

# Official Journal

## of the European Union

L 55



English edition

Legislation

Volume 53

5 March 2010

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## II

*(Non-legislative acts)*

## REGULATIONS

**COMMISSION REGULATION (EU) No 185/2010****of 4 March 2010****laying down detailed measures for the implementation of the common basic standards on aviation security****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002 <sup>(1)</sup> and in particular Article 4(3) thereof,

Whereas:

(1) In accordance with Article 4(3) of Regulation (EC) No 300/2008 the Commission should adopt detailed measures for the implementation of common basic standards referred to in Article 4(1) and of general measures supplementing common basic standards referred to in Article 4(2) of that Regulation.

(2) If they contain sensitive security measures, these measures should be regarded as EU classified information within the meaning of Commission Decision 2001/844/EC, ECSC, Euratom of 29 November 2001 amending internal rules of procedure <sup>(2)</sup>, as provided for by Article 18 point (a) of Regulation (EC) No 300/2008 and should therefore not be published. These measures should be adopted separately, by means of a Decision addressed to the Member States.

(3) Regulation (EC) No 300/2008 shall apply in full as from the date specified in the implementing rules adopted in accordance with the procedures referred to in Article 4(2)

and 4(3) of that Regulation but not later than 29 April 2010. This Regulation should therefore apply as from 29 April 2010 in order to harmonise the application of Regulation (EC) No 300/2008 and its implementing acts.

(4) Methods, including technologies, for detection of liquid explosives will develop over time. In line with technological developments and operation experiences both at Community and global level, the Commission will make proposals, whenever appropriate, to revise the technological and operation provisions on the screening of liquids, aerosols and gels.

(5) Commission Regulations (EC) No 1217/2003 of 4 July 2003 laying down common specifications for national civil aviation security quality control programmes <sup>(3)</sup>, (EC) No 1486/2003 of 22 August 2003 laying down procedures for conducting Commission inspections in the field of civil aviation security <sup>(4)</sup>, (EC) No 1138/2004 of 21 June 2004 establishing a common definition of critical parts of security restricted areas at airports <sup>(5)</sup> and (EC) No 820/2008 of 8 August 2008 laying down measures for the implementation of the common basic standards on aviation security <sup>(6)</sup>, which all implemented Regulation (EC) No 2320/2002 of the European Parliament and of the Council of 16 December 2002 establishing common rules in the field of civil aviation security <sup>(7)</sup>, should therefore be repealed.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Civil Aviation Security set up by Article 19(1) of Regulation (EC) No 300/2008,

<sup>(1)</sup> OJ L 97, 9.4.2008, p. 72.

<sup>(2)</sup> OJ L 317, 3.12.2001, p. 1.

<sup>(3)</sup> OJ L 169, 8.7.2003, p. 44.

<sup>(4)</sup> OJ L 213, 23.8.2003, p. 3.

<sup>(5)</sup> OJ L 221, 22.6.2004, p. 6.

<sup>(6)</sup> OJ L 221, 19.8.2008, p. 8.

<sup>(7)</sup> OJ L 355, 30.12.2002, p. 1.

HAS ADOPTED THIS REGULATION:

*Article 1*

**Objective**

This Regulation lays down detailed measures for the implementation of common basic standards for safeguarding civil aviation against acts of unlawful interference that jeopardise the security of civil aviation and general measures supplementing the common basic standards.

*Article 2*

**Implementation rules**

1. The measures referred to in Article 1 are set out in the Annex.

2. In accordance with Article 10(1) of Regulation (EC) No 300/2008, national civil aviation security programmes shall take appropriate account of this Regulation.

*Article 3*

**Repeal**

Regulations (EC) No 1217/2003, (EC) No 1486/2003, (EC) No 1138/2004 and (EC) No 820/2008 are repealed with effect from 29 April 2010.

*Article 4*

**Entry into force**

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

It shall apply as from 29 April 2010.

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

Done at Brussels, 4 March 2010.

*For the Commission*

*The President*

José Manuel BARROSO

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## ANNEX

## 1. AIRPORT SECURITY

## 1.0 GENERAL PROVISIONS

- 1.0.1 Unless otherwise stated, the authority, airport operator, air carrier or entity responsible in accordance with the national civil aviation security programme as referred to in Article 10 of Regulation (EC) No 300/2008 shall ensure the implementation of the measures set out in this chapter.
- 1.0.2 For the purposes of this chapter, an aircraft, bus, baggage cart or other means of transport, or a walkway or jetway, shall be regarded as a part of an airport.

For the purposes of this chapter, 'secured baggage' means screened departing hold baggage that is physically protected so as to prevent the introduction of any objects.

- 1.0.3 Without prejudice to the criteria for derogations as set in Regulation (EC) No 272/2009, the appropriate authority may allow special security procedures or exemptions for the protection and security of airside areas at airports on days on which there are not more than eight planned departing flights, provided that only one aircraft is to be loaded, unloaded, boarded or disembarked at any one time either within the critical part of the security restricted area or at an airport that falls outside of the scope of point 1.1.3.

## 1.1 AIRPORT PLANNING REQUIREMENTS

1.1.1 **Boundaries**

- 1.1.1.1 Boundaries between landside, airside, security restricted areas, critical parts and, where applicable, demarcated areas shall be clearly identifiable at each airport in order to enable the appropriate security measures to be taken in each of those areas.
- 1.1.1.2 The boundary between landside and airside shall be a physical obstruction that is clearly visible to the general public and which denies a person unauthorised access.

1.1.2 **Security restricted areas**

- 1.1.2.1 Security restricted areas shall include at least the following:

- (a) a part of an airport to which screened departing passengers have access; and
- (b) a part of an airport through which screened departing hold baggage may pass or in which it may be held, unless it concerns secured baggage; and
- (c) a part of an airport designated for the parking of aircraft to be boarded or loaded.

- 1.1.2.2 A part of an airport shall be regarded as a security restricted area at least for the period of time that the activities referred to in point 1.1.2.1 are taking place.

When a security restricted area is established, a security search of the parts that could have been contaminated shall be carried out immediately before such an area is established in order to reasonably ensure that it does not contain prohibited articles. This provision shall be considered to be met for aircraft that are subject to an aircraft security search.

- 1.1.2.3 Whenever unauthorised persons may have had access to security restricted areas, a security search of the parts that could have been contaminated shall be carried out as soon as possible in order to reasonably ensure that it does not contain prohibited articles. This provision shall be considered to be met for aircraft that are subject to an aircraft security search.

### 1.1.3 **Critical parts of security restricted areas**

1.1.3.1 Critical parts shall be established at airports where more than 40 persons hold airport identification cards giving access to security restricted areas.

1.1.3.2 Critical parts shall include at least the following:

(a) all parts of an airport to which screened departing passengers have access; and

(b) all parts of an airport through which screened departing hold baggage may pass or in which it may be held, unless it concerns secured baggage.

A part of an airport shall be regarded as a critical part at least for the period of time that the activities referred to in (a) or (b) are taking place.

1.1.3.3 When a critical part is established, a security search of the parts that could have been contaminated shall be carried out immediately before such a part is established in order to reasonably ensure that it does not contain prohibited articles. This provision shall be considered to be met for aircraft that are subject to an aircraft security search.

1.1.3.4 Whenever unscreened persons may have had access to critical parts, a security search of the parts that could have been contaminated shall be carried out as soon as possible in order to reasonably ensure that it does not contain prohibited articles.

This provision shall be considered to be met for aircraft that are subject to an aircraft security search or check.

This provision shall not apply when persons covered by point 1.3.2 and point 4.1.1.7 have had access to these parts.

Persons arriving from third countries other than those listed in Attachment 4-B shall be considered to be unscreened persons.

## 1.2 ACCESS CONTROL

### 1.2.1 **Access to airside**

1.2.1.1 Access to airside may only be authorised if persons and vehicles have a legitimate reason to be there.

1.2.1.2 In order to be granted access to airside a person shall carry an authorisation.

1.2.1.3 In order to be granted access to airside a vehicle shall display a vehicle pass.

1.2.1.4 Persons who are airside shall, upon request, present their authorisation for control.

### 1.2.2 **Access to security restricted areas**

1.2.2.1 Access to security restricted areas may only be granted if persons and vehicles have a legitimate reason to be there.

1.2.2.2 In order to be granted access to security restricted areas a person shall present one of the following authorisations:

(a) a valid boarding card or equivalent; or

(b) a valid crew identification card; or

(c) a valid airport identification card; or

(d) a valid national appropriate authority identification card; or

(e) a valid compliance authority identification card recognised by the appropriate national authority.

1.2.2.3 In order to be granted access to security restricted areas a vehicle shall display a valid vehicle pass.

1.2.2.4 The boarding card or equivalent referred to in point 1.2.2.2(a) shall be checked before a person is granted access to security restricted areas in order to reasonably ensure that it is valid.

The card referred to in points 1.2.2.2(b) — (e), respectively, shall be checked before a person is granted access to security restricted areas in order to reasonably ensure that it is valid and corresponds to the holder.

1.2.2.5 In order to prevent unauthorised access to security restricted areas access points shall be controlled by:

(a) an electronic system which limits access to one person at a time; or

(b) authorised persons implementing access control.

1.2.2.6 The vehicle pass shall be checked before a vehicle is granted access to security restricted areas to ensure that it is valid and corresponds to the vehicle.

1.2.2.7 Access to security restricted areas shall also be subject to the additional provisions laid down in a separate Commission Decision.

### 1.2.3 **Requirements for Community crew identification cards and airport identification cards**

1.2.3.1 A crew identification card of a crew member employed by a Community air carrier and an airport identification card may only be issued to a person who has an operational need and has successfully completed a background check in accordance with point 11.1.3.

1.2.3.2 Crew and airport identification cards shall be issued for a period not exceeding five years.

1.2.3.3 The identification card of a person who fails a background check shall be immediately withdrawn.

1.2.3.4 The identification card shall be worn in a visible place at least whenever the holder is in security restricted areas.

A person who is not displaying his card in security restricted areas other than those areas where passengers are present shall be challenged by persons responsible for the implementation of point 1.5.1 (c) and, as appropriate, be reported.

1.2.3.5 The identification card shall be returned immediately to the issuing entity:

(a) upon request of the issuing entity; or

(b) upon termination of employment; or

(c) upon change of employer; or

(d) upon change of the need to have access to areas for which an authorisation has been given; or

(e) upon expiry of the card; or

(f) upon withdrawal of the card.

1.2.3.6 The issuing entity shall be notified immediately of the loss, theft or failure to return an identification card.

1.2.3.7 An electronic card shall be immediately disabled following return, expiry, withdrawal or notification of loss, theft or failure to return.

1.2.3.8 Community crew identification cards and airport identification cards shall also be subject to the additional provisions laid down in a separate Commission Decision.

#### 1.2.4 **Supplementary requirements for Community crew identification cards**

1.2.4.1 A crew identification card of a crew member employed by a Community air carrier shall display:

(a) the name and photograph of the holder; and

(b) the name of the air carrier; and

(c) the word 'crew' in English, to be applied 5 years after the entry into force of this Regulation at the latest; and

(d) the expiry date, to be applied 5 years after the entry into force of this Regulation at the latest.

#### 1.2.5 **Supplementary requirements for airport identification cards**

1.2.5.1 An airport identification card shall display:

(a) the name and photograph of the holder; and

(b) the name of the employer of the holder, unless electronically programmed; and

(c) the name of either the issuing entity or the airport; and

(d) the areas for which the holder is authorised to have access; and

(e) the expiry date, unless electronically programmed.

The names and areas of access may be replaced by an equivalent identification.

1.2.5.2 In order to prevent the misuse of airport identification cards, a system shall be in place to reasonably ensure that attempted use of cards that have been lost, stolen or not returned is detected. Upon detection, appropriate action shall be taken.

#### 1.2.6 **Requirements for vehicle passes**

1.2.6.1 A vehicle pass may only be issued where an operational need has been established.

1.2.6.2 A vehicle pass shall be specific to the vehicle and display:

(a) the areas for which it is authorised to have access; and

(b) the expiry date.

Electronic vehicle passes need not display the areas for which the vehicle is authorised to have access nor the expiry date, provided that this information is electronically readable and checked before granting access to security restricted areas.

1.2.6.3 An electronic vehicle pass shall be fixed to the vehicle in a manner which ensures that it is non-transferable.

1.2.6.4 The vehicle pass shall be displayed in a visible place whenever the vehicle is airside.

1.2.6.5 The vehicle pass shall be returned immediately to the issuing entity:

(a) upon request of the issuing entity; or

(b) when the vehicle is no longer to be used for access to airside; or

(c) upon expiry of the pass, unless the pass is automatically invalidated.

1.2.6.6 The issuing entity shall be notified immediately of the loss, theft or failure to return a vehicle pass.

1.2.6.7 An electronic vehicle pass shall be immediately disabled following return, expiry or notification of loss, theft or failure to return.

1.2.6.8 In order to prevent the misuse of vehicle passes, a system shall be in place to reasonably ensure that attempted use of vehicle passes that have been lost, stolen or not returned is detected. Upon detection, appropriate action shall be taken.

#### 1.2.7 **Escorted access**

1.2.7.1 Crew members, other than those holding a valid airport identification card, shall be escorted at all times when in security restricted areas other than:

(a) areas where passengers may be present; and

(b) areas in the immediate proximity of the aircraft on which they have arrived or will depart; and

(c) areas designated for crews.

1.2.7.2 Exceptionally, a person may be exempted from the requirements of point 1.2.5.1 and obligations on back-ground checks on condition that he is escorted at all times when in security restricted areas.

1.2.7.3 An escort shall:

(a) hold a valid identification card as referred to in point 1.2.2.2(c), (d) or (e); and

(b) be authorised to escort in security restricted areas; and

(c) have the escorted person or persons in direct line of sight at all times; and

(d) reasonably ensure that no security breach is committed by the person or persons being escorted.

1.2.7.4 A vehicle may be exempted from the requirements of point 1.2.6 on condition that it is escorted at all times when airside.

#### 1.2.8 **Other exemptions**

Other exemptions shall be subject to provisions laid down in a separate Commission Decision.

### 1.3 SCREENING OF PERSONS OTHER THAN PASSENGERS AND ITEMS CARRIED

#### 1.3.1 **Screening of persons other than passengers and items carried**

- 1.3.1.1 The screening of persons other than passengers and items carried shall be performed in the same way as for passengers and cabin baggage, respectively.
- 1.3.1.2 Points 4.1.1.1 — 4.1.1.6 and 4.1.1.8 shall apply as regards the screening of persons other than passengers.
- 1.3.1.3 Points 4.1.2.1 — 4.1.2.9 and 4.1.2.12 shall apply as regards the screening of items carried by persons other than passengers.
- 1.3.1.4 Articles as listed in Attachment 4-C may be carried only if the person is authorised to do so in order to undertake tasks that are essential for the operation of airport facilities or of aircraft, or for performing in-flight duties.
- 1.3.1.5 Where persons other than passengers and items carried have to be screened on a continuous random basis, the frequency shall be established by the appropriate authority on the basis of a risk assessment.
- 1.3.1.6 The screening of persons other than passengers and items carried shall also be subject to the additional provisions laid down in a separate Commission Decision.

#### 1.3.2 **Exemptions and special screening procedures**

- 1.3.2.1 The appropriate authority may, for objective reasons, allow persons other than passengers to be exempted from screening, or to be subjected to special screening procedures, provided that they are escorted by a person authorised to escort in accordance with point 1.2.7.3.
- 1.3.2.2 Screened persons other than passengers who temporarily leave critical parts may be exempted from screening on their return provided that they have been under constant observation by authorised persons sufficient to reasonably ensure that they do not introduce prohibited articles into those critical parts.
- 1.3.2.3 Exemptions and special screening procedures shall also be subject to the additional provisions laid down in a separate Commission Decision.

### 1.4 EXAMINATION OF VEHICLES

#### 1.4.1 **Vehicles entering critical parts**

- 1.4.1.1 All vehicles shall be examined before entering critical parts. They shall be protected from unlawful interference from after examination until entering critical parts.
- 1.4.1.2 The driver and any other occupants of the vehicle shall not be in the vehicle when the examination takes place. They shall be required to take their personal belongings out of the vehicle with them for screening.
- 1.4.1.3 There shall be defined methodologies to ensure the randomness of selection of the areas to be examined.
- 1.4.1.4 Vehicles entering critical parts shall also be subject to the additional provisions laid down in a separate Commission Decision.

#### 1.4.2 **Vehicles entering security restricted areas other than critical parts**

- 1.4.2.1 The driver and any other occupants of the vehicle shall not be in the vehicle when the examination takes place. They shall be required to take their personal belongings out of the vehicle with them for screening.
- 1.4.2.2 There shall be defined methodologies to ensure the randomness of selection of both vehicles and the areas to be examined.

1.4.2.3 Vehicles entering security restricted areas other than critical parts shall also be subject to the additional provisions laid down in a separate Commission Decision.

**1.4.3 Methods of examination**

1.4.3.1 A hand search shall consist of a thorough manual check of the areas selected, including contents, in order to reasonably ensure that they do not contain prohibited articles.

1.4.3.2 The following methods may only be used as a supplementary means of examination:

- (a) explosive detection dogs; and
- (b) explosive trace detection (ETD) equipment.

1.4.3.3 Methods of examination shall also be subject to the additional provisions laid down in a separate Commission Decision.

**1.4.4 Exemptions and special examination procedures**

1.4.4.1 The appropriate authority may, for objective reasons, allow vehicles to be exempted from examination, or to be subjected to special examination procedures, provided that they are escorted by a person authorised to escort in accordance with point 1.2.7.3.

1.4.4.2 Exemptions and special examination procedures shall also be subject to the additional provisions laid down in a separate Commission Decision.

**1.5 SURVEILLANCE, PATROLS AND OTHER PHYSICAL CONTROLS**

1.5.1 Surveillance or patrols shall be undertaken in order to monitor:

- (a) the boundaries between landside, airside, security restricted areas, critical parts and, where applicable, demarcated areas; and
- (b) areas of, and in proximity of, the terminal that are accessible to the public, including parking areas and roadways; and
- (c) the display and validity of persons' identification cards in security restricted areas other than those areas where passengers are present; and
- (d) the display and validity of vehicle passes when airside; and
- (e) hold baggage, cargo and mail, in-flight supplies and air carrier mail and materials in critical parts waiting to be loaded.

1.5.2 The frequency and means of undertaking surveillance and patrols shall be based on a risk assessment undertaken by the appropriate authority, taking into account:

- (a) the size of the airport, including the number and nature of the operations; and
- (b) the layout of the airport, in particular the interrelationship between the areas established at the airport; and
- (c) the possibilities and limitations of means of undertaking surveillance and patrols.

The parts of the risk assessment relating to the frequency and means of undertaking surveillance and patrols shall, upon request, be made available in writing for compliance monitoring purposes.

- 1.5.3 Surveillance and patrols shall not follow a predictable pattern. The validity of identification cards shall be checked on a random basis.
- 1.5.4 Measures shall be in place that both deter persons from breaching security checkpoints and, should such a breach occur, promptly enable the breach and its repercussions to be resolved and rectified.

## 2. DEMARCATED AREAS OF AIRPORTS

No provisions in this Regulation.

## 3. AIRCRAFT SECURITY

### 3.0 GENERAL PROVISIONS

- 3.0.1 Unless otherwise stated, an air carrier shall ensure the implementation of the measures set out in this chapter as regards its aircraft.
- 3.0.2 Third countries where the security standards applied are recognised as equivalent to the common basic standards as regards aircraft security are listed in Attachment 3-B.
- 3.0.3 An aircraft need not be subjected to an aircraft security check. It shall be subjected to an aircraft security search in accordance with point 3.1.
- 3.0.4 An air carrier shall, upon request, be notified by the airport operator whether or not its aircraft is in a critical part. When this is not clear, it shall be assumed that the aircraft is in a part other than a critical part.
- 3.0.5 When an area is no longer considered to be a critical part because of a change of security status then the airport shall inform those carriers that are affected.

### 3.1 AIRCRAFT SECURITY SEARCH

#### 3.1.1 **When to perform an aircraft security search**

- 3.1.1.1 An aircraft shall at all times be subjected to an aircraft security search whenever there is reason to believe that unauthorised persons may have had access to it.
- 3.1.1.2 An aircraft security search shall consist of an examination of defined areas of an aircraft that are laid down in a separate Commission Decision.
- 3.1.1.3 An aircraft arriving into a critical part from a third country not listed in Attachment 3-B shall be subjected to an aircraft security search any time after passenger disembarkation and/or the unloading of the hold.
- 3.1.1.4 An aircraft arriving from a Member State where it was in transit after having arrived from a third country not listed in Attachment 3-B shall be considered as an aircraft arriving from a third country.
- 3.1.1.5 When to perform an aircraft security search shall also be subject to the additional provisions laid down in a separate Commission Decision.

#### 3.1.2 **How to perform an aircraft security search**

How to perform an aircraft security search shall be subject to the provisions laid down in a separate Commission Decision.

#### 3.1.3 **Information on the aircraft security search**

The following information on the aircraft security search of a departing flight shall be recorded and kept at a point not on the aircraft for the duration of the flight or for 24 hours, whichever is longer:

- flight number, and
- destination, and
- origin of the previous flight, and
- an indication whether or not an aircraft security search was completed.

Where an aircraft security search was performed, the information shall also include:

- date and time that the aircraft security search was completed, and
- the name and signature of the person responsible for the performance of the aircraft security search.

### 3.2 PROTECTION OF AIRCRAFT

#### 3.2.1 **Protection of aircraft — general**

3.2.1.1 Regardless of where an aircraft is parked at an airport, it shall be protected against unauthorised access by:

- (a) ensuring that persons seeking to gain unauthorised access are challenged promptly; or
- (b) having its external doors closed. Where the aircraft is in a critical part, external doors that are not accessible from the ground shall be considered closed if access aids have been removed and placed sufficiently far from the aircraft as to reasonably prevent access; or
- (c) having electronic means which will immediately detect unauthorised access.

3.2.1.2 Point 3.2.1.1 shall not apply to an aircraft parked in a hangar that is locked or otherwise protected from unauthorised access.

#### 3.2.2 **Additional protection of aircraft with closed external doors in a part other than a critical part**

3.2.2.1 Where external doors are closed and the aircraft is in a part other than a critical part, each external door shall also:

- (a) have access aids removed; or
- (b) be sealed; or
- (c) be locked; or
- (d) be monitored.

Point (a) shall not apply for a door that is accessible from the ground.

3.2.2.2 Where access aids are removed for doors that are not accessible from the ground, they shall be placed sufficiently far from the aircraft as to reasonably prevent access.

3.2.2.3 Where external doors are locked, only persons with an operational need shall be able to unlock these doors.

3.2.2.4 Where external doors are monitored, the monitoring shall ensure that unauthorised access to the aircraft is immediately detected.

3.2.2.5 The protection of aircraft with closed external doors in a part other than a critical part shall also be subject to the additional provisions laid down in a separate Commission Decision.

**ATTACHMENT 3-A**

## AIRCRAFT SECURITY SEARCH

Detailed provisions for an aircraft security search are laid down in a separate Commission Decision.

**ATTACHMENT 3-B**

## AIRCRAFT SECURITY

**THIRD COUNTRIES RECOGNISED AS APPLYING SECURITY STANDARDS EQUIVALENT TO THE COMMON BASIC STANDARDS**

As regards aircraft security, the following third countries have been recognised as applying security standards equivalent to the common basic standards:

**4. PASSENGERS AND CABIN BAGGAGE**

## 4.0 GENERAL PROVISIONS

- 4.0.1 Unless otherwise stated, the authority, airport operator, air carrier or entity responsible in accordance with the national civil aviation security programme as referred to in Article 10 of Regulation (EC) No 300/2008 shall ensure the implementation of the measures set out in this chapter.
- 4.0.2 Third countries where the security standards applied are recognised as equivalent to the common basic standards as regards passengers and cabin baggage are listed in Attachment 4-B.
- 4.0.3 Passengers and their cabin baggage arriving from a Member State where the aircraft was in transit after having arrived from a third country not listed in Attachment 4-B shall be considered as passengers and cabin baggage arriving from a third country, unless there is a confirmation that these passengers and their cabin baggage were screened in that Member State.
- 4.0.4 For the purposes of this Chapter 'liquids, aerosols and gels' (LAGs) shall include pastes, lotions, liquid/solid mixtures and the contents of pressurised containers, such as toothpaste, hair gel, drinks, soups, syrups, perfume, shaving foam and other items with similar consistencies.

## 4.1 SCREENING OF PASSENGERS AND CABIN BAGGAGE

4.1.1 **Screening of passengers**

4.1.1.1 Before screening, coats and jackets of passengers shall be taken off and shall be screened as cabin baggage.

4.1.1.2 Passengers shall be screened by:

- (a) a hand search; or
- (b) walk-through metal detection (WTMD) equipment.

Where the screener cannot determine whether or not the passenger is carrying prohibited articles, the passenger shall be denied access to security restricted areas or rescreened to the screener's satisfaction.

4.1.1.3 When a hand search is performed it shall be carried out so as to reasonably ensure that the person is not carrying prohibited articles.

4.1.1.4 When WTMD equipment alarms, the cause of the alarm shall be resolved.

4.1.1.5 Hand-held metal detection (HHMD) equipment may only be used as a supplementary means of screening. It shall not replace the requirements of a hand search.

- 4.1.1.6 Where a live animal is permitted to be carried in the cabin of an aircraft, it shall be screened either as a passenger or as cabin baggage.
- 4.1.1.7 The appropriate authority may create categories of passengers that, for objective reasons, shall be subject to special screening procedures or may be exempted from screening. The Commission shall be informed of the categories created.
- 4.1.1.8 The screening of passengers shall also be subject to the additional provisions laid down in a separate Commission Decision.

**4.1.2 Screening of cabin baggage**

- 4.1.2.1 Before screening, portable computers and other large electrical items shall be removed from cabin baggage and shall be screened separately.
- 4.1.2.2 Before screening, LAGs shall be removed from cabin baggage and shall be screened separately, unless the equipment used for the screening of cabin baggage is also capable of screening multiple closed LAG containers inside baggage.

Where LAGs have been removed from cabin baggage, the passenger shall present:

- (a) all LAGs in individual containers with a capacity not greater than 100 millilitres or equivalent in one transparent re-sealable plastic bag of a capacity not exceeding 1 litre, whereby the contents of the plastic bag fit comfortably and the bag is completely closed; and
- (b) other LAGs separately.
- 4.1.2.3 Cabin baggage shall be screened by:
- (a) a hand search; or
- (b) x-ray equipment; or
- (c) explosive detection systems (EDS) equipment.

Where the screener cannot determine whether or not the cabin baggage contains any prohibited articles, it shall be rejected or rescreened to the screener's satisfaction.

- 4.1.2.4 A hand search of cabin baggage shall consist of a manual check of the baggage, including its contents, as to reasonably ensure that it does not contain prohibited articles.
- 4.1.2.5 Where x-ray or EDS equipment is used, each image shall be viewed by the screener.
- 4.1.2.6 Where x-ray or EDS equipment is used, all alarms shall be resolved to the satisfaction of the screener so as to reasonably ensure that no prohibited articles are carried into the SRA or on board an aircraft.
- 4.1.2.7 Where x-ray or EDS equipment is used, any item whose density impairs the ability of the screener to analyse the contents of the cabin baggage shall be taken out of the baggage. The bag shall be screened again and the item shall be screened separately as cabin baggage.
- 4.1.2.8 Any bag that is found to contain a large electrical item shall be screened again with the item no longer in the bag and the electrical item screened separately.
- 4.1.2.9 Explosive detection dogs and explosive trace detection (ETD) equipment may only be used as a supplementary means of screening.

- 4.1.2.10 The appropriate authority may create categories of cabin baggage that, for objective reasons, shall be subject to special screening procedures or may be exempted from screening. The Commission shall be informed of the categories created.
- 4.1.2.11 The appropriate authority may allow a diplomatic bag to be exempted from screening or to be subjected to special security procedures provided that the requirements of the Vienna Convention on Diplomatic Relations are met.
- 4.1.2.12 The screening of cabin baggage shall also be subject to the additional provisions laid down in a separate Commission Decision.
- 4.1.3 **Screening of liquids, aerosols and gels (LAGs)**
- 4.1.3.1 LAGs shall be screened by:
- (a) x-ray equipment;
  - (b) explosive detection systems (EDS) equipment;
  - (c) explosive trace detection (ETD) equipment;
  - (d) chemical reaction test strips; or
  - (e) bottled liquid scanners.
- 4.1.3.2 Tasting or testing on the skin may be used as a supplementary means of screening.
- 4.1.3.3 The screening of LAGs shall also be subject to the additional provisions laid down in a separate Commission Decision.
- 4.1.3.4 LAGs carried by passengers may be exempted from screening if the LAG is:
- (a) in individual containers with a capacity not greater than 100 millilitres or equivalent in one transparent re-sealable plastic bag of a capacity not exceeding 1 litre, whereby the contents of the plastic bag fit comfortably and the bag is completely closed; or
  - (b) to be used during the trip and is either required for medical purposes or a special dietary requirement, including baby food. When requested to do so the passenger shall provide proof of authenticity of the exempted liquid; or
  - (c) obtained airside beyond the point where boarding passes are controlled from outlets that are subject to approved security procedures as part of the airport security programme, on condition that the liquid is packed in a bag that is both tamper evident and displays satisfactory proof of purchase at that airport on that day; or
  - (d) obtained in the security restricted area from outlets that are subject to approved security procedures as part of the airport security programme; or
  - (e) obtained at another Community airport, on condition that the liquid is packed in a bag that is both tamper evident and displays satisfactory proof of purchase at airside at that airport on that day; or
  - (f) obtained on board an aircraft of a Community air carrier, on condition that the liquid is packed in a bag that is both tamper evident and displays satisfactory proof of purchase on board that aircraft on that day.

#### 4.2 PROTECTION OF PASSENGERS AND CABIN BAGGAGE

The protection of passengers and cabin baggage shall be subject to the provisions laid down in a separate Commission Decision.

#### 4.3 POTENTIALLY DISRUPTIVE PASSENGERS

4.3.1 An air carrier shall be notified in writing in advance by the competent authority of the plan to embark a potentially disruptive passenger on board its aircraft.

4.3.2 The notification shall contain the following details:

- (a) identity and gender of the person; and
- (b) reason for transportation; and
- (c) name and title of escorts, if provided; and
- (d) risk assessment by the competent authority, including reasons to escort or not; and
- (e) prior seating arrangement, if required; and
- (f) the nature of the available travel documents.

The air carrier shall make this information available to the pilot in command prior to passengers boarding the aircraft.

4.3.3 The competent authority shall ensure that persons in lawful custody are always escorted.

#### 4.4 PROHIBITED ARTICLES

4.4.1 Passengers shall not be permitted to carry into security restricted areas or on board an aircraft the articles listed in Attachment 4-C.

4.4.2 An exemption to point 4.4.1. may be granted on condition that:

- (a) the appropriate authority has given consent that the article may be carried; and
- (b) the air carrier has been informed about the passenger and the article that he is carrying prior to passengers boarding the aircraft; and
- (c) the applicable safety rules are complied with.

These articles shall then be placed in secure conditions on board aircraft.

4.4.3 The air carrier shall ensure that passengers are informed of the prohibited articles listed in Attachment 4-C before check-in is completed.

### ATTACHMENT 4-A

#### REQUIREMENTS FOR A HAND SEARCH

Detailed provisions for a hand search are laid down in a separate Commission Decision.

**ATTACHMENT 4-B**

## PASSENGERS AND CABIN BAGGAGE

*THIRD COUNTRIES RECOGNISED AS APPLYING SECURITY STANDARDS EQUIVALENT TO THE COMMON BASIC STANDARDS*

As regards passengers and cabin baggage, the following third countries have been recognised as applying security standards equivalent to the common basic standards:

**ATTACHMENT 4-C**

## PASSENGERS AND CABIN BAGGAGE

*LIST OF PROHIBITED ARTICLES*

Without prejudice to applicable safety rules, passengers are not permitted to carry the following articles into security restricted areas and on board an aircraft:

(a) *guns, firearms and other devices that discharge projectiles* — devices capable, or appearing capable, of being used to cause serious injury by discharging a projectile, including:

- firearms of all types, such as pistols, revolvers, rifles, shotguns,
- toy guns, replicas and imitation firearms capable of being mistaken for real weapons,
- component parts of firearms, excluding telescopic sights,
- compressed air and CO<sub>2</sub> guns, such as pistols, pellet guns, rifles and ball bearing guns,
- signal flare pistols and starter pistols,
- bows, cross bows and arrows,
- harpoon guns and spear guns,
- slingshots and catapults;

(b) *stunning devices* — devices designed specifically to stun or immobilise, including:

- devices for shocking, such as stun guns, tasers and stun batons,
- animal stunners and animal killers,
- disabling and incapacitating chemicals, gases and sprays, such as mace, pepper sprays, capsicum sprays, tear gas, acid sprays and animal repellent sprays;

(c) *objects with a sharp point or sharp edge* — objects with a sharp point or sharp edge capable of being used to cause serious injury, including:

- items designed for chopping, such as axes, hatchets and cleavers,
- ice axes and ice picks,
- razor blades,
- box cutters,
- knives with blades of more than 6 cm,

- scissors with blades of more than 6 cm as measured from the fulcrum,
  - martial arts equipment with a sharp point or sharp edge,
  - swords and sabres;
- (d) *workmen's tools* — tools capable of being used either to cause serious injury or to threaten the safety of aircraft, including:
- crowbars,
  - drills and drill bits, including cordless portable power drills,
  - tools with a blade or a shaft of more than 6 cm capable of use as a weapon, such as screwdrivers and chisels,
  - saws, including cordless portable power saws,
  - blowtorches,
  - bolt guns and nail guns;
- (e) *blunt instruments* — objects capable of being used to cause serious injury when used to hit, including:
- baseball and softball bats,
  - clubs and batons, such as billy clubs, blackjacks and night sticks,
  - martial arts equipment;
- (f) *explosives and incendiary substances and devices* — explosives and incendiary substances and devices capable, or appearing capable, of being used to cause serious injury or to pose a threat to the safety of aircraft, including:
- ammunition,
  - blasting caps,
  - detonators and fuses,
  - replica or imitation explosive devices,
  - mines, grenades and other explosive military stores,
  - fireworks and other pyrotechnics,
  - smoke-generating canisters and smoke-generating cartridges,
  - dynamite, gunpowder and plastic explosives.

## 5. HOLD BAGGAGE

### 5.0 GENERAL PROVISIONS

- 5.0.1 Unless otherwise stated, the authority, airport operator, air carrier or entity responsible in accordance with the national civil aviation security programme as referred to in Article 10 of Regulation (EC) No 300/2008 shall ensure the implementation of the measures set out in this chapter.

- 5.0.2 Third countries where the security standards applied are recognised as equivalent to the common basic standards as regards hold baggage are listed in Attachment 5-A.
- 5.0.3 Hold baggage arriving from a Member State where the aircraft was in transit after having arrived from a third country not listed in Attachment 5-A shall be considered as hold baggage arriving from a third country, unless there is a confirmation that the hold baggage was screened in that Member State.
- 5.0.4 For the purpose of this chapter, 'secured baggage' means screened departing hold baggage that is physically protected so as to prevent the introduction of any objects.

#### 5.1 SCREENING OF HOLD BAGGAGE

- 5.1.1 The following methods, either individually or in combination, shall be used to screen hold baggage:

- (a) a hand search; or
- (b) x-ray equipment; or
- (c) explosive detection systems (EDS) equipment; or
- (d) explosive trace detection (ETD) equipment.

Where the screener cannot determine whether or not the hold baggage contains any prohibited articles, it shall be rejected or rescreened to the screener's satisfaction.

- 5.1.2 A hand search shall consist of a thorough manual check of the baggage, including all its contents, so as to reasonably ensure that it does not contain prohibited articles.
- 5.1.3 Where x-ray or EDS equipment is used, any item whose density impairs the ability of the screener to analyse the contents of the baggage shall result in it being subject to another means of screening.
- 5.1.4 Screening by explosive trace detection (ETD) equipment shall consist of the analysis of samples taken from both the inside and the outside of the baggage and from its contents. The contents may also be subjected to a hand search.
- 5.1.5 The appropriate authority may create categories of hold baggage that, for objective reasons, shall be subject to special screening procedures or may be exempted from screening. The Commission shall be informed of the categories created.
- 5.1.6 The screening of hold baggage shall also be subject to the additional provisions laid down in a separate Commission Decision.

#### 5.2 PROTECTION OF HOLD BAGGAGE

- 5.2.1 Passengers may not be allowed access to screened hold baggage, unless it is their own baggage and they are supervised to ensure that:
- (a) no prohibited articles as listed in Attachment 5-B are introduced into the hold baggage; or
  - (b) no prohibited articles as listed in Attachment 4-C are removed from the hold baggage and introduced into the security restricted areas or on board an aircraft.
- 5.2.2 Hold baggage that has not been protected from unauthorised interference shall be rescreened.
- 5.2.3 The protection of hold baggage shall also be subject to the additional provisions laid down in a separate Commission Decision.

- 5.3 BAGGAGE RECONCILIATION
- 5.3.1 **Identification of hold baggage**
- 5.3.1.1 An air carrier shall, during the boarding process, ensure that a passenger presents a valid boarding card or equivalent corresponding to the hold baggage that was checked in.
- 5.3.1.2 An air carrier shall ensure that there is a procedure in place to identify hold baggage of passengers who did not board or left the aircraft before departure.
- 5.3.1.3 If the passenger is not on board the aircraft, the hold baggage corresponding to his boarding card or equivalent shall be considered as unaccompanied.
- 5.3.1.4 An air carrier shall ensure that each item of unaccompanied hold baggage is clearly identifiable as authorised for transport by air.
- 5.3.2 **Factors beyond the passenger's control**
- 5.3.2.1 The reason that the baggage became unaccompanied shall be recorded before it is loaded onto an aircraft, unless the security controls as referred to in point 5.3.3 are applied.
- 5.3.2.2 Additional detailed provisions on the factors beyond the passenger's control are laid down in a separate Commission Decision.
- 5.3.3 **Appropriate security controls for unaccompanied hold baggage**
- 5.3.3.1 Unaccompanied hold baggage not covered by point 5.3.2 shall be screened by one of the methods laid down in point 5.1.1 and, where applicable, applying additional requirements laid down in a separate Commission Decision.
- 5.3.3.2 Hold baggage that becomes unaccompanied baggage due to factors other than those mentioned in point 5.3.2 shall be rescreened after removal from the aircraft and before loading it again.
- 5.3.3.3 Additional detailed provisions for appropriate security controls for unaccompanied hold baggage are laid down in a separate Commission Decision.
- 5.4 PROHIBITED ARTICLES
- 5.4.1 Passengers shall not be permitted to carry in their hold baggage the articles listed in Attachment 5-B.
- 5.4.2 An exemption to point 5.4.1 may be granted on condition that:
- (a) the appropriate authority has national rules permitting carriage of the article; and
- (b) the applicable safety rules are complied with.
- 5.4.3 Passengers shall be informed of the prohibited articles listed in Attachment 5-B before check-in is completed.

#### ATTACHMENT 5-A

##### HOLD BAGGAGE

##### *THIRD COUNTRIES RECOGNISED AS APPLYING SECURITY STANDARDS EQUIVALENT TO THE COMMON BASIC STANDARDS*

As regards hold baggage, the following third countries have been recognised as applying security standards equivalent to the common basic standards:

**ATTACHMENT 5-B****HOLD BAGGAGE****LIST OF PROHIBITED ARTICLES**

Passengers are not permitted to carry the following articles in their hold baggage:

*explosives and incendiary substances and devices* — explosives and incendiary substances and devices capable of being used to cause serious injury or to pose a threat to the safety of aircraft, including:

- ammunition,
- blasting caps,
- detonators and fuses,
- mines, grenades and other explosive military stores,
- fireworks and other pyrotechnics,
- smoke-generating canisters and smoke-generating cartridges,
- dynamite, gunpowder and plastic explosives.

**6. CARGO AND MAIL****6.0 GENERAL PROVISIONS**

6.0.1 The authority, airport operator, air carrier or entity as defined in this chapter shall ensure the implementation of the measures set out in this chapter.

6.0.2 The following shall be considered as prohibited articles in consignments of cargo:

- assembled explosive and incendiary devices that are not carried in accordance with the applicable safety rules.

6.0.3 The following shall be considered as prohibited articles in consignments of mail:

- explosive and incendiary devices, whether assembled or not, and their component parts.

**6.1 SECURITY CONTROLS — GENERAL PROVISIONS**

6.1.1 All cargo and mail shall be screened by a regulated agent before being loaded on to an aircraft, unless:

- (a) the required security controls have been applied to the consignment by a regulated agent and the consignment has been protected from unauthorised interference from the time that those security controls were applied and until loading; or
- (b) the required security controls have been applied to the consignment by a known consignor and the consignment has been protected from unauthorised interference from the time that those security controls were applied and until loading; or
- (c) the required security controls have been applied to the consignment by an account consignor, the consignment has been protected from unauthorised interference from the time that those security controls were applied and until loading, and it is not carried on a passenger aircraft; or
- (d) the consignment is exempt from screening and has been protected from unauthorised interference from the time that it became identifiable air cargo or identifiable air mail and until loading.

6.1.2 Where there is any reason to believe that a consignment to which security controls have been applied has been tampered with or has not been protected from unauthorised interference from the time that those controls were applied, it shall be screened by a regulated agent before being loaded on to an aircraft.

6.1.3 A person with unescorted access to identifiable air cargo or identifiable air mail to which the required security controls have been applied shall have successfully completed either a background check or a pre-employment check in accordance with point 11.1

## 6.2 SCREENING

### 6.2.1 **Screening**

6.2.1.1 When screening cargo or mail:

(a) the means or method most likely to detect prohibited articles shall be employed, taking into consideration the nature of the consignment; and

(b) the means or method employed shall be of a standard sufficient to reasonably ensure that no prohibited articles are concealed in the consignment.

6.2.1.2 Where the screener cannot be reasonably sure that no prohibited articles are contained in the consignment, the consignment shall be rejected or be rescreened to his satisfaction.

6.2.1.3 The screening of cargo and mail shall also be subject to the additional provisions laid down in a separate Commission Decision.

### 6.2.2 **Exemptions from screening**

Provisions for exemptions from screening are laid down in a separate Commission Decision.

## 6.3 REGULATED AGENTS

### 6.3.1 **Approval of regulated agents**

6.3.1.1 Regulated agents shall be approved by the appropriate authority.

The approval as a regulated agent shall be site specific.

Any entity that applies security controls as referred to in point 6.3.2 shall be approved as a regulated agent. This includes third party logistics providers responsible for integrated warehousing and transportation services, air carriers and handling agents.

A regulated agent may subcontract:

(a) any of the security controls referred to in point 6.3.2 to another regulated agent;

(b) any of the security controls referred to in point 6.3.2 to another entity, where the controls are carried out at the regulated agent's own site or at an airport, and are covered by the regulated agent's or airport security programme;

(c) any of the security controls referred to in point 6.3.2 to another entity, where the controls are carried out elsewhere than at the regulated agent's own site or at an airport, and the entity has been certified or approved and listed for the provision of these services by the appropriate authority; and

(d) the protection and transportation of consignments to a haulier that meets the requirements of point 6.6.

6.3.1.2 The appropriate authority of each Member State shall define in its national civil aviation security programme as referred to in Article 10 of Regulation (EC) No 300/2008 the responsibilities for the implementation of the following procedure on the approval of regulated agents:

- (a) the applicant shall seek approval from the appropriate authority of the Member State in which the sites included in the application are located.

The applicant shall submit a security programme to the appropriate authority concerned. The programme shall describe the methods and procedures which are to be followed by the agent in order to comply with the requirements of Regulation (EC) No 300/2008 and its implementing acts. The programme shall also describe how compliance with these methods and procedures is to be monitored by the agent itself. An air carrier security programme which describes the methods and procedures to be followed by the air carrier in order to comply with the requirements of Regulation (EC) No 300/2008 and its implementing acts shall be regarded as meeting the requirement for a regulated agent security programme.

The applicant shall also submit the 'Declaration of commitments — regulated agent' as contained in Attachment 6-A. This declaration shall be signed by the applicant's legal representative or by the person responsible for security.

The signed declaration shall be retained by the appropriate authority concerned:

- (b) the appropriate authority, or independent validator acting on its behalf, shall examine the security programme and then make an on-site verification of the sites specified in order to assess whether the applicant complies with the requirements of Regulation (EC) No 300/2008 and its implementing acts.

The appropriate authority, or independent validator acting on its behalf, should take into account whether or not the applicant is a holder of an AEO certificate referred to in point (b) or (c) of Article 14a(1) of Commission Regulation (EC) No 1875/2006 <sup>(1)</sup> amending Regulation (EEC) No 2454/93 <sup>(2)</sup>;

- (c) if the appropriate authority is satisfied with the information provided under points (a) and (b), it shall ensure that the necessary details of the agent are entered into the 'EC database of regulated agents and known consignors' not later than the next working day. When making the database entry the appropriate authority shall give each approved site a unique alphanumeric identifier in the standard format.

If the appropriate authority is not satisfied with the information provided under points (a) and (b) then the reasons shall promptly be notified to the entity seeking approval as a regulated agent.

Where an air carrier security programme describes the methods and procedures to be followed by the air carrier in order to comply with the requirements of Regulation (EC) No 300/2008 and its implementing acts, an air carrier may be considered as fulfilling the requirements of points (a) and (b) for all sites specified in the programme. An on-site verification of the sites specified in the air carrier security programme shall be carried out no later than 2 years after the entry into force of this Regulation.

Where a regulated agent has been approved in accordance with either Commission Regulation (EC) No 2320/2002 or Commission Regulation (EC) No 820/2008 and Commission Decision C(2008) 4333, it may be considered as a regulated agent for the purposes of Regulation (EC) No 300/2008 and its implementing acts for all sites at which an on-site verification has taken place;

- (d) a regulated agent shall not be considered as approved until its details are listed in the 'EC database of regulated agents and known consignors'.

<sup>(1)</sup> OJ L 360, 19.12.2006, p. 64.

<sup>(2)</sup> OJ L 253, 11.10.1993, p. 1.

6.3.1.3 A regulated agent shall designate at least one person at each site who shall be responsible for the implementation of the submitted security programme. This person shall have successfully completed a background check in accordance with point 11.1.

6.3.1.4 A regulated agent shall be re-validated at regular intervals not exceeding 5 years. This shall include an on-site verification in order to assess whether the regulated agent still complies with the requirements of Regulation (EC) No 300/2008 and its implementing acts.

An inspection at the premises of the regulated agent by the appropriate authority in accordance with its national quality control programme may be considered as an on-site verification, provided that it covers all the requirements necessary for approval.

6.3.1.5 If the appropriate authority is no longer satisfied that the regulated agent complies with the requirements of Regulation (EC) No 300/2008 and its implementing acts, it shall withdraw the status of regulated agent for the specified site(s).

Immediately after withdrawal, and in all cases within 24 hours, the appropriate authority shall ensure that the agent's change of status is indicated in the 'EC database of regulated agents and known consignors'.

6.3.1.6 Without prejudice to the right of each Member State to apply more stringent measures in accordance with Article 6 of Regulation (EC) No 300/2008, a regulated agent approved in accordance with point 6.3 shall be recognised in all Member States.

6.3.1.7 The requirements of point 6.3.1, other than 6.3.1.2(d), shall not apply when the appropriate authority itself is to be approved as a regulated agent.

### 6.3.2 Security controls to be applied by a regulated agent

6.3.2.1 When accepting any consignments, a regulated agent shall establish whether the entity from which it receives the consignments is a regulated agent, a known consignor, an account consignor or none of these.

6.3.2.2 The person delivering the consignments to the regulated agent or air carrier shall present an identity card, passport, driving licence or other document, which includes his or her photograph and which has been issued or is recognised by the national authority. The card or document shall be used to establish the identity of the person delivering the consignments.

6.3.2.3 When accepting consignments to which not all required security controls have previously been applied, the regulated agent shall ensure that they are screened in accordance with point 6.2.

6.3.2.4 After the security controls referred to in points 6.3.2.1 to 6.3.2.3 of this Regulation and point 6.3 of a separate Commission Decision have been applied, the regulated agent shall ensure that:

(a) access to these consignments is controlled; and

(b) these consignments are protected from unauthorised interference until they are handed over to another regulated agent or air carrier.

6.3.2.5 After the security controls referred to in points 6.3.2.1 to 6.3.2.4 of this Regulation have been applied, the regulated agent shall ensure that any consignment tendered to an air carrier or another regulated agent is accompanied by appropriate documentation, either in the form of an air waybill or in a separate declaration and either in an electronic format or in writing.

6.3.2.6 The documentation shall be available for inspection by the appropriate authority at any point before the consignment is loaded on to an aircraft and shall provide the following information:

(a) the site specific name and address of the regulated agent that issued the security status and/or its unique alphanumeric identifier as received from the appropriate authority;

- (b) a unique identifier of the consignment, such as the number of the (house or master) air waybill;
  - (c) the content of the consignment;
  - (d) the security status of the consignment, stating:
    - 'SPX', meaning secure for passenger, all-cargo and all-mail aircraft, or
    - 'SCO', meaning secure for all-cargo and all-mail aircraft only;
  - (e) the reason that the security status was issued, stating:
    - 'KC', meaning received from known consignor, or
    - 'AC', meaning received from account consignor, or
    - the means or method of screening used, or
    - the grounds for exempting the consignment from screening;
  - (f) the name of the person who issued the security status, or an equivalent identification, and the date and time of issue;
  - (g) the site specific name and address, or unique identifier received from the appropriate authority, of any regulated agent who has accepted the security status given to a consignment by another regulated agent.
- 6.3.2.7 In the case of consolidations, the requirements under points 6.3.2.6(c), (e), (f) and (g) will be considered as met, if the regulated agent is able to establish the nature of the contents, the reason that the security status was issued and/or the name of the person who issued the security status and the date and time of issue, respectively, by a verifiable audit trail at any time before the consignment is loaded on an aircraft and afterwards for the duration of the flight or for 24 hours, whichever is the longer.
- 6.3.2.8 When accepting consignments to which not all required security controls have previously been applied, the regulated agent may also elect not to apply the security controls as referred to in point 6.3.2, but to hand the consignments over to another regulated agent to ensure the application of these security controls.

Security controls to be applied by a regulated agent shall also be subject to the additional provisions laid down in a separate Commission Decision.

#### 6.4 KNOWN CONSIGNORS

##### 6.4.1 Approval of known consignors

6.4.1.1 Known consignors shall be approved by the appropriate authority.

The approval as a known consignor shall be site specific.

6.4.1.2 The appropriate authority of each Member State shall define in its national civil aviation security programme as referred to in Article 10 of Regulation (EC) No 300/2008 the responsibilities for the implementation of the following procedure on the approval of known consignors:

- (a) the applicant shall seek approval from the appropriate authority of the Member State in which its site is located.

The applicant shall be provided with the 'Guidance for known consignors' as contained in Attachment 6-B;

- (b) the appropriate authority, or independent validator acting on its behalf, shall make an on-site verification of the sites specified in order to assess whether the applicant complies with the requirements of Regulation (EC) No 300/2008 and its implementing acts.

In order to assess whether the applicant complies with these requirements, the appropriate authority, or independent validator acting on its behalf, shall make use of the 'Validation checklist for known consignors' as contained in Attachment 6-C. This checklist includes a declaration of commitments which shall be signed by the applicant's legal representative or by the person responsible for security at the site.

The appropriate authority, or independent validator acting on its behalf, should take into account whether or not the applicant is a holder of an AEO certificate referred to in point (b) or (c) of Article 14a(1) of Commission Regulation (EC) No 1875/2006 amending Regulation (EEC) No 2454/93.

Once the validation checklist is completed, the information contained in the checklist shall be handled as classified information.

The signed declaration shall be retained by the appropriate authority concerned or retained by the independent validator and made available on request to the appropriate authority concerned;

- (c) if the appropriate authority is satisfied with the information provided under points (a) and (b), it shall ensure that the necessary details of the consignor are entered into the 'EC database of regulated agents and known consignors' not later than the next working day. When making the database entry the appropriate authority shall give each approved site a unique alphanumeric identifier in the standard format.

If the appropriate authority is not satisfied with the information provided under points (a) and (b) then the reasons shall promptly be notified to the entity seeking approval as a known consignor;

- (d) where a known consignor has been approved before 29 April 2010 to ensure that the requirements covered by point 6.4.2 were met, it may be considered as a known consignor for the purposes of Regulation (EC) No 300/2008 and its implementing acts for up to 3 years after the entry into force of this Regulation;
- (e) a known consignor shall not be considered as approved until its details are listed in the 'EC database of regulated agents and known consignors'.

6.4.1.3 A known consignor shall designate at least one person at each site who shall be responsible for the application and supervision of the implementation of security controls at that site. This person shall have successfully completed a background check.

6.4.1.4 A known consignor shall be re-validated at regular intervals not exceeding 5 years. This shall include an on-site verification in order to assess whether the known consignor still complies with the requirements of Regulation (EC) No 300/2008 and its implementing acts.

An inspection at the premises of the known consignor by the appropriate authority in accordance with its national quality control programme may be considered as an on-site verification, provided that it covers all areas specified in the checklist of Attachment 6-C.

6.4.1.5 If the appropriate authority is no longer satisfied that the known consignor complies with the requirements of Regulation (EC) No 300/2008 and its implementing acts, it shall withdraw the status of known consignor for the specified site(s).

Immediately after withdrawal, and in all cases within 24 hours, the appropriate authority shall ensure that the consignor's change of status is indicated in the 'EC database of regulated agents and known consignors'.

- 6.4.1.6 Without prejudice to the right of each Member State to apply more stringent measures in accordance with Article 6 of Regulation (EC) No 300/2008, a known consignor approved in accordance with point 6.4 shall be recognised in all Member States.

Known consignors approved in accordance with point 6.4.1.2(d) shall also be subject to the additional provision laid down in point 6.4 of a separate Commission Decision.

#### 6.4.2 Security controls to be applied by a known consignor

- 6.4.2.1 A known consignor shall ensure that:

- (a) there is a level of security on the site or at the premises sufficient to protect identifiable air cargo and identifiable air mail from unauthorised interference; and
- (b) all staff with access to identifiable air cargo or identifiable air mail to which the required security controls have been applied have been recruited and trained in accordance with the requirements of chapter 11; and
- (c) during production, packing, storage, despatch and/or transportation, as appropriate, identifiable air cargo and identifiable air mail is protected from unauthorised interference or tampering.

When, for whatever reason, these security controls have not been applied to a consignment, or where the consignment has not been originated by the known consignor for its own account, the known consignor shall clearly identify this to the regulated agent so that point 6.3.2.3 can be applied.

- 6.4.2.2 The known consignor shall accept that consignments to which the appropriate security controls have not been applied are screened in accordance with point 6.2.1.

#### 6.5 ACCOUNT CONSIGNORS

- 6.5.1 Account consignors shall be designated by a regulated agent.

- 6.5.2 In order to be designated as an account consignor, the following procedure shall apply:

- (a) the regulated agent shall provide the entity with the 'Aviation security instructions for account consignors' and 'Declaration of commitments — account consignor' as contained in Attachment 6-D. These instructions and declaration shall be provided to the regulated agent by the appropriate authority of the Member State in which its site is located;
- (b) the entity shall submit a signed 'Declaration of commitments — account consignor' as contained in Attachment 6-D to the regulated agent, unless the entity is a holder of an AEO certificate referred to in point (b) or (c) of Article 14a(1) of Commission Regulation (EC) No 1875/2006 amending Regulation (EEC) No 2454/93.

The entity shall also designate at least one person responsible for security at its premises and shall inform the regulated agent of this person's name and contact details.

Where applicable, the signed declaration shall be retained by the regulated agent and made available on request to the appropriate authority concerned.

Where the requirement to complete a Declaration of Commitments has been waived on the basis of an AEO certificate, an account consignor shall immediately inform the regulated agent if it is no longer a holder of such a certificate;

- (c) the regulated agent shall make a validation by establishing the following details of the prospective account consignor:
- the company details, including the bona fide business address, and
  - the nature of the business, and
  - contact details, including those of the person(s) responsible for security, and
  - VAT reference number or company registration number, and
  - where the exemption under 6.5.2(b) is applied, the AEO certificate number;
- (d) if the regulated agent is satisfied with the information provided under points (b) and (c), then the regulated agent may designate the entity as an account consignor.

6.5.3 The regulated agent shall maintain a database with the information referred to in point 6.5.2(c). The database shall be available for inspection by the appropriate authority.

6.5.4 If there is no activity relating to movements of cargo or mail by air on the account of the account consignor within a period of 2 years, the status of account consignor shall expire.

6.5.5 If the appropriate authority or the regulated agent is no longer satisfied that the account consignor complies with the instructions as contained in Attachment 6-D, the regulated agent shall immediately withdraw the status of account consignor.

6.5.6 When, for whatever reason, the security controls specified in the 'Aviation security instructions for account consignors' have not been applied to a consignment, or where the consignment has not been originated by the account consignor for its own account, the account consignor shall clearly identify this to the regulated agent so that point 6.3.2.3 can be applied.

## 6.6 PROTECTION OF CARGO AND MAIL

### 6.6.1 **Protection of cargo and mail during transportation**

6.6.1.1 In order to ensure that consignments to which the required security controls have been applied are protected from unauthorised interference during transportation:

- (a) the consignments shall be packed or sealed by the regulated agent, known consignor or account consignor so as to ensure that any tampering would be evident; and
- (b) the cargo load compartment of the vehicle in which the consignments are to be transported shall be locked or sealed or curtain sided vehicles shall be secured with TIR cords so as to ensure that any tampering would be evident, or the load area of flat bed vehicles shall be kept under observation; and either
- (c) the haulier declaration as contained in Attachment 6-E shall be agreed by the haulier who transports on behalf of the regulated agent, known consignor or account consignor, unless the haulier is itself approved as a regulated agent.

The signed declaration shall be retained by the regulated agent, known consignor or account consignor for whom the haulier provides transport. On request, a copy of the signed declaration shall also be made available to the regulated agent or air carrier receiving the consignment or to the appropriate authority concerned; or

- (d) the haulier shall provide evidence to the regulated agent, known consignor or account consignor for whom it provides transport that it has been certified or approved by an appropriate authority.

This evidence shall include the requirements contained in Attachment 6-E and copies shall be retained by the regulated agent, known consignor or account consignor concerned. On request, a copy shall also be made available to the regulated agent or air carrier receiving the consignment or to another appropriate authority.

6.6.1.2 Point 6.6.1.1(b) (c) and (d) shall not apply during airside transportation.

#### 6.6.2 Protection of cargo and mail at airports

6.6.2.1 Consignments of cargo and mail that are in a critical part shall be considered as protected from unauthorised interference.

6.6.2.2 Consignments of cargo and mail that are in a part other than a critical part shall be considered as protected from unauthorised interference if:

- (a) they are physically protected so as to prevent the introduction of any article which might be used in an act of unauthorised interference; or
- (b) they are not left unattended and access is limited to persons involved in the protection and loading of cargo and mail onto aircraft.

### ATTACHMENT 6-A

#### DECLARATION OF COMMITMENTS — REGULATED AGENT

In accordance with Regulation (EC) No 300/2008 of the European Parliament and of the Council on common rules in the field of civil aviation security and its implementing acts,

I declare that,

- to the best of my knowledge, the information contained in the company's security programme is true and accurate,
- the practices and procedures set out in this security programme will be implemented and maintained at all sites covered by the programme,
- this security programme will be adjusted and adapted to comply with all future relevant changes to EC legislation, unless [name of company] informs [name of appropriate authority] that it no longer wishes to trade as a regulated agent,
- [name of company] will inform [name of appropriate authority] in writing of:
  - (a) minor changes to its security programme, such as company name, person responsible for security or contact details, change of person requiring access to the 'EC database of regulated agents and known consignors', promptly and at least within 10 working days; and
  - (b) major planned changes, such as new screening procedures, major building works which might affect its compliance with relevant EC legislation or change of site/address, at least 15 working days prior to their commencement/the planned change,

- in order to ensure compliance with relevant EC legislation, [name of company] will cooperate fully with all inspections, as required, and provide access to all documents, as requested by inspectors,
- [name of company] will inform [name of appropriate authority] of any serious security breaches and of any suspicious circumstances which may be relevant to air cargo/air mail security, in particular any attempt to conceal prohibited articles in consignments,
- [name of company] will ensure that all relevant staff receive appropriate training and are aware of their security responsibilities under the company's security programme, and
- [name of company] will inform [name of appropriate authority] if:
  - (a) it ceases trading;
  - (b) it no longer deals with air cargo/air mail; or
  - (c) it can no longer meet the requirements of the relevant EC legislation.

I shall accept full responsibility for this declaration.

Name:

Position in company:

Date:

Signature:

#### **ATTACHMENT 6-B**

Provisions for guidance for Known Consignors are laid down in a separate Commission Decision.

#### **ATTACHMENT 6-C**

Provisions for the validation checklist for known consignors are laid down in a separate Commission Decision.

#### **ATTACHMENT 6-D**

##### AVIATION SECURITY INSTRUCTIONS FOR ACCOUNT CONSIGNORS

These instructions have been prepared for your use and for information to your staff engaged in the preparation and control of consignments of air cargo/air mail. These instructions are provided to you in accordance with Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and its implementing acts.

#### **Premises**

Access to areas where consignments of identifiable air cargo/air mail are prepared, packaged and/or stored shall be controlled to ensure that no unauthorised persons have access to the consignments.

Visitors shall be accompanied at all times in, or prevented access to, those areas where consignments of identifiable air cargo/air mail are prepared, packaged and/or stored.

**Staff**

The integrity of all staff being recruited who will have access to identifiable air cargo/air mail shall be verified. This verification shall include at least a check of the identity (if possible by photographic identity card, driving licence or passport) and a check of the curriculum vitae and/or provided references.

All staff who have access to identifiable air cargo/air mail shall be made aware of their security responsibilities as set out in these instructions.

**Responsible nominee**

At least one person responsible for the application and control of these instructions shall be nominated (responsible nominee).

**Consignment integrity**

Consignments of air cargo/air mail shall not contain any prohibited articles, unless they have been properly declared and subjected to the applicable laws and regulations.

Consignments of air cargo/air mail shall be protected against unauthorised interference.

Consignments of air cargo/air mail shall be adequately packaged and, where possible, include tamper evident closure.

Consignments of air cargo/air mail being shipped shall be fully described on the attached documentation together with correct addressing information.

**Transport**

Where the account consignor is responsible for the transport of consignments of air cargo/air mail, the consignments shall be protected against unauthorised interference.

Where a contractor is used by the account consignor:

- (a) the consignments shall be sealed before transportation; and
- (b) the haulier declaration as contained in Attachment 6-E shall be agreed by the haulier who transports on behalf of the account consignor.

The signed declaration or a copy of the appropriate authority equivalent shall be retained by the account consignor.

**Irregularities**

Irregularities, apparent or suspected, related to these instructions shall be reported to the responsible nominee. The responsible nominee shall take appropriate action.

**Consignments from other sources**

An account consignor may pass consignments which it has not itself originated to a regulated agent, provided that:

- (a) they are separated from consignments which it has originated; and
- (b) the origin is clearly indicated on the consignment or on accompanying documentation.

All such consignments must be screened before they are loaded on to an aircraft.

**Unannounced inspections**

Aviation security inspectors from the appropriate authority may conduct unannounced inspections to verify compliance with these instructions. The inspectors will always carry an official pass, which must be produced on demand when an inspection is being conducted on your premises. The pass includes the name and photograph of the inspector.

**Prohibited articles**

Assembled explosive and incendiary devices shall not be carried in consignments of cargo unless the requirements of all safety rules are met in full. Explosive and incendiary devices, whether assembled or not, shall not be carried in consignments of mail.

**Declaration of commitments**

The 'Declaration of commitments — account consignor' does not have to be signed and submitted to the regulated agent, if your company is a holder of an AEO certificate referred to in point (b) or (c) of Article 14a(1) of Commission Regulation (EC) No 1875/2006 amending Regulation (EEC) No 2454/93.

However, you must inform the regulated agent immediately if your company is no longer a holder of an AEO certificate. In this case, the regulated agent will inform you of how to ensure the account consignor status.

**DECLARATION OF COMMITMENTS — ACCOUNT CONSIGNOR**

In accordance with Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and its implementing acts,

I declare that,

- [name of company] complies with these 'Aviation security instructions for account consignors',
- [name of company] ensures that these instructions are communicated to staff with access to air cargo/air mail,
- [name of company] keeps air cargo/air mail secure until it is handed over to the regulated agent,
- [name of company] accepts that consignments may be subject to security controls, including screening, and
- [name of company] accepts unannounced inspections at its premises by the appropriate authority of the Member State in which it is located in order to assess whether [name of company] complies with these instructions.

I shall accept full responsibility for this declaration.

Name:

Position in company:

Date:

Signature:

**ATTACHMENT 6-E****HAULIER DECLARATION**

In accordance with Regulation (EC) No 300/2008 of the European Parliament and of the Council on common rules in the field of civil aviation security and its implementing acts,

When collecting, carrying, storing and delivering air cargo/mail to which security controls have been applied [on behalf of name of regulated agent/known consignor/account consignor], I confirm that the following security procedures will be adhered to:

- all staff who transport this air cargo/mail will have received security awareness training,
- the integrity of all staff being recruited with access to this air cargo/mail will be verified. This verification shall include at least a check of the identity (if possible by photographic identity card, driving licence or passport) and a check of the curriculum vitae and/or provided references,
- load compartments in vehicles will be sealed or locked. Curtain sided vehicles will be secured with TIR cords. The load areas of flat bed trucks will be kept under observation when air cargo is being transported,
- immediately prior to loading, the load compartment will be searched and the integrity of this search maintained until loading is completed,
- each driver will carry an identity card, passport, driving licence or other document, containing a photograph of the person, which has been issued or recognised by the national authorities,
- drivers will not make unscheduled stops between collection and delivery. Where this is unavoidable, the driver will check the security of the load and the integrity of locks and/or seals on his return. If the driver discovers any evidence of interference, he will notify his supervisor and the air cargo/mail will not be delivered without notification at delivery,
- transport will not be sub-contracted to a third party, unless the third party also has a haulier agreement with [same name as above of regulated agent/known consignor/account consignor, or of the appropriate authority which has approved or certified the haulier], and
- no other services (e.g. storage) will be sub-contracted to any other party other than a regulated agent or an entity that has been certified or approved and listed for the provision of these services by the appropriate authority.

I accept full responsibility for this declaration.

Name:

Position in company:

Date:

Signature:

#### **ATTACHMENT 6-F**

#### **CARGO AND MAIL**

#### **THIRD COUNTRIES RECOGNISED AS APPLYING SECURITY STANDARDS EQUIVALENT TO THE COMMON BASIC STANDARDS**

As regards cargo and mail, the following third countries have been recognised as applying security standards equivalent to the common basic standards:

## 7. AIR CARRIER MAIL AND AIR CARRIER MATERIALS

### 7.0 GENERAL PROVISIONS

Unless otherwise stated or unless the implementation of security controls as referred to in chapters 4, 5 and 6, respectively, are ensured by an authority, airport operator, entity or another air carrier, an air carrier shall ensure the implementation of the measures set out in this chapter as regards its air carrier mail and air carrier materials.

### 7.1 AIR CARRIER MAIL AND AIR CARRIER MATERIALS TO BE LOADED ONTO AN AIRCRAFT

7.1.1 Before being loaded into the hold of an aircraft, air carrier mail and air carrier materials shall either be screened and protected in accordance with chapter 5 or be subjected to security controls and protected in accordance with chapter 6.

7.1.2 Before being loaded into any part of an aircraft other than the hold, air carrier mail and air carrier materials shall be screened and protected in accordance with the provisions on cabin baggage in chapter 4.

7.1.3 Air carrier mail and air carrier materials to be loaded onto an aircraft shall also be subject to the additional provisions laid down in a separate Commission Decision.

### 7.2 AIR CARRIER MATERIALS USED FOR PASSENGER AND BAGGAGE PROCESSING

7.2.1 Air carrier materials which are used for the purposes of passenger and baggage processing and which could be used to compromise aviation security shall be protected or kept under surveillance in order to prevent unauthorised access.

Self check-in and applicable Internet options allowed for use by passengers shall be considered as authorised access to such materials.

7.2.2 Discarded materials which could be used to facilitate unauthorised access or move baggage into the security restricted area or onto aircraft shall be destroyed or invalidated.

7.2.3 Departure control systems and check-in systems shall be managed in such a manner as to prevent unauthorised access.

Self check-in allowed for use by passengers shall be considered as authorised access to such systems.

## 8. IN-FLIGHT SUPPLIES

### 8.0 GENERAL PROVISIONS

8.0.1 Unless otherwise stated, the authority, airport operator, air carrier or entity responsible in accordance with the national civil aviation security programme as referred to in Article 10 of Regulation (EC) No 300/2008 shall ensure the implementation of the measures set out in this chapter.

8.0.2 For the purpose of this chapter, 'in-flight supplies' means all items intended to be taken on board an aircraft for use, consumption or purchase by passengers or crew during a flight, other than:

(a) cabin baggage;

(b) items carried by persons other than passengers; and

(c) air carrier mail and air carrier materials.

For the purpose of this chapter, 'regulated supplier of in-flight supplies' means a supplier whose procedures meet common security rules and standards sufficient to allow delivery of in-flight supplies directly to aircraft.

For the purpose of this chapter, 'known supplier of in-flight supplies' means a supplier whose procedures meet common security rules and standards sufficient to allow delivery of in-flight supplies to an air carrier or regulated supplier, but not directly to aircraft.

8.0.3 Supplies shall be considered as in-flight supplies from the time that they are identifiable as supplies to be taken on board an aircraft for use, consumption or purchase by passengers or crew during a flight.

## 8.1 SECURITY CONTROLS

### 8.1.1 Security controls — general provisions

8.1.1.1 In-flight supplies shall be screened before being taken into a security restricted area, unless:

(a) the required security controls have been applied to the supplies by an air carrier that delivers these to its own aircraft and the supplies have been protected from unauthorised interference from the time that those controls were applied until delivery at the aircraft; or

(b) the required security controls have been applied to the supplies by a regulated supplier and the supplies have been protected from unauthorised interference from the time that those controls were applied until arrival at the security restricted area or, where applicable, until delivery to the air carrier or another regulated supplier; or

(c) the required security controls have been applied to the supplies by a known supplier and the supplies have been protected from unauthorised interference from the time that those controls were applied until delivery to the air carrier or regulated supplier.

8.1.1.2 Any in-flight supply received from a regulated supplier or a known supplier that shows signs of being tampered with, or where there is reason to believe that it has not been protected from unauthorised interference from the time that controls were applied, shall be screened.

8.1.1.3 The security controls of in-flight supplies shall also be subject to the additional provisions laid down in a separate Commission Decision.

### 8.1.2 Screening

8.1.1.1 When screening in-flight supplies, the means or method employed shall take into consideration the nature of the supplies and shall be of a standard sufficient to reasonably ensure that no prohibited articles are concealed in the supplies.

8.1.1.2 The screening of in-flight supplies shall also be subject to the additional provisions laid down in a separate Commission Decision.

### 8.1.3 Approval of regulated suppliers

8.1.3.1 Regulated suppliers shall be approved by the appropriate authority.

The approval as a regulated supplier shall be site specific.

Any entity that ensures the security controls as referred to in point 8.1.5 and delivers in-flight supplies directly to aircraft shall be approved as a regulated supplier. This shall not apply to an air carrier that applies these security controls itself and delivers supplies only to its own aircraft.

8.1.3.2 The appropriate authority of each Member State shall define in its national civil aviation security programme as referred to in Article 10 of Regulation (EC) No 300/2008 the responsibilities for the implementation of the following procedure on the approval of regulated suppliers:

- (a) the entity shall seek approval from the appropriate authority of the Member State in which its site is located in order to be granted the status of regulated supplier.

The applicant shall submit a security programme to the appropriate authority concerned. The programme shall describe the methods and procedures which are to be followed by the supplier in order to comply with the requirements of point 8.1.5. The programme shall also describe how compliance with these methods and procedures is to be monitored by the supplier itself.

The applicant shall also submit the 'Declaration of commitments — regulated supplier of in-flight supplies' as contained in Attachment 8-A. This declaration shall be signed by the legal representative or by the person responsible for security.

The signed declaration shall be retained by the appropriate authority concerned;

- (b) the appropriate authority, or an independent validator acting on its behalf, shall examine the security programme and then make an on-site verification of the sites specified in order to assess whether the applicant complies with the requirements of point 8.1.5;
- (c) if the appropriate authority is satisfied with the information provided under points (a) and (b), it may approve the supplier as a regulated supplier for specified sites. If the appropriate authority is not satisfied, the reasons shall promptly be notified to the entity seeking approval as a regulated supplier.

- 8.1.3.3 A regulated supplier shall be re-validated at regular intervals not exceeding 5 years. This shall include an on-site verification in order to assess whether the regulated supplier still complies with the requirements of point 8.1.5.

An inspection at the premises of the regulated supplier by the appropriate authority in accordance with its national quality control programme may be considered as an on-site verification, provided that it covers all the requirements of point 8.1.5.

- 8.1.3.4 If the appropriate authority is no longer satisfied that the regulated supplier complies with the requirements of point 8.1.5, it shall withdraw the status of regulated supplier for the specified sites.
- 8.1.3.5 Without prejudice to the right of each Member State to apply more stringent measures in accordance with Article 6 of Regulation (EC) No 300/2008, a regulated supplier approved in accordance with point 8.1.3 shall be recognised in all Member States.

#### 8.1.4 Designation of known suppliers

- 8.1.4.1 Any entity that ensures the security controls as referred to in point 8.1.5.1 and delivers in-flight supplies, but not directly to aircraft, shall be designated as a known supplier by the company to whom it delivers. This shall not apply to a regulated supplier.
- 8.1.4.2 In order to be designated as a known supplier, the entity shall submit the 'Declaration of commitments — known supplier of in-flight supplies' as contained in Attachment 8-B to each company to whom it delivers. This declaration shall be signed by the legal representative or by the person responsible for security.

The signed declaration shall be retained by the company to whom the known supplier delivers as a means of validation.

- 8.1.4.3 If there are no deliveries within a period of 2 years, the status of known supplier shall expire.
- 8.1.4.4 If the appropriate authority or the company to whom the known supplier delivers is no longer satisfied that the known supplier complies with the requirements of point 8.1.5.1, the company concerned shall withdraw the status of known supplier.

**8.1.5 Security controls to be applied by an air carrier, a regulated supplier and a known supplier**

8.1.5.1 An air carrier, a regulated supplier and a known supplier of in-flight supplies shall:

- (a) appoint a person responsible for security in the company; and
- (b) ensure that persons with access to in-flight supplies receive security awareness training before being given access to these supplies; and
- (c) prevent unauthorised access to its premises and in-flight supplies; and
- (d) reasonably ensure that no prohibited articles are concealed in in-flight supplies; and
- (e) apply tamper-evident seals to, or physically protect, all vehicles and/or containers that transport in-flight supplies.

Point (e) shall not apply during airside transportation.

8.1.5.2 The security controls to be applied by an air carrier and a regulated supplier shall also be subject to the additional provisions laid down in a separate Commission Decision.

**8.2 PROTECTION OF IN-FLIGHT SUPPLIES**

Detailed provisions for the protection of in-flight supplies are laid down in a separate Commission Decision.

**ATTACHMENT 8-A****DECLARATION OF COMMITMENTS****REGULATED SUPPLIER OF IN-FLIGHT SUPPLIES**

In accordance with Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and its implementing acts,

I declare that,

- to the best of my knowledge, the information contained in the company's security programme is true and accurate,
- the practices and procedures set out in this security programme will be implemented and maintained at all sites covered by the programme,
- this security programme will be adjusted and adapted to comply with all future relevant changes to EC legislation, unless [name of company] informs [name of appropriate authority] that it no longer wishes to deliver in-flight supplies directly to aircraft (and thus no longer wishes to trade as a regulated supplier),
- [name of company] will inform [name of appropriate authority] in writing of:
  - (a) minor changes to its security programme, such as company name, person responsible for security or contact details, promptly but at least within 10 working days; and
  - (b) major planned changes, such as new screening procedures, major building works which might affect its compliance with relevant EC legislation or change of site/address, at least 15 working days prior to their commencement/the planned change,
- in order to ensure compliance with relevant EC legislation, [name of company] will cooperate fully with all inspections, as required, and provide access to all documents, as requested by inspectors,
- [name of company] will inform [name of appropriate authority] of any serious security breaches and of any suspicious circumstances which may be relevant to in-flight supplies, in particular any attempt to conceal prohibited articles in supplies,

- [name of company] will ensure that all relevant staff receive appropriate training and are aware of their security responsibilities under the company's security programme, and
- [name of company] will inform [name of appropriate authority] if:
  - (a) it ceases trading;
  - (b) it no longer delivers in-flight supplies directly to aircraft; or
  - (c) it can no longer meet the requirements of the relevant EC legislation.

I shall accept full responsibility for this declaration.

Name:

Position in company:

Date:

Signature:

#### ATTACHMENT 8-B

##### DECLARATION OF COMMITMENTS

##### *KNOWN SUPPLIER OF IN-FLIGHT SUPPLIES*

In accordance with Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and its implementing acts,

I declare that,

- [name of company] complies with the requirements of EC legislation,
- in order to ensure compliance with relevant EC legislation, [name of company] will cooperate fully with all inspections, as required, and provide access to all documents, as requested by inspectors,
- [name of company] will inform [the air carrier or regulated supplier to whom it delivers in-flight supplies] of any serious security breaches and of any suspicious circumstances which may be relevant to in-flight supplies, in particular any attempt to conceal prohibited articles in supplies,
- [the company] will ensure that all relevant staff receive appropriate training and are aware of their security responsibilities, and
- [name of company] will inform [the air carrier or regulated supplier to whom it delivers in-flight supplies] if:
  - (a) it ceases trading; or
  - (b) it can no longer meet the requirements of the relevant EC legislation.

I shall accept full responsibility for this declaration.

Name:

Position in company:

Date:

Signature:

## 9. AIRPORT SUPPLIES

### 9.0 GENERAL PROVISIONS

9.0.1 Unless otherwise stated or unless the implementation of screening is ensured by an authority or entity, an airport operator shall ensure the implementation of the measures set out in this chapter.

9.0.2 For the purpose of this chapter,

(a) 'airport supplies' means all items intended to be sold, used or made available for any purpose or activity in security restricted areas of airports;

(b) 'known supplier of airport supplies' means a supplier whose procedures meet common security rules and standards sufficient to allow delivery of airport supplies to security restricted areas.

9.0.3 Supplies shall be considered as airport supplies from the time that they are identifiable as supplies to be sold, used or made available in security restricted areas of airports.

### 9.1 SECURITY CONTROLS

#### 9.1.1 Security controls — general provisions

9.1.1.1 Airport supplies shall be screened before being allowed into security restricted areas, unless security controls have been applied to the supplies by a known supplier and the supplies have been protected from unauthorised interference from the time that those controls were applied until they are taken into the security restricted area.

9.1.1.2 Airport supplies which originate in the security restricted area may be exempted from these security controls.

9.1.1.3 Any airport supply received from a known supplier that shows signs of being tampered with, or where there is reason to believe that it has not been protected from unauthorised interference from the time that controls were applied, shall be screened.

9.1.1.4 Upon delivery at the outlet in the security restricted area, a visual check of the airport supplies shall be carried out by the staff of the outlet in order to ensure that there are no signs of tampering.

#### 9.1.2 Screening

9.1.2.1 When screening airport supplies, the means or method employed shall take into consideration the nature of the supply and shall be of a standard sufficient to reasonably ensure that no prohibited articles are concealed in the supply.

9.1.2.2 The screening of airport supplies shall also be subject to the additional provisions laid down in a separate Commission Decision.

#### 9.1.3 Designation of known suppliers

9.1.3.1 Any entity that ensures the security controls as referred to in point 9.1.4 and delivers airport supplies shall be designated as a known supplier by the airport operator.

9.1.3.2 In order to be designated as a known supplier, the entity shall submit the 'Declaration of commitments — known supplier of airport supplies' as contained in Attachment 9-A to the airport operator. This declaration shall be signed by the legal representative or by the person responsible for security.

The signed declaration shall be retained by the airport operator as a means of validation.

9.1.3.3 If there are no deliveries within a period of 2 years, the status of known supplier shall expire.

9.1.3.4 If the appropriate authority or the airport operator is no longer satisfied that the known supplier complies with the requirements of point 9.1.4, the airport operator shall withdraw the status of known supplier.

**9.1.4 Security controls to be applied by a known supplier**

A known supplier of airport supplies shall:

- (a) appoint a person responsible for security in the company; and
- (b) ensure that persons with access to airport supplies receive security awareness training before being given access to these supplies; and
- (c) prevent unauthorised access to its premises and airport supplies; and
- (d) reasonably ensure that no prohibited articles are concealed in airport supplies; and
- (e) apply tamper-evident seals to, or physically protect, all vehicles and/or containers that transport airport supplies.

**9.2 PROTECTION OF AIRPORT SUPPLIES**

Detailed provisions for the protection of airport supplies are laid down in a separate Commission Decision.

**ATTACHMENT 9-A**

## DECLARATION OF COMMITMENTS

## KNOWN SUPPLIER OF AIRPORT SUPPLIES

In accordance with Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and its implementing acts,

I declare that,

- [name of company] complies with the requirements of EC legislation,
- in order to ensure compliance with relevant EC legislation, [name of company] will cooperate fully with all inspections, as required, and provide access to all documents, as requested by inspectors,
- [name of company] will inform [the appropriate authority and airport operator] of any serious security breaches and of any suspicious circumstances which may be relevant to airport supplies, in particular any attempt to conceal prohibited articles in supplies,
- [the company] will ensure that all relevant staff receive appropriate training and are aware of their security responsibilities, and
- [name of company] will inform [the airport operator] if:
  - (a) it ceases trading; or
  - (b) it can no longer meet the requirements of the relevant EC legislation.

I shall accept full responsibility for this declaration.

Name:

Position in company:

Date:

Signature:

## 10. IN-FLIGHT SECURITY MEASURES

No provisions in this Regulation.

## 11. STAFF RECRUITMENT AND TRAINING

### 11.0 GENERAL PROVISIONS

- 11.0.1 The authority, airport operator, air carrier or entity deploying persons implementing, or responsible for implementing, measures for which it is responsible in accordance with the national civil aviation security programme as referred to in Article 10 of Regulation (EC) No 300/2008 shall ensure that these persons meet the standards set out in this chapter.
- 11.0.2 For the purpose of this chapter, 'certification' means a formal evaluation and confirmation by or on behalf of the appropriate authority indicating that the person has successfully completed the relevant training and that the person possesses the necessary competencies to perform assigned functions to an acceptable level.
- 11.0.3 For the purposes of this chapter, a 'state of residence' shall be any country in which the person has been resident continuously for 6 months or more and a 'gap' in the record of education or employment shall mean any gap of more than 28 days.
- 11.0.4 Competencies acquired by persons prior to recruitment may be taken into consideration when assessing any training needs under this section.

### 11.1 RECRUITMENT

- 11.1.1 Persons being recruited to implement, or to be responsible for the implementation of, screening, access control or other security controls in a security restricted area shall have successfully completed a background check.
- 11.1.2 Persons being recruited to implement, or to be responsible for the implementation of, screening, access control or other security controls elsewhere than a security restricted area shall have successfully completed a background or pre-employment check. Unless otherwise specified in this Regulation, whether a background or pre-employment check has to be completed shall be determined by the appropriate authority in accordance with applicable national rules.
- 11.1.3 In accordance with Community and national rules, a background check shall at least:
- (a) establish the person's identity on the basis of documentary evidence;
  - (b) cover criminal records in all states of residence during at least the preceding 5 years; and
  - (c) cover employment, education and any gaps during at least the preceding 5 years.
- 11.1.4 In accordance with Community and national rules, a pre-employment check shall:
- (a) establish the person's identity on the basis of documentary evidence;
  - (b) cover employment, education and any gaps during at least the preceding 5 years; and
  - (c) require the person to sign a declaration detailing any criminal history in all states of residence during at least the preceding 5 years.
- 11.1.5 Background or pre-employment checks shall be completed before the person undergoes any security training involving access to information which is not publicly available.
- 11.1.6 The recruitment process for all persons being recruited under points 11.1.1 and 11.1.2 shall include at least a written application and an interview stage designed to provide an initial assessment of abilities and aptitudes.

- 11.1.7 Persons being recruited to implement security controls shall have the mental and physical abilities and aptitudes required to carry out their designated tasks effectively and shall be made aware of the nature of these requirements at the outset of the recruitment process.

These abilities and aptitudes shall be assessed during the recruitment process and before completion of any probationary period.

- 11.1.8 Recruitment records, including results of any assessment tests, shall be kept for all persons recruited under points 11.1.1 and 11.1.2 for at least the duration of their contract.

## 11.2 TRAINING

### 11.2.1 **General training obligations**

- 11.2.1.1 Persons shall have successfully completed relevant training before being authorised to implement security controls unsupervised.

- 11.2.1.2 Training of persons performing tasks as listed in points 11.2.3.1 to 11.2.3.5 and point 11.2.4 shall include theoretical, practical and on-the-job training elements.

- 11.2.1.3 The content of courses shall be specified or approved by the appropriate authority before:

- (a) an instructor delivers any training required under Regulation (EC) No 300/2008 and its implementing acts; or
- (b) a computer based training course is used in order to meet the requirements of Regulation (EC) No 300/2008 and its implementing acts.

Computer based training may be used with or without the support of an instructor or coach.

- 11.2.1.4 Training records shall be kept for all persons trained for at least the duration of their contract.

### 11.2.2 **Basic training**

Basic training of persons performing tasks as listed in points 11.2.3.1, 11.2.3.4 and 11.2.3.5 as well as in points 11.2.4, 11.2.5 and 11.5 shall result in the following competencies:

- (a) knowledge of previous acts of unlawful interference with civil aviation, terrorist acts and current threats;
- (b) knowledge of the legal framework for aviation security;
- (c) knowledge of the objectives and organisation of aviation security, including the obligations and responsibilities of persons implementing security controls;
- (d) knowledge of access control procedures;
- (e) knowledge of identification card systems used at the airport;
- (f) knowledge of procedures for challenging persons and of circumstances in which persons should be challenged or reported;
- (g) knowledge of reporting procedures;
- (h) ability to identify prohibited articles;

- (i) ability to respond appropriately to security related incidents;
- (j) knowledge of how human behaviour and responses can affect security performance; and
- (k) ability to communicate clearly and confidently.

### 11.2.3 Job specific training for persons implementing security controls

11.2.3.1 Job specific training of persons implementing screening of persons, cabin baggage, items carried and hold baggage shall result in the following competencies:

- (a) understanding of the configuration of the screening checkpoint and the screening process;
- (b) knowledge of how prohibited articles may be concealed;
- (c) ability to respond appropriately to the detection of prohibited articles;
- (d) knowledge of the capabilities and limitations of security equipment or screening methods used;
- (e) knowledge of emergency response procedures;

and, where the person's designated tasks so require:

- (f) interpersonal skills, in particular how to deal with cultural differences and with potentially disruptive passengers;
- (g) knowledge of hand searching techniques;
- (h) ability to carry out hand searches to a standard sufficient to reasonably ensure the detection of concealed prohibited articles;
- (i) knowledge of exemptions from screening and special security procedures;
- (j) ability to operate the security equipment used;
- (k) ability to correctly interpret images produced by security equipment; and
- (l) knowledge of protection requirements for hold baggage.

11.2.3.2 Training of persons implementing screening of cargo and mail shall result in the following competencies:

- (a) knowledge of previous acts of unlawful interference with civil aviation, terrorist acts and current threats;
- (b) awareness of the relevant legal requirements;
- (c) knowledge of the objectives and organisation of aviation security, including the obligations and responsibilities of persons implementing security controls in the supply chain;
- (d) ability to identify prohibited articles;
- (e) ability to respond appropriately to the detection of prohibited articles;
- (f) knowledge of the capabilities and limitations of security equipment or screening methods used;

(g) knowledge of how prohibited articles may be concealed;

(h) knowledge of emergency response procedures;

(i) knowledge of protection requirements for cargo and mail;

and, where the person's designated tasks so require:

(j) knowledge of screening requirements for cargo and mail, including exemptions and special security procedures;

(k) knowledge of screening methods appropriate for different types of cargo and mail;

(l) knowledge of hand searching techniques;

(m) ability to carry out hand searches to a standard sufficient to reasonably ensure the detection of concealed prohibited articles;

(n) ability to operate the security equipment used;

(o) ability to correctly interpret images produced by security equipment; and

(p) knowledge of transportation requirements.

11.2.3.3 Training of persons implementing screening of air carrier mail and materials, in-flight supplies and airport supplies shall result in the following competencies:

(a) knowledge of previous acts of unlawful interference with civil aviation, terrorist acts and current threats;

(b) awareness of the relevant legal requirements;

(c) knowledge of the objectives and organisation of aviation security, including the obligations and responsibilities of persons implementing security controls in the supply chain;

(d) ability to identify prohibited articles;

(e) ability to respond appropriately to the detection of prohibited articles;

(f) knowledge of how prohibited articles may be concealed;

(g) knowledge of emergency response procedures;

(h) knowledge of the capabilities and limitations of security equipment or screening methods used;

and, where the person's designated tasks so require:

(i) knowledge of hand searching techniques;

(j) ability to carry out hand searches to a standard sufficient to reasonably ensure the detection of concealed prohibited articles;

- (k) ability to operate the security equipment used;
- (l) ability to correctly interpret images produced by security equipment; and
- (m) knowledge of transportation requirements.

11.2.3.4 Specific training of persons performing vehicle examinations shall result in the following competencies:

- (a) knowledge of the legal requirements for vehicle examinations, including exemptions and special security procedures;
- (b) ability to respond appropriately to the detection of prohibited articles;
- (c) knowledge of how prohibited articles may be concealed;
- (d) knowledge of emergency response procedures;
- (e) knowledge of vehicle examination techniques; and
- (f) ability to carry out vehicle examinations to a standard sufficient to reasonably ensure the detection of concealed prohibited articles.

11.2.3.5 Specific training of persons implementing access control at an airport as well as surveillance and patrols shall result in the following competencies:

- (a) knowledge of the legal requirements for access control, including exemptions and special security procedures;
- (b) knowledge of access control systems used at the airport;
- (c) knowledge of authorisations, including identification cards and vehicle passes, providing access to airside areas and ability to identify those authorisations;
- (d) knowledge of procedures for patrolling and for challenging persons and of circumstances in which persons should be challenged or reported;
- (e) ability to respond appropriately to the detection of prohibited articles;
- (f) knowledge of emergency response procedures; and
- (g) interpersonal skills, in particular how to deal with cultural differences and with potentially disruptive passengers.

11.2.3.6 Training of persons implementing aircraft security searches shall result in the following competencies:

- (a) knowledge of the legal requirements for aircraft security searches;
- (b) knowledge of the configuration of the type(s) of aircraft on which the person is to implement aircraft security searches;
- (c) ability to identify prohibited articles;

- (d) ability to respond appropriately to the detection of prohibited articles;
- (e) knowledge of how prohibited articles may be concealed; and
- (f) ability to implement aircraft security searches to a standard sufficient to reasonably ensure the detection of concealed prohibited articles.

11.2.3.7 Training of persons implementing aircraft protection shall result in the following competencies:

- (a) knowledge of how to protect and prevent unauthorised access to aircraft;
- (b) knowledge of procedures for sealing aircraft, if applicable;
- (c) knowledge of identification card systems used at the airport;
- (d) knowledge of procedures for challenging persons and of circumstances in which persons should be challenged or reported; and
- (e) knowledge of emergency response procedures.

11.2.3.8 Training of persons implementing baggage reconciliation shall result in the following competencies:

- (a) knowledge of previous acts of unlawful interference with civil aviation, terrorist acts and current threats;
- (b) awareness of the relevant legal requirements;
- (c) knowledge of the objectives and organisation of aviation security, including the obligations and responsibilities of persons implementing security controls;
- (d) ability to respond appropriately to the detection of prohibited articles;
- (e) knowledge of emergency response procedures;
- (f) knowledge of passenger and baggage reconciliation requirements and techniques; and
- (g) knowledge of protection requirements for air carrier materials used for passenger and baggage processing.

11.2.3.9 Training of persons implementing security controls for cargo and mail other than screening, or having access to identifiable air cargo or identifiable air mail, shall result in the following competencies:

- (a) knowledge of previous acts of unlawful interference with civil aviation, terrorist acts and current threats;
- (b) awareness of the relevant legal requirements;
- (c) knowledge of the objectives and organisation of aviation security, including the obligations and responsibilities of persons implementing security controls in the supply chain;
- (d) knowledge of procedures for challenging persons and of circumstances in which persons should be challenged or reported;
- (e) knowledge of reporting procedures;
- (f) ability to identify prohibited articles;

- (g) ability to respond appropriately to the detection of prohibited articles;
- (h) knowledge of how prohibited articles may be concealed;
- (i) knowledge of protection requirements for cargo and mail; and
- (j) knowledge of transportation requirements, if applicable.

11.2.3.10 Training of persons implementing security controls for air carrier mail and materials, in-flight supplies and airport supplies other than screening shall result in the following competencies:

- (a) knowledge of previous acts of unlawful interference with civil aviation, terrorist acts and current threats;
- (b) awareness of the relevant legal requirements;
- (c) knowledge of the objectives and organisation of aviation security, including the obligations and responsibilities of persons implementing security controls;
- (d) knowledge of procedures for challenging persons and of circumstances in which persons should be challenged or reported;
- (e) knowledge of reporting procedures;
- (f) ability to identify prohibited articles;
- (g) ability to respond appropriately to the detection of prohibited articles;
- (h) knowledge of how prohibited articles may be concealed;
- (i) knowledge of protection requirements for air carrier mail and materials, in-flight supplies and airport supplies, as applicable; and
- (j) knowledge of transportation requirements, if applicable.

11.2.4 **Specific training for persons directly supervising persons implementing security controls (supervisors)**

Specific training of supervisors shall, in addition to the competencies of the persons to be supervised, result in the following competencies:

- (a) knowledge of the relevant legal requirements and how they should be met;
- (b) knowledge of supervisory tasks;
- (c) knowledge of internal quality control;
- (d) ability to respond appropriately to the detection of prohibited articles;
- (e) knowledge of emergency response procedures;

(f) ability to provide mentoring and on-the-job training and to motivate others;

and, where the person's designated tasks so require:

(g) knowledge of conflict management; and

(h) knowledge of the capabilities and limitations of security equipment or screening methods used.

**11.2.5 Specific training for persons with general responsibility at national or local level for ensuring that a security programme and its implementation meet all legal provisions (security managers)**

Specific training of security managers shall result in the following competencies:

(a) knowledge of the relevant legal requirements and how they should be met;

(b) knowledge of internal, national, Community and international quality control;

(c) ability to motivate others;

(d) knowledge of the capabilities and limitations of security equipment or screening methods used.

**11.2.6 Training of persons other than passengers requiring unescorted access to security restricted areas**

11.2.6.1 Persons other than passengers requiring unescorted access to security restricted areas and not falling under points 11.2.3 to 11.2.5 and 11.5 shall receive security awareness training before being issued with an authorisation granting unescorted access to security restricted areas.

11.2.6.2 Security awareness training shall result in the following competencies:

(a) knowledge of previous acts of unlawful interference with civil aviation, terrorist acts and current threats;

(b) awareness of the relevant legal requirements;

(c) knowledge of the objectives and organisation of aviation security, including the obligations and responsibilities of persons implementing security controls;

(d) understanding of the configuration of the screening checkpoint and the screening process;

(e) awareness of access control and relevant screening procedures;

(f) knowledge of airport identification cards used at the airport;

(g) knowledge of reporting procedures; and

(h) ability to respond appropriately to security related incidents.

11.2.6.3 Each person undergoing security awareness training shall be required to demonstrate understanding of all subjects referred to in point 11.2.6.2 before being issued with an authorisation granting unescorted access to security restricted areas.

**11.3 CERTIFICATION OR APPROVAL**

11.3.1 Persons performing tasks as listed in points 11.2.3.1. to 11.2.3.5 shall be subject to:

(a) an initial certification or approval process; and

(b) for persons operating x-ray or EDS equipment, recertification at least every 3 years; and

(c) for all other persons, recertification or re-approval at least every 5 years.

- 11.3.2 Persons operating x-ray or EDS equipment shall, as part of the initial certification or approval process, pass a standardised image interpretation test.
- 11.3.3 The recertification or re-approval process for persons operating x-ray or EDS equipment shall include both the standardised image interpretation test and an evaluation of operational performance.
- 11.3.4 Failure to undertake and successfully complete recertification or re-approval within a reasonable timescale, not normally exceeding 3 months, shall result in the related security entitlements being withdrawn.
- 11.3.5 Certification or approval records shall be kept for all persons certified or approved, respectively, for at least the duration of their contract.

#### 11.4 RECURRENT TRAINING

- 11.4.1 Persons operating x-ray or EDS equipment shall be subject to recurrent training consisting of image recognition training and testing. This shall take the form of:

- (a) classroom and/or computer based training; or
- (b) on-the-job TIP training, on condition that a TIP library of at least 6 000 images, as specified below, is employed on the x-ray or EDS equipment used and the person works with this equipment during at least one third of his working hours.

The results of testing shall be provided to the person and recorded and may be taken into consideration as part of the recertification or re-approval process.

For classroom and/or computer based training, persons shall be subject to image recognition training and testing for at least 6 hours in every 6 month period. An image library shall be used containing at least 1 000 images of at least 250 different threat articles, including images of component parts of threat articles, with each article captured in a variety of different orientations. There shall be an unpredictable selection of images from the library during the training and testing.

For on-the-job TIP training, the TIP library shall consist of at least 6 000 images of at least 1 500 different threat articles, including images of component parts of threat articles, with each article captured in a variety of different orientations.

- 11.4.2 Persons performing tasks as listed under point 11.2 other than those referred to in point 11.4.1 shall undergo recurrent training at a frequency sufficient to ensure that competencies are maintained and acquired in line with security developments.

Recurrent training shall be conducted:

- (a) for competencies acquired during initial basic and specific training, at least once every 5 years or, in cases where the competencies have not been exercised for more than 6 months, before return to security duties; and
- (b) for new or extended competencies, as required to ensure that persons implementing, or responsible for implementing, security controls are promptly made aware of new threats and legal requirements by the time they have to be applied.

The requirements under (a) shall not apply to competencies acquired during specific training which are no longer required for the person's designated tasks.

- 11.4.3 Records of recurrent training shall be kept for all persons trained for at least the duration of their contract.
- 11.5 QUALIFICATION OF INSTRUCTORS AND INDEPENDENT VALIDATORS
- 11.5.1 The appropriate authority shall maintain or have access to lists of certified instructors and, if appropriate, independent validators who have met the requirements set out in point 11.5.2, 11.5.3 or 11.5.4.
- 11.5.2 Instructors and independent validators shall have successfully completed a background check in accordance with point 11.1.3 and produce evidence of relevant qualifications or knowledge. Independent validators shall be free from any contractual or pecuniary obligation to the airport operators, air carriers or entities they are recruited to monitor.
- 11.5.3 Instructors who were recruited or who were providing training specified in this Regulation before it came into force shall, as a minimum, satisfy the appropriate authority that they:
- (a) have knowledge and competencies as specified in point 11.5.5; and
  - (b) are delivering only courses approved by the appropriate authority in accordance with point 11.2.1.3.
- 11.5.4 Independent validators who were recruited before this Regulation came into force shall, as a minimum, satisfy the appropriate authority that they:
- (a) have competencies as specified in point 11.5.6; and
  - (b) are free from any contractual or pecuniary obligation to the airport operators, air carriers or entities to be monitored.
- 11.5.5 In order to be certified as an instructor qualified to give training defined in points 11.2.3.1 to 11.2.3.5 and in points 11.2.4 and 11.2.5, a person shall have knowledge of the work environment in the relevant aviation security field and qualifications and competencies in the following areas:
- (a) instructional techniques; and
  - (b) security elements to be taught.
- 11.5.6 In order to be certified as an independent validator, a person shall have knowledge of the work environment in the relevant aviation security field and competencies in the following areas:
- (a) quality control; and
  - (b) security areas to be validated or monitored.
- 11.5.7 The appropriate authority shall either itself provide training for instructors and independent validators or approve and maintain a list of appropriate security training courses. The appropriate authority shall ensure that instructors and independent validators receive regular training or information on developments in the relevant fields.
- 11.5.8 Where the appropriate authority is no longer satisfied that training delivered by a qualified instructor is resulting in the relevant competencies, the appropriate authority shall either withdraw approval of the course or ensure that the trainer is suspended or removed from the list of qualified instructors, as appropriate.
- 11.6. MUTUAL RECOGNITION OF TRAINING
- Any competencies acquired by a person in order to meet the requirements under Regulation (EC) No 300/2008 and its implementing acts in one Member State shall be taken into consideration in another Member State.

## 12. SECURITY EQUIPMENT

### 12.0 GENERAL PROVISIONS

- 12.0.1 The authority, operator or entity using equipment for the implementation of measures for which it is responsible in accordance with the national civil aviation security programme as referred to in Article 10 of Regulation (EC) No 300/2008 shall take reasonable steps to ensure that the equipment meets the standards set out in this chapter.

The information classified in accordance with Commission Decision 2001/844/EC, ECSC, Euratom <sup>(1)</sup> shall be made available by the appropriate authority to manufacturers on a need-to-know basis.

- 12.0.2 There shall be routine testing of each piece of security equipment.

### 12.1 WALK-THROUGH METAL DETECTION (WTMD) EQUIPMENT

#### 12.1.1 General principles

- 12.1.1.1 Walk-through metal detection equipment (WTMD) shall be able to detect and to indicate by means of an alarm at least specified metallic items, both individually and in combination.

- 12.1.1.2 The detection by WTMD shall be independent of the position and orientation of the metallic item.

- 12.1.1.3 WTMD shall be firmly fixed to a solid base.

- 12.1.1.4 WTMD shall have a visual indicator to show that the equipment is in operation.

- 12.1.1.5 The means for adjusting the detection settings of WTMD shall be protected and accessible only to authorised persons.

- 12.1.1.6 WTMD shall give both a visual alarm and an audible alarm when it detects metallic items as referred to in point 12.1.1.1. Both types of alarm shall be noticeable at a range of 2 metres.

- 12.1.1.7 The visual alarm shall give an indication of the strength of signal detected by the WTMD.

- 12.1.1.8 WTMD shall be positioned so as to ensure it is not affected by sources of interference.

#### 12.1.2 Standards for WTMD

- 12.1.2.1 There shall be two standards for WTMD. Detailed requirements on these standards are laid down in a separate Commission Decision.

- 12.1.2.2 All WTMD shall meet standard 1.

Standard 1 shall expire on 1 January 2011.

- 12.1.2.3 Standard 2 shall apply to WTMD installed as from 5 January 2007, unless a contract to install WTMD that meets standard 1 has already been placed before this date.

All WTMD shall meet standard 2 by 1 January 2011.

#### 12.1.3 Additional requirements for WTMD

All WTMD for which a contract to install them is placed as from 5 January 2007 shall be able to:

- (a) generate an audible and/or visual signal on a percentage of persons passing through the WTMD who did not cause an alarm as referred to in point 12.1.1.1. It shall be possible to set the percentage; and

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

(b) count the number of persons screened, excluding any person that passes through the WTMD in the opposite direction; and

(c) count the number of alarms; and

(d) calculate the number of alarms as a percentage of the number of screened persons.

## 12.2 HAND-HELD METAL DETECTION (HHMD) EQUIPMENT

12.2.1 Hand-held metal detection equipment (HHMD) shall be able to detect ferrous and non-ferrous metallic items. Detection and identification of the position of the detected metal shall be indicated by means of an alarm.

12.2.2 The means for adjusting the sensitivity settings of HHMD shall be protected and accessible only to authorised persons.

12.2.3 HHMD shall give an audible alarm when it detects metallic items. The alarm shall be noticeable at a range of 1 metre.

12.2.4 The performance of HHMD shall not be affected by sources of interference.

12.2.5 HHMD shall have a visual indicator to show that the equipment is in operation.

## 12.3 X-RAY EQUIPMENT

X-ray equipment shall comply with the detailed requirements laid down in a separate Commission Decision.

## 12.4 EXPLOSIVE DETECTION SYSTEMS (EDS) EQUIPMENT

### 12.4.1 **General principles**

12.4.1.1 Explosive detection systems equipment (EDS) shall be able to detect and to indicate by means of an alarm specified and higher individual quantities of explosive material contained in baggage or other consignments.

12.4.1.2 The detection shall be independent of the shape, position or orientation of the explosive material.

12.4.1.3 EDS shall give an alarm in each of the following circumstances:

— when it detects explosive material, and

— when it detects the presence of an item that prevents explosive material from being detected, and

— when the contents of a bag or consignment are too dense to be analysed.

### 12.4.2 **Standards for EDS**

12.4.2.1 There shall be three standards for EDS. Detailed requirements on these standards are laid down in a separate Commission Decision.

12.4.2.2 All EDS shall meet standard 1.

Standard 1 shall expire on 1 September 2012.

The appropriate authority may permit standard 1 EDS installed between 1 January 2003 and 1 September 2006 to continue to be used until 1 January 2014 at the latest.

- 12.4.2.3 Standard 2 shall apply to all EDS installed as from 1 January 2007, unless a contract to install EDS that meets standard 1 has been placed before 19 October 2006.

All EDS shall meet standard 2 by 1 September 2012 at the latest, unless the third subparagraph of point 12.4.2.2 applies.

Standard 2 shall expire on 1 September 2018.

- 12.4.2.4 Standard 3 shall apply to all EDS installed as from 1 September 2012.

All EDS shall meet standard 3 by 1 September 2018 at the latest.

#### 12.4.3 **Image quality requirements for EDS**

Image quality for EDS shall comply with the detailed requirements laid down in a separate Commission Decision.

#### 12.5 THREAT IMAGE PROJECTION (TIP)

##### 12.5.1 **General principles**

- 12.5.1.1 Threat image projection (TIP) shall be able to project virtual images of threat articles within the x-ray image of bags or other consignments being screened.

The virtual images shall be placed within the x-ray image of bags and consignments being screened in an evenly distributed manner and not in a fixed position.

It shall be possible to set the percentage of virtual images to be projected.

- 12.5.1.2 TIP shall not impair the performance and normal functioning of x-ray equipment.

No indication shall be given to the screener that a virtual image of a threat article is about to be projected or has been projected until a message is presented in accordance with point 12.5.2.2.

- 12.5.1.3 The means for managing TIP shall be protected and accessible only to authorised persons.

##### 12.5.2 **Composition of TIP**

- 12.5.2.1 TIP shall comprise of at least:

- (a) a library of virtual images of threat articles;
- (b) a means for presenting messages and for messages to be cleared; and
- (c) a means for recording and presenting the results of the responses of individual screeners.

- 12.5.2.2 TIP shall present a message to the screener:

- (a) where the screener responded and a virtual image of a threat article was projected;
- (b) where the screener did not respond and a virtual image of a threat article was projected;
- (c) where the screener responded and no virtual image of a threat article was projected; and
- (d) where an attempt to project a virtual image of a threat article failed and was visible to the screener.

The message shall be presented so that it does not obscure the image of the bag or consignment to which it refers.

The message shall remain until it has been cleared by the screener. In the case of points (a) and (b) the message shall be presented together with the virtual image of the threat article.

12.5.2.3 Access to equipment with TIP installed and deployed shall require that the screener uses a unique identifier.

12.5.2.4 TIP shall be able to store the results of the responses of individual screeners for a minimum of 12 months and in a format to allow the provision of reports.

12.5.2.5 The composition of TIP shall also be subject to the additional detailed requirements laid down in a separate Commission Decision.

## 12.6 EXPLOSIVE TRACE DETECTION (ETD) EQUIPMENT

Explosive trace detection (ETD) equipment shall be able to collect and analyse particles on, or vapour from, contaminated surfaces or contents of baggage or consignments, and to indicate by means of an alarm the presence of traces of explosives.

## 12.7 EQUIPMENT FOR SCREENING LIQUIDS, AEROSOLS AND GELS (LAGs)

### 12.7.1 **General principles**

12.7.1.1 Equipment listed in point 4.1.3.1 that is used for the screening of liquids, aerosols and gels (LAGs) shall be able to detect and to indicate by means of an alarm specified and higher individual quantities of threat materials in LAGs.

12.7.1.2 The detection shall be independent of the shape or material of the LAG container.

12.7.1.3 The equipment shall be used in a manner that ensures that the container is positioned and orientated so as to ensure that the detection capabilities are met in full.

12.7.1.4 The equipment shall give an alarm in each of the following circumstances:

(a) when it detects threat material;

(b) when it detects the presence of an item that prevents threat material from being detected;

(c) when it cannot assess whether the LAG is benign or not; and

(d) when the contents of the screened bag are too dense to be analysed.

### 12.7.2 **Standards for equipment for the screening of LAGs**

12.7.2.1 There shall be two standards for equipment for the screening of LAGs. Detailed requirements on these standards are laid down in a separate Commission Decision.

12.7.2.2 All equipment for the screening of LAGs shall meet standard 1.

Standard 1 shall expire on 28 April 2014.

12.7.2.3 Standard 2 shall apply to all equipment for the screening of LAGs installed as from 29 April 2014.

All equipment for the screening of LAGs shall meet standard 2 by 29 April 2016 at the latest.

**12.7.3 Approval of equipment for the screening of LAGs**

Equipment that is approved by or on behalf of the appropriate authority of a Member State to meet the standards as laid down in a separate Commission Decision shall be recognised by other Member States to meet these standards. Member States shall submit to the Commission the name and, upon request, other relevant details of bodies designated to approve equipment. The Commission shall inform other Member States of the bodies.

**12.8 METHODS OF SCREENING USING NEW TECHNOLOGIES**

12.8.1 A Member State may allow a method of screening using new technologies other than those laid down in this Regulation, provided that:

(a) it is being used for the purpose of evaluating a new method of screening; and

(b) it will not negatively affect the overall level of security being attained; and

(c) appropriate information that a trial is being conducted shall be given to those affected, including passengers.

12.8.2 At least four months before its planned introduction the Member State concerned shall inform in writing the Commission and the other Member States of the proposed method of screening it intends to allow, enclosing an assessment indicating how it shall guarantee that the application of the new method will meet the requirement of point 12.8.1.(b). The notification shall also contain detailed information on the location(s) where the method of screening is planned to be used and the intended length of the evaluation period.

12.8.3 If the Commission gives the Member State a positive reply, or if no reply is received within three months upon receipt of the written request, the Member State may then allow the introduction of the method of screening using new technologies.

If the Commission is not satisfied that the proposed method of screening provides sufficient guarantees that the overall level of aviation security will be maintained in the Community, the Commission shall inform the Member State thereof within three months of receipt of the notification referred to in point 12.8.2., explaining its concerns. In such a circumstance the Member State concerned shall not commence with the method of screening until it has satisfied the Commission.

12.8.4 The maximum evaluation period for each method of screening using new technologies shall be eighteen months. This evaluation period may be extended by the Commission by a maximum of a further twelve months on condition that the Member State provides adequate justification for the extension.

12.8.5 At intervals of no more than six months during the evaluation period, the appropriate authority in the Member State concerned shall provide the Commission with a progress report on the evaluation. The Commission shall inform the other Member States of the contents of the progress report. If no progress reports are provided, the Commission may request the Member State to suspend the trial.

12.8.6 If, on the basis, of a report, the Commission is not satisfied that the method of screening being trialled is providing sufficient guarantees that the overall level of aviation security is being maintained in the Community, the Commission shall inform the Member State that the trial shall be suspended until such guarantees can be given.

12.8.7 No evaluation period may be longer than thirty months.

**ATTACHMENT 12-A**

Detailed provisions for performance requirements for WTMD are laid down in a separate Commission Decision.

**ATTACHMENT 12-B**

Detailed provisions for performance requirements for EDS are laid down in a separate Commission Decision.

**ATTACHMENT 12-C**

Detailed provisions for performance requirements for equipment for the screening of liquids, aerosols and gels (LAGS) are laid down in a separate Commission Decision.

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**COMMISSION REGULATION (EU) No 186/2010****of 4 March 2010****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <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 5 March 2010.

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

Done at Brussels, 4 March 2010.

*For the Commission,  
On behalf of the President,  
Jean-Luc DEMARTY  
Director-General for Agriculture and  
Rural Development*

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

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

## ANNEX

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

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	IL	121,5
	JO	65,0
	MA	115,7
	TN	143,3
	TR	124,3
	ZZ	114,0
0707 00 05	EG	211,5
	JO	143,3
	MK	134,1
	TR	144,5
	ZZ	158,4
	0709 90 70	MA
TR		106,0
ZZ		119,5
0709 90 80	EG	40,8
	ZZ	40,8
0805 10 20	CL	52,4
	EG	43,5
	IL	56,2
	MA	42,1
	TN	46,2
	TR	58,4
	ZZ	49,8
0805 50 10	EG	76,3
	IL	76,3
	MA	65,7
	TR	66,2
	ZZ	71,1
0808 10 80	CA	96,5
	CN	67,7
	MK	24,7
	US	110,7
	ZZ	74,9
0808 20 50	AR	86,8
	CL	188,1
	CN	68,1
	US	95,6
	ZA	101,2
	ZZ	108,0

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

**COMMISSION REGULATION (EU) No 187/2010****of 4 March 2010****granting no export refund for butter in the framework of the standing invitation to tender provided for in Regulation (EC) No 619/2008**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>, and in particular Article 164(2), in conjunction with Article 4, thereof,

Whereas:

(1) Commission Regulation (EC) No 619/2008 of 27 June 2008 opening a standing invitation to tender for export refunds concerning certain milk products <sup>(2)</sup> provides for a permanent tender.

(2) Pursuant to Article 6 of Commission Regulation (EC) No 1454/2007 of 10 December 2007 laying down common rules for establishing a tender procedure for fixing export refunds for certain agricultural products <sup>(3)</sup> and following

an examination of the tenders submitted in response to the invitation to tender, it is appropriate not to grant any refund for the tendering period ending on 2 March 2010.

(3) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its Chair,

HAS ADOPTED THIS REGULATION:

*Article 1*

For the standing invitation to tender opened by Regulation (EC) No 619/2008, for the tendering period ending on 2 March 2010, no export refund shall be granted for the products and destinations referred to in points (a) and (b) of Article 1 and in Article 2 of that Regulation.

*Article 2*

This Regulation shall enter into force on 5 March 2010.

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

Done at Brussels, 4 March 2010.

*For the Commission,  
On behalf of the President,  
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 168, 28.6.2008, p. 20.

<sup>(3)</sup> OJ L 325, 11.12.2007, p. 69.

**COMMISSION REGULATION (EU) No 188/2010****of 4 March 2010****granting no export refund for skimmed milk powder in the framework of the standing invitation to tender provided for in Regulation (EC) No 619/2008**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>, and in particular Article 164(2), in conjunction with Article 4, thereof,

Whereas:

- (1) Commission Regulation (EC) No 619/2008 of 27 June 2008 opening a standing invitation to tender for export refunds concerning certain milk products <sup>(2)</sup> provides for a standing invitation to tender procedure.
- (2) Pursuant to Article 6 of Commission Regulation (EC) No 1454/2007 of 10 December 2007 laying down common rules for establishing a tender procedure for

fixing export refunds for certain agricultural products <sup>(3)</sup> and following an examination of the tenders submitted in response to the invitation to tender, it is appropriate not to grant any refund for the tendering period ending on 2 March 2010.

- (3) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its Chair,

HAS ADOPTED THIS REGULATION:

*Article 1*

For the standing invitation to tender opened by Regulation (EC) No 619/2008, for the tendering period ending on 2 March 2010, no export refund shall be granted for the product and destinations referred to in point (c) of Article 1 and in Article 2 respectively of that Regulation.

*Article 2*

This Regulation shall enter into force on 5 March 2010.

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

Done at Brussels, 4 March 2010.

*For the Commission,  
On behalf of the President,*

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 168, 28.6.2008, p. 20.<sup>(3)</sup> OJ L 325, 11.12.2007, p. 69.

# DECISIONS

## COMMISSION DECISION

of 24 February 2010

amending its Rules of Procedure

(2010/138/EU, Euratom)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on European Union,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 249 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

HAS ADOPTED THIS DECISION:

### *Article 1*

Articles 1 to 29 of the Rules of Procedure of the Commission <sup>(1)</sup> shall be replaced by the text in the Annex to this Decision.

### *Article 2*

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

### *Article 3*

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

Done at Brussels, 24 February 2010.

*For the Commission*

*The President*

José Manuel BARROSO

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<sup>(1)</sup> OJ L 308, 8.12.2000, p. 26.

## ANNEX

## CHAPTER I

## THE COMMISSION

## Article 1

**The principle of collective responsibility**

The Commission shall act collectively in accordance with these Rules of Procedure and in compliance with the priorities which it has set in the context of the political guidelines laid down by the President in accordance with Article 17(6) TEU.

## Article 2

**Political guidelines, priorities, work programme and budget**

In compliance with the political guidelines laid down by the President, the Commission shall establish its priorities and reflect them in its work programme and the draft budget which it shall adopt each year.

## Article 3

**The President**

1. The President shall lay down the political guidelines within which the Commission shall exercise its functions <sup>(1)</sup>. The President shall steer the work of the Commission in order to ensure it is carried out.

2. The President shall decide on the internal organisation of the Commission, ensuring that it acts consistently, efficiently and as a collegiate body <sup>(2)</sup>.

Without prejudice to Article 18(4) TEU, the President shall assign to Members of the Commission special fields of activity with regard to which they are specifically responsible for the preparation of Commission work and the implementation of its decisions <sup>(3)</sup>.

The President may ask Members of the Commission to carry out specific tasks with a view to ensuring that the political guidelines that he has laid down and the priorities set by the Commission are implemented.

He may change these assignments at any time <sup>(4)</sup>.

The Members of the Commission shall carry out the duties devolved to them by the President under his authority <sup>(5)</sup>.

3. The President shall appoint Vice-Presidents, other than the High Representative of the Union for Foreign Affairs and Security Policy, from among the Members of the Commission <sup>(6)</sup>, and shall draw up the order of precedence within the Commission.

4. The President may set up groups of Members of the Commission, designating their chairpersons, setting their mandate and operating procedures, and deciding on their membership and term.

5. The President shall represent the Commission. He shall designate the Members of the Commission to assist him in this task.

6. Without prejudice to Article 18(1) TEU, a member of the Commission shall resign if the President so requests <sup>(7)</sup>.

## Article 4

**Decision-making procedures**

Commission decisions shall be taken:

(a) at Commission meetings by oral procedure in accordance with Article 8 of these Rules of Procedure; or

(b) by written procedure in accordance with Article 12 of these Rules of Procedure; or

<sup>(1)</sup> Article 17(6)(a) of the Treaty on European Union.

<sup>(2)</sup> Article 17(6)(b) of the Treaty on European Union.

<sup>(3)</sup> Article 248 of the Treaty on the Functioning of the European Union.

<sup>(4)</sup> See footnote 3.

<sup>(5)</sup> See footnote 3.

<sup>(6)</sup> Article 17(6)(c) of the Treaty on European Union.

<sup>(7)</sup> Article 17(6), second subparagraph, of the Treaty on European Union.

(c) by empowerment procedure in accordance with Article 13 of these Rules of Procedure; or

(d) by delegation procedure in accordance with Article 14 of these Rules of Procedure.

#### SECTION 1

##### **Commission meetings**

###### *Article 5*

##### **Convening Commission meetings**

1. Meetings of the Commission shall be convened by the President.
2. The Commission shall, as a general rule, meet at least once a week. It shall hold additional meetings whenever necessary.
3. Members of the Commission shall be required to attend all meetings. If a Member of the Commission is unable to attend a meeting, they shall inform the President in good time of the reasons for their absence. The President shall judge whether Members may be released from these requirements in certain circumstances.

###### *Article 6*

##### **Agenda of Commission meetings**

1. The President shall adopt the agenda of each Commission meeting.
2. Without prejudice to the prerogative of the President to adopt the agenda, any proposal involving significant expenditure must be presented in agreement with the Member of the Commission responsible for the budget.
3. If a Member of the Commission proposes the inclusion of an item on the agenda, the President must be notified as prescribed by the Commission in the implementing rules referred to in Article 28 of these Rules of Procedure, hereinafter referred to as "the implementing rules".
4. The agenda and the necessary documents shall be circulated to the Members of the Commission as prescribed in accordance with the implementing rules.
5. The Commission may, on a proposal from the President, discuss any question which is not on the agenda or for which the necessary documents have been distributed late.

###### *Article 7*

##### **Quorum**

The number of Members whose presence is necessary to constitute a quorum shall be equal to a majority of the number of Members specified in the Treaty.

###### *Article 8*

##### **Decision-making**

1. The Commission shall take decisions on the basis of proposals from one or more of its Members.
2. A vote shall be taken if any Member so requests. The vote may be on the original draft text or on an amended draft text by the Member or Members responsible for the initiative or by the President.
3. Commission decisions shall be adopted if a majority of the number of Members specified in the Treaty vote in favour.
4. The President shall formally note the outcome of discussions, which shall be recorded in the minutes of the meeting provided for in Article 11 of these Rules of Procedure.

###### *Article 9*

##### **Confidentiality**

Meetings of the Commission shall not be public. Discussions shall be confidential.

*Article 10***Attendance of officials or other persons**

1. Unless the Commission decides otherwise, the Secretary-General and the President's Head of Cabinet shall attend meetings. The circumstances in which other persons may attend Commission meetings shall be determined in accordance with the implementing rules.
2. In the absence of a Member of the Commission, his Head of Cabinet may attend the meeting and, at the invitation of the President, state the views of the absent Member.
3. The Commission may decide to hear any other person.

*Article 11***Minutes**

1. Minutes shall be taken of all meetings of the Commission.
2. The draft minutes shall be submitted to the Commission for approval at a subsequent meeting. The approved minutes shall be authenticated by the signatures of the President and the Secretary-General.

*SECTION 2***Other decision-making procedures***Article 12***Decisions taken by written procedure**

1. The agreement of the Members of the Commission to a draft text from one or more of its Members may be obtained by means of written procedure, provided that the approval of the Legal Service and the agreement of the departments consulted in accordance with Article 23 of these Rules of Procedure has been obtained.

Such approval and/or agreement may be replaced by an agreement between the Members of the Commission where a meeting of the College has decided, on a proposal from the President, to open a finalisation written procedure as provided for in the implementing rules.

2. For this purpose, the draft text shall be circulated in writing to all Members of the Commission as laid down by it in accordance with the implementing rules, with a time limit within which Members must make known any reservations they may have or amendments they wish to make.
3. Any Member of the Commission may, in the course of the written procedure, request that the draft text be discussed. He shall send a reasoned request to that effect to the President.
4. A draft text on which no Member has made and maintained a request for suspension up to the time limit set for the written procedure shall stand adopted by the Commission.

*Article 13***Decision taken by empowerment procedure**

1. The Commission may, provided the principle of collective responsibility is fully respected, empower one or more of its Members to take management or administrative measures on its behalf and subject to such restrictions and conditions as it shall impose.
2. The Commission may also instruct one or more of its Members to adopt, with the agreement of the President, the definitive text of any instrument or of any proposal to be presented to the other institutions, the substance of which has already been determined in discussion.
3. Powers conferred in this way may be subdelegated to the Directors-General and Heads of Department unless this is expressly prohibited in the empowering decision.
4. The provisions of paragraphs 1, 2 and 3 shall be without prejudice to the rules concerning delegation in respect of financial matters or the powers conferred on the appointing authority and the authority empowered to conclude contracts of employment.

*Article 14***Decisions taken by delegation procedure**

The Commission may, provided the principle of collective responsibility is fully respected, delegate the adoption of management or administrative measures to the Directors-General and Heads of Department, acting on its behalf and subject to such restrictions and conditions as it shall impose.

*Article 15***Subdelegation for individual decisions awarding grants and contracts**

The Director-General or Head of Department who has received delegated or subdelegated powers under Articles 13 and 14 for the adoption of financing decisions may decide to subdelegate certain decisions selecting projects and certain individual decisions awarding grants and public procurement contracts to the competent Director or, in agreement with the Member of the Commission responsible, to the competent Head of Unit, subject to the restrictions and conditions laid down in the implementing rules.

*Article 16***Information concerning decisions adopted**

Decisions adopted by written procedure, empowerment procedure or delegation procedure shall be recorded in a day note or week note which shall be recorded in the minutes of the next Commission meeting.

## SECTION 3

**Provisions common to all decision-making procedures***Article 17***Authentication of instruments adopted by the Commission**

1. Instruments adopted by the Commission in the course of a meeting, in the authentic language or languages, shall be attached to a summary note prepared during the meeting at which they were adopted in such a way that they cannot be separated from it. They shall be authenticated by the signatures of the President and the Secretary-General on the last page of the summary note.

2. The non-legislative instruments of the Commission referred to in Article 297(2) TFEU and adopted by written procedure shall be authenticated by the signatures of the President and the Secretary-General on the last page of the summary note referred to in the preceding paragraph, unless these instruments must be published and enter into force before the date of the next meeting of the Commission. For the purposes of authentication, copies of the day notes referred to in Article 16 of these Rules of Procedure shall be attached to the summary note referred to in the preceding paragraph in such a way that they cannot be separated from it.

The other instruments adopted by written procedure and the instruments adopted by empowerment procedure in accordance with Article 12, Article 13(1) and (2) of these Rules of Procedure shall be attached, in the authentic language or languages, to the day note referred to in Article 16 of these Rules of Procedure in such a way that they cannot be separated from it. They shall be authenticated by the signature of the Secretary-General on the last page of the day note.

3. Instruments adopted by delegation procedure or by subdelegation shall be attached in the authentic language or languages, in such a way that they cannot be separated, by the computer application provided for that purpose, to the day note referred to in Article 16 of these Rules of Procedure. They shall be authenticated by a certifying statement signed by the official to whom the powers have been delegated or subdelegated in accordance with Article 13(3), Articles 14 and 15 of these Rules of Procedure.

4. For the purposes of these Rules of Procedure, "instrument" means any instrument referred to in Article 288 TFEU.

5. For the purposes of these Rules of Procedure, "authentic language or languages" means the official languages of the European Union, without prejudice to the application of Council Regulation (EC) No 920/2005<sup>(8)</sup>, in the case of instruments of general application, and the language or languages of those to whom they are addressed, in other cases.

<sup>(8)</sup> OJ L 156, 18.6.2005, p. 3.

## SECTION 4

**Preparation and implementation of Commission decisions**

## Article 18

**Groups of Members of the Commission**

Groups of Members of the Commission shall contribute to the coordination and preparation of the work of the Commission in accordance with the political guidelines and mandate laid down by the President.

## Article 19

**Members' cabinets and relations with departments**

1. Members of the Commission shall have their own cabinet to assist them in their work and in preparing Commission decisions. The rules governing the composition and operation of the cabinets shall be laid down by the President.

2. In compliance with the principles laid down by the President, Members of the Commission shall approve their working arrangements with the departments for which they are responsible. In particular, these arrangements must specify the way in which Members of the Commission give instructions to the departments concerned, which will regularly provide them with all the information on their area of activity necessary for them to exercise their responsibilities.

## Article 20

**The Secretary-General**

1. The Secretary-General shall assist the President so that, in the context of the political guidelines laid down by the President, the Commission achieves the priorities that it has set.

2. The Secretary-General shall also help to ensure political consistency by organising the necessary coordination between departments at the start of the preparatory stages, in accordance, *inter alia*, with Article 23 of these Rules of Procedure.

He shall see that documents submitted to the Commission are of good quality in terms of substance and comply with the rules as to form and, in this context, shall help to ensure that they are consistent with the principles of subsidiarity and proportionality, external obligations, interinstitutional considerations and the Commission's communication strategy.

3. The Secretary-General shall assist the President in preparing the proceedings and conducting the meetings of the Commission.

He shall also assist the Members chairing groups of Members set up under Article 3(4) of these Rules of Procedure in preparing and conducting their meetings. He shall provide the secretariat of these groups.

4. The Secretary-General shall ensure that decision-making procedures are properly implemented and that effect is given to the decisions referred to in Article 4 of these Rules of Procedure.

In particular, except in specific cases, he shall take the necessary steps to ensure that Commission instruments are officially notified to those concerned and are published in the *Official Journal of the European Union* and that documents of the Commission and its departments are transmitted to the other institutions of the European Union and to the national parliaments.

He shall be responsible for distributing written information that the Members of the Commission wish to circulate within the Commission.

5. The Secretary-General shall be responsible for official relations with the other institutions of the European Union, subject to any decisions by the Commission to exercise any function itself or to assign it to its Members or departments.

In this context, he shall help to ensure overall consistency by providing coordination between departments during procedures involving other institutions.

6. The Secretary-General shall ensure that appropriate information is given to the Commission concerning the progress made on internal and interinstitutional procedures.

## CHAPTER II

## COMMISSION DEPARTMENTS

*Article 21***Structure of departments**

The Commission shall establish a number of Directorates-General and equivalent departments forming a single administrative service to assist it in the preparation and performance of its tasks, and in the implementation of its priorities and the political guidelines laid down by the President.

The Directorates-General and equivalent departments shall normally be divided into directorates, and directorates into units.

*Article 22***Creation of specific functions and structures**

In special cases the President may set up specific functions or structures to deal with particular matters and shall determine their responsibilities and method of operation.

*Article 23***Cooperation and coordination between departments**

1. In order to ensure the effectiveness of Commission action, departments shall work in close cooperation and in coordinated fashion from the outset in the preparation and implementation of Commission decisions.

2. The department responsible for preparing an initiative shall ensure from the beginning of the preparatory work that there is effective coordination between all the departments with a legitimate interest in the initiative by virtue of their powers or responsibilities or the nature of the subject.

3. Before a document is submitted to the Commission, the department responsible shall, in accordance with the implementing rules, consult the departments with a legitimate interest in the draft text in sufficient time.

4. The Legal Service shall be consulted on all drafts or proposals for legal instruments and on all documents which may have legal implications.

The Legal Service must always be consulted before initiating any of the decision-making procedures provided for in Articles 12, 13 and 14 of these Rules of Procedure, except for decisions concerning standard instruments where its agreement has already been secured (repetitive instruments). Such consultation is not required for the decisions referred to in Article 15 of these Rules of Procedure.

5. The Secretariat-General shall be consulted on all initiatives which:

- are subject to approval by oral procedure, without prejudice to personnel questions concerning individual members of staff, or
- are of political importance, or
- are part of the Commission's annual work programme or the programming instrument in force, or
- concern institutional issues, or
- are subject to impact assessment or public consultation,

and for any joint position or initiative that may commit the Commission vis-à-vis other institutions or bodies.

6. With the exception of the decisions referred to in Article 15 of these Rules of Procedure, the Directorate-General responsible for the budget and the Directorate-General responsible for human resources and security shall be consulted on all documents which may have implications for the budget and finances or for personnel and administration respectively. The department responsible for combating fraud shall likewise be consulted where necessary.

7. The department responsible shall endeavour to frame a proposal that has the agreement of the departments consulted. In the event of a disagreement it shall append to its proposal the differing views expressed by these departments, without prejudice to Article 12 of these Rules of Procedure.

## CHAPTER III

## DEPUTISING

## Article 24

**Continuity of service**

The Members of the Commission and the departments shall ensure they take all appropriate measures to ensure continuity of service, in compliance with the provisions adopted for that purpose by the Commission or the President.

## Article 25

**Deputising for the President**

Where the President is prevented from exercising his functions, they shall be exercised by one of the Vice-Presidents or Members in the order laid down by the President.

## Article 26

**Deputising for the Secretary-General**

Where the Secretary-General is prevented from exercising his functions, or where the post is vacant, they shall be exercised by the Deputy Secretary-General present with the highest grade or, in the event of equal grade, by the Deputy Secretary-General with the greatest seniority in the grade or, in the event of equal seniority, by the eldest or by an official designated by the Commission.

If there is no Deputy Secretary-General present and no official has been designated by the Commission, the subordinate official present in the highest function group with the highest grade or, in the event of equal grade, the subordinate official with the greatest seniority in the grade or, in the event of equal seniority, the one who is eldest, shall deputise.

## Article 27

**Deputising for hierarchical superiors**

1. Where a Director-General is prevented from exercising his functions, or where the post is vacant, they shall be exercised by the Deputy Director-General present with the highest grade or, in the event of equal grade, by the Deputy Director-General with the greatest seniority within the grade or, in the event of equal seniority, by the eldest or by an official designated by the Commission.

If there is no Deputy Director-General present and no official has been designated by the Commission, the subordinate official present in the highest function group with the highest grade or, in the event of equal grade, the subordinate official with the greatest seniority in the grade or, in the event of equal seniority, the one who is eldest, shall deputise.

2. Where a Head of Unit is prevented from exercising his functions, or where the post is vacant, they shall be exercised by the Deputy Head of Unit or an official designated by the Director-General.

If there is no Deputy Head of Unit present and no official has been designated by the Commission, the subordinate official present in the highest function group with the highest grade or, in the event of equal grade, the subordinate official with the greatest seniority in the grade or, in the event of equal seniority, the one who is eldest, shall deputise.

3. Where any other hierarchical superior is prevented from exercising his duties, or where the post is vacant, the Director-General shall designate an official in agreement with the Member of the Commission responsible. If no replacement has been designated, the subordinate official present in the highest function group with the highest grade, or in the event of equal grade, the subordinate official with the greatest seniority in the grade or, in the event of equal seniority, the one who is eldest, shall deputise.

## CHAPTER IV

## FINAL PROVISIONS

## Article 28

The Commission shall, as necessary, lay down implementing rules to give effect to these Rules of Procedure.

The Commission may adopt supplementary measures relating to the functioning of the Commission and of its departments, taking into account developments in technology and information technology.

## Article 29

These Rules of Procedure shall enter into force on the day following their publication in the *Official Journal of the European Union*.

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## COMMISSION DECISION

of 2 March 2010

authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize MON863xMON810xNK603 (MON-ØØ863-5xMON-ØØ81Ø-6xMON-ØØ6Ø3-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council

(notified under document C(2010) 1197)

(Only the Dutch and French texts are authentic)

(Text with EEA relevance)

(2010/139/EU)

THE EUROPEAN COMMISSION,

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

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 2 November 2004, Monsanto Europe S.A. submitted to the competent authorities of Belgium 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, consisting of, or produced from MON863xMON810xNK603 maize ('the application').
- (2) The application also covers the placing on the market of other products containing or consisting of MON863xMON810xNK603 maize for the same uses as any other maize with the exception of cultivation. Therefore, in accordance with the provision of 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<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 31 March 2006, the European Food Safety Authority (EFSA) gave a favourable opinion 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, consisting of, or produced from MON863xMON810xNK603 maize as described in the application ('the products') will have adverse effects on human or animal health or the environment<sup>(3)</sup>. In its opinion, EFSA concluded that it was acceptable to use the data for the single events in support of the safety of the products and considered all specific questions and concerns raised by the Member States in the context of the consultation of the national competent authorities provided for by Articles 6(4) and 18(4) of that Regulation.

- (4) In October 2006, upon request of the Commission, EFSA published detailed clarifications on how the comments of the competent authorities of the Member States had been taken into account in its opinion and also published further information on the different elements considered by the Scientific Panel on Genetically Modified Organisms of EFSA.
- (5) 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.
- (6) On 26 February 2007, in the light of a report published by the World Health Organisation listing kanamycin and neomycin as 'critically important antibacterial agents for human medicine and for risk management strategies of non-human use', the European Medicines Agency issued a statement highlighting the therapeutic relevance of both antibiotics in human and veterinary medicine. On 13 April 2007, taking into account this statement, EFSA indicated that the therapeutic effect of the antibiotics at stake will not be compromised by the presence of the *nptII* gene in GM plants. This is due to the extremely low probability of gene transfer from plants to bacteria and its subsequent expression and to the fact that this antibiotic resistant gene in bacteria is already widespread in the environment. It thus confirmed its previous assessment of the safe use of the antibiotic resistance marker gene *nptII* in genetically modified organisms and their derived products for food and feed uses.

<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-2004-159>

- (7) On 14 May 2008, the Commission sent a mandate to EFSA, with a request: (i) to prepare a consolidated scientific opinion taking into account the previous opinion and the statement on the use of ARM genes in GM plants intended or already authorised to be placed on the market and their possible uses for import and processing and for cultivation; and (ii) to indicate the possible consequences of this consolidated opinion on the previous EFSA assessments on individual GMOs containing ARM genes. The mandate brought to the attention of EFSA, inter alia, letters by the Commission from Denmark and Greenpeace.
- (8) On 11 June 2009, EFSA published a statement on the use of ARM genes in GM plants which concludes that the previous assessment of EFSA on MON863xMON810xNK603 maize is in line with the risk assessment strategy described in the statement, and that no new evidence has become available that would prompt EFSA to change its previous opinion.
- (9) On 15 March 2007, following a scientific publication regarding a reanalysis of the MON 863 90-day rat study and questioning the safety of MON 863 maize, the Commission consulted EFSA on what impact this analysis study might have on its earlier opinion on MON 863 maize. On 28 June 2007, EFSA indicated that the publication does not raise new issues which are toxicologically relevant and confirmed its earlier favourable safety assessment on MON 863 maize.
- (10) Taking into account those considerations, authorisation should be granted for the products.
- (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 the foods, food ingredients, and feed containing, consisting of, or produced from MON863xMON810xNK603 maize. However, in order to ensure the use of the products within the limits of authorisation provided by this Decision, the labelling of feed containing or consisting of the GMO and other products than food and feed containing or consisting of 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. 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.
- (14) 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 of or containing GMOs.
- (15) 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 Article 9(1) and Article 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>.
- (16) The Standing Committee on the Food Chain and Animal Health has not delivered an opinion within the time-limit laid down by its Chairman.
- (17) At its meeting on 18 February 2008, the Council was unable to reach a decision by qualified majority either for or against the proposal. It is accordingly for the Commission to adopt the measures,

<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.

HAS ADOPTED THIS DECISION:

*Article 1*

**Genetically modified organism and unique identifier**

Genetically modified maize (*Zea mays* L.) MON863xMON810xNK603 produced by crosses between maize containing MON-ØØ863-5, MON-ØØ81Ø-6 and MON-ØØ6Ø3-6 events, as specified in point (b) of the Annex to this Decision, is assigned the unique identifier MON-ØØ863-5xMON-ØØ81Ø-6xMON-ØØ6Ø3-6, as provided for in Regulation (EC) No 65/2004.

*Article 2*

**Authorisation and placing on the market**

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

- (a) foods and food ingredients containing, consisting of, or produced from MON-ØØ863-5xMON-ØØ81Ø-6xMON-ØØ6Ø3-6 maize;
- (b) feed containing, consisting of, or produced from MON-ØØ863-5xMON-ØØ81Ø-6xMON-ØØ6Ø3-6 maize;
- (c) products, other than food and feed, containing or consisting of MON-ØØ863-5xMON-ØØ81Ø-6xMON-ØØ6Ø3-6 maize for the same uses as any other maize 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 'maize'.
2. The words 'not for cultivation' shall appear on the label of and in documents accompanying products containing or consisting of MON-ØØ863-5xMON-ØØ81Ø-6xMON-ØØ6Ø3-6 maize referred to in Article 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 the 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 plan.

*Article 5*

**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 6*

**Authorisation holder**

The authorisation holder shall be Monsanto Europe S.A., Belgium, representing Monsanto Company, United States of America.

*Article 7*

**Validity**

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

*Article 8*

**Addressee**

This Decision is addressed to Monsanto Europe S.A., Scheldelaan 460, Haven 627 — 2040 Antwerp — Belgium.

Done at Brussels, 2 March 2010.

*For the Commission*

John DALLI

*Member of the Commission*

## ANNEX

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

Name: Monsanto Europe S.A.

Address: Scheldelaan 460, Haven 627 — 2040 Antwerpen — BELGIË

On behalf of Monsanto Company — 800 N. Lindbergh Boulevard — St. Louis, Missouri 63167 — United States of America

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

- (1) Foods and food ingredients containing, consisting of, or produced from MON-ØØ863-5xMON-ØØ81Ø-6xMON-ØØ6Ø3-6 maize;
- (2) Feed containing, consisting of, or produced from MON-ØØ863-5xMON-ØØ81Ø-6xMON-ØØ6Ø3-6 maize;
- (3) Products other than food and feed containing or consisting of MON-ØØ863-5xMON-ØØ81Ø-6xMON-ØØ6Ø3-6 maize for the same uses as any other maize with the exception of cultivation.

The genetically modified maize MON-ØØ863-5xMON-ØØ81Ø-6xMON-ØØ6Ø3-6, as described in the application, is produced by crosses between maize containing MON-ØØ863-5, MON-ØØ81Ø-6 and MON-ØØ6Ø3-6 events and expresses the CryBb1 protein which confers protection against certain coleopteran insect pests (*Diabrotica* spp.), the Cry 1 Ab protein which confers protection against certain lepidopteran insect pests (*Ostrinia nubilalis*, *Sesamnia* spp.) and the CP4 EPSPS protein which confers tolerance to herbicide glyphosate. An *nptII* gene, conferring kanamycin resistance, was used as a selectable marker in the genetic modification process.

**(c) 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 'maize';
- (2) the words 'not for cultivation' shall appear on the label of and in documents accompanying products containing or consisting of MON-ØØ863-5xMON-ØØ81Ø-6xMON-ØØ6Ø3-6 maize referred to in Article 2(b) and (c).

**(d) Method for detection:**

- event specific real-time quantitative PCR based methods for genetically modified maize MON-ØØ863-5, MON-ØØ81Ø-6 and MON-ØØ6Ø3-6 validated on MON-ØØ863-5xMON-ØØ81Ø-6xMON-ØØ6Ø3-6 maize,
- validated by the Community reference laboratory established under Regulation (EC) No 1829/2003, published at <http://gmo-crl.jrc.it/statusofdoss.htm>,
- Reference Material: ERM@-BF416 (for MON-ØØ863-5), ERM@-BF413 (for MON-ØØ81Ø-6) and ERM@-BF415 (for MON-ØØ6Ø3-6) accessible via the Joint Research Centre (JRC) of the European Commission, the Institute of Reference Materials and Measurements (IRMM) at [http://www.irmm.jrc.be/html/reference\\_materials\\_catalogue/index.htm](http://www.irmm.jrc.be/html/reference_materials_catalogue/index.htm)

**(e) Unique identifier:**

MON-ØØ863-5xMON-ØØ81Ø-6xMON-ØØ6Ø3-6

**(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 the 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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## COMMISSION DECISION

of 2 March 2010

authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize MON863xMON810 (MON-ØØ863-5xMON-ØØ81Ø-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council

(notified under document C(2010) 1198)

(Only the Dutch and French texts are authentic)

(Text with EEA relevance)

(2010/140/EU)

THE EUROPEAN COMMISSION,

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

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 Article 7(3) and Article 19(3) thereof,

Whereas:

- (1) On 24 June 2004, Monsanto Europe S.A., submitted to the competent authorities of Germany 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, consisting of, or produced from MON863xMON810 maize (the application).
- (2) The application also covers the placing on the market of other products containing or consisting of MON863xMON810 maize for the same uses as any other maize with the exception of cultivation. Therefore, in accordance with the provision of 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<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 31 March 2006, the European Food Safety Authority (EFSA) gave a favourable opinion 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, consisting of, or produced from MON863xMON810 maize as described in the application (the 'products') will have adverse effects on human or animal health or the environment<sup>(3)</sup>. In its opinion, EFSA concluded that it was acceptable to use the data for the single events in support of the safety of the products and considered all specific questions and concerns raised by the Member States in the context of the consultation of the national competent authorities provided for by Articles 6(4) and 18(4) of that Regulation.

- (4) In October 2006, upon request of the Commission, EFSA published detailed clarifications on how the comments of the competent authorities of the Member States had been taken into account in its opinion and also published further information on the different elements considered by the Scientific Panel on Genetically Modified Organisms of EFSA.
- (5) 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.
- (6) On 26 February 2007, in the light of a report published by the World Health Organisation listing kanamycin and neomycin as 'critically important antibacterial agents for human medicine and for risk management strategies of non-human use', the European Medicines Agency issued a statement highlighting the therapeutic relevance of both antibiotics in human and veterinary medicine. On 13 April 2007, taking into account this statement, EFSA indicated that the therapeutic effect of the antibiotics at stake will not be compromised by the presence of the *nptII* gene in GM plants. This is due to the extremely low probability of gene transfer from plants to bacteria and its subsequent expression and to the fact that this antibiotic resistant gene in bacteria is already widespread in the environment. It thus confirmed its previous assessment of the safe use of the antibiotic resistance marker gene *nptII* in genetically modified organisms and their derived products for food and feed uses.

<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-2004-112>

- (7) On 14 May 2008, the Commission sent a mandate to EFSA, with a request: (i) to prepare a consolidated scientific opinion taking into account the previous opinion and the statement on the use of ARM genes in GM plants intended or already authorised to be placed on the market and their possible uses for import and processing and for cultivation; (ii) to indicate the possible consequences of this consolidated opinion on the previous EFSA assessments on individual GMOs containing ARM genes. The mandate brought to the attention of EFSA, *inter alia*, letters by the Commission from Denmark and Greenpeace.
- (8) On 11 June 2009, EFSA published a statement on the use of ARM genes in GM plants which concludes that the previous assessment of EFSA on MON863xMON810 maize is in line with the risk assessment strategy described in the statement, and that no new evidence has become available that would prompt EFSA to change its previous opinion.
- (9) On 15 March 2007, following a scientific publication regarding a re-analysis of the MON 863 90-day rat study and questioning the safety of MON 863 maize, the Commission consulted EFSA on what impact this analysis study might have on its earlier opinion on MON 863 maize. On 28 June 2007, EFSA indicated that the publication does not raise new issues which are toxicologically relevant and confirmed its earlier favourable safety assessment on MON 863 maize.
- (10) Taking into account those considerations, authorisation should be granted for the products.
- (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 the foods, food ingredients, and feed containing, consisting of, or produced from MON863xMON810 maize. However, in order to ensure the use of the products within the limits of authorisation provided by this Decision, the labelling of feed containing or consisting of the GMO and other products than food and feed containing or consisting of 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. 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.
- (14) 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 of or containing GMOs.
- (15) 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 Article 9(1) and Article 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>.
- (16) The uses, other than food and feed, which were authorised for the same GMO under Commission Decision 2006/47/EC <sup>(4)</sup> as well as equivalent conditions for placing on the market and monitoring are included in this Decision and are therefore regulated only by this Decision.
- (17) The Standing Committee on the Food Chain and Animal Health has not delivered an opinion within the time-limit laid down by its Chairman.
- (18) At its meeting on 18 February 2008, the Council was unable to reach a decision by qualified majority either for or against the proposal. It is accordingly for the Commission to adopt the measures,

HAS ADOPTED THIS DECISION:

#### Article 1

##### Genetically modified organism and unique identifier

Genetically modified maize (*Zea mays* L.) MON863xMON810 produced by crosses between maize containing MON-ØØ863-5 and MON-ØØ81Ø-6 events, as specified in point (b) of the Annex to this Decision is assigned the unique identifier MON-ØØ863-5xMON-ØØ81Ø-6, as provided for in Regulation (EC) No 65/2004.

<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 26, 31.1.2006, p. 17.

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

*Article 2***Authorisation and placing on the market**

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

- (a) foods and food ingredients containing, consisting of, or produced from MON-ØØ863-5xMON-ØØ81Ø-6 maize;
- (b) feed containing, consisting of, or produced from MON-ØØ863-5xMON-ØØ81Ø-6 maize;
- (c) products, other than food and feed, containing or consisting of MON-ØØ863-5xMON-ØØ81Ø-6 maize for the same uses as any other maize 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 'maize'.

2. The words 'not for cultivation' shall appear on the label of and in documents accompanying products containing or consisting of MON-ØØ863-5xMON-ØØ81Ø-6 maize referred to in Article 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 the 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 plan.

*Article 5***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 6***Authorisation holder**

The authorisation holder shall be Monsanto Europe S.A., Belgium, representing Monsanto Company, United States of America.

*Article 7***Validity**

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

*Article 8***Addressee**

This Decision is addressed to Monsanto Europe S.A., Scheldelaan 460, Haven 627 – 2040 Antwerp – Belgium.

Done at Brussels, 2 March 2010.

*For the Commission*

John DALLI

*Member of the Commission*

## ANNEX

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

Name: Monsanto Europe S.A.

Address: Scheldelaan 460, Haven 627 – B 2040 Antwerp – Belgium

On behalf of Monsanto Company – 800 N. Lindbergh Boulevard – St. Louis, Missouri 63167 – United States of America

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

- (1) Foods and food ingredients containing, consisting of, or produced from MON-ØØ863-5xMON-ØØ81Ø-6 maize;
- (2) Feed containing, consisting of, or produced from MON-ØØ863-5xMON-ØØ81Ø-6 maize;
- (3) Products other than food and feed containing or consisting of MON-ØØ863-5xMON-ØØ81Ø-6 maize for the same uses as any other maize with the exception of cultivation.

The genetically modified maize MON-ØØ863-5xMON-ØØ81Ø-6, as described in the application, is produced by crosses between maize containing MON-ØØ863-5 and MON-ØØ81Ø-6 events and expresses the CryBb1 protein which confers protection against certain coleopteran insect pests (*Diabrotica* spp.) and the Cry 1 Ab protein which confers protection against certain lepidopteran insect pests (*Ostrinia nubilalis*, *Sesamnia* spp.). An *nptII* gene, conferring kanamycin resistance, was used as a selectable marker in the genetic modification process.

**(c) 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 'maize'.
- (2) The words 'not for cultivation' shall appear on the label of and in documents accompanying products containing or consisting of MON-ØØ863-5xMON-ØØ81Ø-6 maize referred to in Article 2(b) and (c).

**(d) Method for detection:**

- Event specific real-time quantitative PCR based methods for genetically modified maize MON-ØØ863-5 and MON-ØØ81Ø-6 validated on MON-ØØ863-5xMON-ØØ81Ø-6 maize,
- Validated by the Community reference laboratory established under Regulation (EC) No 1829/2003, published at <http://gmo-crl.jrc.it/statusofdoss.htm>
- Reference Material: ERM®-BF416 (for MON-ØØ863-5) and ERM®-BF413 (for MON-ØØ81Ø-6) accessible via the Joint Research Centre (JRC) of the European Commission, the Institute of Reference Materials and Measurements (IRMM) at [http://www.irmm.jrc.be/html/reference\\_materials\\_catalogue/index.htm](http://www.irmm.jrc.be/html/reference_materials_catalogue/index.htm)

**(e) Unique identifier:**

MON-ØØ863-5xMON-ØØ81Ø-6

**(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 the 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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## COMMISSION DECISION

of 2 March 2010

authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize MON863xNK603 (MON-ØØ863-5xMON-ØØ6Ø3-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council

(notified under document C(2010) 1203)

(Only the Dutch and French texts are authentic)

(Text with EEA relevance)

(2010/141/EU)

THE EUROPEAN COMMISSION,

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

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 Article 7(3) and Article 19(3) thereof,

Whereas:

- (1) On 22 October 2004, Monsanto Europe SA, submitted to the competent authorities 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, consisting of, or produced from MON863xNK603 maize (the application).
- (2) The application also covers the placing on the market of other products containing or consisting of MON863xNK603 maize for the same uses as any other maize with the exception of cultivation. Therefore, in accordance with the provision of 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<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 31 March 2006, the European Food Safety Authority (EFSA) gave a favourable opinion 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, consisting of, or

produced from MON863xNK603 maize as described in the application (the products) will have adverse effects on human or animal health or the environment<sup>(3)</sup>. In its opinion, EFSA concluded that it was acceptable to use the data for the single events in support of the safety of the products and considered all specific questions and concerns raised by the Member States in the context of the consultation of the national competent authorities provided for by Articles 6(4) and 18(4) of that Regulation.

- (4) In October 2006, upon request of the Commission, EFSA published detailed clarifications on how the comments of the competent authorities of the Member States had been taken into account in its opinion and also published further information on the different elements considered by the Scientific Panel on Genetically Modified Organisms of EFSA.
- (5) 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.
- (6) On 26 February 2007, in the light of a report published by the World Health Organisation listing kanamycin and neomycin as 'critically important antibacterial agents for human medicine and for risk management strategies of non-human use', the European Medicines Agency issued a statement highlighting the therapeutic relevance of both antibiotics in human and veterinary medicine. On 13 April 2007, taking into account this statement, EFSA indicated that the therapeutic effect of the antibiotics at stake will not be compromised by the presence of the *nptII* gene in GM plants. This is due to the extremely low probability of gene transfer from plants to bacteria and its subsequent expression and to the fact that this antibiotic resistant gene in bacteria is already widespread in the environment. It thus confirmed its previous assessment of the safe use of the antibiotic resistance marker gene *nptII* in genetically modified organisms and their derived products for food and feed uses.

<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=EFSQ-2004-154>

- (7) On 14 May 2008, the Commission sent a mandate to EFSA, with a request: (i) to prepare a consolidated scientific opinion taking into account the previous opinion and the statement on the use of ARM genes in GM plants intended or already authorised to be placed on the market and their possible uses for import and processing and for cultivation; (ii) to indicate the possible consequences of this consolidated opinion on the previous EFSA assessments on individual GMOs containing ARM genes. The mandate brought to the attention of EFSA, inter alia, letters by the Commission from Denmark and Greenpeace.
- (8) On 11 June 2009, EFSA published a statement on the use of ARM genes in GM plants which concludes that the previous assessment of EFSA on MON863xNK603 maize is in line with the risk assessment strategy described in the statement, and that no new evidence has become available that would prompt EFSA to change its previous opinion.
- (9) On 15 March 2007, following a scientific publication regarding a reanalysis of the MON 863 90-day rat study and questioning the safety of MON 863 maize, the Commission consulted EFSA on what impact this analysis study might have on its earlier opinion on MON 863 maize. On 28 June 2007, EFSA indicated that the publication does not raise new issues which are toxicologically relevant and confirmed its earlier favourable safety assessment on MON 863 maize.
- (10) Taking into account those considerations, authorisation should be granted for the products.
- (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 the foods, food ingredients, and feed containing, consisting of, or produced from MON863xNK603 maize. However, in order to ensure the use of the products within the limits of authorisation provided by this Decision, the labelling of feed containing or consisting of the GMO and other products than food and feed containing or consisting of 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. 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.
- (14) 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 of or containing GMOs.
- (15) 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 Article 9(1) and Article 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>.
- (16) The Standing Committee on the Food Chain and Animal Health has not delivered an opinion within the time limit laid down by its Chairman.
- (17) At its meeting on 18 February 2008, the Council was unable to reach a decision by qualified majority either for or against the proposal. It is accordingly for the Commission to adopt the measures,

HAS ADOPTED THIS DECISION:

#### Article 1

##### Genetically modified organism and unique identifier

Genetically modified maize (*Zea mays* L.) MON863xNK603 produced by crosses between maize containing MON-ØØ863-5 and MON-ØØ6Ø3-6 events, as specified in point (b) of the Annex to this Decision is assigned the unique identifier MON-ØØ863-5xMON-ØØ6Ø3-6, as provided for in Regulation (EC) No 65/2004.

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

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

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

*Article 2***Authorisation and placing on the market**

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

- (a) foods and food ingredients containing, consisting of, or produced from MON-ØØ863-5xMON-ØØ6Ø3-6 maize;
- (b) feed containing, consisting of, or produced from MON-ØØ863-5xMON-ØØ6Ø3-6 maize;
- (c) products, other than food and feed, containing or consisting of MON-ØØ863-5xMON-ØØ6Ø3-6 maize for the same uses as any other maize 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 'maize'.
2. The words 'not for cultivation' shall appear on the label of and in documents accompanying products containing or consisting of MON-ØØ863-5xMON-ØØ6Ø3-6 maize referred to in Article 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 the 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 plan.

*Article 5***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 6***Authorisation holder**

The authorisation holder shall be Monsanto Europe SA, Belgium, representing Monsanto Company, United States of America.

*Article 7***Validity**

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

*Article 8***Addressee**

This Decision is addressed to Monsanto Europe SA, Scheldelaan 460, Haven 627, 2040 Antwerp, Belgium.

Done at Brussels, 2 March 2010.

*For the Commission*

John DALLI

*Member of the Commission*

## ANNEX

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

Name: Monsanto Europe SA

Address: Scheldelaan 460, Haven 627, 2040 Antwerp, Belgium

On behalf of Monsanto Company, 800 N. Lindbergh Boulevard, St Louis, Missouri 63167, United States of America.

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

1. Foods and food ingredients containing, consisting of, or produced from MON-ØØ863-5xMON-ØØ6Ø3-6 maize;
2. Feed containing, consisting of, or produced from MON-ØØ863-5xMON-ØØ6Ø3-6 maize;
3. Products other than food and feed containing or consisting of MON-ØØ863-5xMON-ØØ6Ø3-6 maize for the same uses as any other maize with the exception of cultivation.

The genetically modified maize MON-ØØ863-5xMON-ØØ6Ø3-6, as described in the application, is produced by crosses between maize containing MON-ØØ863-5 and MON-ØØ6Ø3-6 events and expresses the CryBb1 protein which confers protection against certain coleopteran insect pests (*Diabrotica* spp.) and the CP4 EPSPS protein which confers tolerance to herbicide glyphosate. An *nptII* gene, conferring kanamycin resistance, was used as a selectable marker in the genetic modification process.

**(c) 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 'maize'.
2. The words 'not for cultivation' shall appear on the label of and in documents accompanying products containing or consisting of MON-ØØ863-5xMON-ØØ6Ø3-6 maize referred to in Article 2(b) and (c).

**(d) Method for detection:**

- Event specific real-time quantitative PCR based methods for genetically modified maize MON-ØØ863-5 and MON-ØØ6Ø3-6 validated on MON-ØØ863-5xMON-ØØ6Ø3-6 maize,
- Validated by the Community reference laboratory established under Regulation (EC) No 1829/2003, published at <http://gmo-crl.jrc.it/statusofdoss.htm>
- Reference material: ERM®-BF416 (for MON-ØØ863-5) and ERM®-BF415 (for MON-ØØ6Ø3-6) accessible via the Joint Research Centre (JRC) of the European Commission, the Institute of Reference Materials and Measurements (IRMM) at [http://www.irmm.jrc.be/html/reference\\_materials\\_catalogue/index.htm](http://www.irmm.jrc.be/html/reference_materials_catalogue/index.htm)

**(e) Unique identifier:**

MON-ØØ863-5xMON-ØØ6Ø3-6

**(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 Council Decision 2009/937/EU of 1 December 2009 adopting the Council's Rules of Procedure**

*(Official Journal of the European Union L 325 of 11 December 2009)*

On pages 46 and 48, in the Annex, 'Rules of Procedure of the Council', footnote 1:

*for:* '... and OJ L 5, 1.1.1999, p. 71).';

*read:* '... and OJ L 5, 9.1.1999, p. 71).'.  

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