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<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 195/2009****of 12 March 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 March 2009.

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

Done at Brussels, 12 March 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 (1)	Standard import value
0702 00 00	IL	148,7
	JO	78,3
	MA	56,2
	TN	134,4
	TR	96,6
	ZZ	102,8
0707 00 05	EG	147,3
	JO	158,4
	MA	78,7
	MK	139,3
	TR	165,6
	ZZ	137,9
0709 90 70	JO	249,0
	MA	58,2
	TR	96,9
	ZZ	134,7
0709 90 80	EG	88,5
	ZZ	88,5
0805 10 20	EG	43,5
	IL	56,5
	MA	45,2
	TN	57,1
	TR	61,6
	ZZ	52,8
0805 50 10	EG	51,3
	MA	61,0
	TR	50,9
	ZZ	54,4
0808 10 80	AR	102,3
	BR	82,7
	CA	86,3
	CL	79,2
	CN	85,6
	MK	22,7
	US	117,7
	UY	68,9
	ZZ	80,7
0808 20 50	AR	77,7
	CL	163,9
	CN	44,9
	US	104,6
	ZA	92,9
	ZZ	96,8

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

## DIRECTIVES

## DIRECTIVE 2009/14/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 March 2009

## amending Directive 94/19/EC on deposit-guarantee schemes as regards the coverage level and the payout delay

(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 47(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Central Bank <sup>(1)</sup>,

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

Whereas:

(1) The Council agreed on 7 October 2008 that it is a priority to restore confidence and proper functioning of the financial sector. It undertook to take all necessary measures to protect the deposits of individual savers and welcomed the intention of the Commission to bring forward urgently an appropriate proposal to promote convergence of deposit-guarantee schemes.

(2) Directive 94/19/EC of the European Parliament and of the Council <sup>(3)</sup> already provides for basic coverage for depositors. However, the ongoing financial turmoil necessitates an improvement of that coverage.

(3) The current minimum coverage level provided for in Directive 94/19/EC is set at EUR 20 000 with the option for Member States to determine higher

coverage. However, this has proved not to be adequate for a large number of deposits in the Community. In order to maintain depositor confidence and attain greater stability on the financial markets, the minimum coverage level should therefore be increased to EUR 50 000. By 31 December 2010, coverage for the aggregate deposits of each depositor should be set at EUR 100 000, unless a Commission impact assessment, submitted to the European Parliament and the Council by 31 December 2009, concludes that such an increase and such harmonisation are inappropriate and are not financially viable for all Member States in order to ensure consumer protection and financial stability in the Community and to avoid distortions of competition between Member States. In the event that the impact assessment reveals that such an increase and such harmonisation are inappropriate, the Commission should submit appropriate proposals to the European Parliament and the Council.

(4) The same coverage level should apply to all depositors regardless of whether a Member State's currency is the euro or not. Member States outside the euro area should have the possibility to round off the amounts resulting from the conversion without compromising the equivalent protection of depositors.

(5) A report to be submitted to the European Parliament and to the Council by the Commission should analyse all related issues such as set-offs and counterclaims, the determination of contributions to schemes, the scope of products and depositors covered, the effectiveness of cross-border cooperation between deposit-guarantee schemes and the link between deposit-guarantee schemes and alternative means for reimbursing depositors, such as emergency payout mechanisms. For the purpose of that report, Member States should collect the relevant data and submit them to the Commission on request.

(6) Some Member States have established deposit-guarantee schemes under Directive 94/19/EC which provide full coverage for certain kinds of long-term deposits, such as claims on pensions. It is necessary to respect the rights and expectations of the depositors in such schemes.

<sup>(1)</sup> OJ C 314, 9.12.2008, p. 1.

<sup>(2)</sup> Opinion of the European Parliament of 18 December 2008 (not yet published in the Official Journal) and Council Decisions of 26 February 2009 and of 5 March 2009.

<sup>(3)</sup> OJ L 135, 31.5.1994, p. 5.

- (7) Some Member States have established or plan to establish deposit-guarantee schemes under Directive 94/19/EC which provide full coverage for certain temporarily increased account balances. The Commission should assess, by 31 December 2009, whether full coverage for certain temporarily increased account balances should be maintained or introduced.
- (8) The functioning of systems which protect the credit institution itself and, in particular, ensure its liquidity and solvency, thus guaranteeing protection for depositors at least equivalent to that provided by a deposit-guarantee scheme, and voluntary systems of depositors compensation which are not introduced or officially recognised by a Member State should not be affected by this Directive.
- (9) Member States should encourage deposit-guarantee schemes to consider entering into agreements or improving existing agreements concerning their respective obligations.
- (10) The payout delay of three months currently provided for, which can be extended to nine months, runs counter to the need to maintain depositor confidence and does not meet their needs. The payout delay should therefore be reduced to a period of 20 working days. That period should be extended only under exceptional circumstances and after approval by the competent authorities. Two years after the entry into force of this Directive the Commission should submit to the European Parliament and to the Council a report on the effectiveness and delays of the payout procedures assessing whether a further reduction of the delay to 10 working days would be appropriate.
- (11) Furthermore, in cases where the payout is triggered by a determination of the competent authorities, the decision period of 21 days currently provided for should be reduced to five working days in order not to impede rapid payout. The competent authorities should, however, first be satisfied that a credit institution has failed to repay deposits which are due and payable. That assessment should be subject to the judicial or administrative procedures of the Member States.
- (12) Deposits may be considered unavailable once early intervention or reorganisation measures have been unsuccessful. This should not prevent competent authorities from making further restructuring efforts during the payout delay.
- (13) Member States should aim at ensuring the continuity of banking services and access to liquidity of banks, in particular in periods of financial turmoil. For this purpose, Member States are encouraged to make arrangements as soon as possible for ensuring emergency payouts of appropriate amounts upon the application of the affected depositor, within no more than three days of such application. Since the reduction of the current payout delay of three months will have a positive impact on depositor confidence and the proper functioning of the financial markets, Member States and their deposit-guarantee schemes should ensure that the payout delay is as short as possible.
- (14) Directive 94/19/EC provides the possibility for Member States to limit coverage to a specified percentage. That option has been demonstrated to undermine depositor confidence and should thus be discontinued.
- (15) The measures necessary for the implementation of Directive 94/19/EC 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>.
- (16) In particular, the Commission should be empowered to adjust the coverage level according to inflation in the European Union on the basis of changes in the harmonised index of consumer prices published by the Commission. Since that measure is of general scope and is designed to amend non-essential elements of Directive 94/19/EC, it must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (17) Since the objectives of this Directive, namely the harmonisation of coverage levels and of payout delays, cannot be sufficiently achieved by the Member States because of the multitude of different rules existing in the legal systems of the various Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (18) Directive 94/19/EC should therefore be amended accordingly.

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

(19) In accordance with point 34 of the Interinstitutional Agreement on better law-making <sup>(1)</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 this Directive and the transposition measures and to make them public,

HAVE ADOPTED THIS DIRECTIVE:

*Article 1*

**Amendments to Directive 94/19/EC**

Directive 94/19/EC is hereby amended as follows:

1. in Article 1(3)(i), the second paragraph shall be replaced by the following:

‘The competent authorities shall make that determination as soon as possible and in any event no later than five working days after first becoming satisfied that a credit institution has failed to repay deposits which are due and payable; or’;

2. Article 4 shall be amended as follows:

(a) paragraph 5 shall be replaced by the following:

‘5. In the cases referred to in paragraphs 1 to 4, Member States shall ensure that deposit-guarantee schemes cooperate with each other.’;

(b) the following paragraph shall be added:

‘6. The Commission shall review the functioning of this Article at least every two years and, if appropriate, propose amendments thereto.’;

3. Article 7 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

‘1. Member States shall ensure that the coverage for the aggregate deposits of each depositor shall be at least EUR 50 000 in the event of deposits being unavailable.

1a. By 31 December 2010, Member States shall ensure that the coverage for the aggregate deposits of each depositor shall be set at EUR 100 000 in the event of deposits being unavailable.

If, in its report referred to in Article 12, the Commission concludes that such an increase and such harmonisation are inappropriate and not financially viable for all Member States in order to ensure consumer protection and financial stability in the Community and avoid cross-border distortions between Member States, it shall present to the European Parliament and the Council a proposal to amend the first subparagraph.

1b. Member States outside the euro area that convert the amounts expressed in euro referred to in paragraphs 1 and 1a into their national currencies shall ensure that the amounts of national currencies effectively paid to depositors are equivalent to those set out in this Directive.’;

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

‘3. Paragraph 1a shall not preclude the retention of provisions which offered before 1 January 2008, notably for social considerations, full coverage for certain kinds of deposits.’;

(c) paragraph 4 shall be deleted;

(d) the following paragraph shall be added:

‘7. The Commission may adjust the amounts referred to in paragraphs 1 and 1a in accordance with inflation in the European Union on the basis of changes in the harmonised index of consumer prices published by the Commission.

That measure, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 7a(2).’;

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

4. the following Article shall be inserted:

*'Article 7a*

1. The Commission shall be assisted by the European Banking Committee established by Commission Decision 2004/10/EC (\*).

2. Where reference is made to this paragraph, Article 5a(1) to (4), and Article 7 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (\*\*) shall apply, having regard to the provisions of Article 8 thereof.

(\*) OJ L 3, 7.1.2004, p. 36.

(\*\*) OJ L 184, 17.7.1999, p. 23.;

5. in Article 9, paragraph 1 shall be replaced by the following:

'1. Member States shall ensure that credit institutions make available to actual and intending depositors the information necessary for the identification of the deposit-guarantee scheme of which the institution and its branches are members within the Community or any alternative arrangement provided for in the second subparagraph of Article 3(1) or in Article 3(4). The depositors shall be informed of the provisions of the deposit-guarantee scheme or any alternative arrangement applicable, including the amount and scope of the cover offered by the deposit-guarantee scheme. When a deposit is not guaranteed by a deposit-guarantee scheme in accordance with Article 7(2), the credit institution shall inform the depositor accordingly. All information shall be made available in a readily comprehensible manner.

Information about the conditions for compensation and the formalities which must be completed to obtain compensation shall be given on request.;

6. Article 10 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

'1. Deposit-guarantee schemes shall be in a position to pay duly verified claims by depositors in respect of unavailable deposits within 20 working days of the date on which the competent authorities make a determination as referred to in Article 1(3)(i) or a judicial authority makes a ruling as referred to in Article 1(3)(ii). That time limit includes the collection

and transmission of the accurate data on depositors and deposits, which are necessary for the verification of claims.

In wholly exceptional circumstances, a deposit-guarantee scheme may apply to the competent authorities for an extension of the time limit. Such extension shall not exceed 10 working days.

By 16 March 2011, the Commission shall submit to the European Parliament and to the Council a report on the effectiveness and delays of the payout procedures assessing whether reduction to 10 working days of the delay referred to in the first subparagraph could be implemented.

Member States shall ensure that deposit-guarantee schemes perform regular tests of their systems and that, if appropriate, they are informed in the event that the competent authorities detect problems in a credit institution that are likely to give rise to the intervention of deposit-guarantee schemes.;

(b) paragraph 2 shall be deleted;

7. Article 12 shall be replaced by the following:

*'Article 12*

1. The Commission shall submit to the European Parliament and to the Council by 31 December 2009 a report on:

(a) the harmonisation of the funding mechanisms of deposit-guarantee schemes addressing, in particular, the effects of an absence of harmonisation in the event of a cross-border crisis, in regard to the availability of the compensation payouts of the deposit and in regard to fair competition, and the benefits and costs of such harmonisation;

(b) the appropriateness and modalities of providing for full coverage for certain temporarily increased account balances;

(c) possible models for introducing risk-based contributions;

(d) the benefits and costs of a possible introduction of a Community deposit-guarantee scheme;



- (e) the impact of diverging legislations as regards set-off, where a depositor's credit is balanced against its debts, on the efficiency of the system and on possible distortions, taking into account cross-border winding-up;
- (f) the harmonisation of the scope of products and depositors covered, including the specific needs of small and medium enterprises and local authorities;
- (g) the link between deposit-guarantee schemes and alternative means for reimbursing depositors, such as emergency payout mechanisms.

If necessary, the Commission shall put forward appropriate proposals to amend this Directive.

2. Member States shall inform the Commission and the European Banking Committee if they intend to change the scope or level of coverage for deposits and on any difficulty encountered when cooperating with other Member States.;

8. Annex III shall be deleted.

#### *Article 2*

#### **Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 June 2009.

By way of derogation from the first subparagraph, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with the second

paragraph of point 3(i) of Article 1, Article 7(1a) and (3) and Article 10(1) of Directive 94/19/EC, as amended by this Directive, by 31 December 2010.

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

#### *Article 3*

#### **Entry into force**

This Directive shall enter into force on the third 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, 11 March 2009.

*For the European Parliament*

*The President*

H.-G. PÖTTERING

*For the Council*

*The President*

A. VONDRA

## II

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

## DECISIONS

## COMMISSION

## COMMISSION DECISION

of 12 September 2007

**on the aid scheme C 12/06 (ex N 132/05) which the Czech Republic is planning to implement to support combined transport**

(notified under document number C(2007) 4134)

(Only the Czech text is authentic)

(Text with EEA relevance)

(2009/182/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

dated on 5 October 2005. A third request of information was sent by letter on 1 December 2005. The reply to this request was sent by the Czech authorities by letter dated on 9 January 2006.

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

- (2) By letter dated 4 April 2006, the Commission informed the Czech Republic that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of one specific measure regarding the aid for the purchase of certain types of wagons for the use of combined transport and decided not to raise any objection concerning the rest of the aid measures.

Having called on interested parties to submit their comments pursuant to those provisions <sup>(1)</sup>,

Whereas:

- (3) The Commission Decision to initiate the procedure was published in the *Official Journal of the European Union* <sup>(2)</sup>. The Commission called on interested parties to submit their comments.

### 1. PROCEDURE

(1) By letter dated 16 March 2005 the Czech Permanent Representation notified an aid scheme to support combined transport. The aid was registered under N 132/05. By letter dated 19 May 2005 the Commission asked further questions regarding this scheme to which the Czech authorities replied by letter registered by DG TREN on 11 July 2005. A technical meeting between the Czech authorities and the Commission services took place on 14 June 2005. A second request of information was sent by letter dated on 5 September 2005. The reply to this request was sent by the Czech authorities by letter

- (4) The Commission received no comments from interested parties.

- (5) The Czech authorities forwarded to the Commission their comments to the Commission Decision of 4 April 2006 by letter dated 9 May 2006.

- (6) By letter dated 1 February 2007 the Czech authorities informed the Commission on the modifications introduced to the notified aid scheme as regards the purchase of certain types of wagons for the use of combined transport. Additional information was submitted to the Commission on 27 April 2007. By letter of 28 June 2007, the Czech authorities informed the Commission on new modifications introduced in the scheme as regards the purchase of certain types of wagons for the use of combined transport.

## 2. DESCRIPTION OF THE SCHEME

### 2.1. Objective

- (7) The aim of the scheme is to develop combined transport in order to achieve a traffic shift from freight road transport to other modes of transport. The scheme is made up of number of sub-programmes:
- (a) sub-programme 1: Aid for the construction, extension and modernisation of existing combined transport terminals;
- (b) sub-programme 2: Aid for the acquisition of combined transport equipment investment grants;
- (c) sub-programme 3: Aid for the start-up phase of new combined transport routes.
- (8) The scheme should mainly increase the use of unaccompanied combined transport by improving its competitiveness.

### 2.2. Legal basis

- (9) The legal basis will be the Resolution of the Government of the Czech Republic on the framework policy for the development of, and support for combined transport in the 2006-2010 period.

### 2.3. Beneficiaries

- (10) Beneficiaries will be combined transport operators, railway hauliers and operators of terminals.
- (11) All EU companies having registered offices, agencies, branches or subsidiaries in the Czech Republic will have access to the aid.

### 2.4. Type of aid

- (12) The aid will take the form of non-reimbursable subsidies.

Sub-programme 2 provides for aid in form of investment grants for the acquisition of combined transport equipment, including purchase of certain types of wagons for combined transport.

- (13) The State aid measures included in sub-programmes 1 and 3 and those within sub-programme 2 with the exclusion of the aid for the purchase of certain types of wagons for the use in combined transport were the object of the Commission Decision adopted on 4 April 2006 whereby the present investigative procedure was opened. In relation to all other measure excepting the purchase of certain types of wagons for the use in combined transport the Commission decided not to raise any objection. Consequently, the present decision only concerns the aid for the purchase of certain types of wagons for use in combined transport.

- (14) The Czech authorities consider in their notification that these special wagons cannot be used for traditional railway services, but exclusively and only for the transport of intermodal transport units. These wagons have a special construction, modified only for the transport of intermodal transport units, which makes it impossible to use these wagons for carrying goods carried by traditional railway cars — for example, the wagons do not have a floor, sidings or end boards, but are equipped with fixing pieces (twistlocks). The subsidy will only be provided for these special railway wagons and the applicant will have to provide their precise specification and use them for a specific new combined transport line. The principal objective of the support is to secure the necessary number of railway wagons for the respective combined transport line, or the railway wagons for the 'new' combined transport systems (e.g. preparation of road trailers), which have not been operated in the Czech Republic so far. The same principle will be used also for the special road vehicles for combined transport, and the support will be also extended to intermodal transport units with the exception of ISO containers.

### 2.5. Intensity, budget and duration

- (15) The aid intensity is 30 % of the eligible costs.
- (16) The expected budget for the period 2006-2010 is CZK 1 580 million (EUR 55 702 450) for the overall programme.

## 2.6. Procedure

- (17) The procedure to grant the aid, the project assessment, the cumulation and the control measures are exactly the same as those authorised by the Commission in its decision of 4 April 2006.

### 3. REASONS TO OPEN THE FORMAL INVESTIGATION PROCEDURE: DOUBTS OF THE COMMISSION AS REGARDS THE COMPATIBILITY WITH THE TREATY OF THE AIDS TO SPECIAL WAGONS FOR COMBINED TRANSPORT

- (18) As regards the specific part of the aid concerning the special wagons for combined transport, the Commission had doubts whether it could be declared compatible with the EC Treaty.
- (19) In light of the Commission policy encouraging combined transport, the measure in question could be considered compatible on the basis of Article 87(3)(c) of the EC Treaty if, in particular it were ensured that the wagons, the purchase of which is supported by the aid, can only be used for combined transport operations. At the stage of opening procedures, the Commission did not have sufficient information available in order to definitively establish that these wagons can only and exclusively be used in the framework of a combined transport service.
- (20) Alternatively, aid granted for the acquisition of rolling stock not exclusively dedicated to combined transport could be declared compatible if the beneficiaries of the aid were only small or medium-size enterprises (SMEs). Article 4(5) of Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to small and medium-sized enterprises<sup>(3)</sup> allows for aid investments in railway wagons for SMEs. In particular, the aid intensity fixed by Article 4(2) is 15 % for small and 7,5 % for medium-sized enterprises. In order to apply these provisions, the Commission requested the confirmation that the intended measure would only benefit small and medium-size enterprises and within these thresholds.

## 4. COMMENTS FROM THE CZECH REPUBLIC

### A. Comments to the decision on opening of the formal investigation procedure

- (21) In their letter of 9 May 2006, the authorities of the Czech Republic submitted the following comments.

- (22) The proposed aid covers the purchase of special railway wagons intended for use only in combined transport, which cannot be used for other rail-transport purposes on account of their special design.
- (23) According to the UIC international letter marking system, these are wagons in the S category, or possibly the L category. Category 'S' means a flat, bogie wagon of a specific construction, while category 'L' means a flat, two-axle wagon of a specific construction. Wagons in these categories are of a special design (specific construction), adapted exclusively for the carriage of intermodal transport units, which makes it impossible to use these wagons for carrying goods in the same way as other railway wagons. The load area of wagons in these categories comprises a frame-type structure with fixing pins or other special components or devices which are essential for attaching or handling intermodal transport units. They do not therefore have a full floor, side walls or stanchions or an end walls, and so it is not possible to attach to them any type of load other than intermodal transport units. There are around 100 types of wagons in these categories in Europe.
- (24) The purpose of the aid for the purchase of the wagons in question is to help secure the special railway wagons for the new combined transport routes, or railway wagons for 'new' combined transport systems, which have not been operated in the Czech Republic at all to date (e.g. transport of road semi-trailers) or have been operated on a small scale (e.g. transport of swap bodies).
- (25) The special railway wagons, the acquisition of which would be funded from public resources, could be used only in the context of a new combined transport route and on the conditions laid down in advance in the government resolution referred to in recital 9. The grant may amount to a maximum of 30 % of the overall acquisition costs. The evaluation committee will assess the number of wagons acquired, the amount of the grant, the fulfilment of the conditions of the programme and the quality of the business plan.
- (26) At regular three-monthly intervals over a prescribed period, the beneficiary will transmit to the Ministry of Transport, *inter alia*, information on the operation of a new route and the utilisation of the railway wagons acquired by means of the grant. In addition, monitoring by the Ministry of Transport will focus on accounting and inventory records and random physical checks on the wagons concerned.

(27) Converting these wagons is difficult from a technical point of view and very costly. Conversion would, moreover, involve changing the marking of the wagons, which of course requires the approval of the Railway Administration Authority, a Czech State body. Wagon conversions would also show up in the wagon inventory records, which will be the subject of checks by the Ministry of Transport.

(28) The Czech Republic believes that support for the purchase of S or L series railway wagons is compatible with the Treaty establishing the European Community, because the very design of these wagons makes it impossible for them to be used in ordinary rail transport and converting these wagons would be difficult from a technical point of view and would be very costly. Monitoring the use of financial resources will be based, first, on the information which the beneficiary is obliged to transmit to the Ministry of Transport, *inter alia*, concerning the operation of a new route and the utilisation of the railway wagons acquired by means of the grant and, second, on the verification of the beneficiary's accounting and inventory records, including random physical checks on these wagons.

#### B. Modification of the aid scheme

(29) In their letter of 1 February 2007 the Czech authorities notified the Commission of a modification of the aid scheme as regards the intensity of the aid for the purchase of certain types of wagons for the use of combined transport in order to adapt them to the requirements of Regulation (EC) No 70/2001. However, by letter of 28 June 2007, the Czech authorities informed the Commission on new modifications introduced in the scheme as regards the purchase of certain types of wagons for combined transport in order to maintain the provisions of the original notification.

#### 5. ASSESSMENT OF THE MEASURE

(30) According to Article 87(1) of the EC Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the provision of certain goods shall be incompatible with the common market, in so far as it affects trade between Member States, save as otherwise provided for in the Treaty.

(31) As regards the condition of use of State resources, the measure envisaged establishes that the selected beneficiaries will receive a State contribution. The State is

responsible for the provision of such financial contributions. The Commission concludes that the measure implies the use of State resources.

(32) As regards the condition of selective economic advantage, the aid measure applies only to railway companies who operate combined transport within the Czech Republic. It therefore favours certain undertakings or the provision of certain goods.

(33) As regards the condition of distortion of competition and trade between Member States being affected, when aid granted by a Member State strengthens the position of an undertaking compared with other undertakings competing in intra-Community trade, the latter must be regarded as affected by that aid <sup>(4)</sup>.

(34) Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States <sup>(5)</sup> has liberalised the combined transport operations referred to in its Article 1 from all quota systems and systems of authorisation since 1 July 1993. Since then, undertakings are progressively becoming active in several Member States, and intra-community trade has started to develop. Competition between economic entities active in combined transport of goods is thus developing beyond the boundaries of the different Member States. The geographical position of the Czech Republic makes the development of competition between operators of combined transport within and outside this Member State relatively stronger than in other parts of the Community. The intended measure will support combined transport operators which develop activity within the Czech Republic, in competition with other operators who develop their activity in the neighbouring Member States. As such, it is liable to distort competition and affects trade between Member States.

(35) In view of those facts, the Commission finds that the notified aid scheme involves aid within the meaning of Article 87(1) of the EC Treaty and is hence, in principle, prohibited by virtue of that Article, unless it may be deemed compatible with the common market by virtue of any of the exemptions provided for in the Treaty or secondary legislation.

#### 6. APPRAISAL OF THE COMPATIBILITY OF THE AID MEASURE

(36) In the absence of a more specific provision, the notified scheme can only be assessed upon the basis of Article 87(3)(c) of the Treaty.

- (37) Article 87(3)(c) states that aid to facilitate the development of certain economic activities or of certain economic areas may be considered to be compatible with the common market where such aid does not adversely affect trading conditions to an extent contrary to the common interest.

#### 6.1. Objective of common interest

- (38) The Community has for some time pursued a policy of achieving a balanced intermodal transport system and the fostering of the competitiveness of combined transport vis-à-vis road is part and parcel of this policy. The aim of EC combined transport policy is to achieve a modal shift from road to other modes of transport.
- (39) Community instruments such as Directive 92/106/EEC aim explicitly at fostering the development of combined transport, as confirmed in the fourth recital of that Directive. The White Paper on Transport Policy<sup>(6)</sup> encourages the use of rail and other environmentally friendly modes of transport in order to become competitive alternatives to road haulage.
- (40) Intermodal policy is an initiative to take the pressure off the road freight sector, and is in line with the conclusions of the European Council of Gothenburg of June 2001 which has declared that measures helping modal shift from road transport to more environmentally friendly modes are at the heart of the policy for sustainable transport<sup>(7)</sup>.
- (41) Furthermore, today, Europe's industry maintains or increases the competitiveness of its Europe-based production largely by advanced logistics, optimising production and distribution, and creating value in the process. These sophisticated supply chains are increasingly vulnerable to the decreasing reliability and increasing costs of road freight. Intermodal logistics will thus have to become a prime occupation for Europe's production industry, in order to maintain productive assets and processes in Europe.

#### 6.2. Necessity and proportionality of the aid

- (42) Intermodal transport is a complex transport option, involving various actors with various business models, in a fragmented and small-scale environment, often still separated by modal cultures and along national lines. The Commission recognises that it is in the first place the task of market operators to improve intermodal transport within markets, whose access is free and where the rules

of free competition and supply and demand prevail. However, in order to fully unleash the potential of intermodal transport, the willingness to take risks inherent in switching from road to the alternative modes, needs to be stimulated.

- (43) Many transport companies are operating today in markets in full restructuring. Their margins are low, planning is difficult, and the future uncertain. Therefore, practical and market-oriented support programmes need to be devised to help the intermodal sector take risks and respond to the challenge of achieving a sustained and large modal shift, in line with the targets set in the Commission White Paper of 2001.
- (44) The proposed aid is intended for the purchase of special railway wagons intended for use only in combined transport, which cannot be used for other rail-transport purposes on account of their special design.
- (45) The Commission considers that the explanations provided by the Czech authorities in their letter dated 9 May 2006, referred to in recitals 20 to 27 of this Decision, clearly indicate that the special wagons are exclusively dedicated to combined transport operations due to their special design (specific construction), adapted exclusively for the carriage of intermodal transport units, which makes it difficult to use these wagons for carrying goods in the same way as other railway wagons.
- (46) The Commission in its practice has considered State aid for the acquisition of equipment designed exclusively for combined transport<sup>(8)</sup>, in particular wagons of such specific conditions<sup>(9)</sup>, compatible with Treaty rules. In addition, the Commission considers that<sup>(10)</sup> to modernise or renew rolling stock in the field of rail transport is necessary in order to avoid further fall in rail transport's market share compared with other, less sustainable and more environmentally damaging, transport modes.

#### 6.3. No affectation of trading conditions to an extent contrary to the common interest

- (47) The Commission considers that in the line with established practice<sup>(11)</sup>, the limitation of the planned aid's intensity to 30 % will ensure that trading conditions are not affected contrary to the common interest.

#### 6.4. Conclusion: compatibility pursuant to Article 87(3)(c) of the EC Treaty

(48) The Commission therefore concludes that the aid for the purchase of certain types of wagons to be used in combined transport at issue in the present case can be considered compatible with the EC Treaty in accordance with Article 87(3)(c) of the Treaty in as much as they will not distort trade in a manner contrary to the common interest,

HAS ADOPTED THIS DECISION:

##### Article 1

The State aid which the Czech Republic is planning to implement as regards the purchase of certain types of wagons

for the use of combined transport is compatible with the common market pursuant to Article 87(3)(c) of the EC Treaty.

Implementation of the aid is accordingly authorised.

##### Article 2

This Decision is addressed to the Czech Republic.

Done at Brussels, 12 September 2007.

For the Commission

Jacques BARROT

Vice-President

<sup>(1)</sup> OJ C 150, 28.6.2006, p. 35.

<sup>(2)</sup> See footnote 1.

<sup>(3)</sup> OJ L 10, 13.1.2001, p. 33.

<sup>(4)</sup> See, in particular, Case 730/79 *Philip Morris v Commission* [1980] ECR 2671, paragraph 11; Case C-53/00 *Ferring* [2001] ECR I-9067, paragraph 21; and Case C-372/97 *Italy v Commission*, [2004] ECR I-3679, paragraph 44.

<sup>(5)</sup> OJ L 368, 17.12.1992, p. 38.

<sup>(6)</sup> White Paper; European transport policy for 2010: time to decide, COM(2001) 370.

<sup>(7)</sup> Accessible at the following web link: [http://ec.europa.eu/governance/impact/docs/key\\_docs/goteborg\\_concl\\_en.pdf](http://ec.europa.eu/governance/impact/docs/key_docs/goteborg_concl_en.pdf) (point 29).

<sup>(8)</sup> Decision of 22 December 2006, Case N 575/06 — *Italy* (OJ C 139, 23.6.2007, p. 11); Decision of 6 April 2006, Case N 132/05 — *Czech Republic* (OJ C 150, 28.6.2006, p. 35); Decision of 8 September 2004, Case N 140/04 — *Austria* (OJ C 126, 25.5.2005, p. 10); Decision of 19 February 2002, Case N 566/02 — *Belgium* (OJ C 248, 16.10.2003, p. 3); Decision of 11 November 2003, Case N 134/01 — *Italy* (OJ C 311, 20.12.2003, p. 18); Decision of 24 July 2002, Case N 833/01 — *Italy* (OJ C 242, 8.10.2002, p. 8); Decision of 22 October 1997, Case N 79/97 — *The Netherlands* (OJ C 377, 12.12.1997, p. 3); Decision of 4 May 1999, C 21/98 — *Italy* (OJ L 227, 28.8.1999, p. 12); Decision of 21 December 2000, N 508/99 — *Italy* (OJ C 71, 3.3.2001, p. 21); and Decision of 8 July 1999, Case N 121/99 — *Austria* (OJ C 245, 28.8.1999, p. 2).

<sup>(9)</sup> Decision of 27 February 2002, Case C 644/01 — *Austria* (OJ C 88, 12.4.2002, p. 16). See also Decision of 12 September 2007, Case N 76/07 — *Austria* (not yet published in the *Official Journal of the European Union*).

<sup>(10)</sup> Decision of 20 December 2006, Case C 46/04 (ex NN 65/04) — *France*, recitals 176 and 177 (OJ L 112, 30.4.2007, p. 41).

<sup>(11)</sup> See Commission Decision of 22 December 2006, Case N 575/06 — *Italy* — Region of Friuli-Venezia Giulia — prolongation of the existing authorised aid scheme N 134/01 — *Italy* — Region of Friuli-Venezia Giulia — Draft Law No 06/1-A — Aid for the establishment of infrastructure and services in the goods transport sector, for the restructuring of road haulage and the development of combined transport (not yet published); Commission Decision of 13 September 2006, Case N 196/06 — *Austria* — Guidelines on aid for transshipment systems in intermodal transport (OJ C 280, 18.11.2006); Decision of 6 April 2006, State aid N 132/05 — *Czech Republic* (OJ C 150, 28.6.2006, p. 35); Commission Decision of 25 January 2006, Case N 247/04 — *Belgium* — Aide au transport combiné de Région wallonne (OJ C 136, 3.6.2005, p. 43); Commission Decision of 25 January 2006, N 160/05 — *Poland* — Aid scheme for development of intermodal systems (OJ C 272, 9.11.2006, p. 10); Commission Decision of 16 March 2005, Case N 238/04 — *Germany* — Aid scheme for funding of new combined transport traffic (OJ C 136, 3.6.2005, p. 43); Commission Decision of 19 February 2002, N 566/02 — *Belgium* — Decision of the Flemish Government on aid for combined transport in the context of economic expansion legislation (OJ C 248, 16.10.2003); Commission Decision of 9 December 1998, Case N 598/98 — *The Netherlands* (OJ C 29, 4.2.1999, p. 13); Commission Decision of 8 July 1999, Case N 121/99 — *Austria* (OJ C 245, 28.8.1999, p. 2); Commission Decision of 4 May 1999, Case N 508/99 — *Italy* — Region of Bozen-Alto Adige — Law 4/97 (OJ C 71, 3.3.2001, p. 21); Commission Decision of 15 November 2000, Case N 755/99 — *Italy* — Region of Bozen-Alto Adige — Law No 8/98 (OJ C 71, 3.3.2001, p. 19).

**DECISION No 2/2008 OF THE COMMUNITY/SWITZERLAND STATISTICAL COMMITTEE  
of 21 November 2008**

**amending Annex A to the Agreement between the European Community and the Swiss  
Confederation on cooperation in the field of statistics**

(2009/183/EC)

THE COMMUNITY/SWITZERLAND STATISTICAL COMMITTEE,

Having regard to the Agreement between the European Community and the Swiss Confederation on cooperation in the field of statistics <sup>(1)</sup>, and in particular Article 4(4) thereof,

Whereas:

- (1) The Agreement between the European Community and the Swiss Confederation entered into force on 1 January 2007 and contains Annex A concerning legal acts in the field of statistics.
- (2) New legal acts in the field of statistics have been adopted and should be added to the Annex A. Consequently, Annex A should be revised,

HAS DECIDED AS FOLLOWS:

*Article 1*

Annex A to the Agreement is replaced by the Annex to this Decision.

*Article 2*

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

Done at Luxembourg, 21 November 2008.

*For the Joint Committee*

*The Head of the EC Delegation*  
Walter RADERMACHER

*The Head of the Swiss Delegation*  
Adelheid BÜRGI-SHMELZ

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<sup>(1)</sup> OJ L 90, 28.3.2006, p. 2.



## ANNEX

## 'ANNEX A

**LEGAL ACTS IN THE FIELD OF STATISTICS REFERRED TO IN ARTICLE 2****SECTORAL ADAPTATION**

1. The term "Member State(s)" contained in the acts referred to in this Annex shall be understood to include Switzerland, in addition to its meaning in the relevant Community acts.
2. Provisions laying down by whom the costs for carrying out surveys and the like shall be borne shall not apply for the purposes of this Agreement.

**ACTS REFERRED TO**

## BUSINESS STATISTICS

- 397 R 0058: Council Regulation (EC, Euratom) No 58/97 of 20 December 1996 concerning Structural Business Statistics (OJ L 14, 17.1.1997, p. 1), as amended by:
    - 398 R 0410: Council Regulation (EC, Euratom) No 410/98 of 16 February 1998 (OJ L 52, 21.2.1998, p. 1),
    - 32002 R 2056: Regulation (EC) No 2056/2002 of the European Parliament and of the Council of 5 November 2002 (OJ L 317, 21.11.2002, p. 1),
    - 32002 R 1614: Commission Regulation (EC) No 1614/2002 of 6 September 2002 (OJ L 244, 12.9.2002, p. 7).
- The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:
- (a) Switzerland shall not be bound by the regional breakdown of the data as required by this Regulation;
  - (b) Switzerland is exempted from providing data at the 4-digit level of the NACE REV 1;
  - (c) Switzerland is exempted from providing data required by this Regulation for kind of activity units.
- 398 R 2700: Commission Regulation (EC) No 2700/98 of 17 December 1998 concerning the definitions of characteristics for structural business statistics (OJ L 344, 18.12.1998, p. 49), as amended by:
    - 32002 R 1614: Commission Regulation (EC) No 1614/2002 of 6 September 2002 (OJ L 244, 12.9.2002, p. 7),
    - 32003 R 1670: Commission Regulation (EC) No 1670/2003 of 1 September 2003 (OJ L 244, 29.9.2003, p. 74).
  - 398 R 2701: Commission Regulation (EC) No 2701/98 of 17 December 1998 concerning the series of data to be produced for structural business statistics (OJ L 344, 18.12.1998, p. 81), as amended by:
    - 32002 R 1614: Commission Regulation (EC) No 1614/2002 of 6 September 2002 (OJ L 244, 12.9.2002, p. 7),
    - 32003 R 1669: Commission Regulation (EC) No 1669/2003 of 1 September 2003 (OJ L 244, 29.9.2003, p. 57).
  - 398 R 2702: Commission Regulation (EC) No 2702/98 of 17 December 1998 concerning the technical format for the transmission of structural business statistics (OJ L 344, 18.12.1998, p. 102), as amended by:
    - 32002 R 1614: Commission Regulation (EC) No 1614/2002 of 6 September 2002 (OJ L 244, 12.9.2002, p. 7),
    - 32003 R 1668: Commission Regulation (EC) No 1668/2003 of 1 September 2003 (OJ L 244, 29.9.2003, p. 32),
    - 32006 R 1792: Commission Regulation (EC) No 1792/2006 of 23 October 2006 (OJ L 362, 20.12.2006, p. 1).

- 399 R 1618: Commission Regulation (EC) No 1618/1999 of 23 July 1999 concerning the criteria for the evaluation of quality of structural business statistics (OJ L 192, 24.7.1999, p. 11).
- 399 R 1225: Commission Regulation (EC) No 1225/1999 of 27 May 1999 concerning the definitions of characteristics for insurance services statistics (OJ L 154, 19.6.1999, p. 1).
- 399 R 1227: Commission Regulation (EC) No 1227/1999 of 28 May 1999 concerning the technical format for the transmission of insurance services statistics (OJ L 154, 19.6.1999, p. 75), as amended by:
  - 32006 R 1792: Commission Regulation (EC) No 1792/2006 of 23 October 2006 (OJ L 362, 20.12.2006, p. 1).
- 399 R 1228: Commission Regulation (EC) No 1228/1999 of 28 May 1999 concerning the series of data to be produced for insurance services statistics (OJ L 154, 19.6.1999, p. 91), as amended by:
  - 32006 R 1792: Commission Regulation (EC) No 1792/2006 of 23 October 2006 (OJ L 362, 20.12.2006, p. 1).
- 32003 R 1668: Commission Regulation (EC) No 1668/2003 of 1 September 2003 implementing Council Regulation (EC, Euratom) No 58/97 with regard to the technical format for the transmission of the structural business statistics and amending Commission Regulation No 2702/98 concerning the technical format for the transmission of structural business statistics (OJ L 244, 29.9.2003, p. 32), as amended by:
  - 32006 R 1792: Commission Regulation (EC) No 1792/2006 of 23 October 2006 (OJ L 362, 20.12.2006, p. 1).
- 32003 R 1669: Commission Regulation (EC) No 1669/2003 of 1 September 2003 implementing Council Regulation (EC, Euratom) No 58/97 with regard to the series of data to be produced for structural business statistics and amending Commission Regulation (EC) No 2701/98 concerning the series of data to be produced for structural business statistics (OJ L 244, 29.9.2003, p. 57).
- 32003 R 1670: Commission Regulation (EC) No 1670/2003 of 1 September 2003 implementing Council Regulation (EC, Euratom) No 58/97 with regard to the definitions of characteristics for structural business statistics and amending Regulation (EC) No 2700/98 concerning the definitions of characteristics for structural business statistics (OJ L 244, 29.9.2003, p. 74).
- 398 R 1165: Council Regulation (EC) No 1165/98 of 19 May 1998 concerning short-term statistics (OJ L 162, 5.6.1998, p. 1), as amended by:
  - 32005 R 1158: Regulation (EC) No 1158/2005 of the European Parliament and of the Council of 6 July 2005 (OJ L 191, 22.7.2005, p. 1),
  - 32006 R 1503: Commission Regulation (EC) No 1503/2006 of 28 September 2006 (OJ L 281, 12.10.2006, p. 15).

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

Switzerland is exempted from providing data at the 4-digit level of the NACE REV 1.

- 32001 R 0586: Commission Regulation (EC) No 586/2001 of 26 March 2001 on implementing Council Regulation (EC) No 1165/98 concerning short-term statistics as regards the definition of Main Industrial Groupings (MIGS) (OJ L 86, 27.3.2001, p. 11), as amended by:
  - 32006 R 1503: Commission Regulation (EC) No 1503/2006 of 28 September 2006 (OJ L 281, 12.10.2006, p. 15),
  - 32007 R 0656: Commission Regulation (EC) No 656/2007 of 14 June 2007 (OJ L 155, 15.6.2007, p. 3).
- 393 R 2186: Council Regulation (EEC) No 2186/93 of 22 July 1993 on Community coordination in drawing up business registers for statistical purposes (OJ L 196, 5.8.1993, p. 1).

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

For Switzerland, entry 1 (k) of Annex II of the Regulation shall not apply.

#### TRANSPORT AND TOURISM STATISTICS

- 398 R 1172: Council Regulation (EC) No 1172/98 of 25 May 1998 on statistical returns in respect of the carriage of goods by road (OJ L 163, 6.6.1998, p. 1), as amended by:
  - 399 R 2691: Commission Regulation (EC) No 2691/1999 of 17 December 1999 (OJ L 326, 18.12.1999, p. 39),
  - 32006 R 1792: Commission Regulation (EC) No 1792/2006 of 23 October 2006 (OJ L 362, 20.12.2006, p. 1).
- 32001 R 2163: Commission Regulation (EC) No 2163/2001 of 7 November 2001 concerning the technical arrangements for data transmission for statistics on the carriage of goods by road (OJ L 291, 8.11.2001, p. 13).
- 32004 R 0642: Commission Regulation (EC) No 642/2004 of 6 April 2004 on precision requirements for data collected in accordance with Council Regulation (EC) No 1172/98 on statistical returns in respect of the carriage of goods by road (OJ L 102, 7.4.2004, p. 26).
- 32007 R 0833: Commission Regulation (EC) No 833/2007 of 16 July 2007 ending the transitional period provided for in Council Regulation (EC) No 1172/98 on statistical returns in respect of the carriage of goods by road (OJ L 185, 17.7.2007, p. 9).
- 32003 R 0006: Commission Regulation (EC) No 6/2003 of 30 December 2002 concerning the dissemination of statistics on the carriage of goods by road (OJ L 1, 4.1.2003, p. 45).
- 393 D 0704: Council Decision 93/704/EC of 30 November 1993 on the creation of a Community database on road accidents (OJ L 329, 30.12.1993, p. 63).
- 32003 R 0091: Regulation (EC) No 91/2003 of the European Parliament and of the Council of 16 December 2002 on rail transport statistics (OJ L 14, 21.1.2003, p. 1), as amended by:
  - 32003 R 1192: Commission Regulation (EC) No 1192/2003 of 3 July 2003 (OJ L 167, 4.7.2003, p. 13).
- 32007 R 0332: Commission Regulation (EC) No 332/2007 of 27 March 2007 on the technical arrangements for the transmission of railway transport statistics (OJ L 88, 29.3.2007, p. 16).
- 32007 R 1304: Commission Regulation (EC) No 1304/2007 of 7 November 2007 amending Council Directive 95/64/EC, Council Regulation (EC) No 1172/98, Regulations (EC) No 91/2003 and (EC) No 1365/2006 of the European Parliament and of the Council with respect to the establishment of NST 2007 as the unique classification for transported goods in certain transport modes (OJ L 290, 8.11.2007, p. 14).
- 32003 R 0437: Regulation (EC) No 437/2003 of the European Parliament and of the Council of 27 February 2003 on statistical returns in respect of the carriage of passengers, freight and mail by air (OJ L 66, 11.3.2003, p. 1), as amended by:
  - 32003 R 1358: Commission Regulation (EC) No 1358/2003 of 31 July 2003 (OJ L 194, 1.8.2003, p. 9),
  - 32005 R 0546: Commission Regulation (EC) No 546/2005 of 8 April 2005 (OJ L 91, 9.4.2005, p. 5).
- 32003 R 1358: Commission Regulation (EC) No 1358/2003 of 31 July 2003 implementing Regulation (EC) No 437/2003 of the European Parliament and of the Council on statistical returns in respect of the carriage of passengers, freight and mail by air and amending Annexes I and II thereto (OJ L 194, 1.8.2003, p. 9), as amended by:
  - 32005 R 0546: Commission Regulation (EC) No 546/2005 of 8 April 2005 (OJ L 91, 9.4.2005, p. 5),
  - 32007 R 0158: Commission Regulation (EC) No 158/2007 of 16 February 2007 (OJ L 49, 17.2.2007, p. 9),
  - 32006 R 1792: Commission Regulation (EC) No 1792/2006 of 23 October 2006 (OJ L 362, 20.12.2006, p. 1).

- 380 L 1119: Council Directive 80/1119/EEC of 17 November 1980 on statistical returns in respect of carriage of goods by inland waterways (OJ L 339, 15.12.1980, p. 30).
- 395 L 0064: Council Directive 95/64/EC of 8 December 1995 on statistical returns in respect of carriage of goods and passengers by sea (OJ L 320, 30.12.1995, p. 25), as amended by:
  - 398 D 0385: Commission Decision 98/385/EC of 13 May 1998 (OJ L 174, 18.6.1998, p. 1),
  - 32000 D 0363: Commission Decision 2000/363/EC of 28 April 2000 (OJ L 132, 5.6.2000, p. 1).
- 32001 D 0423: Commission Decision 2001/423/EC of 22 May 2001 on arrangements for publication or dissemination of the statistical data collected pursuant to Council Directive 95/64/EC on statistical returns in respect of carriage of goods and passengers by sea (OJ L 151, 7.6.2001, p. 41).
- 32005 D 0366: Commission Decision 2005/366/EC of 4 March 2005 implementing Council Directive 95/64/EC on statistical returns in respect of carriage of goods and passengers by sea and amending Annexes thereto (OJ L 123, 17.5.2005, p. 1).
- 395 L 0057: Council Directive 95/57/EC of 23 November 1995 on the collection of statistical information in the field of tourism (OJ L 291, 6.12.1995, p. 32).
- 399 D 0035: Commission Decision 1999/35/EC of 9 December 1998 on the procedures for implementing Council Directive 95/57/EC on the collection of statistical information in the field of tourism (OJ L 9, 15.1.1999, p. 23).
- 32007 R 0973: Commission Regulation (EC) No 973/2007 of 20 August 2007 amending certain EC Regulations on specific statistical domains implementing the statistical classification of economic activities NACE Revision 2 (OJ L 216, 21.8.2007, p. 10).

#### FOREIGN TRADE STATISTICS

- 395 R 1172: Council Regulation (EC) No 1172/95 of 22 May 1995 on the statistics relating to the trading of goods by the Community and its Member States with non-member countries (OJ L 118, 25.5.1995, p. 10), as amended by:
  - 397 R 0476: Council Regulation (EC) No 476/97 of 13 March 1997 (OJ L 75, 15.3.1997, p. 1),
  - 398 R 0374: Council Regulation (EC) No 374/98 of 12 February 1998 (OJ L 48, 19.2.1998, p. 6).

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

- (a) For Switzerland the statistical territory shall comprise the customs territory;
  - (b) Switzerland shall not be bound to compile statistics of trade between Switzerland and Liechtenstein;
  - (c) The classification referred to in Article 8(2) shall be made at least down to the first six digits;
  - (d) Article 10(1)(h) and (j) shall not apply;
  - (e) Article 10(1)(i): The nationality of the means of transport crossing the frontier is only applicable for road transport.
- 32000 R 1917: Commission Regulation No 1917/2000 of 7 September 2000 laying down certain provisions for the implementation of Council Regulation (EC) No 1172/95 as regards statistics on external trade (OJ L 229, 9.9.2000, p. 14), as amended by:
    - 32001 R 1669: Commission Regulation (EC) No 1669/2001 of 20 August 2001 (OJ L 224, 21.8.2001, p. 3),
    - 32005 R 0179: Commission Regulation (EC) No 179/2005 of 2 February 2005 (OJ L 30, 3.2.2005, p. 6).

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

- (a) The reference to Regulation (EC) No 2454/96 in Article 6(1) is not applicable;
  - (b) The following new subparagraph shall be added to Article 7(1)(a):

“For Switzerland “country of origin” shall be taken to mean the country in which the goods originated within the meaning of the national rules of origin.”;
  - (c) The following new subparagraph shall be added to Article 9(2):

“For Switzerland “the customs value” shall be defined within the respective national rules.”;
  - (d) Article 11(2) is not applicable;
  - (e) Section 2 (Articles 16-19) is not applicable.
- 32002 R 1779: Commission Regulation (EC) No 1779/2002 of 4 October 2002 on the nomenclature of countries and territories for the external trade statistics of the community and statistics of trade between Member States (OJ L 269, 5.10.2002, p. 6).
- 32006 R 1833: Commission Regulation (EC) No 1833/2006 of 13 December 2006 on the nomenclature of countries and territories for the external trade statistics of the community and statistics of trade between Member States (OJ L 354, 14.12.2006, p. 19).

#### STATISTICAL PRINCIPLES AND CONFIDENTIALITY

- 390 R 1588: Council Regulation (Euratom, EEC) No 1588/90 of 11 June 1990 on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities (OJ L 151, 15.6.1990, p. 1).

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

- (a) The following new point is added to Article 2:

“11. Staff of the Office of the EFTA Statistical Adviser: staff of the EFTA Secretariat working on the premises of the SOEC.”;
  - (b) In the second sentence of Article 5(1), the term “SOEC” is replaced by “SOEC and of the Office of the EFTA Statistical Adviser”;
  - (c) The following new subparagraph is added to Article 5(2):

“Confidential statistical data transmitted to the SOEC through the Office of the EFTA Statistical Adviser shall be accessible also to the staff of this Office.”;
  - (d) In Article 6, the term “SOEC” shall, for these purposes, be read as to include the Office of the EFTA Statistical Adviser.
- 397 R 0322: Council Regulation (EC) No 322/97 of 17 February 1997 on Community Statistics (OJ L 52, 22.2.1997, p. 1).
- 32002 R 0831: Commission Regulation (EC) No 831/2002 of 17 May 2002 implementing Council Regulation (EC) No 322/97 on Community Statistics, concerning access to confidential data for scientific purposes (OJ L 133, 18.5.2002, p. 7), as amended by:
- 32006 R 1104: Commission Regulation (EC) No 1104/2006 of 18 July 2006 (OJ L 197, 19.7.2006, p. 3).

- 32008 D 0234 Decision No 234/2008/EC of the European Parliament and of the Council of 11 March 2008 establishing the European Statistical Advisory Committee and repealing Council Decision 91/116/EEC (OJ L 73, 15.3.2008, p. 13).
- 32008 D 0235 Decision No 235/2008/EC of the European Parliament and of the Council of 11 March 2008 establishing the European Statistical Governance Advisory Board (OJ L 73, 15.3.2008, p. 17).

#### ACTS OF WHICH THE CONTRACTING PARTIES SHALL TAKE NOTE

The Contracting Parties shall take note of the content of the following act:

- 52005 PC 0217: Commission Recommendation COM(2005) 217 of 25 May 2005 on the independence, integrity and accountability of the national and Community statistical authorities (OJ C 172, 12.7.2005, p. 22).

#### DEMOGRAPHIC AND SOCIAL STATISTICS

- 2007 R 0862: Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers (OJ L 199, 31.7.2007, p. 23).
- 398 R 0577: Council Regulation (EC) No 577/98 of 9 March 1998 on the organisation of a labour force sample survey in the Community (OJ L 77, 14.3.1998, p. 3), as amended by:
  - 32002 R 1991: Regulation (EC) No 1991/2002 of the European Parliament and of the Council of 8 October 2002 (OJ L 308, 9.11.2002, p. 1),
  - 32002 R 2104: Commission Regulation (EC) No 2104/2002 of 28 November 2002 (OJ L 324, 29.11.2002, p. 14).

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

For Switzerland, irrespective of the provisions of Article 2(4), the sampling unit is an individual and the information concerning the other members of the household may include at least the characteristics listed under Article 4(1).

- 32000 R 1575: Commission Regulation (EC) No 1575/2000 of 19 July 2000 implementing Council Regulation (EC) No 577/98 on the organisation of a labour force sample survey in the Community concerning the codification to be used for data transmission from 2001 onwards (OJ L 181, 20.7.2000, p. 16).
- 32000 R 1897: Commission Regulation (EC) No 1897/2000 of 7 September 2000 implementing Council Regulation (EC) No 577/98 on the organisation of a labour force sample survey in the Community concerning the operational definition of unemployment (OJ L 228, 8.9.2000, p. 18).
- 32002 R 2104: Commission Regulation (EC) No 2104/2002 of 28 November 2002 adapting Council Regulation (EC) No 577/98 on the organisation of a labour force sample survey in the Community and Commission Regulation (EC) No 1575/2000 implementing Council Regulation (EC) No 577/98 as far as the list of education and training variables and their codification to be used for data transmission from 2003 onwards are concerned (OJ L 324, 29.11.2002, p. 14) as implemented by:
  - 32003 R 0246: Commission Regulation (EC) No 246/2003 of 10 February 2003 adopting the programme of ad hoc modules, covering the years 2004 to 2006, to the labour force sample survey provided by Council Regulation (EC) No 577/98 (OJ L 34, 11.2.2003, p. 3).
- 399 R 0530: Council Regulation (EC) No 530/1999 of 9 March 1999 concerning structural statistics on earnings and labour costs (OJ L 63, 12.3.1999, p. 6) as amended by:
  - 399 R 1726: Commission Regulation (EC) No 1726/1999 of 27 July 1999 (OJ L 203, 3.8.1999, p. 28),
  - 32005 R 1737: Commission Regulation (EC) No 1737/2005 of 21 October 2005 (OJ L 279, 22.10.2005, p. 11),
  - 32007 R 0973: Commission Regulation (EC) No 973/2007 of 20 August 2007 (OJ L 216, 21.8.2007, p. 10).

- 32000 R 1916: Commission Regulation (EC) No 1916/2000 of 8 September 2000 on implementing Council Regulation (EC) No 530/1999 concerning structural statistics on earnings and on labour costs as regards the definition and transmission of information on structure of earnings (OJ L 229, 9.9.2000, p. 3), as amended by:
  - 32005 R 1738: Commission Regulation (EC) No 1738/2005 of 21 October 2005 (OJ L 279, 22.10.2005, p. 32),
  - 32007 R 0973: Commission Regulation (EC) No 973/2007 of 20 August 2007 (OJ L 216, 21.8.2007, p. 10).
- 32006 R 0698: Commission Regulation (EC) No 698/2006 of 5 May 2006 implementing Council Regulation (EC) No 530/1999 as regards quality evaluation of structural statistics on labour costs and earnings (OJ L 121, 6.5.2006, p. 30).
- 32003 R 0450: Regulation (EC) No 450/2003 of the European Parliament and of the Council of 27 February 2003 concerning the labour cost index (OJ L 69, 13.3.2003, p. 1), as implemented by:
  - 32003 R 1216: Commission Regulation (EC) No 1216/2003 of 7 July 2003 implementing Regulation (EC) No 450/2003 of the European Parliament and of the Council concerning the labour cost index (OJ L 169, 8.7.2003, p. 37),
  - 32007 R 0973: Commission Regulation (EC) No 973/2007 of 20 August 2007 amending certain EC Regulations on specific statistical domains implementing the statistical classification of economic activities NACE Revision 2 (OJ L 216, 21.8.2007, p. 10).
- 32003 R 1177: Regulation (EC) No 1177/2003 of the European Parliament and of the Council of 16 June 2003 concerning Community statistics on income and living conditions (EU-SILC) (OJ L 165, 3.7.2003, p. 1), as amended by:
  - 32005 R 1553: Regulation (EC) No 1553/2005 of the European Parliament and of the Council of 7 September 2005 (OJ L 255, 30.9.2005, p. 6).
- 32003 R 1980: Commission Regulation (EC) No 1980/2003 of 21 October 2003 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards definitions and updated definitions (OJ L 298, 17.11.2003, p. 1), as amended by:
  - 32006 R 0676: Commission Regulation (EC) No 676/2006 of 2 May 2006 (OJ L 118, 3.5.2006, p. 3).
- 32003 R 1981: Commission Regulation (EC) No 1981/2003 of 21 October 2003 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the fieldwork aspects and the imputation procedures (OJ L 298, 17.11.2003, p. 23).
- 32003 R 1982: Commission Regulation (EC) No 1982/2003 of 21 October 2003 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the sampling and tracing rules (OJ L 298, 17.11.2003, p. 29).
- 32003 R 1983: Commission Regulation (EC) No 1983/2003 of 21 October 2003 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the list of target primary variables (OJ L 298, 17.11.2003, p. 34), as amended by:
  - 32007 R 0973: Commission Regulation (EC) No 973/2007 of 20 August 2007 (OJ L 216, 21.8.2007, p. 10).
- 32004 R 0028: Commission Regulation (EC) No 28/2004 of 5 January 2004 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the detailed content of intermediate and final quality reports (OJ L 5, 9.1.2004, p. 42).

- 32006 R 0315: Commission Regulation (EC) No 315/2006 of 22 February 2006 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the list of target secondary variables relating to housing conditions (OJ L 52, 23.2.2006, p. 16).

#### ECONOMIC STATISTICS

- 395 R 2494: Council Regulation (EC) No 2494/95 of 23 October 1995 concerning harmonised indices of consumer prices (OJ L 257, 27.10.1995, p. 1).

For Switzerland the Regulation applies to the harmonisation of consumer price indices for international comparisons.

It is not relevant as regards the explicit purposes of calculating harmonised CPI's in the context of the Economic and Monetary Union.

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

- (a) Article 2c, as well as references to MUICP in Articles 8(1) and 11, are not applicable;
  - (b) Article 5(1)(a) is not applicable;
  - (c) Article 5(2) is not applicable;
  - (d) The consultation of the EMI as specified in Article 5(3) is not applicable.
- 396 R 1749: Commission Regulation (EC) No 1749/96 of 9 September 1996 on initial implementing measures for Council Regulation (EC) No 2494/95 concerning harmonised indices of consumer prices (OJ L 229, 10.9.1996, p. 3), as amended by:
    - 398 R 1687: Council Regulation (EC) No 1687/98 of 20 July 1998 (OJ L 214, 31.7.1998, p. 12),
    - 398 R 1688: Council Regulation (EC) No 1688/98 of 20 July 1998 (OJ L 214, 31.7.1998, p. 23),
    - 32007 R 1334: Commission Regulation (EC) No 1334/2007 of 14 November 2007 (OJ L 296, 15.11.2007, p. 22).
  - 396 R 2214: Commission Regulation (EC) No 2214/96 of 20 November 1996 concerning harmonised indices of consumer prices: transmission and dissemination of sub-indices of the HICP (OJ L 296, 21.11.1996, p. 8), as amended by:
    - 399 R 1617: Commission Regulation (EC) No 1617/1999 of 23 July 1999 (OJ L 192, 24.7.1999, p. 9),
    - 399 R 1749: Commission Regulation (EC) No 1749/1999 of 23 July 1999 (OJ L 214, 13.8.1999, p. 1). Corrected by OJ L 267, 15.10.1999, p. 59,
    - 32001 R 1920: Commission Regulation (EC) No 1920/2001 of 28 September 2001 (OJ L 261, 29.9.2001, p. 46). Corrected by OJ L 295, 13.11.2001, p. 34,
    - 32005 R 1708: Commission Regulation (EC) No 1708/2005 of 19 October 2005 (OJ L 274, 20.10.2005, p. 9).
  - 397 R 2454: Commission Regulation (EC) No 2454/97 of 10 December 1997 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards minimum standards for the quality of HICP weightings (OJ L 340, 11.12.1997, p. 24).
  - 398 R 2646: Commission Regulation (EC) No 2646/98 of 9 December 1998 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards minimum standards for the treatment of tariffs in the Harmonised Index of Consumer Prices (OJ L 335, 10.12.1998, p. 30).



- 399 R 1617: Commission Regulation (EC) No 1617/1999 of 23 July 1999 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards minimum standards for the treatment of insurance in the Harmonised Index of Consumer Prices and modifying Commission Regulation (EC) No 2214/96 (OJ L 192, 24.7.1999, p. 9).
- 399 R 2166: Council Regulation (EC) No 2166/1999 of 8 October 1999 laying down detailed rules for the implementation of Regulation (EC) No 2494/95 as regards minimum standards for the treatment of products in the health, education and social protection sectors in the Harmonised Index of Consumer Prices (OJ L 266, 14.10.1999, p. 1).
- 32000 R 2601: Commission Regulation (EC) No 2601/2000 of 17 November 2000 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards the timing of entering purchaser prices into the Harmonised Index of Consumer Prices (OJ L 300, 29.11.2000, p. 14).
- 32000 R 2602: Commission Regulation (EC) No 2602/2000 of 17 November 2000 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards minimum standards for the treatment of price reductions in the Harmonised Index of Consumer Prices (OJ L 300, 29.11.2000, p. 16), as amended by:
  - 32001 R 1921: Commission Regulation (EC) No 1921/2001 of 28 September 2001 (OJ L 261, 29.9.2001, p. 49). Corrected by OJ L 295, 13.11.2001, p. 34.
- 32001 R 1920: Commission Regulation (EC) No 1920/2001 of 28 September 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards minimum standards for the treatment of service charges proportional to transaction values in the harmonised index of consumer prices and amending Regulation (EC) No 2214/96 (OJ L 261, 29.9.2001, p. 46). Corrected by OJ L 295, 13.11.2001, p. 34.
- 32001 R 1921: Commission Regulation (EC) No 1921/2001 of 28 September 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards minimum standards for revisions of the harmonised index of consumer prices and amending Regulation (EC) No 2602/2000 (OJ L 261, 29.9.2001, p. 49). Corrected by OJ L 295, 13.11.2001, p. 34.
- 32005 R 1708: Commission Regulation (EC) No 1708/2005 of 19 October 2005 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards the common index reference period for the harmonised index of consumer prices, and amending Regulation (EC) No 2214/96 (OJ L 274, 20.10.2005, p. 9).
- 32006 R 0701: Council Regulation (EC) No 701/2006 of 25 April 2006 laying down detailed rules for the implementation of Regulation (EC) No 2494/95 as regards the temporal coverage of price collection in the harmonised index of consumer prices (OJ L 122, 9.5.2006, p. 3).
- 32007 R 1445: Regulation (EC) No 1445/2007 of the European Parliament and of the Council of 11 December 2007 establishing common rules for the provision of basic information on Purchasing Power Parities and for their calculation and dissemination (OJ L 336, 20.12.2007, p. 1).
- 396 R 2223: Council Regulation (EC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community (OJ L 310, 30.11.1996, p. 1), as amended by:
  - 398 R 0448: Council Regulation (EC) No 448/98 of 16 February 1998 (OJ L 58, 27.2.1998, p. 1),
  - 32000 R 1500: Commission Regulation (EC) No 1500/2000 of 10 July 2000 (OJ L 172, 12.7.2000, p. 3),
  - 32000 R 2516: Regulation (EC) No 2516/2000 of the European Parliament and of the Council of 7 November 2000 (OJ L 290, 17.11.2000, p. 1),
  - 32001 R 0995: Commission Regulation (EC) No 995/2001 of 22 May 2001 (OJ L 139, 23.5.2001, p. 3),
  - 32001 R 2558: Regulation (EC) No 2558/2001 of the European Parliament and of the Council of 3 December 2001 (OJ L 344, 28.12.2001, p. 1),
  - 32002 R 0113: Commission Regulation (EC) No 113/2002 of 23 January 2002 (OJ L 21, 24.1.2002, p. 3),

- 32002 R 1889: Commission Regulation (EC) No 1889/2002 of 23 October 2002 (OJ L 286, 24.10.2002, p. 1),
- 32003 R 1267: Regulation (EC) No 1267/2003 of the European Parliament and of the Council of 16 June 2003 (OJ L 180, 18.7.2003, p. 1).

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

- (a) Switzerland shall be permitted to compile data by institutional units when the provisions of this Regulation refer to industry;
- (b) Switzerland shall not be bound by the regional breakdown of the data as required by this Regulation;
- (c) Switzerland shall not be bound by EU/third countries breakdown of exports and imports of services as required by this Regulation;
- (d) In Annex B, Derogations concerning the tables to be supplied in the framework of the questionnaire "ESA-95" by country, the following shall be added after point 15 (Iceland):

#### "16. SWITZERLAND

##### 16.1 Derogations for tables

Table No	Table	Derogation	Until
1	Main aggregates, annual and quarterly	Transmission for 1990 onwards	
2	Main aggregates of the general government	Transmission delay: t + 8 months Periodicity: annual Transmission for 1990 onwards	Unlimited Unlimited
3	Tables by industry	Transmission for 1990 onwards	
4	Exports and imports by EU/third countries	Transmission for 1998 onwards	
5	Household final consumption expenditure by purpose	Transmission for 1990 onwards	
6	Financial accounts by institutional sectors	Transmission for 1998 onwards	2006
7	Balance sheets for financial assets and liabilities	Transmission for 1998 onwards	2006
8	Non-financial accounts by institutional sectors	Transmission delay: t + 18 months Transmission for 1990 onwards	Unlimited
9	Detailed tax and social contributions receipts by sector	Transmission delay: t + 18 months Transmission for 1998 onwards	Unlimited
10	Tables by industry and region, NUTS II, A17	No regional breakdown	
11	General government expenditure by function	Transmission for 2005 onwards No backward calculations	2007
12	Tables by industry and by region, NUTS III, A3	No regional breakdown	
13	Household accounts by region, NUTS II	No regional breakdown	
14-22	In accordance with derogation (a) of this Regulation, Switzerland shall be exempted from providing data for tables 14 to 22."		

- 397 D 0178: Commission Decision 97/178/EC, Euratom of 10 February 1997 on the definition of a methodology for the transition between the European System of National and Regional Accounts in the Community (ESA 95) and the European System of Integrated Economic Accounts (ESA second edition) (OJ L 75, 15.3.1997, p. 44).
- 398 D 0715: Commission Decision 98/715/EC of 30 November 1998 clarifying Annex A to Council Regulation (EC) No 2223/96 on the European system of national and regional accounts in the Community as concerns the principles for measuring prices and volumes (OJ L 340, 16.12.1998, p. 33).

The provisions of the Decision shall, for the purposes of this Agreement, be read with the following adaptation:

Article 3 (classification of methods by product) shall not apply to Switzerland.

- 32002 R 1889: Commission Regulation (EC) No 1889/2002 of 23 October 2002 on the implementation of Council Regulation (EC) No 448/98 completing and amending Regulation (EC) No 2223/96 with respect to the allocation of financial intermediation services indirectly measured (FISIM) within the European System of national and regional Accounts (ESA) (OJ L 286, 24.10.2002, p. 11).
- 32003 R 1287: Council Regulation (EC, Euratom) No 1287/2003 of 15 July 2003 on the harmonisation of gross national income at market prices (GNI Regulation) (OJ L 181, 19.7.2003, p. 1).
- 32005 R 0116: Commission Regulation (EC, Euratom) No 116/2005 of 26 January 2005 on the treatment of repayments of VAT to non-taxable persons and to taxable persons for their exempt activities, for the purposes of Council Regulation (EC, Euratom) No 1287/2003 on the harmonisation of gross national income at market prices (OJ L 24, 27.1.2005, p. 6).
- 32005 R 1722: Commission Regulation (EC) No 1722/2005 of 20 October 2005 on the principles for estimating dwelling services for the purpose of Council Regulation (EC, Euratom) No 1287/2003 on the harmonisation of gross national income at market prices (OJ L 276, 21.10.2005, p. 5).
- 399 D 0622: Commission Decision 1999/622/EC, Euratom of 8 September 1999 on the treatment of repayments of VAT to non-taxable units and to taxable units for their exempt activities, for the purpose of implementing Council Directive 89/130/EEC, Euratom on the harmonisation of the compilation of gross national product at market prices (OJ L 245, 17.9.1999, p. 51).
- 32006 R 0601: Commission Regulation (EC) No 601/2006 of 18 April 2006 implementing Regulation (EC) No 184/2005 of the European Parliament and of the Council as regards the format and the procedure for the transmission of data (OJ L 106, 19.4.2006, p. 7).

#### NOMENCLATURES

- 390 R 3037: Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community (OJ L 293, 24.10.1990, p. 1), as amended by:
  - 393 R 0761: Commission Regulation (EEC) No 761/93 of 24 March 1993 (OJ L 83, 3.4.1993, p. 1),
  - 32002 R 0029: Commission Regulation (EC) No 29/2002 of 19 December 2001 (OJ L 6, 10.1.2002, p. 3).
- 393 R 0696: Council Regulation (EEC) No 696/93 of 15 March 1993 on the statistical units for the observation and analysis of the production system in the Community (OJ L 76, 30.3.1993, p. 1).
- 393 R 3696: Council Regulation (EEC) No 3696/93 of 29 October 1993 on the statistical classification of products by activity (CPA) in the European Economic Community (OJ L 342, 31.12.1993, p. 1), as amended by:
  - 398 R 1232: Commission Regulation (EC) No 1232/98 of 17 June 1998 (OJ L 177, 22.6.1998, p. 1),
  - 32002 R 0204: Commission Regulation (EC) No 204/2002 of 19 December 2001 (OJ L 36, 6.2.2002, p. 1).

- 32003 R 1059: Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 154, 21.6.2003, p. 1).

#### AGRICULTURAL STATISTICS

- 396 L 0016: Council Directive 96/16/EC of 19 March 1996 on statistical surveys of milk and milk products (OJ L 78, 28.3.1996, p. 27), as amended by:

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

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

Switzerland shall not be bound by the regional breakdown of the data as required by this Directive.

- 397 D 0080: Commission Decision 97/80/EC of 18 December 1996 laying down provisions for the implementation of Council Directive 96/16/EC on statistical surveys of milk and milk products (OJ L 24, 25.1.1997, p. 26), as amended by:

- 398 D 0582: Council Decision 98/582/EC of 6 October 1998 (OJ L 281, 17.10.1998, p. 36).

- 388 R 0571: Council Regulation (EEC) No 571/88 of 29 February 1988 on the organisation of Community surveys on the structure of agricultural holdings (OJ L 56, 2.3.1988, p. 1), as amended by:

- 396 R 2467: Council Regulation (EC) No 2467/96 of 17 December 1996 (OJ L 335, 24.12.1996, p. 3),

- 398 D 0377: Commission Decision No 98/377/EC of 18 May 1998 (OJ L 168, 13.6.1998, p. 29),

- 32002 R 143: Commission Regulation (EC) No 143/2002 of 24 January 2002 (OJ L 24, 26.1.2002, p. 16),

- 32004 R 2139: Commission Regulation (EC) No 2139/2004 of 8 December 2004 (OJ L 369, 16.12.2004, p. 26),

- 32006 R 0204: Commission Regulation (EC) No 204/2006 of 6 February 2006 (OJ L 34, 7.2.2006, p. 3).

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

- (a) In Article 4, the text beginning with “and insofar as they are important locally ...” until “... the particular technical economic guidelines within the meaning of the same Decision” is not applicable;
- (b) In Article 6(2), the text “standard gross margin (SGM), within the meaning of Decision 85/377/EEC” is replaced by:

“standard gross margin (SGM), within the meaning of Decision 85/377/EEC, or to the value of the total agricultural production”;

- (c) Articles 10, 12, and 13, and Annex II shall not apply;
- (d) Switzerland shall not be bound by the typology referred to in Articles 6, 7, 8, 9 and Annex I of this Regulation. However, Switzerland shall transmit the necessary additional information allowing the reclassification according to this typology;
- (e) Irrespective of the provisions of the Regulation, Switzerland shall be permitted to carry out the survey in May and supply the data, at the latest, 18 months thereafter.

- 32000 D 0115: Commission Decision 2000/115/EC of 24 November 1999 relating to the definitions of the characteristics, the list of agricultural products, the exceptions to the definitions and the regions and districts regarding the surveys on the structure of agricultural holdings (OJ L 38, 12.2.2000, p. 1), as amended by:
  - 32002 R 1444: Commission Regulation (EC) No 1444/2002 of 24 July 2002 (OJ L 216, 12.8.2002, p. 1),
  - 32004 R 2139: Commission Regulation (EC) No 2139/2004 of 8 December 2004 (OJ L 369, 16.12.2004, p. 26),
  - 32006 R 0204: Commission Regulation (EC) No 204/2006 of 6 February 2006 (OJ L 34, 7.2.2006, p. 3).
- 390 R 0837: Council Regulation (EEC) No 837/90 of 26 March 1990 concerning statistical information to be supplied by the Member States on cereals production (OJ L 88, 3.4.1990, p. 1).
- 393 R 0959: Council Regulation (EEC) No 959/93 of 5 April 1993 concerning statistical information to be supplied by Member States on crop products other than cereals (OJ L 98, 24.4.1993, p. 1).
- 32004 R 0138: Regulation (EC) No 138/2004 of the European Parliament and of the Council of 5 December 2003 on the economic accounts for agriculture in the Community (OJ L 33, 5.2.2004, p. 1), as amended by:
  - 32005 R 0306: Commission Regulation (EC) No 306/2005 of 24 February 2005 (OJ L 52, 25.2.2005, p. 9),
  - 32006 R 0909: Commission Regulation (EC) No 909/2006 of 20 June 2006 (OJ L 168, 21.6.2006, p. 14),
  - 32008 R 0212: Commission Regulation (EC) No 212/2008 of 7 March 2008 (OJ L 65, 8.3.2008, p. 5).

#### FISHERY STATISTICS

- 391 R 1382: Council Regulation (EEC) No 1382/91 of 21 May 1991 on the submission of data on the landings of fishery products in Member States (OJ L 133, 28.5.1991, p. 1), as amended by:
  - 393 R 2104: Council Regulation (EEC) No 2104/93 of 22 July 1993 (OJ L 191, 31.7.1993, p. 1).
- 391 R 3880: Council Regulation (EEC) No 3880/91 of 17 December 1991 on the submission of nominal catch statistics by Member States fishing in the north-east Atlantic (OJ L 365, 31.12.1991, p. 1), as amended by:
  - 32001 R 1637: Commission Regulation (EC) No 1637/2001 of 23 July 2001 (OJ L 222, 17.8.2001, p. 20).
- 393 R 2018: Council Regulation (EEC) No 2018/93 of 30 June 1993 on the submission of catch and activity statistics by Member States fishing in the Northwest Atlantic (OJ L 186, 28.7.1993, p. 1), as amended by:
  - 32001 R 1636: Commission Regulation (EC) No 1636/2001 of 23 July 2001 (OJ L 222, 17.8.2001, p. 1).
- 395 R 2597: Council Regulation (EC) No 2597/95 of 23 October 1995 on the submission of nominal catch statistics by Member States fishing in certain areas other than those of the North Atlantic (OJ L 270, 13.11.1995, p. 1), as amended by:
  - 32001 R 1638: Commission Regulation (EC) No 1638/2001 of 24 July 2001 (OJ L 222, 17.8.2001, p. 29).
- 396 R 0788: Council Regulation (EC) No 788/96 of 22 April 1996 on the submission by Member States of statistics on aquaculture production (OJ L 108, 1.5.1996, p. 1).

#### ENERGY STATISTICS

- 390 L 0377: Council Directive 90/377/EEC of 29 June 1990 concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users (OJ L 185, 17.7.1990, p. 16).'
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## COMMISSION DECISION

of 10 March 2009

**authorising the placing on the market of products containing or produced from genetically modified oilseed rape T45 (ACS-BNØØ8-2) resulting from the commercialisation of this oilseed rape in third countries until 2005 pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council**

(notified under document number C(2009) 1541)

(Only the German text is authentic)

(Text with EEA relevance)

(2009/184/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

(1) On 28 October 2005, Bayer CropScience AG submitted to the competent authority of the United Kingdom an application, in accordance with Articles 5 and 17 of Regulation (EC) No 1829/2003, for the placing on the market of foods, food ingredients, and feed containing or produced from T45 oilseed rape.

(2) The application also covers the placing on the market of other products containing T45 oilseed rape for the same uses as any other oilseed rape with the exception of cultivation. Therefore, in accordance with Articles 5(5) and 17(5) of Regulation (EC) No 1829/2003, it includes the data and information required by Annexes III and IV to Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC<sup>(2)</sup> and information and conclusions about the risk assessment carried out in accordance with the principles set out in Annex II to Directive 2001/18/EC.

(3) On 17 April 2007, Bayer CropScience AG submitted to the Commission an application, in accordance with Articles 8(4) and 20(4) of Regulation (EC) No 1829/2003, for the authorisation of existing products produced from T45 oilseed rape (food additives and feed materials produced from T45 oilseed rape).

(4) The applicant indicated in its applications and in communications to the Commission that the commercialisation of T45 oilseed rape seeds was stopped after the 2005 planting season.

(5) Therefore, the only purpose of these applications is to cover the presence of T45 oilseed rape resulting from its past cultivation in third countries.

(6) On 5 March 2008, the European Food Safety Authority ('EFSA') gave a single comprehensive favourable opinion for both applications in accordance with Articles 6 and 18 of Regulation (EC) No 1829/2003 and concluded that it is unlikely that the placing on the market of the products containing or produced from T45 oilseed rape as described in the applications ('the products') will have any adverse effects on human or animal health or the environment in the context of their intended uses<sup>(3)</sup>. In its opinion, EFSA considered all the specific questions and concerns raised by the Member States in the context of the consultation of the national competent authorities as provided for by Articles 6(4) and 18(4) of that Regulation.

(7) In particular, EFSA concluded that as no indication of biologically relevant compositional and agronomical changes was identified for seeds from T45 oilseed rape except the presence of the PAT protein, no further animal safety studies with the whole food/feed (e.g. a 90-day toxicity study in rats) are needed.

<sup>(1)</sup> OJ L 268, 18.10.2003, p. 1.

<sup>(2)</sup> OJ L 106, 17.4.2001, p. 1.

<sup>(3)</sup> <http://registerofquestions.efsa.europa.eu/roqFrontend/questionLoader?question=EFSA-Q-2005-278>

- (8) In its opinion, EFSA also concluded that the environmental monitoring plan, consisting of a general surveillance plan, submitted by the applicant is in line with the intended use of the products. However, due to the physical characteristics of oilseed rape seeds and methods of transportation, EFSA recommended that appropriate management systems should be in place to minimise accidental loss and spillage of transgenic oilseed rape during transportation, storage, handling and processing. The monitoring plan submitted by the applicant has been modified to take into account this EFSA recommendation.
- (9) In order to monitor the phasing out of T45 oilseed rape, its presence in imported products should be regularly reported.
- (10) Taking into account those considerations, it is appropriate to grant an authorisation to cover the presence in products of T45 oilseed rape resulting from the commercialisation of T45 oilseed rape seeds in third countries until 2005.
- (11) A unique identifier should be assigned to each GMO as provided for in Commission Regulation (EC) No 65/2004 of 14 January 2004 establishing a system for the development and assignment of unique identifiers for genetically modified organisms <sup>(1)</sup>.
- (12) On the basis of the EFSA opinion, no specific labelling requirements other than those provided for in Articles 13(1) and 25(2) of Regulation (EC) No 1829/2003, appear to be necessary for foods, food ingredients and feed containing, or produced from T45 oilseed rape. However, in order to ensure the use of the products within the limits of the authorisation provided for by this Decision, the labelling of feed containing the GMO and other products than food and feed containing the GMO for which authorisation is requested should be complemented by a clear indication that the products in question must not be used for cultivation.
- (13) Similarly, the EFSA opinion does not justify the imposition of specific conditions or restrictions for the placing on the market and/or specific conditions or restrictions for the use and handling, including post-market monitoring requirements, or of specific conditions for the protection of particular ecosystems/environment and/or geographical areas, as provided for in point (e) of Articles 6(5) and 18(5) of Regulation (EC) No 1829/2003.
- (14) All relevant information on the authorisation of the products should be entered in the Community register of genetically modified food and feed, as provided for in Regulation (EC) No 1829/2003.
- (15) Article 4(6) of Regulation (EC) No 1830/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC <sup>(2)</sup>, lays down labelling requirements for products consisting or containing GMOs.
- (16) This Decision is to be notified through the Biosafety Clearing-House to the Parties to the Cartagena Protocol on Biosafety to the Convention on Biological Diversity pursuant to Articles 9(1) and 15(2)(c) of Regulation (EC) No 1946/2003 of the European Parliament and of the Council of 15 July 2003 on transboundary movements of genetically modified organisms <sup>(3)</sup>.
- (17) The applicant has been consulted on the measures provided for in this Decision.
- (18) The Standing Committee on the Food Chain and Animal Health has not delivered an opinion within the time limit laid down by its Chairman; the Commission has therefore submitted a proposal to the Council on 30 October 2008 in accordance with Article 5 of the Council Decision 1999/468/EC <sup>(4)</sup>, the Council being required to act within three months.
- (19) However, the Council has not acted within the required time limit; a Decision should now be adopted by the Commission,

<sup>(1)</sup> OJ L 10, 16.1.2004, p. 5.

<sup>(2)</sup> OJ L 268, 18.10.2003, p. 24.

<sup>(3)</sup> OJ L 287, 5.11.2003, p. 1.

<sup>(4)</sup> OJ L 184, 17.7.1999, p. 23.

HAS ADOPTED THIS DECISION:

*Article 1*

**Genetically modified organism and unique identifier**

Genetically modified oilseed rape (*Brassica napus* L.) T45, as specified in point (b) of the Annex to this Decision, is assigned the unique identifier ACS-BNØØ8-2, as provided for in Regulation (EC) No 65/2004.

*Article 2*

**Authorisation**

1. The purpose of this Decision is to grant an authorisation covering, for the products referred to in paragraph 2, the presence of ACS-BNØØ8-2 oilseed rape resulting directly or indirectly from the commercialisation, until 2005, of ACS-BNØØ8-2 oilseed rape seeds in third countries.

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

- (a) foods and food ingredients containing or produced from ACS-BNØØ8-2 oilseed rape;
- (b) feed containing or produced from ACS-BNØØ8-2 oilseed rape;
- (c) products other than food and feed containing ACS-BNØØ8-2 oilseed rape for the same uses as any other oilseed rape with the exception of cultivation.

*Article 3*

**Labelling**

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

2. The words 'not for cultivation' shall appear on the label of and in documents accompanying products containing ACS-BNØØ8-2 oilseed rape referred to in Article 2(2)(b) and (c).

*Article 4*

**Monitoring for environmental effects**

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

2. The authorisation holder shall submit to the Commission annual reports on the implementation and the results of the activities set out in the monitoring activities.

*Article 5*

**Monitoring of the phasing out**

1. The authorisation holder shall ensure that shipments of oilseed rape imported in the European Union from a third country in which ACS-BNØØ8-2 oilseed rape seeds were commercialised until 2005 are sampled and tested for the presence of ACS-BNØØ8-2 oilseed rape.

2. The method used for the sampling of oilseed rape shall be internationally recognised. The testing shall be made in a duly accredited laboratory and in accordance with the validated method of detection as set out in the Annex to this Decision.

3. The authorisation holder shall submit to the Commission, together with the reports referred to in Article 4(2), annual reports on the monitoring activities for the presence of ACS-BNØØ8-2 oilseed rape.

*Article 6*

**Community register**

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

*Article 7*

**Authorisation holder**

The authorisation holder shall be Bayer CropScience AG.

*Article 8*

**Validity**

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



*Article 9*

**Addressee**

This Decision is addressed to Bayer CropScience AG, Alfred-Nobel-Straße 50, 40789 Monheim am Rhein, Germany.

Done at Brussels, 10 March 2009.

*For the Commission*  
Androulla VASSILIOU  
*Member of the Commission*

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## ANNEX

**(a) Applicant and Authorisation holder:**

Name: Bayer CropScience AG  
Address: Alfred-Nobel-Straße 50, 40789 Monheim am Rhein, Germany.

**(b) Designation and specification of the products:**

1. Foods and food ingredients containing or produced from ACS-BNØØ8-2 oilseed rape.
2. Feed containing or produced from ACS-BNØØ8-2 oilseed rape.
3. Products other than food and feed containing ACS-BNØØ8-2 oilseed rape for the same uses as any other oilseed rape with the exception of cultivation.

The genetically modified ACS-BNØØ8-2 oilseed rape, as described in the application, expresses the PAT protein which confers tolerance to the glufosinate-ammonium herbicide.

**(c) Labelling:**

1. For the purposes of the specific labelling requirements laid down in Articles 13(1) and 25(2) of Regulation (EC) No 1829/2003, and in Article 4(6) of Regulation (EC) No 1830/2003, the 'name of the organism' shall be 'oilseed rape'.
2. The words 'not for cultivation' shall appear on the label of and in documents accompanying products containing ACS-BNØØ8-2 oilseed rape referred to in Article 2(2)(b) and (c) of this Decision.

**(d) Method for detection:**

- Event specific real-time PCR-based method for the quantification of ACS-BNØØ8-2 oilseed rape.
- Validated on seeds by the Community reference laboratory established under Regulation (EC) No 1829/2003, published at <http://gmo-crl.jrc.ec.europa.eu/statusofdoss.htm>
- Reference Material: AOCS 0208-A accessible via the American Oil Chemists Society at [http://www.aocs.org/tech/crm/bayer\\_canola.cfm](http://www.aocs.org/tech/crm/bayer_canola.cfm)

**(e) Unique identifier:**

ACS-BNØØ8-2

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

Biosafety Clearing-House, Record ID: see *(to be completed when notified)*

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

Not required.

**(h) Monitoring plan:**

Monitoring plan for environmental effects conforming with Annex VII to Directive 2001/18/EC  
(Link: *plan published on the Internet*)

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

Not required.

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

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## CORRIGENDA

**Corrigendum to Commission Regulation (EC) No 53/2009 of 21 January 2009 amending Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards International Accounting Standard (IAS) 32 and IAS 1**

*(Official Journal of the European Union L 17 of 22 January 2009)*

On page 36, 'Examples of application of the consensus', 'Example 4', 'Classification', paragraph A12 should read as follows:

'A12 In this case, CU750,000 would be classified as equity and CU150,000 would be classified as financial liabilities. In addition to the paragraphs already cited, paragraph 18(b) of IAS 32 states in part:

... a financial instrument that gives the holder the right to put it back to the issuer for cash or another financial asset (a 'puttable instrument') is a financial liability, except for those instruments classified as equity instruments in accordance with paragraphs 16A and 16B or paragraphs 16C and 16D. The financial instrument is a financial liability even when the amount of cash or other financial assets is determined on the basis of an index or other item that has the potential to increase or decrease. The existence of an option for the holder to put the instrument back to the issuer for cash or another financial asset means that the puttable instrument meets the definition of a financial liability, except for those instruments classified as equity instruments in accordance with paragraphs 16A and 16B or paragraphs 16C and 16D.'

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