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⁽¹⁾ Text with EEA relevance

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2016/686**of 3 May 2016****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 Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ⁽¹⁾,

Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽²⁾, and in particular Article 136(1) thereof,

Whereas:

- (1) Implementing Regulation (EU) No 543/2011 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 XVI, Part A thereto.
- (2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex to this Regulation.

Article 2

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

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

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

Done at Brussels, 3 May 2016.

*For the Commission,
On behalf of the President,
Jerzy PLEWA
Director-General for Agriculture and Rural Development*

ANNEX

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

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	IL	203,5
	MA	94,1
	SN	225,9
	TR	84,9
	ZZ	152,1
0707 00 05	MA	83,2
	TR	137,2
	ZZ	110,2
0709 93 10	MA	95,4
	TR	133,6
	ZZ	114,5
0805 10 20	EG	51,1
	IL	84,3
	MA	61,6
	TR	37,1
	ZZ	58,5
0805 50 10	BR	116,1
	MA	135,4
	TR	130,3
	ZA	143,4
	ZZ	131,3
0808 10 80	AR	111,2
	BR	96,0
	CL	114,8
	CN	73,3
	NZ	135,2
	US	225,3
	ZA	97,6
	ZZ	121,9

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries and territories (OJ L 328, 28.11.2012, p. 7). Code 'ZZ' stands for 'of other origin'.

DECISIONS

COMMISSION IMPLEMENTING DECISION (EU) 2016/687

of 28 April 2016

on the harmonisation of the 694-790 MHz frequency band for terrestrial systems capable of providing wireless broadband electronic communications services and for flexible national use in the Union

(notified under document C(2016) 2268)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (the Radio Spectrum Decision) ⁽¹⁾, and in particular Article 4(3) thereof,

Whereas:

- (1) In the multiannual radio spectrum policy programme (RSPP) adopted by Decision No 243/2012/EU ⁽²⁾, the European Parliament and the Council set the policy objective to identify at least 1 200 MHz of suitable spectrum to meet the increasing demand for wireless data traffic in the Union by 2015 ⁽³⁾. Furthermore, the RSPP empowered the Commission and the Member States in cooperation, to ensure spectrum availability for programme making and special events (PMSE) ⁽⁴⁾, for the development of safety services and the free circulation of related devices as well as the development of innovative interoperable solutions for public protection and disaster relief (PPDR) ⁽⁵⁾, and for the 'Internet of Things' (IoT) ⁽⁶⁾. The Radio Spectrum Policy Group (RSPG) has adopted a report on strategic sectoral spectrum needs, which addresses, inter alia, the spectrum needs for PPDR, PMSE and the IoT ⁽⁷⁾.
- (2) Spectrum in the 694-790 MHz frequency band (hereinafter '700 MHz frequency band') is a valuable asset for deploying cost-efficient terrestrial wireless networks with high capacity and ubiquitous indoor and outdoor coverage. The Radio Regulations of the International Telecommunication Union contain allocations of the 700 MHz frequency band to the broadcasting and mobile (except aeronautical mobile) service on a co-primary basis and identifications of this band for International Mobile Telecommunications (IMT). This frequency band is currently used across the Union for digital terrestrial television (DTT) and wireless audio PMSE equipment.
- (3) The Commission's strategy for the Digital Single Market ⁽⁸⁾ highlights the importance of the 700 MHz frequency band for ensuring the provision of broadband services in rural areas and stresses the need for a coordinated release of that frequency band, while accommodating the specific needs of audiovisual media distribution, in order to encourage investment in high-speed broadband networks and facilitate the proliferation of advanced digital services.

⁽¹⁾ OJ L 108, 24.4.2002, p. 1.

⁽²⁾ Decision No 243/2012/EU of the European Parliament and of the Council of 14 March 2012 establishing a multiannual radio spectrum policy programme (OJ L 81, 21.3.2012, p. 7).

⁽³⁾ Article 3(b), RSPP.

⁽⁴⁾ Article 8(5), RSPP.

⁽⁵⁾ Article 8(3), RSPP.

⁽⁶⁾ Article 8(6), RSPP.

⁽⁷⁾ Document RSPG13-540rev2.

⁽⁸⁾ See: http://ec.europa.eu/priorities/digital-single-market/index_en.htm

- (4) In its opinion on long-term strategy for the 470-790 MHz frequency band ⁽¹⁾, the RSPG recommends a coordinated approach for repurposing the 700 MHz frequency band for wireless broadband electronic communications services including making this band available under harmonised technical conditions across the Union.
- (5) On 11 March 2013, pursuant to Article 4(2) of the Radio Spectrum Decision, the Commission issued to the European Conference of Postal and Telecommunications Administrations (CEPT) a mandate to develop harmonised technical conditions for the 700 MHz frequency band in the Union for the provision of wireless broadband electronic communications services and other uses in support of the Union's spectrum policy priorities.
- (6) On 28 November 2014 and 1 March 2016, in response to that mandate, CEPT issued its Reports 53 ⁽²⁾ and 60 ⁽³⁾. They provide the basis for technical harmonisation of the 700 MHz frequency band for terrestrial wireless broadband electronic communications services, which allows for economies of scale for equipment in line with international developments in this band.
- (7) CEPT Reports 53 and 60 also present options for using portions of the 700 MHz frequency band (the so-called duplex gap and/or guard bands), which can be decided by a Member State ('national options'). One national option is supplemental downlink (SDL) which represents downlink-only (i.e. unidirectional) base station transmission for the provision of terrestrial wireless broadband electronic communications services, thereby addressing the problem of data traffic asymmetry by enhancing the downlink capability of such services. Other national options are PPDR, PMSE and M2M communications based on terrestrial systems capable of providing electronic communications services.
- (8) Harmonised technical conditions would ensure take-up of the 700 MHz frequency band for high-speed terrestrial wireless broadband electronic communications services and other uses in line with spectrum policy priorities at Union level; they would foster the single market, mitigate harmful interference and facilitate frequency coordination.
- (9) The 700 MHz frequency band should therefore be used for the provision of terrestrial wireless broadband electronic communications services based on a harmonised channelling arrangement ('core arrangement') and related common least restrictive technical conditions, whenever Member States designate it for use other than by high-power broadcasting networks. Member States may exceptionally and on an interim basis use for DTT services portions of the 700 MHz frequency band outside the core arrangement in order to facilitate the timely transition from terrestrial television broadcasting in the band, as appropriate in light of national circumstances for example in regard to modifying rights of use of spectrum for DTT services or simulcast arrangements in accordance with agreements between neighbouring Member States on managing cross-border interference risks.
- (10) Member States should also have the flexibility to use portions of the 700 MHz frequency band in response to specific national needs. Besides terrestrial wireless broadband electronic communications services, this could also include use in line with the Union's sectoral spectrum policy priorities, in particular for PMSE, PPDR and the IoT and with the aim of ensuring efficient spectrum use. In this regard, the 790-791 MHz frequency band may also be used without prejudice to Commission Decision 2010/267/EU ⁽⁴⁾. Flexible harmonisation of spectrum availability within the 700 MHz frequency band to address these national needs based on a limited set of national options would help achieve economies of scale for equipment, as well as cross-border coordination, and should be limited to available frequency ranges and, where appropriate, a related duplex method and a channelling arrangement. Member States should decide on the implementation of national options as well as the appropriate combination of national options and organise their coexistence. Use of spectrum for national options should also ensure coexistence with terrestrial wireless broadband electronic communications services complying with the core arrangement.
- (11) Terrestrial wireless broadband electronic communications services and national options in the 700 MHz frequency band should ensure appropriate protection of incumbent terrestrial television broadcasting services and wireless audio PMSE use below 694 MHz in line with their regulatory status. Additional measures may need to be applied at national level to manage mutual interference between wireless broadband electronic communications

⁽¹⁾ Document RSPG 15-595 final; link: http://rspg-spectrum.eu/wp-content/uploads/2013/05/RSPG15-595_final-RSPG_opinion_UHF.pdf

⁽²⁾ Link to CEPT Report 53: <http://www.erodocdb.dk/Docs/doc98/official/pdf/CEPTREP053.PDF>

⁽³⁾ Link to CEPT Report 60: <http://www.erodocdb.dk/Docs/doc98/official/pdf/CEPTREP060.PDF>

⁽⁴⁾ Commission Decision 2010/267/EU of 6 May 2010 on harmonised technical conditions of use in the 790-862 MHz frequency band for terrestrial systems capable of providing electronic communications services in the European Union (OJ L 117, 11.5.2010, p. 95).

services and DTT services such as from wireless broadband electronic communications base station transmitters to DTT receivers, or from DTT broadcasting transmitters to wireless broadband electronic communications base station receivers, whereby appropriate mitigation techniques can be applied by mobile operators on a case-by-case basis.

- (12) While measures under the Radio Spectrum Decision are without prejudice to the rights of Member States to organise and use spectrum for public order and public security purposes (namely PPDR) ⁽¹⁾, such use would benefit from a common frequency range in order to ensure free circulation of devices and interoperable services in line with the RSPG policy objective on spectrum availability. Harmonised technical conditions for terrestrial wireless broadband electronic communications services would also allow, where needed and appropriate within the core arrangement, the deployment of broadband PPDR services that can make use of these technical conditions based on the assumption that the PPDR network has the same co-existence characteristics as terrestrial wireless broadband electronic communications networks. When making use of the designation for electronic communications services on a non-exclusive basis, Member States may also deploy PPDR when needed. In this regard, the RSPG Report on strategic sectoral spectrum needs recognises that spectrum needs for broadband PPDR services differ for each Member State and national solutions depend on political decisions, including on the method of conducting missions to ensure public safety and the related role of national authorities or public operators.
- (13) CEPT Reports 53 and 60 refer to the need for a setup procedure for audio PMSE equipment, in order to ensure interference-free operation for the required quality of service. In order to improve the coexistence between indoor wireless audio PMSE equipment and mobile electronic communications networks using adjacent frequency bands, Member States should encourage, where feasible and necessary, the implementation of interference mitigation solutions such as those referred to in Commission Implementing Decision 2014/641/EU ⁽²⁾.
- (14) Member States should conclude relevant bilateral cross-border agreements with other Member States and non-EU countries. Such agreements between Member States and non-EU countries may be necessary in relevant parts of Member States' territory to ensure implementation of harmonised parameters, avoidance of harmful interference and improvement of spectrum efficiency. The RSPG Report on the spectrum coordination approach for broadcasting in the case of a reallocation of the 700 MHz band ⁽³⁾ sets out technical conditions and principles for cross-border coordination between terrestrial wireless broadband electronic communications services and terrestrial television broadcasting, including with non-EU countries.
- (15) Member States should report to the Commission on the implementation of this Decision and the use of the 700 MHz frequency band, in particular with a view to adapting it to future developments in wireless systems (such as in the context of 5G or the IoT), which may affect its use for terrestrial wireless broadband electronic communications services and national options. This will facilitate assessing its impact at EU level as well as its timely review, if and when necessary.
- (16) The measures provided for in this Decision are in accordance with the opinion of the Radio Spectrum Committee,

HAS ADOPTED THIS DECISION:

Article 1

This Decision harmonises the technical conditions for the availability and efficient use of the 694-790 MHz ('700 MHz') frequency band in the Union for terrestrial systems capable of providing wireless broadband electronic communications services. It aims also to facilitate flexible national use in response to specific national needs in accordance with RSPG spectrum policy priorities. The harmonised conditions for the 790-791 MHz frequency band under this Decision shall apply without prejudice to the provisions of Decision 2010/267/EU.

⁽¹⁾ Article 1(4) of the Radio Spectrum Decision.

⁽²⁾ Commission Implementing Decision 2014/641/EU of 1 September 2014 on harmonised technical conditions of radio spectrum use by wireless audio programme making and special events equipment in the Union (OJ L 263, 3.9.2014, p. 29).

⁽³⁾ Document RSPG13-524 rev1; link: https://circabc.europa.eu/d/a/workspace/SpacesStore/614d3daf-76a0-402d-8133-77d2d3dd2518/RSPG13-524%20rev1%20Report_700MHz_reallocation_REV.pdf

Article 2

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

1. 'wireless audio PMSE equipment' means radio equipment used for transmission of analogue or digital audio signals between a limited number of transmitters and receivers, such as radio microphones, in-ear monitor systems or audio links, used mainly for the production of broadcast programmes or private or public social or cultural events;
2. 'public protection and disaster relief (PPDR) radio communications' means radio applications used for public safety, security and defence used by national authorities or relevant operators responding to the relevant national needs in regard to public safety and security including in emergency situations;
3. 'machine-to-machine (M2M) radio communications' means radio links for the purpose of relaying information between physical or virtual entities that build a complex ecosystem including the internet of Things; such radio links may be realised through electronic communications services (e.g. based on cellular technologies) or other services, based on licensed or unlicensed use of spectrum.

Article 3

1. When Member States designate and make available the 700 MHz frequency band for use other than high-power broadcasting networks, they shall:
 - (a) designate and make available the 703-733 MHz and 758-788 MHz frequency bands, on a non-exclusive basis, for terrestrial systems capable of providing wireless broadband electronic communications services in compliance with the parameters set out in Sections A.1, B and C of the Annex;
 - (b) subject to national decisions and choice, designate and make available the portions of the 700 MHz frequency band other than those referred to in paragraph 1(a), for use in compliance with the parameters set out in Sections A.2 to A.5 of the Annex.
2. Member States shall facilitate coexistence among different uses referred to in paragraph 1.

Article 4

Member States shall ensure that the systems referred to in Article 3(1)(a) and (b) give appropriate protection to existing systems in the adjacent 470-694 MHz band, namely digital terrestrial television broadcasting services and wireless audio PMSE equipment in accordance with their regulatory status.

Article 5

Member States shall facilitate cross-border coordination agreements with the aim of enabling operation of the systems referred to in Article 3(1)(a) and, where appropriate, of those referred to in Article 3(1)(b), taking into account existing regulatory procedures and rights as well as relevant international agreements.

Article 6

Member States shall monitor the use of the 700 MHz frequency band and report their findings to the Commission upon request or at their own initiative in order to allow timely review of this Decision, as appropriate.

Article 7

This Decision is addressed to the Member States.

Done at Brussels, 28 April 2016.

For the Commission
Günther OETTINGER
Member of the Commission

ANNEX

PARAMETERS REFERRED TO IN ARTICLE 3

A. General parameters

1. Pursuant to Article 3(1)(a), within the 703-733 MHz and 758-788 MHz frequency bands, the frequency arrangement shall be as follows:
 - (a) the assigned block sizes shall be in multiples of 5 MHz ⁽¹⁾;
 - (b) the mode of operation shall be Frequency Division Duplex (FDD); the duplex spacing shall be 55 MHz with terminal station transmission (FDD uplink) located in the lower frequency band 703-733 MHz and base station transmission (FDD downlink) located in the upper frequency band 758-788 MHz;
 - (c) the lower frequency limit of an assigned block shall be aligned with or spaced at multiples of 5 MHz from the band edge of 703 MHz.

Without prejudice to the right of Member States to organise and use their spectrum for public safety and public security purposes and for defence, if PPDR radio communications are implemented, the technical conditions for wireless broadband electronic communications services in this annex should be used.

2. Pursuant to Article 3(1)(b), the frequency arrangement within the 738-758 MHz frequency band for use in full or in part for terrestrial systems capable of providing wireless broadband electronic communications services, shall be as follows:
 - (a) the upper band edge of the designated spectrum range shall be either 758 MHz or 753 MHz; the latter is only applicable in conjunction with the frequency arrangement pursuant to Section A.3 starting at 753 MHz;
 - (b) the lower band edge of the designated spectrum range shall start at one of the following: 738 MHz, 743 MHz, 748 MHz or 753 MHz;
 - (c) the mode of operation shall be limited to base station ('downlink-only') transmission in accordance with the technical parameters in Section B;
 - (d) the assigned block sizes within the designated spectrum range shall be in multiples of 5 MHz ⁽¹⁾; the upper frequency limit of an assigned block shall be aligned with or spaced at multiples of 5 MHz from the upper band edge.
3. Pursuant to Article 3(1)(b), the frequency arrangement within the frequency bands 698-703 MHz, 733-736 MHz, 753-758 MHz and 788-791 MHz for use in full or in part for PPDR radio communications shall be as follows: the mode of operation shall be Frequency Division Duplex; the duplex spacing shall be 55 MHz with terminal station transmission (PPDR uplink) located in one or both of the frequency band 698-703 MHz and 733-736 MHz, and base station transmission (PPDR downlink) located in one or both of the frequency band 753-758 MHz and 788-791 MHz, respectively.

The frequency bands 703-733 MHz and 758-788 MHz, or a subset thereof, may also be used for PPDR radio communications. Such use is addressed in Section A.1.

4. Pursuant to Article 3(1)(b), the frequency arrangement within the frequency bands 733-736 MHz and 788-791 MHz for use for M2M radio communications shall be as follows: the mode of operation shall be Frequency Division Duplex; the duplex spacing shall be 55 MHz with terminal station transmission (M2M uplink) located in the 733-736 MHz frequency band and base station transmission (M2M downlink) located in the 788-791 MHz frequency band.
5. Pursuant to Article 3(1)(b), Member States decide on the frequency arrangement within the frequency bands 694-703 MHz and 733-758 MHz for use in full or in part for wireless audio PMSE equipment. In order to improve the coexistence between indoor wireless audio PMSE equipment used within the 694-703 MHz and/or 733-758 MHz frequency bands, and mobile electronic communications networks, Member States shall encourage, where feasible and necessary, the implementation of interference mitigation solutions.

⁽¹⁾ 5 MHz or more; this does not preclude smaller channel bandwidths within an assigned block.

B. Technical conditions for base stations for terrestrial systems capable of providing electronic communications services within the 738-788 MHz frequency band

The following technical parameters for base stations called 'block edge mask' (BEM) shall be used in order to ensure coexistence between neighbouring networks and protection of other services and applications in adjacent bands. Less stringent technical parameters, if agreed among the operators or administrations concerned, may also be used provided that these parameters comply with the technical conditions applicable for the protection of other services or applications, including in adjacent bands or subject to cross-border obligations.

The BEM ⁽¹⁾ is an emission mask that is defined as a function of frequency in relation to a 'block edge', the latter being the frequency boundary of a spectrum block for which rights of use are assigned to an operator. The BEM consists of several elements which are defined for certain measurement bandwidths. A 'band edge' denotes the frequency boundary of a spectrum range designated for a certain use.

BEMs for base stations given below have been developed for equipment used in mobile networks. The same base station BEM applies both for FDD downlink use within the 758-788 MHz frequency band (as defined in Section A.1) and optional downlink-only use within the 738-758 MHz frequency band (as defined in Section A.2). The BEMs serve to protect other spectrum blocks used for electronic communications services (including downlink-only use) as well as other services and applications in adjacent bands. Additional measures which do not constrain economies of scale of equipment may be applied at national level to further facilitate the coexistence of electronic communications services and other uses within the 700 MHz frequency band.

The base station BEM consists of in-block and out-of-block power limits. The in-block power limit is applied to a block assigned to an operator. The out-of-block power limits are applied to spectrum within or outside the 700 MHz frequency band, which is outside the block assigned. Table 1 contains the different spectrum elements of the base station BEM, whereby all BEM elements except 'in-block' are mapped to out-of-block power limits. Optional in-block power limits are given in Table 2. Out-of-block power limits for different BEM elements are given in Table 3 to Table 8.

To obtain a base station BEM for a specific block within the FDD downlink or within the 738-758 MHz frequency band when used for optional downlink-only use, the BEM elements are used as follows:

In-block power limit is used for the block assigned to the operator.

- Transitional regions are determined, and corresponding power limits are used. The transitional regions may overlap with guard bands, adjacent bands and the duplex gap, in which case transitional power limits are used.
- For remaining assigned spectrum which constitutes baseline (as defined in Table 1), baseline power limits are used.
- For remaining spectrum in the guard bands (i.e. not covered by transitional regions or not used for PPDR or M2M radio communications), guard band power limits are used.
- For spectrum in the 733-758 MHz frequency band not used for downlink-only or PPDR or M2M radio communications, duplex gap power limits apply.

Table 1

Definition of BEM elements for blocks pursuant to Sections A.1 and A.2

BEM element	Definition
In-block	Refers to a block for which the BEM is derived.
Baseline	Spectrum used within the frequency bands 703-733 MHz (i.e. FDD uplink) and 758-788 MHz (i.e. FDD downlink) as well as within the 738-758 MHz frequency band for downlink-only (if applicable), for digital terrestrial television broadcasting below the 694 MHz band edge, for terrestrial systems capable of providing electronic communications services above 790 MHz (both uplink and downlink), for PPDR radio communications in the 700 MHz frequency band (both uplink and downlink), and for M2M radio communications in the 700 MHz frequency band (both uplink and downlink).

⁽¹⁾ The BEM is based on minimum coupling loss (MCL) analysis and simulations; the BEM elements are defined on a per cell or per antenna basis, depending on the co-existence scenario from which they have been derived.

BEM element	Definition
Transitional region	Spectrum from 0 to 10 MHz below and from 0 to 10 MHz above the block assigned to an operator; in a frequency range where transitional regions and spectrum used for FDD uplink, PPDR uplink or M2M uplink overlap, transitional power limits do not apply.
Guard bands	<p>(a) Spectrum between the lower edge of the 700 MHz frequency band and the lower edge of the FDD uplink (i.e. 694-703 MHz);</p> <p>(b) Spectrum between the upper edge of FDD downlink (i.e. 788 MHz) and the lower edge of the FDD downlink according to Decision 2010/267/EU (i.e. 791 MHz).</p> <p>In case of overlap between a transitional region and a guard band, transitional power limits are used. When spectrum is used for PPDR or M2M radio communications, baseline or transitional power limits are used.</p>
Duplex gap	<p>Spectrum in the 733-758 MHz frequency band.</p> <p>In case of overlap between a transitional region and the part of the duplex gap not used for downlink-only or PPDR radio communications or M2M radio communications, transitional power limits are used.</p>

In-block requirements

Table 2

Base station in-block power limit

Frequency range	Maximum mean EIRP ⁽¹⁾	Measurement band-width
Block assigned to the operator	<p>Not mandatory.</p> <p>In case an upper bound is desired by an administration, a value may be applied, which does not exceed 64 dBm/5 MHz per antenna.</p>	5 MHz

⁽¹⁾ Equivalent Isotropically Radiated Power (EIRP) is the total power radiated in any direction at a single location, independent of any base station configuration.

Out-of-block requirements

Table 3

Base station baseline power limit

Frequency range	Bandwidth of protected block	Maximum mean EIRP	Measurement band-width
Uplink frequencies in the range 698-736 MHz ⁽¹⁾	≥ 5 MHz	– 50 dBm per cell ⁽²⁾	5 MHz
	3 MHz	– 52 dBm per cell ⁽²⁾	3 MHz ⁽¹⁾
	≤ 3 MHz	– 64 dBm per cell ⁽²⁾	200 kHz ⁽¹⁾
FDD uplink frequencies as defined in Decision 2010/267/EU (i.e. 832-862 MHz)	≥ 5 MHz	– 49 dBm per cell ⁽²⁾	5 MHz

Frequency range	Bandwidth of protected block	Maximum mean EIRP	Measurement bandwidth
Downlink frequencies in the range 738-791 MHz	≥ 5 MHz	16 dBm per antenna	5 MHz
	3 MHz	14 dBm per antenna	3 MHz
	< 3 MHz	2 dBm per antenna	200 kHz
FDD downlink frequencies as defined in Decision 2010/267/EU (i.e. 791-821 MHz)	≥ 5 MHz	16 dBm per antenna	5 MHz

(¹) Administrations may select a measurement bandwidth of 3 MHz or 200 kHz for protection of a block size of 3 MHz depending on the national implemented options.

(²) In a multi-sector site, the value per 'cell' corresponds to the value for one of the sectors.

Table 4

Base station transitional power limits in the range 733-788 MHz

Frequency range	Maximum mean EIRP	Measurement bandwidth
- 10 to - 5 MHz from lower block edge	18 dBm per antenna	5 MHz
- 5 to 0 MHz from lower block edge	22 dBm per antenna	5 MHz
0 to + 5 MHz from upper block edge	22 dBm per antenna	5 MHz
+ 5 to + 10 MHz from upper block edge	18 dBm per antenna	5 MHz

Table 5

Base station transitional power limits above 788 MHz

Frequency range	Maximum mean EIRP	Measurement bandwidth
788-791 MHz for a block with upper edge at 788 MHz	21 dBm per antenna	3 MHz
788-791 MHz for a block with upper edge at 783 MHz	16 dBm per antenna	3 MHz
788-791 MHz for a block with upper edge at 788 MHz for protection of systems with bandwidth < 3 MHz	11 dBm per antenna	200 kHz
788-791 MHz for a block with upper edge at 783 MHz for protection of systems with bandwidth < 3 MHz	4 dBm per antenna	200 kHz
791-796 MHz for a block with upper edge at 788 MHz	19 dBm per antenna	5 MHz

Frequency range	Maximum mean EIRP	Measurement band-width
791-796 MHz for a block with upper edge at 783 MHz	17 dBm per antenna	5 MHz
796-801 MHz for a block with upper edge at 788 MHz	17 dBm per antenna	5 MHz

Table 6

Base station power limits for the part of the duplex gap not used for downlink-only or PPDR radio communications or M2M radio communications

Frequency range	Maximum mean EIRP	Measurement band-width
– 10 to 0 MHz offset from FDD downlink lower band edge or lower edge of the lowest downlink-only block, but above FDD uplink upper band edge	16 dBm per antenna	5 MHz
More than 10 MHz offset from FDD downlink lower band edge or lower edge of the lowest downlink-only block, but above FDD uplink upper band edge	– 4 dBm per antenna	5 MHz

Table 7

Base station power limits for the part of the guard bands not used for PPDR radio communications or M2M radio communications

Frequency range	Maximum mean EIRP	Measurement band-width
Spectrum between the lower band edge of the 700 MHz frequency band and FDD uplink lower band edge (i.e. 694-703 MHz);	– 32 dBm per cell ⁽¹⁾	1 MHz
Spectrum between FDD downlink upper band edge and the FDD downlink lower band edge as defined in Decision 2010/267/EU (i.e. 788-791 MHz)	14 dBm per antenna	3 MHz

⁽¹⁾ In a multi-sector site, the value per 'cell' corresponds to the value for one of the sectors.

Table 8

Base station baseline power limits for spectrum below 694 MHz

Frequency range	Maximum mean EIRP	Measurement band-width
Frequencies below 694 MHz where digital terrestrial television broadcasting is protected	– 23 dBm per cell ⁽¹⁾	8 MHz

⁽¹⁾ In a multi-sector site, the value per 'cell' corresponds to the value for one of the sectors.

C. Technical conditions for terminal stations for electronic communications services within the 703-733 MHz frequency band

BEMs for terminal stations given below have been developed for equipment used in mobile networks.

The terminal station BEM consists of in-block and out-of-block power limits. The in-block power limit is applied to a block assigned to an operator. The out-of-block power limits are applied to the following spectrum elements: the duplex gap between FDD uplink and FDD downlink (including downlink-only spectrum, if applicable), the guard band between the upper limit of spectrum used for television broadcasting (694 MHz) and FDD uplink (i.e. 694-703 MHz), and spectrum used for television broadcasting (i.e. below 694 MHz).

The BEM requirements for terminal stations are given in Table 9 to Table 12 ⁽¹⁾. The power limits are specified as equivalent isotropically radiated power (EIRP) for terminal stations designed to be fixed or installed and as total radiated power (TRP) ⁽²⁾ for terminal stations designed to be mobile or nomadic.

Administrations may relax the in-block power limit in certain situations, for example fixed terminal stations in rural areas provided that protection of other services, networks and applications is not compromised and cross-border obligations are fulfilled.

In-block requirements

Table 9

Terminal station in-block power limit

Maximum mean power	23 dBm ⁽¹⁾
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⁽¹⁾ This value is subject to a tolerance of up to + 2 dB, to take account of operation under extreme environmental conditions and production spread.

Out-of-block requirements

Table 10

Terminal station power limits for the guard band 694-703 MHz

Frequency range	Maximum mean out-of-block EIRP	Measurement band-width
694-698 MHz	– 7 dBm	4 MHz
698-703 MHz	2 dBm	5 MHz

Table 11 (non-mandatory)

Terminal station power limits for the duplex gap

Frequency range	Maximum mean out-of-block EIRP	Measurement band-width
733-738 MHz	2 dBm	5 MHz
738-753 MHz	– 6 dBm	5 MHz
753-758 MHz	– 18 dBm	5 MHz

⁽¹⁾ Further requirements may be taken into account by ETSI in the harmonised standards.

⁽²⁾ Total radiated power (TRP) is a measure of how much power the antenna actually radiates. The TRP is defined as the integral of the power transmitted in different directions over the entire radiation sphere.

Explanatory note to Table 11

The power limits have been derived from the spectrum emission mask specified in clause 4.2.3 of ETSI EN 301 908-13 v6.2.1, which means that LTE-based equipment will comply inherently with the emission limits specified in Table 11. No additional test procedure is required to ensure compliance of such equipment with the power limits specified above.

Table 12

**Terminal station power limits for frequencies below 694 MHz used for terrestrial broadcasting
(unwanted emissions)**

Frequency range	Maximum mean out-of-block power	Measurement bandwidth
470-694 MHz	– 42 dBm	8 MHz

Explanatory notes to Table 12

- (1) The derivation of the unwanted emissions limit is based on DTT broadcasting using DVB-T2 and a WBB system with a bandwidth of 10 MHz for a centre frequency separation between DTT broadcasting and WBB of 18 MHz (assuming an 8 MHz TV channel, 9 MHz guard band and a WBB system bandwidth of 10 MHz). If Member States wish to allow the deployment of WBB systems on a national basis with a bandwidth greater than 10 MHz and in case unwanted out-of-block power higher than – 42 dBm/8 MHz is generated in the band below 694 MHz, they should consider:
 - (a) either implementing the greater WBB system bandwidth starting at a frequency higher than 703 MHz so that the required limit of out-of-block power is still met;
 - (b) and/or applying mitigation techniques according to note 3.
- (2) The value of the unwanted out-of-block emissions limit is derived with regard to fixed DTT reception. Member States who wish to consider portable-indoor DTT reception may need, on a case-by-case basis, to implement further measures at a national/local level (see note 3).
- (3) Examples of potential mitigation techniques which may be considered by Member States include using additional DTT filtering, reducing the in-block power of the terminal station, reducing the bandwidth of the terminal station transmissions, or using techniques contained in the non-exhaustive list of potential mitigation techniques given in CEPT Report 30.
- (4) Additional considerations on coexistence between WBB systems and DTT broadcasting: in order to mitigate DTT receiver blocking caused by base station transmission, additional external filtering could be applied at the input of the DTT receiver chain at national level, in particular to avoid overload saturation in antenna amplifiers; furthermore, interference from broadcasting transmitters to base station receivers, either caused by transmitter in-band power or unwanted emissions, may arise. In such cases, appropriate mitigation techniques may be applied on a case-by-case basis at national level.

RECOMMENDATIONS

COMMISSION RECOMMENDATION (EU) 2016/688

of 2 May 2016

on the monitoring and management of the presence of dioxins and PCBs in fish and fishery products from the Baltic region

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

Whereas:

- (1) Commission Regulation (EC) No 1881/2006 ⁽¹⁾ establishes maximum levels for dioxins, for the sum of dioxins and dioxin-like PCBs and for non-dioxin-like PCBs in fish and fishery products. Derogations are provided in that Regulation to Finland, Sweden and Latvia for placing on their domestic market and intended for consumption in their territory of wild caught salmon, wild caught Baltic herring larger than 17 cm, wild caught char, wild caught river lamprey, wild caught trout and products derived from these fishes, originating in the Baltic region exceeding the maximum level.
- (2) Certain fish and fishery products from the Baltic region exceed regularly the maximum levels. It is not possible to control every single batch of fish and fishery products for compliance with the maximum levels. Therefore in order to ensure that only fish and fishery products in compliance with EU legislation are placed on the market, a list of fish from the Baltic region for which non-compliance can be expected has been established. This list has been established on the basis of available data and has to be regularly updated. For the fish and fishery products from the Baltic region for which compliance cannot be ensured based on the available occurrence data, specific risk management measures have been determined to ensure that only fish and fishery products compliant with EU legislation are placed on the market.
- (3) It is necessary to continue to monitor the presence of dioxins and PCBs in fish and fishery products from the Baltic region. It is appropriate to recommend a minimum number of samples of fish and fishery products to be analysed in a coordinated way, based on the amount of catch,

HAS ADOPTED THIS RECOMMENDATION:

1. Denmark, Germany, Poland, Latvia, Estonia, Lithuania, Finland and Sweden should, with the active involvement of food business operators, perform monitoring for the presence of dioxins, dioxin-like PCBs and non-dioxin-like PCBs in fish and fishery products such as liver from the Baltic region, in accordance with Annex I to this Recommendation.
2. In order to ensure that the samples are representative for the sampled lot, Member States and food business operators should follow the sampling procedures laid down in Commission Regulation (EU) No 589/2014 ⁽²⁾.
3. The method of analysis used for the monitoring of the presence of dioxins, dioxin-like PCBs and non-dioxin-like PCBs has to comply with the criteria laid down in Regulation (EU) No 589/2014.

⁽¹⁾ Commission Regulation (EC) No 1881/2006 of 19 December 2006 setting maximum levels for certain contaminants in foodstuffs (OJ L 364, 20.12.2006, p. 5).

⁽²⁾ Commission Regulation (EU) No 589/2014 of 2 June 2014 laying down methods of sampling and analysis for the control of levels of dioxins, dioxin-like PCBs and non-dioxin-like PCBs in certain foodstuffs and repealing Regulation (EU) No 252/2012 (OJ L 164, 3.6.2014, p. 18).

4. Member States should ensure that the analytical results are provided on a regular basis (every 6 months) in the EFSA data submission format to EFSA in line with the requirements of EFSA's Guidance on Standard Sample Description (SSD) for Food and Feed ⁽¹⁾ and the additional EFSA's specific reporting requirements.

— Samples can be individual fishes or pooled samples but in case of pooled samples, fish must be of the same size and be caught in the same ICES zone/region.

For Baltic herring, salmon, (sea) trout and sprat, specific additional reporting requirements apply (insofar not yet explicitly foreseen in the usual reporting format):

— Catch zone, preferably ICES zone (other indication such as FAO zone or name of the part of the Baltic Sea is acceptable insofar ICES zone is not available). In case of fish from lakes or rivers, name of the lake or river to be given.

Data without precise indication of the zone where they were caught can be provided with an indication as precise as possible where they were caught.

— Date of the catch.

— Size of the fish/age of the fish/weight of the fish

— Measurement of the size of the fish to be performed as specified in Council Regulation (EC) No 2187/2005 ⁽²⁾. Size and weight are the most important parameters. Age can be provided if known.

— Information on the matrix analysed (muscle meat, liver, ...).

— Fat content of the fish/fishes in the sample.

— Information on the processing (trimmed, smoked or otherwise processed).

— Any other relevant information (e.g. on the nature of the sample in case usual columns do not provide sufficient detail: e.g. single fish result).

5. Available data from samples taken from the year 2009 onwards, and which have not yet been submitted to the EFSA database, should be provided to the EFSA in the EFSA data submission format, insofar possible.

6. Based on the current available data, information on the presence of dioxins, dioxin-like PCBs and non-dioxin-like PCBs in certain fish species from a certain age, size and geographical region (ICES zone) and in particular as regards their compliance with the maximum level established in Regulation (EC) No 1881/2006, is provided in Annex II.

7. In order to ensure that only fish and fishery products, compliant with EU legislation, are placed on the EU market, risk management measures as outlined in Annex III are recommended to be applied as regards fish from the Baltic region. Member States referred to in point 1 may take national measures to implement the risk management measures recommended in Annex III.

Done at Brussels, 2 May 2016.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

⁽¹⁾ <http://www.efsa.europa.eu/en/datex/datexsubmitdata.htm>

⁽²⁾ Council Regulation (EC) No 2187/2005 of 21 December 2005 for the conservation of fishery resources through technical measures in the Baltic Sea, the Belts and the Sound, amending Regulation (EC) No 1434/98 and repealing Regulation (EC) No 88/98 (OJ L 349, 31.12.2005, p. 1).

ANNEX I

- (1) Minimum number of samples of Baltic herring (*Clupea harengus membras*) recommended to be taken in 2016 for analysis of the presence of dioxins, dioxin-like PCBs and non-dioxin-like PCBs, preferably in ICES zones 28-1, 28-2, 29, 30, 31 and 32.

	DE	DK	EE	FIN	LT	LV	PL	SE	Tot
Herring	7	5	7	20	4	4	9	14	70

- (2) Minimum number of samples of European sprat (*Sprattus sprattus*) recommended to be taken in 2017 for analysis of the presence of dioxins, dioxin-like PCBs and non-dioxin-like PCBs, preferably in ICES zones 29, 30, 31 and 32.

	DE	DK	EE	FIN	LT	LV	PL	SE	Tot
Sprat	5	8	8	5	5	9	18	12	70

- (3) Minimum number of samples of salmon (*Salmo salar*) and trout (*Salmo trutta*, *Oncorhynchus mykiss*) recommended to be taken in 2018 for analysis of the presence of dioxins, dioxin-like PCBs and non-dioxin-like PCBs.

	DE	DK	EE	FIN	LT	LV	PL	SE	Tot
Salmon/trout	5	12	5	15	5	5	11	12	70

- (4) Minimum number of samples recommended to be taken yearly from 2016 until 2018 for analysis of the presence of dioxins, dioxin-like PCBs and non-dioxin-like PCBs.

	DE	DK	EE	FIN	LT	LV	PL	SE	Tot
Several fish species (*)	10	10	10	10	10	10	10	10	80

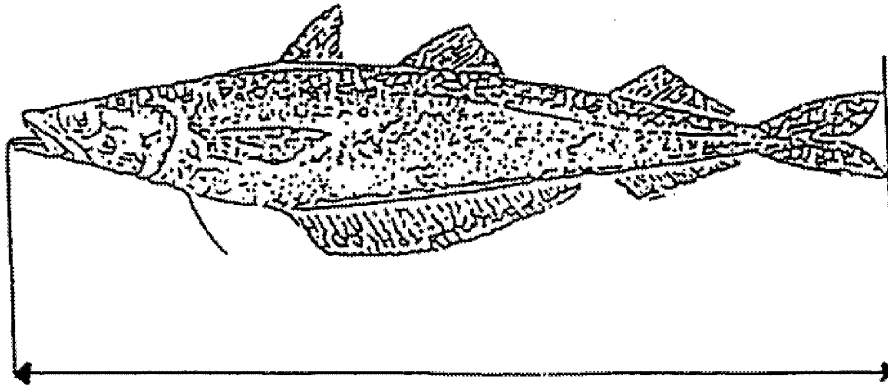
(*) Atlantic cod (*Gadus morhua*), European plaice (*Pleuronectes platessa*), European river lamprey (*Lampetra fluviatilis*), char (*Salvelinus* sp.), white bream (*Blicca bjoerkna*), European eel (*Anguilla Anguilla*), freshwater bream (*Abramis brama*), European flounder (*Platichthys flesus*), European perch (*Perca fluviatilis*), northern pike (*Esox lucius*), pike-perch (*Sander lucioperca*), roach (*Rutilus rutilus*), vendace (*Coregonus Albula*), garfish (*Belone belone*), European smelt (*Osmerus eperlanus*), turbot (*Psetta maxima*), vimba bream (*Vimba vimba*), whitefish (*Coregonus* sp.) and whiting (*Merlangius merlangus*).

ANNEX II

Information on the presence of dioxins, dioxin-like PCBs and non-dioxin-like PCBs in certain fish species from a certain age, size and geographical region (ICES zone) and in particular as regards their compliance with the maximum level established in Regulation (EC) No 1881/2006.

1. *Size of the fish*

The size of any fish referred to in this annex shall be measured as shown in the figure below from the tip of the snout to the end of the tail fin.



2. *Minimum sizes of certain fish species allowed to be caught in the Baltic region for sustainability reasons (Regulation (EC) No 2187/2005)*

- Salmon (*Salmo salar*) (whole Baltic region except ICES 31): minimum size is 60 cm (consequently fish < 2 kg not allowed to be caught).
- Salmon (*Salmo salar*) (ICES 31): minimum size is 50 cm (consequently fish < 2 kg not allowed to be caught).
- Sea trout (*Salmo trutta*) (ICES 22, 23, 24 and 25 and ICES 29, 30, 31 and 32): minimum size is 40 cm (consequently fish < 2 kg not allowed to be caught).
- Sea trout (*Salmo trutta*) (ICES 26, 27 and 28): minimum size is 50 cm (consequently fish < 2 kg not allowed to be caught).

3. *Information on the presence of dioxins, dioxin-like PCBs and non-dioxin-like PCBs in certain fish species from a certain age, size and geographical region (ICES zone)*

3.1. *Baltic herring*

In ICES 22, 23, 24, 25, 26 and 27: Baltic herring regardless the size assumed to be compliant with maximum level.

In ICES 28-1, 29, 30, 31 and 32: Baltic herring ≤ 17 cm assumed to be compliant and Baltic herring > 17 cm suspected to be non-compliant.

In ICES 28-2: Baltic herring ≤ 21 cm assumed to be compliant and Baltic herring > 21 cm suspected to be non-compliant.

3.2. *Salmon*

Salmon from ICES 22 and 23 comes from the North Atlantic and not from the Baltic region and is therefore not part of these conclusions as regards presence of dioxins and PCBs and common risk management measures.

Salmon < 2 kg assumed compliant (but not allowed to be caught for sustainability reasons — according to Regulation (EC) No 2187/2005; minimum size 60 cm and for ICES 31: 50 cm).

In ICES 24, 25, 26:

- salmon more than 2 kg up to 5,5 kg: compliant after trimming (trimming results in about 30 % reduction of dioxin/dioxin-like PCB content — experience only in ICES 24, 25, 26),
- smaller salmon (2-4 kg) not trimmed: suspected non-compliance, although majority of salmon compliant,
- larger salmon (4-5,5 kg): suspected to be non-compliant for the majority of the salmon,
- trimmed salmon < 5,5 kg: compliant,
- salmon trimmed and ventral part removed < 7,9 kg: compliant.

In ICES 27, 28, 29, 30, 31 and 32:

- salmon > 2 kg (larger than 60 cm): suspected to be non-compliant.

3.3. Trout

(Sea) trout < 2 kg assumed compliant (but not allowed to be caught for sustainability reasons according to Regulation (EC) No 2187/2005; minimum size for ICES 22, 23, 24, 25, 29, 30, 31 and 32: 40 cm and for ICES 26, 27 and 28: 50 cm).

In ICES 22, 23, 24, 25, 26:

- (sea) trout more than 2 kg up to 4,5 kg: compliant after trimming and removal ventral part,
- smaller (sea) trout (2-4 kg): suspected non-compliance, although majority of (sea) trout compliant,
- larger (sea) trout: suspected to be non-compliant for the majority of the (sea) trout.

In ICES 27, 28, 29, 30, 31 and 32:

- all (sea) trout > 2 kg (larger than 40/50 cm) suspected to be non-compliant.

3.4. Sprat

In ICES zones 22, 23, 24, 25, 26, 27 and 28: assumed to be compliant.

In ICES zones 29, 30, 31 and 32: if sprats are smaller than 12,5 cm and less than 5 years, then assumed to be compliant. If larger than 12,5 cm, then suspected to be non-compliant.

3.5. Cod liver

Non-compliance is suspected.

3.6. River lamprey

In ICES 28: non-compliance suspected.

In ICES 32: assumed to be compliant.

3.7. Other fish species

Char is not traded and local catch falls under derogation (Sweden/Finland).

Other fish species are assumed to be compliant.

ANNEX III

Risk management measures recommended to be taken by the competent authorities to ensure that fish from the Baltic region placed on the market in the EU complies with the maximum levels as established in Regulation (EC) No 1881/2006.1. *General recommended risk management measures*

- Traceability is of major importance.
- For trade of herring, salmon, sea trout and sprat to other EU Member States or marketing on the domestic market not falling under a derogation, the ICES zone where the fish has been caught should be mentioned on the accompanying documents. Where necessary it should be clearly mentioned that the lot has been sampled and analysed for dioxins, for the sum of dioxins and dioxin-like PCBs and for non-dioxin-like PCBs in accordance with EU legislation and has been found compliant with EU legislation. The analytical bulletin can be enclosed or should be made available upon request.
- In case it is not possible to provide precise information on the ICES zone where the fish has been caught, for the trade of herring > 17 cm, salmon, sea trout and sprat > 12,5 cm to other EU Member States or marketing on the domestic market not falling under a derogation, the lot of fish should always be sampled and analysed for dioxins, for the sum of dioxins and dioxin-like PCBs and for non-dioxin-like PCBs in accordance with EU legislation for checking compliance with EU legislation. This should be clearly stated in the accompanying documents. The analytical bulletin can be enclosed or should be made available upon request.
- Authority at port of landing is responsible for doing the necessary controls to ensure compliance.
- Documented evidence should be available as regards the fate of the fish which cannot be marketed for human consumption.

2. *Specific recommended risk management measures*

2.1. Baltic herring

- Baltic herring from ICES 22, 23, 24, 25, 26 and 27 → can be marketed for human consumption.
- Baltic herring from ICES 28-1, 29, 30, 31, 32:
 - Sweden and Finland:
 - Without sorting, Baltic herring can be marketed on domestic market only.
 - For trade to other EU Member States: obligatory sorting of herring in ≤ 17 cm and > 17 cm before placing on the market (as the sorting is done by width, this is approximate, but this is no problem):
 - Baltic herring ≤ 17 cm can be marketed for human consumption,
 - Baltic herring > 17 cm can be marketed or processed for human consumption for the domestic market only, or can be marketed outside the domestic market only if analysis of the individual lot has demonstrated compliance.
 - Germany, Denmark, Estonia, Latvia, Lithuania and Poland:
 - obligatory sorting of the Baltic herring in ≤ 17 cm and > 17 cm before placing on the market (as the sorting is done by width, this is approximate, but this is no problem):
 - Baltic herring ≤ 17 cm can be marketed for human consumption,
 - Baltic herring > 17 cm cannot be marketed or processed for human consumption, unless analysis of the individual lot has demonstrated compliance.

- Baltic herring from ICES 28-2:
 - Sweden and Finland:
 - Without sorting, Baltic herring can be marketed on domestic market only.
 - For trade to other EU Member States: obligatory sorting of Baltic herring in ≤ 21 cm and > 21 cm (as the sorting is done by width, this is approximate, but this is no problem):
 - Baltic herring ≤ 21 cm can be marketed or processed for human consumption,
 - Baltic herring > 21 cm can be marketed or processed for human consumption for the domestic market only, or can be marketed outside the domestic market only if analysis of the individual lot has demonstrated compliance.
 - Germany, Denmark, Estonia, Latvia, Lithuania and Poland:
 - obligatory sorting of the Baltic herring ≤ 21 cm and > 21 cm before placing on the market (as the sorting is done by width, this is approximate, but this is no problem):
 - Baltic herring ≤ 21 cm can be marketed for human consumption,
 - Baltic herring > 21 cm cannot be marketed or processed for human consumption, unless analysis of the individual lot has demonstrated compliance.

2.2. Salmon

- Salmon from ICES 24, 25 and 26:
 - Sweden, Finland and Latvia:
 - Salmon can be marketed for domestic market (derogation),
 - Trade to other EU Member States countries: only possible if analysis of the individual lot has shown compliance with EU legislation.
 - Germany, Denmark, Estonia, Lithuania and Poland:
 - Salmon larger than 2 kg can be marketed for human consumption only if analysis of the individual lot has shown compliance with EU legislation,
 - Salmon weighing less than 5,5 kg is compliant after trimming (procedure applied in Denmark and Poland only for ICES 24, 25 and 26) and salmon more than 5,5 kg up to 7,9 kg is compliant after trimming and removing ventral part (procedure applied in Poland for ICES 24, 25 and 26),
 - Trimmed salmon $> 5,5$ kg and salmon trimmed and ventral part removed $> 7,9$ kg can be marketed for human consumption only if analysis of the individual lot has shown compliance with EU legislation.
- Salmon from ICES 27, 28, 29, 30, 31 and 32:
 - Sweden, Finland and Latvia:
 - Salmon can be marketed for domestic market (derogation),
 - Trade to other EU Member States countries: only possible if analysis of individual lot has shown compliance with EU legislation.
 - Germany, Denmark, Estonia, Lithuania and Poland:
 - Salmon can be marketed for human consumption only if analysis of the individual lot has shown compliance with EU legislation.

2.3. (Sea) trout

- (sea) trout from ICES 22, 23, 24, 25 and 26:
 - Sweden and Finland:
 - (sea) trout can be marketed for domestic market (derogation),
 - Trade to other EU Member States countries: only possible if analysis of the individual lot has shown compliance with EU legislation.
 - Germany, Denmark, Estonia, Latvia, Lithuania and Poland:
 - (sea) trout weighing more than 2 kg: trout can be marketed for human consumption only if analysis of the individual lot has shown compliance with EU legislation,
 - (sea) trout trimmed and ventral part removed < 4,5 kg: compliant (procedure applied in Poland for ICES 22-23-24-25-26),
 - (sea) trout trimmed and ventral part removed > 4,5 kg can be marketed for human consumption if analysis of the individual lot has shown compliance with EU legislation.
- (sea) trout from ICES 27, 28, 29, 30, 31 and 32:
 - Sweden and Finland:
 - (sea) trout can be marketed for domestic market (derogation),
 - Trade to other EU Member States countries: only possible if analysis of the individual lot has shown compliance with EU legislation.
 - Germany, Denmark, Estonia, Latvia, Lithuania and Poland:
 - (sea) trout can be marketed for human consumption only if analysis of the individual lot has shown compliance with EU legislation.

2.4. Sprat

- Sprat from ICES 22, 23, 24, 25, 26, 27, 28 can be marketed for human consumption
- Sprat from ICES 29, 30, 31, 32:
 - Obligatory sorting in sprats $\leq 12,5$ cm and sprats $> 12,5$ cm,
 - Sprats $\leq 12,5$ cm can be marketed for human consumption,
 - Sprats $> 12,5$ cm cannot be marketed or processed for human consumption, unless analysis of the individual lot has demonstrated compliance.

2.5. Cod liver

Cod liver from cod caught in the Baltic region is suspected not to be compliant and therefore every lot should be analysed to show compliance before being placed on the EU market.

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

DECISION No 1/2016 OF THE JOINT EUROPEAN UNION/SWITZERLAND AIR TRANSPORT COMMITTEE SET UP UNDER THE AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE SWISS CONFEDERATION ON AIR TRANSPORT

of 11 April 2016

**replacing the Annex to the Agreement between the European Community and the Swiss
Confederation on Air Transport [2016/689]**

THE EUROPEAN UNION/SWITZERLAND AIR TRANSPORT COMMITTEE,

Having regard to the Agreement between the European Community and the Swiss Confederation on Air Transport, hereinafter referred to as 'the Agreement', and in particular Article 23(4) thereof,

HAS DECIDED AS FOLLOWS:

Sole Article

The Annex to this Decision replaces the Annex to the Agreement, as from 15 May 2016.

Done at Brussels, 11 April 2016.

For the Joint Committee

The Head of the European Union Delegation
Filip CORNELIS

The Head of the Swiss Delegation
Christian HEGNER

ANNEX

For the purposes of this Agreement:

- by virtue of the Treaty of Lisbon, entered into force on 1 December 2009, the European Union shall replace and succeed the European Community,
- wherever acts specified in this Annex contain references to Member States of the European Community, as replaced by the European Union, or a requirement for a link with the latter, the references shall, for the purpose of the Agreement, be understood to apply equally to Switzerland or to the requirement of a link with Switzerland,
- the references to Council Regulations (EEC) No 2407/92 and (EEC) No 2408/92 made in the Articles 4, 15, 18, 27 and 35 of the Agreement, shall be understood as references to Regulation (EC) No 1008/2008 of the European Parliament and of the Council,
- without prejudice to Article 15 of this Agreement, the term ‘Community air carrier’ referred to in the following Community directives and regulations shall include an air carrier which is licensed and has its principal place of business and, if any, its registered office in Switzerland in accordance with the provisions of Regulation (EC) No 1008/2008. Any reference to Regulation (EEC) No 2407/92 shall be understood as reference to Regulation (EC) No 1008/2008,
- any reference in the following texts to Articles 81 and 82 of the Treaty or to Articles 101 and 102 of the Treaty on the Functioning of the European Union shall be understood to mean Articles 8 and 9 of this Agreement.

1. Aviation liberalisation and other civil aviation rules

No 1008/2008

Regulation of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community.

No 2000/79

Council Directive of 27 November 2000 concerning the implementation of the European Agreement on the Organisation of Working Time of Mobile Workers in Civil Aviation concluded by the Association of European Airlines (AEA), the European Transport Workers’ Federation (ETF), the European Cockpit Association (ECA), the European Regions Airline Association (ERA) and the International Air Carrier Association (IACA).

No 93/104

Council Directive of 23 November 1993 concerning certain aspects of the organisation of working time, as amended by:

- Directive 2000/34/EC.

No 437/2003

Regulation of the European Parliament and of the Council of 27 February 2003 on statistical returns in respect of the carriage of passengers, freight and mail by air.

No 1358/2003

Commission Regulation of 31 July 2003 implementing Regulation (EC) No 437/2003 of the European Parliament and of the Council on statistical returns in respect of the carriage of passengers, freight and mail by air and amending Annexes I and II thereto.

No 785/2004

Regulation of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators, as amended by:

— Commission Regulation (EU) No 285/2010.

No 95/93

Council Regulation of 18 January 1993 on common rules for the allocation of slots at Community airports (Articles 1-12), as amended by:

— Regulation (EC) No 793/2004.

No 2009/12

Directive of the European Parliament and of the Council of 11 March 2009 on airport charges.

No 96/67

Council Directive of 15 October 1996 on access to the groundhandling market at Community airports

(Articles 1-9, 11-23, and 25).

No 80/2009

Regulation of the European Parliament and of the Council of 14 January 2009 on a Code of Conduct for computerised reservation systems and repealing Council Regulation (EEC) No 2299/89.

2. **Competition rules**

No 1/2003

Council Regulation of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (Articles 1-13, 15-45).

(To the extent that this Regulation is relevant for the application of this agreement. The insertion of this Regulation does not affect the division of tasks according to this agreement.)

No 773/2004

Commission Regulation of 7 April 2004 relating to proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty, as amended by:

— Commission Regulation (EC) No 1792/2006,

— Commission Regulation (EC) No 622/2008.

No 139/2004

Council Regulation of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation)

(Articles 1-18, 19(1)-(2), and 20-23),

With respect to Article 4(5) of the Merger Regulation the following shall apply between the European Community and Switzerland:

- (1) With regard to a concentration as defined in Article 3 of Regulation (EC) No 139/2004 which does not have a Community dimension within the meaning of Article 1 of that Regulation and which is capable of being reviewed under the national competition laws of at least three EC Member States and the Swiss Confederation, the persons or undertakings referred to in Article 4(2) of that Regulation may, before any notification to the competent authorities, inform the EC Commission by means of a reasoned submission that the concentration should be examined by the Commission.
- (2) The European Commission shall transmit all submissions pursuant to Article 4(5) of Regulation (EC) No 139/2004 and the previous paragraph to the Swiss Confederation without delay.
- (3) Where the Swiss Confederation has expressed its disagreement as regards the request to refer the case, the competent Swiss competition authority shall retain its competence, and the case shall not be referred from the Swiss Confederation pursuant to this paragraph.

With respect to time limits referred to in Articles 4(4) and (5), Articles 9(2) and (6), and Articles 22(2) of the Merger Regulation:

- (1) The European Commission shall transmit all the relevant documents pursuant to Articles 4(4) and (5), Articles 9(2) and (6) and Article 22(2) to the competent Swiss competition authority without delay.
- (2) The calculation of the time limits referred to in Articles 4(4) and (5), Articles 9(2) and (6), and Article 22(2) of Regulation (EC) No 139/2004 shall start, for the Swiss Confederation, upon receipt of the relevant documents by the competent Swiss competition authority.

No 802/2004

Commission Regulation of 7 April 2004 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (Articles 1-24), as amended by:

- Commission Regulation (EC) No 1792/2006,
- Commission Regulation (EC) No 1033/2008,
- Commission Implementing Regulation (EU) No 1269/2013.

No 2006/111

Commission Directive of 16 November 2006 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings.

No 487/2009

Council Regulation of 25 May 2009 on the application of Article 81(3) of the Treaty to certain categories of agreements and concerted practices in the air transport sector.

3. Aviation safety

No 216/2008

Regulation of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC, as amended by:

- Commission Regulation (EC) No 690/2009,

- Regulation (EC) No 1108/2009,
- Commission Regulation (EU) No 6/2013.

The Agency shall enjoy also in Switzerland the powers granted to it under the provisions of the Regulation.

The Commission shall enjoy also in Switzerland the powers granted to it for decisions pursuant to Article 11(2), Article 14(5),(7), Article 24(5), Article 25(1), Article 38(3)(i), Article 39(1), Article 40(3), Article 41(3),(5), Article 42(4), Article 54(1) and Article 61(3).

Notwithstanding the horizontal adaptation provided for in the second indent of the Annex to the Agreement between the European Community and the Swiss Confederation on Air Transport, the references to the 'Member States' made in Article 65 of the Regulation or in the provisions of Decision 1999/468/EC mentioned in that provision shall not be understood to apply to Switzerland.

Nothing in this Regulation shall be construed so as to transfer to the EASA authority to act on behalf of Switzerland under international agreements for other purposes than to assist in the performance of its obligations pursuant to such agreements.

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

(a) Article 12 is amended as follows:

- (i) in paragraph 1, the words 'or Switzerland' shall be inserted after the words 'the Community';
- (ii) in paragraph 2(a), the words 'or Switzerland' shall be inserted after the words 'the Community';
- (iii) in paragraphs 2 points (b) and (c) are deleted;
- (iv) the following paragraph is added:

'3. Whenever the Community negotiates with a third country in order to conclude an agreement providing that a Member State or the Agency may issue certificates on the basis of certificates issued by the aeronautical authorities of that third country, it shall endeavour to obtain for Switzerland an offer of a similar agreement with the third country in question. Switzerland shall, in turn, endeavour to conclude with third countries agreements corresponding to those of the Community'.

(b) In Article 29, the following paragraph shall be added:

'4. By way of derogation from Article 12(2)(a) of the Conditions of Employment of Other Servants of the European Communities, Swiss nationals enjoying their full rights as citizens may be engaged under contract by the Executive Director of the Agency.'

(c) In Article 30, the following paragraph is added:

'Switzerland shall apply to the Agency the Protocol on the Privileges and Immunities of the European Union, which is set out as Annex A to the present Annex, in accordance with the Appendix to Annex A.'

(d) In Article 37, the following paragraph is added:

'Switzerland shall participate fully in the Management Board and shall within it have the same rights and obligations as European Union Member States, except for the right to vote'.

(e) In Article 59, the following paragraph shall be added:

'12. Switzerland shall participate in the financial contribution referred to in paragraph 1(b), according to the following formula:

$$S (0,2/100) + S [1 - (a + b) 0,2/100] c/C$$

where:

S = the part of the budget of the Agency not covered by the fees and charges mentioned in paragraph 1 (c) and (d)

- a = the number of Associated States
- b = the number of EU Member States
- c = the contribution of Switzerland to the ICAO budget,
- C = the total contribution of the EU Member States and of the Associated States to the ICAO budget.'

(f) In Article 61, the following paragraph is added:

'The provisions relating to financial control by the Community in Switzerland concerning the participants in the activities of the Agency are set out in Annex B to the present Annex.'

(g) Annex II to the Regulation shall be extended to include the following aircraft as products covered by Article 2(3)(a)(ii) of Commission Regulation (EC) No 1702/2003 of 24 September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations ⁽¹⁾:

A/c - [HB-IMY, HB-IWY] — type Gulfstream G-IV

A/c - [HB-IMJ, HB-IVZ, HB-JES] — type Gulfstream G-V

A/c - [HB-ZCW, HB-ZDF] — type MD900.

No 1108/2009

Regulation of the European Parliament and of the Council of 21 October 2009 amending Regulation (EC) No 216/2008 in the field of aerodromes, air traffic management and air navigation services and repealing Directive 2006/23/EC

No 1178/2011

Commission Regulation of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, as amended by:

- Commission Regulation (EU) No 290/2012,
- Commission Regulation (EU) No 70/2014,
- Commission Regulation (EU) No 245/2014,
- Commission Regulation (EU) 2015/445.

No 3922/91

Council Regulation of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation (Articles 1-3, 4(2), (5-11, and 13), as amended by:

- Regulation (EC) No 1899/2006,
- Regulation (EC) No 1900/2006,
- Commission Regulation (EC) No 8/2008,
- Commission Regulation (EC) No 859/2008.

No 996/2010

Regulation of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC, as amended by:

- Regulation (EU) No 376/2014.

⁽¹⁾ OJ L 243, 27.9.2003, p. 6.

No 104/2004

Commission Regulation of 22 January 2004 laying down rules on the organisation and composition of the Board of Appeal of the European Aviation Safety Agency.

No 2111/2005

Regulation of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC.

No 473/2006

Commission Regulation of 22 March 2006 laying down implementing rules for the Community list of air carriers which are subject to an operating ban within the Community referred to in Chapter II of Regulation (EC) No 2111/2005 of the European Parliament and of the Council.

No 474/2006

Commission Regulation of 22 March 2006 establishing the Community list of air carriers which are subject to an operating ban within the Community referred to in Chapter II of Regulation (EC) No 2111/2005 of the European Parliament and of the Council, as last amended by:

— Commission Implementing Regulation (EU) 2015/2322.

No 1332/2011

Commission Regulation of 16 December 2011 laying down common airspace usage requirements and operating procedures for airborne collision avoidance.

No 646/2012

Commission Implementing Regulation of 16 July 2012 laying down detailed rules on fines and periodic penalty payments pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council.

No 748/2012

Commission Regulation of 3 August 2012 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations, as amended by:

- Commission Regulation (EU) No 7/2013,
- Commission Regulation (EU) No 69/2014,
- Commission Regulation (EU) 2015/1039.

No 965/2012

Commission Regulation of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, as amended by:

- Commission Regulation (EU) No 800/2013,
- Commission Regulation (EU) No 71/2014,
- Commission Regulation (EU) No 83/2014,

- Commission Regulation (EU) No 379/2014,
- Commission Regulation (EU) 2015/140,
- Commission Regulation (EU) 2015/1329,
- Commission Regulation (EU) 2015/640.

No 2012/780

Commission Decision of 5 December 2012 on access rights to the European Central Repository of Safety Recommendations and their responses established by Article 18(5) of Regulation (EU) No 996/2010 of the European Parliament and of the Council on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC.

No 628/2013

Commission Implementing Regulation of 28 June 2013 on working methods of the European Aviation Safety Agency for conducting standardisation inspections and for monitoring the application of the rules of Regulation (EC) No 216/2008 of the European Parliament and of the Council and repealing Commission Regulation (EC) No 736/2006.

No 139/2014

Commission Regulation of 12 February 2014 laying down requirements and administrative procedures related to aerodromes pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council.

No 319/2014

Commission Regulation of 27 March 2014 on the fees and charges levied by the European Aviation Safety Agency, and repealing Regulation (EC) No 593/2007.

No 452/2014

Commission Regulation of 29 April 2014 laying down technical requirements and administrative procedures related to air operations of third country operators pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council.

No 1321/2014

Commission Regulation of 26 November 2014 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks, as amended by:

- Commission Regulation (EU) 2015/1088,
- Commission Regulation (EU) 2015/1536.

No 2015/340

Commission Regulation of 20 February 2015 laying down technical requirements and administrative procedures relating to air traffic controllers' licences and certificates pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, amending Commission Implementing Regulation (EU) No 923/2012 and repealing Commission Regulation (EU) No 805/2011.

No 2015/640

Commission Regulation of 23 April 2015 on additional airworthiness specifications for a given type of operations and amending Regulation (EU) No 965/2012.

No 2015/1018

Commission Implementing Regulation of 29 June 2015 laying down a list classifying occurrences in civil aviation to be mandatorily reported according to Regulation (EU) No 376/2014 of the European Parliament and of the Council.

4. Aviation Security

No 300/2008

Regulation 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.

No 272/2009

Commission Regulation of 2 April 2009 supplementing the common basic standards on civil aviation security laid down in the Annex to Regulation (EC) No 300/2008 of the European Parliament and of the Council, as amended by:

- Commission Regulation (EU) No 297/2010,
- Commission Regulation (EU) No 720/2011,
- Commission Regulation (EU) No 1141/2011,
- Commission Regulation (EU) No 245/2013.

No 1254/2009

Commission Regulation of 18 December 2009 setting criteria to allow Member States to derogate from the common basic standards on civil aviation security and to adopt alternative security measures.

No 18/2010

Commission Regulation of 8 January 2010 amending Regulation (EC) No 300/2008 of the European Parliament and of the Council as far as specifications for national quality control programmes in the field of civil aviation security are concerned.

No 72/2010

Commission Regulation of 26 January 2010 laying down procedures for conducting Commission inspections in the field of aviation security.

No 2015/1998

Commission Implementing Regulation of 5 November 2015 laying down detailed measures for the implementation of the common basic standards on aviation security, as amended by:

- Commission Implementing Regulation (EU) 2015/2426.

No 2015/8005

Commission Implementing Decision of 16 November 2015 laying down detailed measures for the implementation of the common basic standards on aviation security containing information, as referred to in point (a) of Article 18 of Regulation (EC) No 300/2008.

5. Air traffic management

No 549/2004

Regulation of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the Single European Sky (the Framework Regulation), as amended by:

— Regulation (EC) No 1070/2009.

The Commission shall enjoy in Switzerland the powers granted to it pursuant to Articles 6, 8, 10, 11 and 12.

Article 10 shall be amended as follows:

In paragraph 2, the words ‘at Community level’ should be replaced by words ‘at Community level, involving Switzerland’.

Notwithstanding the horizontal adjustment referred to in the second indent of the Annex to the Agreement between the European Community and the Swiss Confederation on Air Transport, the references to the ‘Member States’ made in Article 5 of Regulation (EC) No 549/2004 or in the provisions of Decision 1999/468/EC mentioned in that provision shall not be understood to apply to Switzerland.

No 550/2004

Regulation of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the Single European Sky (the Service Provision Regulation), as amended by:

— Regulation (EC) No 1070/2009.

The Commission shall enjoy towards Switzerland the powers granted to it pursuant to Articles 9a, 9b, 15, 15a, 16 and 17.

The provisions of the Regulation shall, for the purposes of this Agreement, be amended as follows:

(a) Article 3 shall be amended as follows:

In paragraph 2, the words ‘and Switzerland’ shall be inserted after the words ‘the Community’.

(b) Article 7 is amended as follows:

In paragraph 1 and paragraph 6, the words ‘and Switzerland’ shall be inserted after the words ‘the Community’.

(c) Article 8 is amended as follows:

In paragraph 1, the words ‘and Switzerland’ shall be inserted after the words ‘the Community’.

(d) Article 10 is amended as follows:

In paragraph 1, the words ‘and Switzerland’ shall be inserted after the words ‘the Community’.

(e) Article 16(3) is replaced by the following:

‘3. The Commission shall address its decision to the Member States and inform the service provider thereof, in so far as it is legally concerned.’

No 551/2004

Regulation of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the Single European Sky (the Airspace Regulation), as amended by:

— Regulation (EC) No 1070/2009.

The Commission shall enjoy in Switzerland the powers granted to it pursuant to Articles 3a, 6 and 10.

No 552/2004

Regulation of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management network (the Interoperability Regulation), as amended by:

— Regulation (EC) No 1070/2009.

The Commission shall enjoy in Switzerland the powers granted to it pursuant to Articles 4, 7 and 10(3).

The provisions of the Regulation shall, for the purposes of this Agreement, be amended as follows:

(a) Article 5 is amended as follows:

In paragraph 2, the words 'or Switzerland' shall be inserted after the words 'the Community'.

(b) Article 7 is amended as follows:

In paragraph 4, the words 'or Switzerland' shall be inserted after the words 'the Community'.

(c) Annex III shall be amended as follows:

In section 3, second and last indents, the words 'or Switzerland' shall be inserted after the words 'the Community'.

No 2150/2005

Commission Regulation of 23 December 2005 laying down common rules for the flexible use of airspace.

No 1033/2006

Commission Regulation of 4 July 2006 laying down the requirements on procedures for flight plans in the pre-flight phase for the Single European Sky, as amended by:

— Commission Implementing Regulation (EU) No 923/2012,

— Commission Implementing Regulation (EU) No 428/2013.

No 1032/2006

Commission Regulation of 6 July 2006 laying down requirements for automatic systems for the exchange of flight data for the purpose of notification, coordination and transfer of flights between air traffic control units, as amended by:

— Commission Regulation (EC) No 30/2009.

No 730/2006

Commission Regulation of 11 May 2006 on airspace classification and access of flights operated under visual flight rules above flight level 195, as amended by:

— Commission Implementing Regulation (EU) No 923/2012.

No 219/2007

Council Regulation of 27 February 2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR), as amended by:

— Council Regulation (EC) No 1361/2008,

— Council Regulation (EU) No 721/2014.

No 633/2007

Commission Regulation of 7 June 2007 laying down requirements for the application of a flight message transfer protocol used for the purpose of notification, coordination and transfer of flights between air traffic control units, as amended by:

— Commission Regulation (EU) No 283/2011.

No 482/2008

Commission Regulation of 30 May 2008 establishing a software safety assurance system to be implemented by air navigation service providers and amending Annex II to Regulation (EC) No 2096/2005.

No 29/2009

Commission Regulation of 16 January 2009 laying down requirements on data link services for the Single European Sky, as amended by:

— Commission Implementing Regulation (EU) 2015/310.

The text of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

‘Switzerland UIR’ is added in Annex I, part A.

No 262/2009

Commission Regulation of 30 March 2009 laying down requirements for the coordinated allocation and use of Mode S interrogator codes for the Single European Sky

No 73/2010

Commission Regulation of 26 January 2010 laying down requirements on the quality of aeronautical data and aeronautical information for the Single European Sky, as amended by:

— Commission Implementing Regulation (EU) No 1029/2014.

No 255/2010

Commission Regulation of 25 March 2010 laying down common rules on air traffic flow management, as amended by:

— Commission Implementing Regulation (EU) No 923/2012.

No C(2010)5134

Commission Decision of 29 July 2010 on the designation of the Performance Review Body of the Single European Sky.

No 2014/672

Commission Implementing Decision of 24 September 2014 on the extension of the designation of the Performance Review Body of the single European sky.

No 176/2011

Commission Regulation of 24 February 2011 on the information to be provided before the establishment and modification of a functional airspace block.

No 677/2011

Commission Regulation of 7 July 2011 laying down detailed rules for the implementation of air traffic management (ATM) network functions and amending Regulation (EU) No 691/2010, as amended by:

— Commission Implementing Regulation (EU) No 970/2014.

No 2011/4130

Commission Decision of 7 July 2011 on the nomination of the Network Manager for the air traffic management (ATM) network functions of the single European sky.

No 1034/2011

Commission Implementing Regulation of 17 October 2011 on safety oversight in air traffic management and air navigation services and amending Regulation (EU) No 691/2010.

No 1035/2011

Commission Implementing Regulation of 17 October 2011 laying down common requirements for the provision of air navigation services and amending Regulations (EC) No 482/2008 and (EU) No 691/2010, as amended by:

— Commission Implementing Regulation (EU) No 923/2012,

— Commission Implementing Regulation (EU) No 448/2014.

No 1206/2011

Commission Implementing Regulation of 22 November 2011 laying down requirements on aircraft identification for surveillance for the single European sky.

The text of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

‘Switzerland UIR’ is added in Annex I.

No 1207/2011

Commission Implementing Regulation of 22 November 2011 laying down requirements for the performance and the interoperability of surveillance for the single European sky, as amended by:

— Commission Implementing Regulation (EU) No 1028/2014.

No 923/2012

Commission Implementing Regulation of 26 September 2012 laying down the common rules of the air and operational provisions regarding services and procedures in air navigation and amending Implementing Regulation (EU) No 1035/2011 and Regulations (EC) No 1265/2007, (EC) No 1794/2006, (EC) No 730/2006, (EC) No 1033/2006 and (EU) No 255/2010, as amended by:

— Commission Regulation (EU) 2015/340.

No 1079/2012

Commission Implementing Regulation of 16 November 2012 laying down requirements for voice channels spacing for the single European sky, as amended by:

— Commission Implementing Regulation (EU) No 657/2013.

No 390/2013

Commission Implementing Regulation of 3 May 2013 laying down a performance scheme for air navigation services and network functions.

No 391/2013

Commission Implementing Regulation of 3 May 2013 laying down a common charging scheme for air navigation services.

No 409/2013

Commission Implementing Regulation of 3 May 2013 on the definition of common projects, the establishment of governance and the identification of incentives supporting the implementation of the European Air Traffic Management Master Plan.

No 2014/132

Commission Implementing Decision of 11 March 2014 setting the Union-wide performance targets for the air traffic management network and alert thresholds for the second reference period 2015-19.

No 716/2014

Commission Implementing Regulation of 27 June 2014 on the establishment of the Pilot Common Project supporting the implementation of the European Air Traffic Management Master Plan.

6. Environment and noise

No 2002/30

Directive of the European Parliament and of the Council of 26 March 2002 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports (Articles 1-12, and 14-18).

(The amendments to Annex I, arising from Annex II, Chapter 8 (Transport policy), Section G (Air transport), point 2 of the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, shall apply).

No 89/629

Council Directive of 4 December 1989 on the limitation of noise emissions from civil subsonic jet aeroplanes.

(Articles 1-8)

No 2006/93

Directive of the European Parliament and of the Council of 12 December 2006 on the regulation of the operation of aeroplanes covered by Part II, Chapter 3, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988).

7. Consumer protection

No 90/314

Council Directive of 13 June 1990 on package travel, package holidays and package tours.

(Articles 1-10)

No 93/13

Council Directive of 5 April 1993 on unfair terms in consumer contracts.

(Articles 1-11)

No 2027/97

Council Regulation of 9 October 1997 on air carrier liability in the event of accidents (Articles 1-8), as amended by:

— Regulation (EC) No 889/2002.

No 261/2004

Regulation of the Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91

(Articles 1-18).

No 1107/2006

Regulation of the European Parliament and of the Council of 5 July 2006 concerning the right of disabled persons and persons with reduced mobility when travelling by air.

8. **Miscellaneous**

No 2003/96

Council Directive of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity

(Article 14(1)(b), and Article 14(2).

9. **Annexes**

A: Protocol on the Privileges and Immunities of the European Union.

B: Provisions on financial control by the European Union as regards Swiss participants in activities of the EASA.

ANNEX A

PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF THE EUROPEAN UNION

THE HIGH CONTRACTING PARTIES,

CONSIDERING that, in accordance with Article 343 of the Treaty on the Functioning of the European Union and Article 191 of the Treaty establishing the European Atomic Energy Community ('EAEC'), the European Union and the EAEC shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of their tasks,

HAVE AGREED upon the following provisions, which shall be annexed to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community:

CHAPTER I

PROPERTY, FUNDS, ASSETS AND OPERATIONS OF THE EUROPEAN UNION*Article 1*

The premises and buildings of the Union shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation. The property and assets of the Union shall not be the subject of any administrative or legal measure of constraint without the authorisation of the Court of Justice.

Article 2

The archives of the Union shall be inviolable.

Article 3

The Union, its assets, revenues and other property shall be exempt from all direct taxes.

The governments of the Member States shall, wherever possible, take the appropriate measures to remit or refund the amount of indirect taxes or sales taxes included in the price of movable or immovable property, where the Union makes, for its official use, substantial purchases the price of which includes taxes of this kind. These provisions shall not be applied, however, so as to have the effect of distorting competition within the Union.

No exemption shall be granted in respect of taxes and dues which amount merely to charges for public utility services.

Article 4

The Union shall be exempt from all customs duties, prohibitions and restrictions on imports and exports in respect of articles intended for its official use: articles so imported shall not be disposed of, whether or not in return for payment, in the territory of the country into which they have been imported, except under conditions approved by the government of that country.

The Union shall also be exempt from any customs duties and any prohibitions and restrictions on import and exports in respect of its publications.

CHAPTER II

COMMUNICATIONS AND LAISSEZ-PASSER*Article 5*

For their official communications and the transmission of all their documents, the institutions of the Union shall enjoy in the territory of each Member State the treatment accorded by that State to diplomatic missions.

Official correspondence and other official communications of the institutions of the Union shall not be subject to censorship.

Article 6

Laissez-passer in a form to be prescribed by the Council, acting by a simple majority, which shall be recognised as valid travel documents by the authorities of the Member States, may be issued to members and servants of the institutions of the Union by the Presidents of these institutions. These *laissez-passer* shall be issued to officials and other servants under conditions laid down in the Staff Regulations of officials and the Conditions of Employment of other servants of the Union.

The Commission may conclude agreements for these *laissez-passer* to be recognised as valid travel documents within the territory of third countries.

CHAPTER III

MEMBERS OF THE EUROPEAN PARLIAMENT*Article 7*

No administrative or other restriction shall be imposed on the free movement of Members of the European Parliament travelling to or from the place of meeting of the European Parliament.

Members of the European Parliament shall, in respect of customs and exchange control, be accorded:

- (a) by their own government, the same facilities as those accorded to senior officials travelling abroad on temporary official missions;
- (b) by the government of other Member States, the same facilities as those accorded to representatives of foreign governments on temporary official missions.

Article 8

Members of the European Parliament shall not be subject to any form of inquiry, detention or legal proceedings in respect of opinions expressed or votes cast by them in the performance of their duties.

Article 9

During the sessions of the European Parliament, its Members shall enjoy:

- (a) in the territory of their own State, the immunities accorded to members of their parliament;
- (b) in the territory of any other Member State, immunity from any measure of detention and from legal proceedings.

Immunity shall likewise apply to Members while they are travelling to and from the place of meeting of the European Parliament.

Immunity cannot be claimed when a Member is found in the act of committing an offence and shall not prevent the European Parliament from exercising its right to waive the immunity of one of its Members.

CHAPTER IV

REPRESENTATIVES OF MEMBER STATES TAKING PART IN THE WORK OF THE INSTITUTIONS OF THE EUROPEAN UNION

Article 10

Representatives of Member States taking part in the work of the institutions of the Union, their advisers and technical experts shall, in the performance of their duties and during their travel to and from the place of meeting, enjoy the customary privileges, immunities and facilities.

This Article shall also apply to members of the advisory bodies of the Union.

CHAPTER V

OFFICIALS AND OTHER SERVANTS OF THE EUROPEAN UNION

Article 11

In the territory of each Member State and whatever their nationality, officials and other servants of the Union shall:

- (a) subject to the provisions of the Treaties relating, on the one hand, to the rules on the liability of officials and other servants towards the Union and, on the other hand, to the jurisdiction of the Court of Justice of the European Union in disputes between the Union and its officials and other servants, be immune from legal proceedings in respect of acts performed by them in their official capacity, including their words spoken or written. They shall continue to enjoy this immunity after they have ceased to hold office;
- (b) together with their spouses and dependent members of their families, not be subject to immigration restrictions or to formalities for the registration of aliens;
- (c) in respect of currency or exchange regulations, be accorded the same facilities as are customarily accorded to officials of international organisations;
- (d) enjoy the right to import free of duty their furniture and effects at the time of first taking up their post in the country concerned, and the right to re-export free of duty their furniture and effects, on termination of their duties in that country, subject in either case to the conditions considered to be necessary by the government of the country in which this right is exercised;
- (e) have the right to import free of duty a motor car for their personal use, acquired either in the country of their last residence or in the country of which they are nationals on the terms ruling in the home market in that country, and to re-export it free of duty, subject in either case to the conditions considered to be necessary by the government of the country concerned.

Article 12

Officials and other servants of the Union shall be liable to a tax for the benefit of the Union on salaries, wages and emoluments paid to them by the Union, in accordance with the conditions and procedure laid down by the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure and after consultation of the institutions concerned.

They shall be exempt from national taxes on salaries, wages and emoluments paid by the Union.

Article 13

In the application of income tax, wealth tax and death duties and in the application of conventions on the avoidance of double taxation concluded between Member States of the Union, officials and other servants of the Union who, solely by reason of the performance of their duties in the service of the Union, establish their residence in the territory of a Member State other than their country of domicile for tax purposes at the time of entering the service of the Union, shall be considered, both in the country of their actual residence and in the country of domicile for tax purposes, as having maintained their domicile in the latter country provided that it is a member of the Union. This provision shall also apply to a spouse, to the extent that the latter is not separately engaged in a gainful occupation, and to children dependent on and in the care of the persons referred to in this Article.

Movable property belonging to persons referred to in the preceding paragraph and situated in the territory of the country where they are staying shall be exempt from death duties in that country; such property shall, for the assessment of such duty, be considered as being in the country of domicile for tax purposes, subject to the rights of third countries and to the possible application of provisions of international conventions on double taxation.

Any domicile acquired solely by reason of the performance of duties in the service of other international organisations shall not be taken into consideration in applying the provisions of this Article.

Article 14

The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure and after consultation of the institutions concerned, shall lay down the scheme of social security benefits for officials and other servants of the Union.

Article 15

The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, and after consulting the other institutions concerned, shall determine the categories of officials and other servants of the Union to whom the provisions of Article 11, the second paragraph of Article 12, and Article 13 shall apply, in whole or in part.

The names, grades and addresses of officials and other servants included in such categories shall be communicated periodically to the governments of the Member States.

CHAPTER VI

PRIVILEGES AND IMMUNITIES OF MISSIONS OF THIRD COUNTRIES ACCREDITED TO THE EUROPEAN UNION*Article 16*

The Member State in whose territory the Union has its seat shall accord the customary diplomatic immunities and privileges to missions of third countries accredited to the Union.

CHAPTER VII

GENERAL PROVISIONS*Article 17*

Privileges, immunities and facilities shall be accorded to officials and other servants of the Union solely in the interests of the Union.

Each institution of the Union shall be required to waive the immunity accorded to an official or other servant wherever that institution considers that the waiver of such immunity is not contrary to the interests of the Union.

Article 18

The institutions of the Union shall, for the purpose of applying this Protocol, cooperate with the responsible authorities of the Member States concerned.

Article 19

Articles 11 to 14 and Article 17 shall apply to Members of the Commission.

Article 20

Articles 11 to 14 and Article 17 shall apply to the Judges, the Advocates-General, the Registrars and the Assistant Rapporteurs of the Court of Justice of the European Union, without prejudice to the provisions of Article 3 of the Protocol on the Statute of the Court of Justice of the European Union relating to immunity from legal proceedings of Judges and Advocates-General.

Article 21

This Protocol shall also apply to the European Investment Bank, to the members of its organs, to its staff and to the representatives of the Member States taking part in its activities, without prejudice to the provisions of the Protocol on the Statute of the Bank.

The European Investment Bank shall in addition be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the Bank has its seat. Similarly, its dissolution or liquidation shall not give rise to any imposition. Finally, the activities of the Bank and of its organs carried on in accordance with its Statute shall not be subject to any turnover tax.

Article 22

This Protocol shall also apply to the European Central Bank, to the members of its organs and to its staff, without prejudice to the provisions of the Protocol on the Statute of the European System of Central Banks and the European Central Bank.

The European Central Bank shall, in addition, be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the bank has its seat. The activities of the Bank and of its organs carried on in accordance with the Statute of the European System of Central Banks and of the European Central Bank shall not be subject to any turnover tax.

*Appendix***Procedures for the application in Switzerland of the Protocol on privileges and immunities of the European Union****1. Extension of application to Switzerland**

Wherever the Protocol on the privileges and immunities of the European Union (hereinafter called 'the Protocol') contains references to Member States, the references are to be understood to apply equally to Switzerland, unless the following provisions determine otherwise.

2. Exemption of the Agency from indirect taxation (including VAT)

Goods and services exported from Switzerland are not to be subject to Swiss value added tax (VAT). In the case of goods and services provided to the Agency in Switzerland for its official use, in accordance with the second paragraph of Article 3 of the Protocol, exemption from VAT is by way of refund. Exemption from VAT shall be granted if the actual purchase price of the goods and services mentioned in the invoice or equivalent document totals at least 100 Swiss francs (inclusive of tax).

The VAT refund is to be granted on presentation to the Federal Tax Administration's VAT Main Division of the Swiss forms provided for the purpose. As a rule, refund applications must be processed within the three months following the date on which they were lodged together with the necessary supporting documents.

3. Procedures for the application of the rules relating to the Agency's staff

As regards the second paragraph of Article 12 of the Protocol, Switzerland shall exempt, according to the principles of its national law, officials and other servants of the Agency within the meaning of Article 2 of Regulation (Euratom, ECSC, EEC) No 549/69 of the Council ⁽¹⁾ from federal, cantonal and communal taxes on salaries, wages and emoluments paid to them by the European Union and subject to an internal tax for its own benefit.

Switzerland shall not be considered as a Member State within the meaning of point 1 above for the application of Article 13 of the Protocol.

Officials and other servants of the Agency and members of their families who are members of the social insurance system applicable to officials and other servants of the European Union are not obliged to be members of the Swiss social security system.

The Court of Justice of the European Union shall have exclusive jurisdiction in any matters concerning relations between the Agency or the Commission and its staff with regard to the application of Regulation (EEC, Euratom, ECSC) No 259/68 of the Council ⁽²⁾ and the other provisions of the European Union law laying down working conditions.

⁽¹⁾ Regulation (Euratom, ECSC, EEC) No 549/69 of the Council of 25 March 1969 determining the categories of officials and other servants of the European Communities to whom the provisions of Article 12, the second paragraph of Article 13 and Article 14 of the Protocol on the Privileges and Immunities of the Communities apply (OJ L 74, 27.3.1969, p. 1).

⁽²⁾ Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (Conditions of Employment of Other Servants) (OJ L 56, 4.3.1968, p. 1).

ANNEX B

FINANCIAL CONTROL AS REGARDS SWISS PARTICIPANTS IN ACTIVITIES OF THE EUROPEAN AVIATION AGREEMENT*Article 1***Direct communication**

The Agency and the Commission shall communicate directly with all persons or entities established in Switzerland and participating in activities of the Agency, as contractors, participants in Agency programmes, recipients of payments from the Agency or the Community budget, or subcontractors. Such persons may send directly to the Commission and to the Agency all relevant information and documentation which they are required to submit on the basis of the instruments referred to in this Decision and of contracts or agreements concluded and any decisions taken pursuant to them.

*Article 2***Checks**

1. In accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾ and the Financial Regulation adopted by the Management Board of the Agency on 26 March 2003, with Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽²⁾ and with the other instruments referred to in this Decision, contracts or agreements concluded and decisions taken with beneficiaries established in Switzerland may provide for scientific, financial, technological or other audits to be conducted at any time on the premises of the beneficiaries and of their subcontractors by Agency and Commission officials or by other persons mandated by the Agency and the Commission.
2. Agency and Commission officials and other persons mandated by the Agency and the Commission shall have appropriate access to sites, works and documents and to all the information required in order to carry out such audits, including in electronic form. This right of access shall be stated explicitly in the contracts or agreements concluded to implement the instruments referred to in this Decision.
3. The European Court of Auditors is to have the same rights as the Commission.
4. The audits may take place until five years after the expiry of this Decision or under the terms of the contracts or agreements concluded and the decisions taken.
5. The Swiss Federal Audit Office is to be informed in advance of audits conducted on Swiss territory. This information will not be a legal condition for carrying out such audits.

*Article 3***On-the-spot checks**

1. Under this Agreement, the Commission (OLAF) is authorised to carry out on-the-spot checks and inspections on Swiss territory, under the terms and conditions set out in Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities ⁽³⁾.

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.

⁽²⁾ OJ L 357, 31.12.2002, p. 72.

⁽³⁾ OJ L 292, 15.11.1996, p. 2.

2. On-the-spot checks and inspections shall be prepared and conducted by the Commission in close cooperation with the Swiss Federal Audit Office or with other competent Swiss authorities appointed by the Swiss Federal Audit Office, which shall be notified in good time of the object, purpose and legal basis of the checks and inspections, so that they can provide all the requisite help. To that end, the officials of the competent Swiss authorities may participate in the on-the-spot checks and inspections.
3. If the Swiss competent authorities concerned so wish, the on-the-spot checks and inspections may be carried out jointly by the Commission and the Swiss competent authorities.
4. Where the participants in the programme resist an on-the-spot check or inspection, the Swiss authorities, acting in accordance with national rules, shall give the Commission inspectors such assistance as they need to allow them to discharge their duty in carrying out an on-the-spot check or inspection.
5. The Commission shall report as soon as possible to the Swiss Federal Audit Office any fact or suspicion relating to an irregularity which has come to its notice in the course of the on-the-spot check or inspection. In any event the Commission is required to inform the aforementioned authority of the result of such checks and inspections.

Article 4

Information and consultation

1. For the purposes of proper implementation of this Annex, the competent Swiss and Community authorities shall exchange information regularly and, at the request of one of the Parties, shall conduct consultations.
2. The competent Swiss authorities shall inform the Agency and the Commission without delay of any fact or suspicion which has come to their notice relating to an irregularity in connection with the conclusion and implementation of the contracts or agreements concluded in application of the instruments referred to in this Decision.

Article 5

Confidentiality

Information communicated or acquired in any form whatsoever pursuant to this Annex will be covered by professional confidentiality and protected in the same way as similar information is protected by the national legislation of Switzerland and by the corresponding provisions applicable to the Community institutions. Such information shall not be communicated to persons other than those within the Community institutions, in the Member States, or in Switzerland whose functions require them to know it, nor may it be used for purposes other than to ensure effective protection of the financial interests of the Contracting Parties.

Article 6

Administrative measures and penalties

Without prejudice to application of Swiss criminal law, administrative measures and penalties may be imposed by the Agency or the Commission in accordance with Regulation (EC, Euratom) No 1605/2002 and Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾ and with Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests ⁽²⁾.

⁽¹⁾ OJ L 357, 31.12.2002, p. 1.

⁽²⁾ OJ L 312, 23.12.1995, p. 1.

*Article 7***Recovery and enforcement**

Decisions taken by the Agency or the Commission within the scope of this Decision which impose a pecuniary obligation on persons other than States shall be enforceable in Switzerland.

The enforcement order must be issued, without any further control than verification of the authenticity of the act, by the authority designated by the Swiss government, which must inform the Agency or the Commission thereof. Enforcement must take place in accordance with the Swiss rules of procedure. The legality of the enforcement decision is subject to control by the Court of Justice of the European Union.

Judgments given by the Court of Justice of the European Union pursuant to an arbitration clause are enforceable on the same terms.

