustments to the total quantity of allowances to be issued to aircraft operators.
- (18) In line with the principle of better regulation, certain flights should be exempt from the Community scheme. To further avoid disproportionate administrative burdens, commercial air transport operators operating, for three consecutive four-month periods, fewer than 243 flights per period should be exempt from the Community scheme. This would benefit airlines operating limited services within the scope of the Community scheme, including airlines from developing countries.
- (19) Aviation has an impact on the global climate through releases of carbon dioxide, nitrogen oxides, water vapour and sulphate and soot particles. The IPCC has estimated that the total climate impact of aviation is currently two to four times higher than the effect of its past carbon

<sup>(1)</sup> OJ C 303 E, 13.12.2006, p. 119.

dioxide emissions alone. Recent Community research indicates that the total climate impact of aviation could be around two times higher than the impact of carbon dioxide alone. However, none of these estimates takes into account the highly uncertain cirrus cloud effects. In accordance with Article 174(2) of the Treaty, Community environment policy is to be based on the precautionary principle. Pending scientific progress, all impacts of aviation should be addressed to the extent possible. Emissions of nitrogen oxides will be addressed in other legislation to be proposed by the Commission in 2008. Research on the formation of contrails and cirrus clouds and effective mitigation measures, including operational and technical measures, should be promoted.

Without prejudice to that position, revenues generated from the auctioning of allowances, or an equivalent amount where required by overriding budgetary principles of the Member States, such as unity and universality, should be used to reduce greenhouse gas emissions, to adapt to the impacts of climate change in the EU and third countries, to fund research and development for mitigation and adaptation and to cover the cost of administering the Community scheme. Revenues generated from auctioning should also be used on low-emission transport. The proceeds of auctioning should in particular be used to fund contributions to the Global Energy Efficiency and Renewable Energy Fund, and measures to avoid deforestation and facilitate adaptation in developing countries. The provisions of this Directive relating to the use of revenues should not prejudice any decision on the use to be made of revenues generated from the auctioning of allowances in the broader context of the general review of Directive 2003/87/EC.

- (20) In order to avoid distortions of competition, a harmonised allocation methodology should be specified for determining the total quantity of allowances to be issued and for distributing allowances to aircraft operators. A proportion of allowances will be allocated by auction in accordance with rules to be developed by the Commission. A special reserve of allowances should be set aside to ensure access to the market for new aircraft operators and to assist aircraft operators which increase sharply the number of tonne-kilometres that they perform. Aircraft operators that cease operations should continue to be issued with allowances until the end of the period for which free allowances have already been allocated.
- (21) Full harmonisation of the proportion of allowances issued free of charge to all aircraft operators participating in the Community scheme is appropriate in order to ensure a level playing field for aircraft operators, given that each aircraft operator will be regulated by a single Member State in respect of all their operations to, from and within the EU and by the non-discrimination provisions of bilateral air service agreements with third countries.
- (22) Aviation contributes to the overall climate change impact of human activities and the environmental impact of greenhouse gas emissions from aircraft can be mitigated through measures to tackle climate change in the EU and third countries, especially in developing countries, and to fund research and development for mitigation and adaptation including in particular in the fields of aeronautics and air transport. Decisions on national public expenditure are a matter for Member States, in line with the principle of subsidiarity.
- (23) Provisions for the use of funds from the auctioning should be notified to the Commission. Such notification does not release Member States from the obligation laid down in Article 88(3) of the Treaty to notify certain national measures. This Directive should be without prejudice to the outcome of any future State aid procedures that may be undertaken in accordance with Articles 87 and 88 of the Treaty.
- (24) To increase the cost-effectiveness of the Community scheme, aircraft operators should be able to use certified emission reductions (CERs) and emission reduction units (ERUs) from project activities to meet obligations to surrender allowances up to a harmonised limit. The use of CERs and ERUs should be consistent with the criteria for acceptance for use in the trading scheme set out in this Directive. The average of the percentages specified by Member States for the use of CERs and ERUs during the Kyoto Protocol's first commitment period is approximately 15 %.
- (25) In its Conclusions, the European Council meeting in Brussels on 13 and 14 March 2008 recognised that in a global context of competitive markets the risk of carbon leakage is a concern that needs to be analysed and addressed urgently in the new Emissions Trading System Directive, so that if international negotiations fail appropriate measures can be taken. An international agreement remains the best way of addressing this issue.

- (26) In order to reduce the administrative burden on aircraft operators, one Member State should be responsible for each aircraft operator. Member States should be required to ensure that aircraft operators which were issued with an operating licence in that Member State, or aircraft operators without an operating licence or from third countries whose emissions in a base year are mostly attributable to that Member State, comply with the requirements of this Directive. In the event that an aircraft operator fails to comply with the requirements of this Directive and other enforcement measures by the administering Member State have failed to ensure compliance, Member States should act in solidarity. The administering Member State should therefore be able to request the Commission to decide on the imposition of an operating ban at Community level on the aircraft operator concerned, as a last resort.
- (27) To maintain the integrity of the accounting system for the Community scheme in view of the fact that emissions from international aviation are not integrated into Member States' commitments under the Kyoto Protocol, allowances allocated to the aviation sector should only be used to meet the obligations placed on aircraft operators to surrender allowances under this Directive.
- (28) In order to ensure equal treatment of aircraft operators, Member States should follow harmonised rules for the administration of aircraft operators for which they have responsibility, in accordance with specific guidelines to be developed by the Commission.
- (29) To safeguard the environmental integrity of the Community scheme, units surrendered by aircraft operators should only count towards greenhouse gas reduction targets that take these emissions into account.
- (30) The European Organisation for the Safety of Air Navigation (Eurocontrol) may possess information which could assist Member States or the Commission in discharging their obligations imposed by this Directive.
- (31) The provisions of the Community scheme relating to monitoring, reporting and verifying emissions and to penalties applicable to operators should also apply to aircraft operators.
- (32) The Commission should review the functioning of Directive 2003/87/EC in relation to aviation activities in the light of experience of its application and should then report to the European Parliament and the Council.
- (33) The review of the functioning of Directive 2003/87/EC in relation to aviation activities should consider the structural dependence on aviation of countries which do not have adequate and comparable alternative modes of transport and which are therefore highly dependent on air transport and in which the tourism sector provides a high contribution to those countries' gross domestic product. Special consideration should be given to mitigating or even eliminating any accessibility and competitiveness problems arising for the outermost regions of the Community, as specified in Article 299(2) of the Treaty, and problems for public service obligations in connection with the implementation of this Directive.
- (34) The Ministerial Statement on Gibraltar Airport, agreed in Córdoba on 18 September 2006, during the first Ministerial meeting of the Forum of Dialogue on Gibraltar, will replace the Joint Declaration on the Airport made in London on 2 December 1987, and full compliance with it will be deemed to constitute compliance with the 1987 Declaration.
- (35) The measures necessary for the implementation of this Directive 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 <sup>(1)</sup>.
- (36) In particular, the Commission should be empowered to adopt measures for the auctioning of allowances not required to be issued for free; to adopt detailed rules on the operation of the special reserve for certain aircraft operators and on the procedures relating to requests for the Commission to decide on the imposition of an operating ban on an aircraft operator; and to amend the aviation activities listed in Annex I where a third country introduces measures to reduce the climate change impact of aviation. Since those measures are of general scope and are designed to amend non-essential elements of this Directive, *inter alia*, by supplementing this Directive with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (37) Since the objective of this Directive cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the proposed 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 Directive does not go beyond what is necessary in order to achieve that objective.
- (38) In accordance with point 34 of the Interinstitutional Agreement on better law-making <sup>(2)</sup>, Member States are encouraged to draw up, for themselves and in the interest of the Community, their own tables illustrating, as far as possible, the correlation between the Directive and the transposition measures, and to make them public.

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23.

<sup>(2)</sup> OJ C 321, 31.12.2003, p. 1.

(39) Directive 2003/87/EC should therefore be amended accordingly,

years 2004, 2005 and 2006 from aircraft performing an aviation activity listed in Annex I.;

HAVE ADOPTED THIS DIRECTIVE:

*Article 1*

**Amendments to Directive 2003/87/EC**

Directive 2003/87/EC is hereby amended as follows:

1. the following title shall be inserted before Article 1:

‘CHAPTER I

**GENERAL PROVISIONS’;**

2. the following paragraph shall be added to Article 2:

‘3. The application of this Directive to the airport of Gibraltar is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport is situated.’;

3. Article 3 shall be amended as follows:

(a) point (b) shall be replaced by the following:

‘(b) “emissions” means the release of greenhouse gases into the atmosphere from sources in an installation or the release from an aircraft performing an aviation activity listed in Annex I of the gases specified in respect of that activity;’

(b) the following points shall be added:

‘(o) “aircraft operator” means the person who operates an aircraft at the time it performs an aviation activity listed in Annex I or, where that person is not known or is not identified by the owner of the aircraft, the owner of the aircraft;

(p) “commercial air transport operator” means an operator that, for remuneration, provides scheduled or non-scheduled air transport services to the public for the carriage of passengers, freight or mail;

(q) “administering Member State” means the Member State responsible for administering the Community scheme in respect of an aircraft operator in accordance with Article 18a;

(r) “attributed aviation emissions” means emissions from all flights falling within the aviation activities listed in Annex I which depart from an aerodrome situated in the territory of a Member State and those which arrive in such an aerodrome from a third country;

(s) “historical aviation emissions” means the mean average of the annual emissions in the calendar

4. the following Chapter shall be inserted after Article 3:

‘CHAPTER II

**AVIATION**

*Article 3a*

**Scope**

The provisions of this Chapter shall apply to the allocation and issue of allowances in respect of aviation activities listed in Annex I.

*Article 3b*

**Aviation activities**

By 2 August 2009, the Commission shall, in accordance with the regulatory procedure referred to in Article 23(2), develop guidelines on the detailed interpretation of the aviation activities listed in Annex I.

*Article 3c*

**Total quantity of allowances for aviation**

1. For the period from 1 January 2012 to 31 December 2012, the total quantity of allowances to be allocated to aircraft operators shall be equivalent to 97 % of the historical aviation emissions.

2. For the period referred to in Article 11(2) beginning on 1 January 2013, and, in the absence of any amendments following the review referred to in Article 30(4), for each subsequent period, the total quantity of allowances to be allocated to aircraft operators shall be equivalent to 95 % of the historical aviation emissions multiplied by the number of years in the period.

This percentage may be reviewed as part of the general review of this Directive.

3. The Commission shall review the total quantity of allowances to be allocated to aircraft operators in accordance with Article 30(4).

4. By 2 August 2009, the Commission shall decide on the historical aviation emissions, based on best available data, including estimates based on actual traffic information. That decision shall be considered within the Committee referred to in Article 23(1).

*Article 3d*

**Method of allocation of allowances for aviation through auctioning**

1. In the period referred to in Article 3c(1), 15 % of allowances shall be auctioned.

2. From 1 January 2013, 15 % of allowances shall be auctioned. This percentage may be increased as part of the general review of this Directive.

3. A Regulation shall be adopted containing detailed provisions for the auctioning by Member States of allowances not required to be issued free of charge in accordance with paragraphs 1 and 2 of this Article or Article 3f(8). The number of allowances to be auctioned in each period by each Member State shall be proportionate to its share of the total attributed aviation emissions for all Member States for the reference year reported pursuant to Article 14(3) and verified pursuant to Article 15. For the period referred to in Article 3c(1), the reference year shall be 2010 and for each subsequent period referred to in Article 3c the reference year shall be the calendar year ending 24 months before the start of the period to which the auction relates.

That Regulation, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).

4. It shall be for Member States to determine the use to be made of revenues generated from the auctioning of allowances. Those revenues should be used to tackle climate change in the EU and third countries, *inter alia*, to reduce greenhouse gas emissions, to adapt to the impacts of climate change in the EU and third countries, especially developing countries, to fund research and development for mitigation and adaptation, including in particular in the fields of aeronautics and air transport, to reduce emissions through low-emission transport and to cover the cost of administering the Community scheme. The proceeds of auctioning should also be used to fund contributions to the Global Energy Efficiency and Renewable Energy Fund, and measures to avoid deforestation.

Member States shall inform the Commission of actions taken pursuant to this paragraph.

5. Information provided to the Commission pursuant to this Directive does not free Member States from the notification obligation laid down in Article 88(3) of the Treaty.

#### Article 3e

#### Allocation and issue of allowances to aircraft operators

1. For each period referred to in Article 3c, each aircraft operator may apply for an allocation of allowances that are to be allocated free of charge. An application may be made by submitting to the competent authority in the administering Member State verified tonne-kilometre data for the aviation activities listed in Annex I performed by that aircraft operator for the monitoring year. For the

purposes of this Article, the monitoring year shall be the calendar year ending 24 months before the start of the period to which it relates in accordance with Annexes IV and V or, in relation to the period referred to in Article 3c(1), 2010. Any application shall be made at least 21 months before the start of the period to which it relates or, in relation to the period referred to in Article 3c(1), by 31 March 2011.

2. At least 18 months before the start of the period to which the application relates or, in relation to the period referred to in Article 3c(1), by 30 June 2011, Member States shall submit applications received under paragraph 1 to the Commission.

3. At least 15 months before the start of each period referred to in Article 3c(2) or, in relation to the period referred to in Article 3c(1), by 30 September 2011, the Commission shall calculate and adopt a decision setting out:

- (a) the total quantity of allowances to be allocated for that period in accordance with Article 3c;
- (b) the number of allowances to be auctioned in that period in accordance with Article 3d;
- (c) the number of allowances in the special reserve for aircraft operators in that period in accordance with Article 3f(1);
- (d) the number of allowances to be allocated free of charge in that period by subtracting the number of allowances referred to in points (b) and (c) from the total quantity of allowances decided upon under point (a); and
- (e) the benchmark to be used to allocate allowances free of charge to aircraft operators whose applications were submitted to the Commission in accordance with paragraph 2.

The benchmark referred to in point (e), expressed as allowances per tonne-kilometre, shall be calculated by dividing the number of allowances referred to in point (d) by the sum of the tonne-kilometre data included in applications submitted to the Commission in accordance with paragraph 2.

4. Within three months from the date on which the Commission adopts a decision under paragraph 3, each administering Member State shall calculate and publish:

- (a) the total allocation of allowances for the period to each aircraft operator whose application it submitted to the Commission in accordance with paragraph 2, calculated by multiplying the tonne-kilometre data included in the application by the benchmark referred to in paragraph 3(e); and
- (b) the allocation of allowances to each aircraft operator for each year, which shall be determined by dividing its total allocation of allowances for the period calculated under point (a) by the number of years in the period for which that aircraft operator is performing an aviation activity listed in Annex I.

5. By 28 February 2012 and by 28 February of each subsequent year, the competent authority of the administering Member State shall issue to each aircraft operator the number of allowances allocated to that aircraft operator for that year under this Article or Article 3f.

#### Article 3f

##### Special reserve for certain aircraft operators

1. In each period referred to in Article 3c(2), 3 % of the total quantity of allowances to be allocated shall be set aside in a special reserve for aircraft operators:

- (a) who start performing an aviation activity falling within Annex I after the monitoring year for which tonne-kilometre data was submitted under Article 3e(1) in respect of a period referred to in Article 3c(2); or
- (b) whose tonne-kilometre data increases by an average of more than 18 % annually between the monitoring year for which tonne-kilometre data was submitted under Article 3e(1) in respect of a period referred to in Article 3c(2) and the second calendar year of that period;

and whose activity under point (a), or additional activity under point (b), is not in whole or in part a continuation of an aviation activity previously performed by another aircraft operator.

2. An aircraft operator who is eligible under paragraph 1 may apply for a free allocation of allowances from the special reserve by making an application to the competent authority of its administering Member State. Any application shall be made by 30 June in the third year of the period referred to in Article 3c(2) to which it relates.

An allocation to an aircraft operator under paragraph 1(b) shall not exceed 1 000 000 allowances.

3. An application under paragraph 2 shall:

- (a) include verified tonne-kilometre data in accordance with Annexes IV and V for the aviation activities listed in Annex I performed by the aircraft operator in the second calendar year of the period referred to in Article 3c(2) to which the application relates;
- (b) provide evidence that the criteria for eligibility under paragraph 1 are fulfilled; and
- (c) in the case of aircraft operators falling within paragraph 1(b), state:

- (i) the percentage increase in tonne-kilometres performed by that aircraft operator between the monitoring year for which tonne-kilometre data was submitted under Article 3e(1) in respect of a period referred to in Article 3c(2) and the second calendar year of that period;
- (ii) the absolute growth in tonne-kilometres performed by that aircraft operator between the monitoring year for which tonne-kilometre data was submitted under Article 3e(1) in respect of a period referred to in Article 3c(2) and the second calendar year of that period; and
- (iii) the absolute growth in tonne-kilometres performed by that aircraft operator between the monitoring year for which tonne-kilometre data was submitted under Article 3e(1) in respect of a period referred to in Article 3c(2) and the second calendar year of that period which exceeds the percentage specified in paragraph 1(b).

4. No later than six months from the deadline for making an application under paragraph 2, Member States shall submit applications received under that paragraph to the Commission.

5. No later than 12 months from the deadline for making an application under paragraph 2, the Commission shall decide on the benchmark to be used to allocate allowances free of charge to aircraft operators whose applications were submitted to the Commission in accordance with paragraph 4.

Subject to paragraph 6, the benchmark shall be calculated by dividing the number of the allowances in the special reserve by the sum of:

- (a) the tonne-kilometre data for aircraft operators falling within paragraph 1(a) included in applications submitted to the Commission in accordance with paragraphs 3(a) and 4; and
- (b) the absolute growth in tonne-kilometres exceeding the percentage specified in paragraph 1(b) for aircraft operators falling within paragraph 1(b) included in applications submitted to the Commission in accordance with paragraphs 3(c)(iii) and 4.

6. The benchmark referred to in paragraph 5 shall not result in an annual allocation per tonne-kilometre greater than the annual allocation per tonne-kilometre to aircraft operators under Article 3e(4).

7. Within three months from the date on which the Commission adopts a decision under paragraph 5, each administering Member State shall calculate and publish:

- (a) the allocation of allowances from the special reserve to each aircraft operator whose application it submitted to the Commission in accordance with paragraph 4. This allocation shall be calculated by multiplying the benchmark referred to in paragraph 5 by:
  - (i) in the case of an aircraft operator falling within paragraph 1(a), the tonne-kilometre data included in the application submitted to the Commission under paragraphs 3(a) and 4;
  - (ii) in the case of an aircraft operator falling within paragraph 1(b), the absolute growth in tonne-kilometres exceeding the percentage specified in paragraph 1(b) included in the application submitted to the Commission under paragraphs 3(c)(iii) and 4; and

(b) the allocation of allowances to each aircraft operator for each year, which shall be determined by dividing its allocation of allowances under point (a) by the number of full calendar years remaining in the period referred to in Article 3c(2) to which the allocation relates.

8. Any unallocated allowances in the special reserve shall be auctioned by Member States.

9. The Commission may establish detailed rules on the operation of the special reserve under this Article, including

the assessment of compliance with eligibility criteria under paragraph 1. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).

#### *Article 3g*

#### **Monitoring and reporting plans**

The administering Member State shall ensure that each aircraft operator submits to the competent authority in that Member State a monitoring plan setting out measures to monitor and report emissions and tonne-kilometre data for the purpose of an application under Article 3e and that such plans are approved by the competent authority in accordance with the guidelines adopted pursuant to Article 14.;

5. the following title and Article shall be inserted:

‘CHAPTER III

#### **STATIONARY INSTALLATIONS**

#### *Article 3h*

#### **Scope**

The provisions of this Chapter shall apply to greenhouse gas emissions permits and the allocation and issue of allowances in respect of activities listed in Annex I other than aviation activities.;

6. Article 6(2)(e) shall be replaced by the following:

‘(e) an obligation to surrender allowances, other than allowances issued under Chapter II, equal to the total emissions of the installation in each calendar year, as verified in accordance with Article 15, within four months following the end of that year.;

7. the following title shall be inserted after Article 11:

‘CHAPTER IV

#### **PROVISIONS APPLYING TO AVIATION AND STATIONARY INSTALLATIONS;**

8. in Article 11a the following paragraph shall be inserted:

‘1a. During the period referred to in Article 3c(1), aircraft operators may use CERs and ERUs, up to 15 % of the number of allowances they are required to surrender pursuant to Article 12(2a).

For subsequent periods, the percentage of CERs and ERUs that may be used in relation to aviation activities shall be reviewed as part of the general review of this Directive and taking into consideration the development of the international climate change regime.

The Commission shall publish this percentage at least six months before the start of each period referred to in Article 3c.;

9. in Article 11b(2), the word 'installations' shall be replaced by the word 'activities';

10. Article 12 shall be amended as follows:

(a) in paragraph 2, after the word 'purpose' the words 'of meeting an aircraft operator's obligations under paragraph 2a or' shall be inserted;

(b) the following paragraph shall be inserted:

'2a. Administering Member States shall ensure that, by 30 April each year, each aircraft operator surrenders a number of allowances equal to the total emissions during the preceding calendar year from aviation activities listed in Annex I for which it is the aircraft operator, as verified in accordance with Article 15. Member States shall ensure that allowances surrendered in accordance with this paragraph are subsequently cancelled.;

(c) paragraph 3 shall be replaced by the following:

'3. Member States shall ensure that, by 30 April each year, the operator of each installation surrenders a number of allowances, other than allowances issued under Chapter II, equal to the total emissions from that installation during the preceding calendar year as verified in accordance with Article 15, and that these are subsequently cancelled.;

11. in Article 13(3), the words 'Article 12(3)' shall be replaced by the words 'Article 12(2a) or (3)';

12. Article 14 shall be amended as follows:

(a) in the first sentence of paragraph 1:

(i) after the words 'those activities' the words 'and of tonne-kilometre data for the purpose of an application under Articles 3e or 3f' shall be inserted;

(ii) the words 'by 30 September 2003' shall be deleted;

(b) paragraph 3 shall be replaced by the following:

'3. Member States shall ensure that each operator or aircraft operator reports the emissions during each calendar year from the installation, or, from 1 January 2010, the aircraft, which it operates to the competent authority after the end of that year in accordance with the guidelines.;

13. Article 15 shall be replaced by the following:

*'Article 15*

#### **Verification**

Member States shall ensure that the reports submitted by operators and aircraft operators pursuant to Article 14(3) are verified in accordance with the criteria set out in Annex V and any detailed provisions adopted by the Commission in accordance with this Article, and that the competent authority is informed thereof.

Member States shall ensure that an operator or aircraft operator whose report has not been verified as satisfactory in accordance with the criteria set out in Annex V and any detailed provisions adopted by the Commission in accordance with this Article by 31 March each year for emissions during the preceding year cannot make further transfers of allowances until a report from that operator or aircraft operator has been verified as satisfactory.

The Commission may adopt detailed provisions for the verification of reports submitted by aircraft operators pursuant to Article 14(3) and applications under Articles 3e and 3f, including the verification procedures to be used by verifiers, in accordance with the regulatory procedure referred to in Article 23(2).;

14. Article 16 shall be amended as follows:

(a) in paragraph 1, the words 'by 31 December 2003 at the latest,' shall be deleted;

(b) paragraphs 2 and 3 shall be replaced by the following:

'2. Member States shall ensure publication of the names of operators and aircraft operators who are in breach of requirements to surrender sufficient allowances under this Directive.

3. Member States shall ensure that any operator or aircraft operator who does not surrender sufficient allowances by 30 April of each year to cover its emissions during the preceding year shall be held liable for the payment of an excess emissions penalty. The excess emissions penalty shall be EUR 100 for each tonne of carbon dioxide equivalent emitted for which the operator or aircraft operator has not surrendered allowances. Payment of the excess emissions penalty shall not release the operator or aircraft operator from the obligation to surrender an amount of allowances equal to those excess emissions when surrendering allowances in relation to the following calendar year.;

(c) the following paragraphs shall be added:

'5. In the event that an aircraft operator fails to comply with the requirements of this Directive and where other enforcement measures have failed to ensure compliance, its administering Member State may request the Commission to decide on the imposition of an operating ban on the aircraft operator concerned.

6. Any request by an administering Member State under paragraph 5 shall include:

- (a) evidence that the aircraft operator has not complied with its obligations under this Directive;
- (b) details of the enforcement action which has been taken by that Member State;
- (c) a justification for the imposition of an operating ban at Community level; and
- (d) a recommendation for the scope of an operating ban at Community level and any conditions that should be applied.

7. When requests such as those referred to in paragraph 5 are addressed to the Commission, the Commission shall inform the other Member States through their representatives on the Committee referred to in Article 23(1) in accordance with the Committee's Rules of Procedure.

8. The adoption of a decision following a request pursuant to paragraph 5 shall be preceded, when appropriate and practicable, by consultations with the

authorities responsible for regulatory oversight of the aircraft operator concerned. Whenever possible, consultations shall be held jointly by the Commission and the Member States.

9. When the Commission is considering whether to adopt a decision following a request pursuant to paragraph 5, it shall disclose to the aircraft operator concerned the essential facts and considerations which form the basis for such decision. The aircraft operator concerned shall be given an opportunity to submit written comments to the Commission within 10 working days from the date of disclosure.

10. At the request of a Member State, the Commission may, in accordance with the regulatory procedure referred to in Article 23(2), adopt a decision to impose an operating ban on the aircraft operator concerned.

11. Each Member State shall enforce, within its territory, any decisions adopted under paragraph 10. It shall inform the Commission of any measures taken to implement such decisions.

12. Where appropriate, detailed rules shall be established in respect of the procedures referred to in this Article. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).;

15. the following Articles shall be inserted:

*'Article 18a*

#### **Administering Member State**

1. The administering Member State in respect of an aircraft operator shall be:

- (a) in the case of an aircraft operator with a valid operating licence granted by a Member State in accordance with the provisions of Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers (\*), the Member State which granted the operating licence in respect of that aircraft operator; and
- (b) in all other cases, the Member State with the greatest estimated attributed aviation emissions from flights performed by that aircraft operator in the base year.

2. Where in the first two years of any period referred to in Article 3c, none of the attributed aviation emissions from flights performed by an aircraft operator falling within paragraph 1(b) of this Article are attributed to its administering Member State, the aircraft operator shall be transferred to another administering Member State in respect of the next period. The new administering Member State shall be the Member State with the greatest estimated attributed aviation emissions from flights performed by that aircraft operator during the first two years of the previous period.

3. Based on the best available information, the Commission shall:

(a) before 1 February 2009, publish a list of aircraft operators which performed an aviation activity listed in Annex I on or after 1 January 2006 specifying the administering Member State for each aircraft operator in accordance with paragraph 1; and

(b) before 1 February of each subsequent year, update the list to include aircraft operators which have subsequently performed an aviation activity listed in Annex I.

4. The Commission may, in accordance with the regulatory procedure referred to in Article 23(2), develop guidelines relating to the administration of aircraft operators under this Directive by administering Member States.

5. For the purposes of paragraph 1, "base year" means, in relation to an aircraft operator which started operating in the Community after 1 January 2006, the first calendar year of operation, and in all other cases, the calendar year starting on 1 January 2006.

#### Article 18b

#### Assistance from Eurocontrol

For the purposes of carrying out its obligations under Articles 3c(4) and 18a, the Commission may request the assistance of Eurocontrol or another relevant organisation and may conclude to that effect any appropriate agreements with those organisations.

(\*) OJ L 240, 24.8.1992, p. 1.;

16. in Article 19, paragraph 3 shall be amended as follows:

(a) the last sentence shall be replaced by the following:

'That Regulation shall also include provisions concerning the use and identification of CERs and ERUs in the Community scheme and the monitoring of the level of such use and provisions to take account of the inclusion of aviation activities in the Community scheme.;

(b) the following subparagraph shall be added:

'The Regulation on a standardised and secured system of registries shall ensure that allowances, CERs and ERUs surrendered by aircraft operators are transferred to Member States' retirement accounts for the Kyoto Protocol's first commitment period only to the extent that those allowances, CERs and ERUs correspond to emissions included in the national totals of Member States' national inventories for that period.;

17. in Article 23, paragraph 3 shall be replaced by the following:

'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.;

18. the following Article shall be inserted:

#### 'Article 25a

#### Third country measures to reduce the climate change impact of aviation

1. Where a third country adopts measures for reducing the climate change impact of flights departing from that country which land in the Community, the Commission, after consulting with that third country, and with Member States within the Committee referred to in Article 23(1), shall consider options available in order to provide for optimal interaction between the Community scheme and that country's measures.

Where necessary, the Commission may adopt amendments to provide for flights arriving from the third country concerned to be excluded from the aviation activities listed in Annex I or to provide for any other amendments to the aviation activities listed in Annex I which are required by an agreement pursuant to the fourth subparagraph. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).

The Commission may propose to the European Parliament and the Council any other amendments to this Directive.

The Commission may also, where appropriate, make recommendations to the Council in accordance with Article 300(1) of the Treaty to open negotiations with a view to concluding an agreement with the third country concerned.

2. The Community and its Member States shall continue to seek an agreement on global measures to reduce greenhouse gas emissions from aviation. In the light of any such agreement, the Commission shall consider whether amendments to this Directive as it applies to aircraft operators are necessary.;

19. Article 28 shall be amended as follows:

(a) paragraph 3(b) shall be replaced by the following:

'(b) to be responsible for surrendering allowances, other than allowances issued under Chapter II, equal to the total emissions from installations in the pool, by way of derogation from Articles 6(2)(e) and 12(3); and';

(b) paragraph 4 shall be replaced by the following:

'4. The trustee shall be subject to the penalties applicable for breaches of requirements to surrender sufficient allowances, other than allowances issued under Chapter II, to cover the total emissions from installations in the pool, by way of derogation from Article 16(2), (3) and (4).';

20. the following paragraph shall be added to Article 30:

'4. By 1 December 2014 the Commission shall, on the basis of monitoring and experience of the application of this Directive, review the functioning of this Directive in relation to aviation activities in Annex I and may make proposals to the European Parliament and the Council pursuant to Article 251 of the Treaty as appropriate. The Commission shall give consideration in particular to:

- (a) the implications and impacts of this Directive as regards the overall functioning of the Community scheme;
- (b) the functioning of the aviation allowance market, covering in particular any possible market disturbances;
- (c) the environmental effectiveness of the Community scheme and the extent by which the total quantity of allowances to be allocated to aircraft operators under Article 3c should be reduced in line with overall EU emissions reduction targets;

(d) the impact of the Community scheme on the aviation sector, including issues of competitiveness, taking into account in particular the effect of climate change policies implemented for aviation outside the EU;

(e) continuing with the special reserve for aircraft operators, taking into account the likely convergence of growth rates across the industry;

(f) the impact of the Community scheme on the structural dependency on aviation transport of islands, landlocked regions, peripheral regions and the outermost regions of the Community;

(g) whether a gateway system should be included to facilitate the trading of allowances between aircraft operators and operators of installations whilst ensuring that no transactions would result in a net transfer of allowances from aircraft operators to operators of installations;

(h) the implications of the exclusion thresholds as specified in Annex I in terms of certified maximum take-off mass and number of flights per year performed by an aircraft operator;

(i) the impact of the exemption from the Community scheme of certain flights performed in the framework of public service obligations imposed in accordance with Council Regulation (EEC) No 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes (\*);

(j) developments, including the potential for future developments, in the efficiency of aviation and in particular the progress towards meeting the Advisory Council for Aeronautics Research in Europe (ACARE) goal to develop and demonstrate technologies able to reduce fuel consumption by 50 % by 2020 and whether further measures to increase efficiency are necessary;

(k) developments in scientific understanding on the climate change impacts of contrails and cirrus clouds caused by aviation with a view to proposing effective mitigation measures.

The Commission shall then report to the European Parliament and the Council.

(\*) OJ L 240, 24.8.1992, p. 8.;

21. the following title shall be inserted after Article 30:

‘CHAPTER V

**FINAL PROVISIONS’;**

22. Annexes I, IV and V shall be amended in accordance with the Annex to this Directive.

*Article 2*

**Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 2 February 2010. They shall forthwith inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in

the field covered by this Directive. The Commission shall inform the Member States thereof.

*Article 3*

**Entry into force**

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

*Article 4*

**Addressees**

This Directive is addressed to the Member States.

Done at Strasbourg, 19 November 2008

*For the European Parliament*

*The President*

H.-G. PÖTTERING

*For the Council*

*The President*

J.-P. JOUYET

## ANNEX

Annexes I, IV and V to Directive 2003/87/EC are hereby amended as follows:

1. Annex I shall be amended as follows:

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

**'CATEGORIES OF ACTIVITIES TO WHICH THIS DIRECTIVE APPLIES';**

(b) the following subparagraph shall be inserted in paragraph 2 before the table:

'From 1 January 2012 all flights which arrive at or depart from an aerodrome situated in the territory of a Member State to which the Treaty applies shall be included.;

(c) the following category of activity shall be added:

<p><i>'Aviation</i></p> <p>Flights which depart from or arrive in an aerodrome situated in the territory of a Member State to which the Treaty applies.</p> <p>This activity shall not include:</p> <p>(a) flights performed exclusively for the transport, on official mission, of a reigning Monarch and his immediate family, Heads of State, Heads of Government and Government Ministers, of a country other than a Member State, where this is substantiated by an appropriate status indicator in the flight plan;</p> <p>(b) military flights performed by military aircraft and customs and police flights;</p> <p>(c) flights related to search and rescue, firefighting flights, humanitarian flights and emergency medical service flights authorised by the appropriate competent authority;</p> <p>(d) any flights performed exclusively under visual flight rules as defined in Annex 2 to the Chicago Convention;</p> <p>(e) flights terminating at the aerodrome from which the aircraft has taken off and during which no intermediate landing has been made;</p> <p>(f) training flights performed exclusively for the purpose of obtaining a licence, or a rating in the case of cockpit flight crew where this is substantiated by an appropriate remark in the flight plan provided that the flight does not serve for the transport of passengers and/or cargo or for the positioning or ferrying of the aircraft;</p> <p>(g) flights performed exclusively for the purpose of scientific research or for the purpose of checking, testing or certifying aircraft or equipment whether airborne or ground-based;</p> <p>(h) flights performed by aircraft with a certified maximum take-off mass of less than 5 700 kg;</p> <p>(i) flights performed in the framework of public service obligations imposed in accordance with Regulation (EEC) No 2408/92 on routes within outermost regions, as specified in Article 299(2) of the Treaty, or on routes where the capacity offered does not exceed 30 000 seats per year; and</p> <p>(j) flights which, but for this point, would fall within this activity, performed by a commercial air transport operator operating either:</p> <p>— fewer than 243 flights per period for three consecutive four-month periods; or</p> <p>— flights with total annual emissions lower than 10 000 tonnes per year.</p> <p>Flights performed exclusively for the transport, on official mission, of a reigning Monarch and his immediate family, Heads of State, Heads of Government and Government Ministers, of a Member State may not be excluded under this point.'</p>	<p>Carbon dioxide</p>
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2. Annex IV shall be amended as follows:

(a) the following title shall be inserted after the title of the Annex:

**'PART A — Monitoring and reporting of emissions from stationary installations';**

(b) the following part shall be added:

**'PART B — Monitoring and reporting of emissions from aviation activities**

**Monitoring of carbon dioxide emissions**

Emissions shall be monitored by calculation. Emissions shall be calculated using the formula:

**Fuel consumption × emission factor**

Fuel consumption shall include fuel consumed by the auxiliary power unit. Actual fuel consumption for each flight shall be used wherever possible and shall be calculated using the formula:

Amount of fuel contained in aircraft tanks once fuel uplift for the flight is complete – amount of fuel contained in aircraft tanks once fuel uplift for subsequent flight is complete + fuel uplift for that subsequent flight.

If actual fuel consumption data are not available, a standardised tiered method shall be used to estimate fuel consumption data based on best available information.

Default IPCC emission factors, taken from the 2006 IPCC Inventory Guidelines or subsequent updates of these Guidelines, shall be used unless activity-specific emission factors identified by independent accredited laboratories using accepted analytical methods are more accurate. The emission factor for biomass shall be zero.

A separate calculation shall be made for each flight and for each fuel.

**Reporting of emissions**

Each aircraft operator shall include the following information in its report under Article 14(3):

A. Data identifying the aircraft operator, including:

- name of the aircraft operator,
- its administering Member State,
- its address, including postcode and country and, where different, its contact address in the administering Member State,
- the aircraft registration numbers and types of aircraft used in the period covered by the report to perform the aviation activities listed in Annex I for which it is the aircraft operator,
- the number and issuing authority of the air operator certificate and operating licence under which the aviation activities listed in Annex I for which it is the aircraft operator were performed,
- address, telephone, fax and e-mail details for a contact person, and
- name of the aircraft owner.

B. For each type of fuel for which emissions are calculated:

- fuel consumption,
- emission factor,

- total aggregated emissions from all flights performed during the period covered by the report which fall within the aviation activities listed in Annex I for which it is the aircraft operator,
- aggregated emissions from:
  - all flights performed during the period covered by the report which fall within the aviation activities listed in Annex I for which it is the aircraft operator and which departed from an aerodrome situated in the territory of a Member State and arrived at an aerodrome situated in the territory of the same Member State,
  - all other flights performed during the period covered by the report which fall within the aviation activities listed in Annex I for which it is the aircraft operator,
- aggregated emissions from all flights performed during the period covered by the report which fall within the aviation activities listed in Annex I for which it is the aircraft operator and which:
  - departed from each Member State, and
  - arrived in each Member State from a third country,
- uncertainty.

#### **Monitoring of tonne-kilometre data for the purpose of Articles 3e and 3f**

For the purpose of applying for an allocation of allowances in accordance with Article 3e(1) or Article 3f(2), the amount of aviation activity shall be calculated in tonne-kilometres using the following formula:

tonne-kilometres = distance × payload

where:

'distance' means the great circle distance between the aerodrome of departure and the aerodrome of arrival plus an additional fixed factor of 95 km; and

'payload' means the total mass of freight, mail and passengers carried.

For the purposes of calculating the payload:

- the number of passengers shall be the number of persons on-board excluding crew members,
- an aircraft operator may choose to apply either the actual or standard mass for passengers and checked baggage contained in its mass and balance documentation for the relevant flights or a default value of 100 kg for each passenger and his checked baggage.

#### **Reporting of tonne-kilometre data for the purpose of Articles 3e and 3f**

Each aircraft operator shall include the following information in its application under Article 3e(1) or Article 3f(2):

A. Data identifying the aircraft operator, including:

- name of the aircraft operator,
- its administering Member State,
- its address, including postcode and country and, where different, its contact address in the administering Member State,
- the aircraft registration numbers and types of aircraft used during the year covered by the application to perform the aviation activities listed in Annex I for which it is the aircraft operator,

- the number and issuing authority of the air operator certificate and operating licence under which the aviation activities listed in Annex I for which it is the aircraft operator were performed,
- address, telephone, fax and e-mail details for a contact person, and
- name of the aircraft owner.

B. Tonne-kilometre data:

- number of flights by aerodrome pair,
- number of passenger-kilometres by aerodrome pair,
- number of tonne-kilometres by aerodrome pair,
- chosen method for calculation of mass for passengers and checked baggage,
- total number of tonne-kilometres for all flights performed during the year to which the report relates falling within the aviation activities listed in Annex I for which it is the aircraft operator.;

3. Annex V shall be amended as follows:

- (a) the following title shall be inserted after the title of the Annex:

**'PART A — Verification of emissions from stationary installations';**

- (b) the following part shall be added:

**'PART B — Verification of emissions from aviation activities**

13. The general principles and methodology set out in this Annex shall apply to the verification of reports of emissions from flights falling within an aviation activity listed in Annex I.

For this purpose:

- (a) in paragraph 3, the reference to operator shall be read as if it were a reference to an aircraft operator, and in point (c) of that paragraph the reference to installation shall be read as if it were a reference to the aircraft used to perform the aviation activities covered by the report;
- (b) in paragraph 5, the reference to installation shall be read as if it were a reference to the aircraft operator;
- (c) in paragraph 6 the reference to activities carried out in the installation shall be read as a reference to aviation activities covered by the report carried out by the aircraft operator;
- (d) in paragraph 7 the reference to the site of the installation shall be read as if it were a reference to the sites used by the aircraft operator to perform the aviation activities covered by the report;
- (e) in paragraphs 8 and 9 the references to sources of emissions in the installation shall be read as if they were a reference to the aircraft for which the aircraft operator is responsible; and
- (f) in paragraphs 10 and 12 the references to operator shall be read as if they were a reference to an aircraft operator.

**Additional provisions for the verification of aviation emission reports**

14. The verifier shall in particular ascertain that:

- (a) all flights falling within an aviation activity listed in Annex I have been taken into account. In this task the verifier shall be assisted by timetable data and other data on the aircraft operator's traffic including data from Eurocontrol requested by that operator;
- (b) there is overall consistency between aggregated fuel consumption data and data on fuel purchased or otherwise supplied to the aircraft performing the aviation activity.

**Additional provisions for the verification of tonne-kilometre data submitted for the purposes of Articles 3e and 3f**

15. The general principles and methodology for verifying emissions reports under Article 14(3) as set out in this Annex shall, where applicable, also apply correspondingly to the verification of aviation tonne-kilometre data.
  
  16. The verifier shall in particular ascertain that only flights actually performed and falling within an aviation activity listed in Annex I for which the aircraft operator is responsible have been taken into account in that operator's application under Articles 3e(1) and 3f(2). In this task the verifier shall be assisted by data on the aircraft operator's traffic including data from Eurocontrol requested by that operator. In addition, the verifier shall ascertain that the payload reported by the aircraft operator corresponds to records on payloads kept by that operator for safety purposes.
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## II

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

## DECISIONS

## COMMISSION

## COMMISSION DECISION

of 17 December 2008

**amending Decision 2006/636/EC fixing the annual breakdown by Member State of the amount for Community support to rural development for the period from 1 January 2007 to 31 December 2013**

(notified under document number C(2008) 8370)

(2009/14/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) <sup>(1)</sup>, and in particular Article 69(4) thereof,

Whereas:

- (1) Commission Decision 2006/410/EC of 24 May 2006 setting the amounts which, pursuant to Articles 10(2), 143d and 143e of Council Regulation (EC) No 1782/2003 are made available to the EAFRD and the amounts available for EAGF expenditure <sup>(2)</sup>, which sets the total transfers from the EAGF to the EAFRD for the financial years 2007 to 2013, in accordance with the said Articles of Council Regulation (EC) No 1782/2003 <sup>(3)</sup> and Article 4(1) of Council Regulation (EC) No 378/2007 <sup>(4)</sup>, which lay down rules for voluntary modulation of direct payments provided for in Regulation (EC) No 1782/2003, has been amended by Commission Decision 2008/955/EC <sup>(5)</sup>.
- (2) Following the adoption of Decision 2008/955/EC, the amounts made available to the EAFRD should be

adapted and added to the annual breakdowns of Community support for rural development.

- (3) Commission Decision 2006/636/EC <sup>(6)</sup> should be amended accordingly,

HAS ADOPTED THIS DECISION:

*Article 1*

The Annex to Decision 2006/636/EC is hereby replaced by the Annex to this Decision.

*Article 2*

This Decision shall apply from the 2009 financial year.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 17 December 2008.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

<sup>(1)</sup> OJ L 277, 21.10.2005, p. 1.

<sup>(2)</sup> OJ L 163, 15.6.2006, p. 10.

<sup>(3)</sup> OJ L 270, 21.10.2003, p. 1.

<sup>(4)</sup> OJ L 95, 5.4.2007, p. 1.

<sup>(5)</sup> OJ L 338, 17.12.2008, p. 67.

<sup>(6)</sup> OJ L 261, 22.9.2006, p. 32.

## ANNEX

## Breakdown by Member State of Community support for rural development (2007 to 2013)

	2007	2008	2009	2010	2011	2012	2013	Total 2007-2013	(current prices in EUR) of which minimum for regions under the convergence objective Total
Belgium	63 991 299	63 957 784	60 238 083	59 783 509	59 367 519	57 095 480	54 576 632	419 010 306	40 744 223
Bulgaria (*)	244 055 793	337 144 772	437 343 751	399 098 664	398 058 913	397 696 922	395 699 781	2 609 098 596	692 192 783
Czech Republic	396 623 321	392 638 892	388 036 387	400 932 774	406 640 636	412 672 094	417 962 250	2 815 506 354	1 635 417 906
Denmark	62 592 573	66 344 571	65 671 254	66 234 762	65 331 467	64 497 618	63 488 551	454 160 796	0
Germany	1 184 995 564	1 186 941 705	1 152 525 574	1 161 018 553	1 164 459 200	1 151 761 509	1 136 214 950	8 137 917 055	3 174 037 771
Estonia	95 608 462	95 569 377	95 696 594	100 929 353	104 639 066	108 913 401	113 302 602	714 658 855	387 221 654
Ireland	373 683 516	355 014 220	331 071 422	335 372 252	326 098 528	318 171 063	308 803 589	2 348 214 590	0
Greece	461 376 206	463 470 078	457 393 090	456 018 509	636 568 186	630 830 398	624 447 957	3 730 104 424	1 905 697 195
Spain	286 654 092	1 277 647 305	1 275 950 901	1 298 574 047	1 120 313 000	1 114 078 191	1 105 464 263	7 478 681 799	3 178 127 204
France	931 041 833	942 359 146	911 821 939	934 088 155	971 090 147	958 717 557	943 394 332	6 592 513 109	568 263 981
Italy	1 142 143 461	1 135 428 298	1 127 350 921	1 155 713 236	1 325 406 589	1 320 949 382	1 313 305 996	8 520 297 883	3 341 091 825
Cyprus	26 704 860	24 772 842	22 749 762	23 071 507	22 402 714	21 783 947	21 037 942	162 523 574	0
Latvia	152 867 493	147 768 241	142 542 483	147 766 381	148 781 700	150 188 774	151 198 432	1 041 113 504	327 682 815
Lithuania	260 974 835	248 836 020	236 928 998	244 741 536	248 002 433	250 278 098	253 598 173	1 743 360 093	679 189 192
Luxembourg	14 421 997	13 661 411	12 655 487	12 818 190	12 487 289	12 181 368	11 812 084	90 037 826	0
Hungary	570 811 818	537 525 661	498 635 432	509 252 494	547 603 625	563 304 619	578 709 743	3 805 843 392	2 496 094 593
Malta	12 434 359	11 527 788	10 656 597	10 544 212	10 347 884	10 459 190	10 663 325	76 633 355	18 077 067
Netherlands	70 536 869	72 638 338	71 391 337	72 215 293	70 606 648	69 682 449	68 550 233	495 621 167	0
Austria	628 154 610	594 709 669	553 552 057	560 657 505	545 170 574	531 468 629	514 856 948	3 928 569 992	31 938 190
Poland	1 989 717 841	1 932 933 351	1 872 739 817	1 866 782 838	1 860 573 543	1 857 244 519	1 850 046 247	13 230 038 156	6 997 976 121
Portugal	560 524 173	562 491 944	557 240 154	606 561 895	611 642 601	611 692 105	610 872 156	4 121 025 028	2 180 735 857
Romania (**)	0	1 146 687 683	1 442 871 530	1 359 770 651	1 357 854 634	1 359 146 997	1 356 173 250	8 022 504 745	1 995 991 720
Slovenia	149 549 387	139 868 094	129 728 049	129 354 946	124 076 091	118 858 866	113 031 296	904 466 729	287 815 759
Slovakia	303 163 265	286 531 906	268 049 256	256 310 239	263 028 387	275 025 447	317 309 578	1 969 418 078	1 106 011 592
Finland	335 121 543	316 143 440	293 685 407	297 667 134	289 390 092	282 108 238	273 317 053	2 087 432 907	0
Sweden	292 133 703	277 225 207	258 396 031	261 797 463	254 575 513	248 360 755	240 859 282	1 833 347 954	0
United Kingdom	263 996 373	645 001 582	698 742 271	741 160 084	748 994 332	752 455 626	749 224 152	4 599 574 420	188 337 515
Total	10 873 879 246	13 274 839 325	13 373 664 584	13 468 236 182	13 693 511 311	13 649 623 242	13 597 920 797	91 931 674 687	31 232 644 963

(\*) For 2007, 2008 and 2009, the appropriations from the Guarantee Section of the EAGGF are EUR 193 715 561, EUR 263 453 163 and EUR 337 004 104 respectively.

(\*\*) For 2007, 2008 and 2009, the appropriations from the Guarantee Section of the EAGGF are EUR 610 786 223, EUR 831 389 081 and EUR 1 058 369 098 respectively.

## COMMISSION DECISION

of 19 December 2008

**rejecting an application for entry in the register of protected designations of origin and protected geographical indications provided for in Council Regulation (EC) No 510/2006 (Džiugas) (PGI)***(notified under document number C(2008) 8423)***(Only the Lithuanian text is authentic)**

(2009/15/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs <sup>(1)</sup>, and in particular the second subparagraph of Article 6(2) thereof,

Whereas:

- (1) Under Article 6(1) of Regulation (EC) No 510/2006 and in accordance with Article 17(2) thereof, the Commission examined the application to register the name 'Džiugas' as a protected geographical indication for a cheese, submitted by Lithuania and received on 15 June 2005.
- (2) In response to requests from the Commission, Lithuania provided a new version of the specification together with summary and additional information, received on 3 July 2006, 5 December 2006 and 3 September 2008.
- (3) The Commission requested, *inter alia*, clarifications concerning the nature of the link between the characteristics of the product for which registration is requested and its specific geographical origin.
- (4) Having examined the material submitted by Lithuania in the application, the Commission noted that the specific quality or characteristics of the cheese are due to its production method and they are not attributable to the geographical origin. The specification states that the link between the cheese 'Džiugas' and its area is expressed by its specific method of production that confers physical, chemical and organoleptic characteristics that can not be found in other cheeses. The specification furthermore claims that the production method of cheese 'Džiugas' determines its higher content of magnesium and calcium

and that the particular organoleptic characteristics of the cheese 'Džiugas', its faint yellow colour with greyish nuances and its fresh taste, are due to its method of production. In the absence of a link between these factors and the geographical origin, the application does not meet the basic criteria for registration as a protected geographical indication.

- (5) A link within the meaning of the second indent of Article 2(1)(b) of Regulation (EC) No 510/2006 has therefore not been demonstrated.
- (6) In the light of the above, the application to register the name 'Džiugas' as a protected geographical indication should be rejected.
- (7) The measure provided for in this Decision is in accordance with the opinion of the Standing Committee on Protected Geographical Indications and Protected Designations of Origin,

HAS ADOPTED THIS DECISION:

*Article 1*

The application to register the name 'Džiugas' is hereby rejected.

*Article 2*

This Decision is addressed to the Republic of Lithuania.

Done at Brussels, 19 December 2008.

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

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<sup>(1)</sup> OJ L 93, 31.3.2006, p. 12.

## COMMISSION DECISION

of 19 December 2008

**rejecting an application for entry in the register of protected designations of origin and protected geographical indications provided for in Council Regulation (EC) No 510/2006 (*Germantas*) (PGI)***(notified under document number C(2008) 8430)***(Only the Lithuanian text is authentic)**

(2009/16/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs<sup>(1)</sup>, and in particular the second subparagraph of Article 6(2) thereof,

Whereas:

- (1) Under Article 6(1) of Regulation (EC) No 510/2006 and in accordance with Article 17(2) thereof, the Commission examined the application to register the name 'Germantas' as a protected geographical indication for a cheese, submitted by Lithuania and received on 15 June 2005.
- (2) In response to requests from the Commission, Lithuania provided a new version of the specification together with summary and additional information, received on 3 July 2006, 5 December 2006 and 3 September 2008.
- (3) The Commission requested, *inter alia*, clarifications concerning the nature of the link between the characteristics of the product for which registration is requested and its specific geographical origin.
- (4) Having examined the material submitted by Lithuania in the application, the Commission noted that specific characteristics of the cheese are due to its production method and they are not attributable to the geographical origin. The specification states that the link between the cheese 'Germantas' and its area is based on its specific method of production that confers it specific organoleptic characteristics that distinguish it from other cheeses. The specification reaffirms that organoleptic characteristics specific to the cheese 'Germantas', its faint yellowish colour with greenish to greyish nuances, a light aroma of acidified milk, whey and pasteurised milk, and a little sour flavour of pasteurised milk at

high temperature, are related to its production method. The specification furthermore explains that typical colour of cheese 'Germantas' is due to its maturing in transparent, or coloured, film that reduces decomposition of the photosensitive compounds under the light. In the absence of a link between these factors and the geographical origin, the application does not meet the basic criteria for registration as a protected geographical indication.

- (5) A link within the meaning of the second indent of Article 2(1)(b) of Regulation (EC) No 510/2006 has therefore not been demonstrated.
- (6) In the light of the above, the application to register the name 'Germantas' as a protected geographical indication should be rejected.
- (7) The measure provided for in this Decision is in accordance with the opinion of the Standing Committee on Protected Geographical Indications and Protected Designations of Origin,

HAS ADOPTED THIS DECISION:

*Article 1*

The application to register the name 'Germantas' is hereby rejected.

*Article 2*

This Decision is addressed to the Republic of Lithuania.

Done at Brussels, 19 December 2008.

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

<sup>(1)</sup> OJ L 93, 31.3.2006, p. 12.

**COMMISSION DECISION**  
**of 19 December 2008**  
**setting up the Committee of Experts on Posting of Workers**  
(2009/17/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Whereas:

- (1) Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services<sup>(1)</sup>, and in particular Article 4 thereof, imposes clear obligations as regards cooperation between national administrations, and makes it the responsibility of the Member States to create the necessary conditions for such cooperation. This Directive furthermore sets out a clear obligation for the Member States to take the appropriate measures to make the information on the terms and conditions of employment generally available, not only to foreign service providers, but also to the posted workers concerned.
- (2) In its Communication to the Council, the European Parliament, the European Economic and Social Committee and the Committee of Regions 'Posting of workers in the framework of the provision of services: maximising its benefits and potential while guaranteeing the protection of workers'<sup>(2)</sup> of 13 June 2007, the Commission announced its intention to set up a high level Committee in order to support and assist the Member States in identifying and exchanging good practices, to institutionalise the current informal Group of Government Experts and to formally involve social partners regularly.
- (3) In its Recommendation of 3 April 2008 on enhanced administrative cooperation in the context of posting of workers in the framework of the provision of services<sup>(3)</sup>, the Commission indicated that the Member States should participate actively in a systematic and formal process of identification and exchange of good practices in the field of posting of workers through any forum of cooperation established by the Commission to that end.
- (4) The Council conclusions of 9 June 2008 invited the Commission to institutionalise the informal group on the posting of workers by setting up a committee of experts.
- (5) The Committee to be set up should, according to the same Council conclusions, engage with the public bodies responsible for control, such as labour inspectorates, as well as, at appropriate levels and in accordance with national law and practice, formally and regularly involve the social partners, in particular representatives of the social partners in sectors with a high incidence of recourse to posted workers.
- (6) It is therefore necessary to set up a Committee of experts in the field of posting of workers and to define its tasks, responsibilities and structure.
- (7) The Committee of experts should, *inter alia*, support and assist Member States in identifying and exchanging experience and good practice, promote the exchange of relevant information, examine any questions and difficulties which might arise in the practical application of the posting of workers legislation, as well as its enforcement in practice, and closely follow the progress achieved in improving both access to information and administrative cooperation, including the development of a possible electronic information exchange system.
- (8) The Committee should be composed of experts representing the national authorities, which in each Member State, are responsible for, in charge of, or involved in the implementation, application and monitoring of the rules applicable to the posting of workers in the framework of the provision of services. Such experts should be able to reflect the full range of knowledge, competences and experience across the different policy areas concerned. In accordance with national law and practice, specialised bodies responsible for the control of legislation, such as labour inspectorates, as well as social partners, could be represented in the Committee.
- (9) The Committee should also formally and regularly involve the social partners at European level, in particular those representing sectors with a higher incidence of recourse to posted workers, such as construction, temporary agency work, catering, agriculture and transport. It should also be able to rely on the expertise of professionals with specific competences on a particular matter included as an item of its agenda.

<sup>(1)</sup> OJ L 18, 21.1.1997, p. 1.

<sup>(2)</sup> COM(2007) 304 final.

<sup>(3)</sup> OJ C 85, 4.4.2008, p. 1.

- (10) Representatives of the EEA/EFTA States, the EFTA Surveillance authority, accession and candidate countries and Switzerland should be permitted to participate as observers.
- (11) Rules on disclosure of information by members should be provided for, without prejudice to the Commission's rules on security as set out in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom <sup>(1)</sup>.
- (12) Personal data relating to members should be processed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data <sup>(2)</sup>.
- (13) The expenses occurred should be financed under Decision No 1672/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Community Programme for Employment and Social Solidarity — Progress <sup>(3)</sup>,

HAS DECIDED AS FOLLOWS:

#### Article 1

An expert Committee entitled 'Committee of Experts on Posting of Workers', hereinafter referred to as 'the Committee', is hereby set up.

#### Article 2

##### Tasks

The tasks of the Committee shall be to:

1. support and assist the Member States in identifying and promoting the exchange of experience and good practices;
2. promote the exchange of relevant information, including information on existing forms of (bilateral) administrative cooperation between the Member States and/or social partners;
3. examine any questions, difficulties and specific issues which might arise concerning the implementation and practical application of Directive 96/71/EC or the national implementing measures, as well as its enforcement in practice;
4. examine any difficulties which might arise in the application of Article 3(10) of Directive 96/71/EC;

5. monitor the progress achieved in improving both access to information and administrative cooperation, and in that context, *inter alia*, assess the different options for a suitable technical support for the information exchange needed to enhance administrative cooperation, including an electronic information exchange system;
6. examine possibilities to increase effective compliance with, and enforcement of workers' rights and protection of their position, if necessary;
7. engage in an in-depth examination of practical cross-border enforcement problems in order to solve existing problems, improve the practical application of existing legal instruments as well as to improve mutual assistance between Member States, if necessary.

#### Article 3

##### Membership — Appointment

1. Each Member State shall appoint two representatives to the Committee. They may also appoint two substitutes.

In appointing their representatives, Member States should involve the public bodies, such as labour inspectorates, responsible for the control of the legislation applicable to posted workers. They may also, in accordance with national law and/or practice, involve the social partners.

2. Representatives of the two sides of industry at Community level, as well as representatives of the social partners in sectors with a high incidence of recourse to posted workers may attend meetings of the Committee as observers, according to the procedures determined by their organisations and the Commission.

The representatives shall be appointed by the Commission, acting upon proposal from the relevant social partners at Community or sectoral level.

This group of observers shall comprise up to a maximum of 20 members composed as follows:

- five members representing employers' organisations at Community level,
- five members representing workers' organisations at Community level,

<sup>(1)</sup> OJ L 317, 3.12.2001, p. 1.

<sup>(2)</sup> OJ L 8, 12.1.2001, p. 1.

<sup>(3)</sup> OJ L 315, 15.11.2006, p. 1.

— a maximum of 10 representatives of the social partners (divided evenly between employers' and workers' organisations) in sectors with a high incidence of recourse to posted workers.

3. Representatives of the EEA/EFTA States, the EFTA Surveillance Authority, accession and candidate countries and Switzerland may equally attend meetings of the Committee as observers.

4. The names of members are to be collected, processed and published in accordance with the provisions of Regulation (EC) No 45/2001 of the European Parliament and of the Council.

#### *Article 4*

##### **Operation**

1. The Committee shall be chaired by the Commission.
2. In agreement with the Commission, sub-groups may be set up to examine specific issues under terms of reference established by the Committee. Such sub-groups shall be dissolved as soon as their mandates are fulfilled.
3. In agreement with the Commission, experts, who may include representatives of international organisations with specific competence in a subject under discussion, may be invited on a case-by-case basis to participate in the Committee's or sub-group's deliberations if this is useful and/or necessary.
4. The Committee and its sub-groups shall normally meet on Commission premises in accordance with the procedures and schedule laid down. It may be called upon to meet in other locations, in particular on a proposal from a Member State wishing to host the Committee or one of its sub-groups in connection with an event of particular interest for the Committee, its sub-group(s) or that Member State.

The Commission shall provide secretarial services. Other Commission officials with a specific interest in the proceedings may attend meetings of the Committee and its sub-groups.

5. The Committee shall adopt its rules of procedure on the basis of the standard rules of procedures adopted by the Commission.

6. Information obtained through participating in the deliberations of the Committee or a sub-group shall not be divulged if, in the opinion of the Commission, that information relates to confidential matters.

7. The Commission may publish on the Internet, in the original language of the document concerned, any summary, conclusion or partial conclusion or working document of the Committee.

#### *Article 5*

##### **Reimbursement of expenses**

The Commission shall reimburse travel and, where appropriate, subsistence expenses for members, observers and invited experts in connection with the Committee's activities in accordance with the Commission's rules on compensation for external experts.

The members, observers and invited experts shall not be remunerated for the services they render.

The needs for human and administrative resources shall be covered within the allocation that can be granted to the managing Directorate-General in the framework of the annual allocation procedure in the light of budgetary constraints.

#### *Article 6*

##### **Entry into force**

This Decision shall take effect on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels, 19 December 2008.

*For the Commission*

Vladimír ŠPIDLA

*Member of the Commission*

## COMMISSION DECISION

of 22 December 2008

**on the compliance of standard EN 1273:2005 on baby walking frames with the general safety requirement of Directive 2001/95/EC of the European Parliament and of the Council and publication of the reference of the standard in the Official Journal**

(notified under document number C(2008) 8616)

(Text with EEA relevance)

(2009/18/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety<sup>(1)</sup>, and in particular Article 4(2), first subparagraph thereof,

After consulting the Standing Committee set up in accordance with Article 5 of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services<sup>(2)</sup>,

Whereas:

- (1) Article 3(1) of Directive 2001/95/EC obliges producers to place only safe products on the market.
- (2) Under Article 3(2) of Directive 2001/95/EC, a product is presumed to be safe, as far as the risks and risk categories covered by the relevant national standards are concerned, when it conforms to voluntary national standards transposing European standards, the references of which have to be published by the Commission in the *Official Journal of the European Union*, in accordance with Article 4(2) of the Directive.
- (3) Pursuant to Article 4(1) of the Directive, European standards should be established by European standardisation bodies under mandates drawn up by the Commission. The Commission will publish the references of such standards.
- (4) Article 4(2) of the Directive lays down a procedure for the publication of references of standards adopted by the European standardisation bodies before the entry into force of the Directive. Where such standards ensure

compliance with the general safety requirement, the Commission will decide to publish the references in the *Official Journal of the European Union*. In such cases, the Commission, acting on its own initiative or at the request of a Member State, will decide, in accordance with the procedure laid down in Article 15(2) of the Directive, whether the standard in question meets the general safety requirement. The Commission will decide to publish the reference of the standard after consulting the Committee established by Article 5 of Directive 98/34/EC. The Commission will notify the Member States of its decision.

- (5) Baby walking frames are devices that help pre-ambulatory children to move around on their own. Hospital emergency data from both Europe and the US over the last 20 years, however, consistently show that baby walking frames are a fall hazard, because they increase the mobility and the speed of children who are not yet able to stand or walk on their own.
- (6) Accidents using baby walking frames are mainly due to falling down stairs or tipping over, especially when children try to go over uneven surfaces such as door thresholds or carpet edges. Injuries resulting from such accidents are very serious, because, in the majority of cases, they affect the child's head.
- (7) In September 1997, the Commission issued a mandate<sup>(3)</sup> to CEN (European Committee for Standardisation) to address the specific safety risks due to the increased mobility and speed provided by baby walking frames to pre-ambulatory children in the relevant standard that CEN was developing at that time.
- (8) The Commission considered the first version of standard EN 1273 adopted by CEN in 2001 not to be satisfactory, since the standard did not address the specific risks described in the mandate.
- (9) The revised version of EN standard 1273 of May 2005, however, provides for stability tests and design requirements geared to reducing injuries caused by falling down stairs and tipping over, as requested in the Commission's mandate.

<sup>(1)</sup> OJ L 11, 15.1.2002, p. 4.<sup>(2)</sup> OJ L 204, 21.7.1998, p. 37.<sup>(3)</sup> Mandate M/253 of 14 September 1997.

- (10) EN 1273:2005 is widely used by the market surveillance authorities in the Member States, as confirmed by several RAPEX notifications making reference to this standard. Furthermore, some Member States refer to this standard in their legislation on the safety of child-care articles <sup>(1)</sup>.
- (11) The improved safety against falling down steps and tipping over provided by EN 1273:2005 increases the passive prevention of accidents arising from the use of baby walking frames.
- (12) The Commission considers that EN 1273:2005 complies with the general safety requirement. As the standard was adopted under a mandate issued before the entry into force of Directive 2001/95/EC, the reference of EN 1273:2005 should be published in accordance with the procedure provided for in Article 4(2), first subparagraph.
- (13) This Decision on the compliance of EN standard 1273:2005 with the general safety requirement is taken at the initiative of the Commission.
- (14) The measures provided for in this Decision are in accordance with the opinion of the Committee of Directive 2001/95/EC,

HAS ADOPTED THIS DECISION:

*Article 1*

EN standard 1273:2005 'Child use and care articles — Baby walking frames — Safety requirements and test methods' meets the general safety requirement of Directive 2001/95/EC for the risks it covers.

*Article 2*

The reference of EN standard 1273:2005 shall be published in part C of the *Official Journal of the European Union*.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 22 December 2008.

*For the Commission*  
Meglena KUNEVA  
*Member of the Commission*

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<sup>(1)</sup> France: Avis relatif à l'application du décret n° 91-1292 du 20 décembre 1991 relatif à la prévention des risques résultant de l'usage des articles de puériculture (JO du 8 avril 2008).  
Austria: Kinderlaufhilfenverordnung 2007, Austrian Official Journal, 7 August 2008.

## COMMISSION DECISION

of 9 January 2009

**amending Decision 2008/655/EC as regards the approval of the emergency vaccination plans against bluetongue of certain Member States and fixing the level of the Community's financial contribution for 2007 and 2008***(notified under document number C(2008) 8966)***(Only the French, Dutch, Czech, Danish, German, Spanish, Italian, Portuguese and Swedish texts are authentic)**

(2009/19/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/75/EC of 20 November 2000 laying down specific provisions for the control and eradication of bluetongue <sup>(1)</sup>, and in particular Article 9(2) thereof,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field <sup>(2)</sup>, and in particular Article 3(3), (4) and the second indent of (5) thereof,

Whereas:

(1) Commission Decision 2008/655/EC of 24 July 2008 approving the emergency vaccination plans against bluetongue of certain Member States and fixing the level of the Community's financial contribution for 2007 and 2008 <sup>(3)</sup> approved the vaccination plans of Belgium, Czech Republic, Denmark, Germany, Spain, France, Italy, Luxembourg, the Netherlands and Portugal and established the maximum amount of the Community financial contribution.

(2) In the second semester of 2008 outbreaks of bluetongue have occurred in several Member States. In particular bluetongue serotype 8 occurred for the first time in Austria and Sweden. New outbreaks of bluetongue serotype 8 were identified in Denmark and Spain. In addition, bluetongue serotype 1 further spread in France, Spain and Portugal.

(3) As the outbreaks in Austria and Sweden occurred after publication of Decision 2008/655/EC, these two Member States submitted their vaccination plans too late to meet the deadline set in Article 4(2) of that Decision. Therefore provisions related to the intermediate reports, including those relating to the reduction of the contribution from the Community should not apply to those Member States.

(4) The Member States concerned have informed the Commission and the other Member States of the occurrence of the disease. Those Member States have presented their new or amended plans for emergency vaccination indicating the approximate number of vaccine doses to be used in 2007 and 2008 and the estimated costs of carrying out those vaccinations. The Commission has assessed the new plans submitted by Austria and Sweden and the amended plans submitted by Denmark, Spain, France, the Netherlands and Portugal from both the veterinary and the financial point of view and the plans were found to comply with relevant Community veterinary legislation. The vaccination of animals against bluetongue in the Member States concerned should therefore be approved in accordance with Article 9(2) of Directive 2000/75/EC.

(5) The eligibility of expenditure is currently restricted to costs paid in the period 1 November 2007 to 31 December 2008. However, the emergency vaccination plans run until the end of 2008. Therefore, the operative event of carrying out vaccination should determine the eligibility of expenditure. Measures with an operative event falling within the above mentioned period are eligible for co-financing.

(6) Decision 2008/655/EC should therefore be amended accordingly.

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

HAS ADOPTED THIS DECISION:

*Article 1*

Decision 2008/655/EC is amended as follows:

1. in Article 1, the first subparagraph is replaced by following:

'The vaccination plans, composed of technical and financial provisions, submitted by Belgium, the Czech Republic, Denmark, Germany, Spain, France, Italy, Luxembourg, the Netherlands, Austria, Portugal and Sweden are hereby approved for the period from 1 November 2007 to 31 December 2008.;

<sup>(1)</sup> OJ L 327, 22.12.2000, p. 74.

<sup>(2)</sup> OJ L 224, 18.8.1990, p. 19.

<sup>(3)</sup> OJ L 214, 9.8.2008, p. 66.

2. in Article 2(1), the first subparagraph is replaced by following:

'In the context of the emergency measures taken to combat bluetongue in 2007 and 2008 Belgium, the Czech Republic, Denmark, Germany, Spain, France, Italy, Luxembourg, the Netherlands, Austria, Portugal and Sweden shall be entitled to a specific contribution from the Community for the bluetongue emergency vaccination plans referred to in Article 1 amounting to:';

3. in Article 4(1), the letter (d) is replaced by the following:

'(d) a final financial report, in computerized form in accordance with the Annex, on the costs incurred by the Member State during the period 1 November 2007 to 31 December 2008 and paid before the submission of the report;';

4. in Article 4(1), the following subparagraph is added:

'However, paragraph 1(a) and (b) and paragraph 2 shall not apply to the plans submitted by Austria and Sweden'.

*Article 2*

**Addressees**

This Decision is addressed to the Kingdom of Belgium, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of Netherlands, the Republic of Austria, the Portuguese Republic and the Kingdom of Sweden.

Done at Brussels, 9 January 2009.

*For the Commission*

Androulla VASSILIOU

*Member of the Commission*

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## CORRIGENDA

Corrigendum to Commission Regulation (EC) No 543/2008 of 16 June 2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultrymeat

(Official Journal of the European Union L 157 of 17 June 2008)

— On page 66 and 67 the table in Annex IV should be replaced by the following:

## ANNEX IV

## Article 11(1) — Types of farming

	bg	es	cs	da	de	et	el	en	fr	it	lv
a)	Хранен с ... % ... гъска, хранена с овес	Alimentado con ... % de ... Oca engordada con avena	Krmena z ... % (čím) ... Husa krmená ovsem	Fodret med ... % ... Havrefodret gås	Gefüttert mit ... % ... Hafermastgans	Söödetud ... mis sisaldab ... % ... Kaeraga toidetud hani	Έχει τραφεί με ... % ... Χίνα που παραίεται με βρώμη	Fed with ... % of ... Oats fed goose	Alimenté avec ... % de ... Oie nourrie à l'avoine	Alimentato con il ... % di ... Oca ingrassata con avena	Baroti ar ... % ... ar auzām barotas zosis
b)	Εκстенzivno zakpυto (otπneλan na zakpυto)	Sistema extensivo en gallinero	Extenzivní v hale	Ekstensivt staldopdræt (skrabe ...)	Extensive Bodenhaltung	Ekstensiivne seespidamine (lindlas pidamine)	Εκτετατικής εκτροφής	Extensive indoor (barnreared)	Élevé à l'intérieur: système extensif	Estensivo al coperto	Turēšana galve- nokārt tēlpās ("Audzēti kūti")
c)	Свободен начин на отглеждане	Gallinero con salida libre	Volný výběh	Fritgående	Freilandhaltung	Vabapidamine	Ελευθέρης βουκότης	Free range	Sortant à l'extérieur	All'aperto	Brīvā turēšana
d)	Традиционен свободен начин на отглеждане	Granja al aire libre	Tradiční volný výběh	Frilands ...	Bäuerliche Frei- landhaltung	Traditsiooniline vabapidamine	Παραδοσιακής ελευθέρης βουκότης	Traditional free range	Fermier-élevé en plein air	Rurale all'aperto	Tradicionālā brīvā turēšana
e)	Свободен начин на отглеждане – пълна свобода	Granja de cría en libertad	Volný výběh – úplná volnost	Frilands ... opdrættet i fuld frihed	Bäuerliche Frei- landhaltung Unbegrenzter Auslauf	Täieliku liik- misvabadusega traditsiooniline vabapidamine	Απεριορίστης ελευθέρης βουκότης	Free-range — total freedom	Fermier-élevé en liberté	Rurale in libertà	Brīvā turēšana – pilnīga brīvība

	lt	hu	mt	nl	pl	pt	ro	sk	sl	fi	sv
a)	Lesinta ... % ... Avižomis penėtos žąsųs	... %-ban ...- val/vel etetve Zabbal etetet liba	Mitmugħa bi ... % ta' ... Wizzā mitmugħa bilhafur	Gevoed met ... % ... Met haver vegetemeste gans	Żywione z udzialem ... % ... tucz owsiany (gęsi)	Alimentado com ... % de ... Ganso engordado com aveia	Furajate cu ... % de ... Găște furajate cu ovăz	Kŕmené ... % ... husi kŕmené ovsom	Krmijeno z ... % gos, krmijena z ovsom	Ruokittu rehulla, joka sisältää ... % Kauralla ruokittu hanhi	Utfodrad med ... % ... Havreutfodrad gås
b)	Ekstensyvus paukščių auginimas patalpose (tvartuose)	Istállóban külterjesen tartott	Imrobġija għewwa: sistema estensiva	Scharrel ... binnenge- houden	Ekstensywny chów ściółkowy	Produção em extensiva em interior	Crescute în spații închise – sistem extensiv	Chované na hlbokej podstielke (chov v hale)	Ekstenzivna zapra reja	Laajaperäinen sisäkasvatus	Extensivt uppfödd inomhus
c)	Laisvai auginami paukščiai	Szabadtartás	Trobbija fil- berah (free range)	Scharrel ... met uitloop	Chów wybiegowy	Produção em semiliberdade	Crestere liberă	Výbehový chov (chov v exteriéri)	Prosta reja	Vapaa laidun	Tilgång till utomhusvistelse
d)	Tradiciskai laisvai auginami paukščiai	Hagyományos szabadtartás	Trobbija fil- berah tradizz- jonali	Boerenscharrel ... met uitloop Hoeve ... met uitloop	Tradycyjny chów wybiegowy	Produção ao ar livre	Crestere liberă tradițională	Chované navoľno	Tradicionalha prosta reja	Vapaa laidun – perinteinen kasvatustapa	Traditionell utomhusvistelse
e)	Visiškoje laisveje auginami paukščiai	Teljes szabad- tartás	Trobbija fil- berah – liberā totali	Boerenscharrel ... met vrije uitloop Hoeve ... met vrije uitloop	Chów wybiegowy bez ograniczeń	Produção em liberdade	Crestere liberă totală	Úplne voľný chov	Prosta reja – neomejen izpust	Vapaa laidun – täydellinen liik- kumavapaus	Uppfödd i full frihet'

— On page 82, in Annex XI:

*for:* **Germany**

Bundesforschungsanstalt für Ernährung und Lebensmittel  
Standort Kulmbach  
E.C.-Baumann-Straße 20  
D-95326 Kulmbach [...]

**Italy**

Ministero Politiche Agricole e Forestali  
Ispettorato centrale per il controllo della qualità dei  
prodotti agroalimentari  
Laboratorio di Modena  
Via Jacopo Cavедone n. 29  
I-41100 Modena [...]

**Hungary**

Országos Élelmiszervizsgáló Intézet  
Budapest 94. Pf. 1740  
Mester u. 81.  
HU-1465'

*read:* **Germany**

Max Rubner-Institut  
Bundesforschungsinstitut für Ernährung und Lebensmittel  
(Federal Research Institute of Nutrition and Food)  
- Institut für Sicherheit und Qualität bei Fleisch -  
(Department of Safety and Quality of Meat)  
E.-C.-Baumann-Str. 20  
D-95326 Kulmbach [...]

**Italy**

Ministero delle politiche agricole alimentari e forestali  
Ispettorato centrale per il controllo della qualità dei  
prodotti agroalimentari  
Laboratorio di Modena  
Via Jacopo Cavедone N. 29  
IT – 41100 Modena [...]

**Hungary**

Mezőgazdasági Szakigazgatási Hivatal Központ Élelmiszer- és Takarmánybiztonsági Igazgatóság  
(Central Agricultural Office Food and Feed Safety Directorate)  
Budapest 94. Pf. 1740  
Mester u. 81  
HU-1465.'

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**NOTE TO THE READER**

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

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