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EN

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

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EN

[1] Text with EEA relevance

I

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

REGULATIONS

REGULATION (EC) No 1490/2007 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 December 2007

repealing Council Regulation (EEC) No 954/79 concerning the ratification by Member States of, or their accession to, the United Nations Convention on a Code of Conduct for Liner Conferences

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee [1],

Following consultation of the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty [2],

Whereas:

(1) Council Regulation (EEC) No 954/79 [3] provides for requirements that Member States have to fulfil when ratifying the United Nations Convention on a Code of Conduct for Liner Conferences, or when acceding thereto.

(2) The Convention on a Code of Conduct for Liner Conferences sets out an international regulatory framework for shipping conferences, in particular by means of rules on access to shares of trade by ship owners established in the territories of the State parties to the Convention, which serves mutual foreign trade.

(3) Council Regulation (EC) No 1419/2006 should be 25 September 2006 [4] repealed Council Regulation (EEC) No 4056/86 of 22 December 1986 laying down detailed rules for the application of Articles 85 and 86 of the Treaty to maritime transport [5], which, *inter alia*, provided for an exemption from the prohibition in Article 81(1) of the Treaty in respect of shipping conferences.

(4) At the end of the transition period provided for by the second paragraph of Article 1 of Regulation (EC) No 1419/2006, the prohibition in Article 81(1) of the Treaty will apply to scheduled maritime transport services and, as a consequence, shipping conferences will no longer be allowed to operate in trade to or from the ports of the Member States.

(5) The Member States will therefore be prevented from fulfilling their obligations under the Convention on a Code of Conduct for Liner Conferences. From that time, Member States will no longer be in a position to ratify, approve or accede to that Convention. Regulation (EEC) No 954/79 will therefore become inapplicable and should be repealed with effect from the end of the transition period provided for in Regulation (EC) No 1419/2006, that is to say on 18 October 2008,

[1] OJ C 256, 27.10.2007, p. 62.
[2] Opinion of the European Parliament of 10 July 2007 (not yet published in the Official Journal) and Council Decision of 22 November 2007.
[3] OJ L 121, 17.5.1979, p. 1.
[4] OJ L 269, 28.9.2006, p. 1.
[5] OJ L 378, 31.12.1986, p. 4. Regulation as last amended by Regulation (EC) No 1/2003 (OJ L 1, 4.1.2003, p. 1).

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 954/79 shall be repealed.

Article 2

This Regulation shall enter into force on 18 October 2008.

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

Done at Strasbourg, 11 December 2007.

For the European Parliament	*For the Council*
The President	*The President*
H.-G. PÖTTERING	M. LOBO ANTUNES

COMMISSION REGULATION (EC) No 1491/2007

of 17 December 2007

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables [1], and in particular Article 4(1) thereof,

Whereas:

(1) Regulation (EC) No 3223/94 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 the Annex thereto.

(2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 18 December 2007.

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

Done at Brussels, 17 December 2007.

For the Commission

Jean-Luc DEMARTY

Director-General for Agriculture and Rural Development

[1] OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 756/2007 (OJ L 172, 30.6.2007, p. 41).

ANNEX

to Commission Regulation of 17 December 2007 establishing the 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	168,9
	MA	95,7
	TN	157,6
	TR	100,0
	ZZ	130,6
0707 00 05	JO	237,0
	MA	47,6
	TR	95,0
	ZZ	126,5
0709 90 70	MA	58,1
	TR	104,7
	ZZ	81,4
0709 90 80	EG	359,4
	ZZ	359,4
0805 10 20	AR	19,6
	TR	91,1
	ZA	38,1
	ZW	14,0
	ZZ	40,7
0805 20 10	MA	75,7
	ZZ	75,7
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	HR	15,2
	IL	66,9
	TR	73,3
	ZZ	51,8
0805 50 10	EG	81,3
	IL	82,7
	MA	119,9
	TR	97,3
	ZZ	95,3
0808 10 80	CA	86,7
	CN	107,4
	MK	32,8
	US	88,4
	ZZ	78,8
0808 20 50	CN	51,5
	US	122,8
	ZZ	87,2

(1) Country nomenclature as fixed by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1492/2007

of 17 December 2007

amending Council Regulation (EC) No 312/2003 as regards tariff quotas for certain products originating in Chile

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 312/2003 of 18 February 2003 implementing for the Community the tariff provisions laid down in the Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part [1], and in particular Article 5 thereof,

Whereas:

(1) Regulation (EC) No 312/2003 implements for the Community the tariff provisions laid down in the Agreement establishing an association between the Community and its Member States, of the one part, and the Republic of Chile, of the other part [2].

(2) By its Decision 2005/106/EC [3], the Council approved a Protocol to the Association Agreement between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, and the Slovak Republic to the European Union [4] (hereinafter referred to as the Protocol). The Protocol includes new Community tariff concessions, some of which are limited by tariff quotas.

(3) Commission Regulation (EC) No 305/2005 of 19 October 2004 amending Council Regulation (EC) No 312/2003 as regards tariff quotas for certain products originating in Chile implemented these new concessions.

(4) In accordance with the Protocol, the volumes of the new tariff quotas should be increased annually, from 1 January 2005, by five percent of the original quantity. In the interest of clarity it is necessary to lay down the total volumes of the tariff quotas available in 2005 for the products in question, in which the increase for that year is already included.

(5) Regulation (EC) No 312/2003 should therefore be amended accordingly.

(6) As the tariff quota volumes set out in this Regulation have to take effect from 1 January 2005, this Regulation should apply from the same date and should enter into force immediately.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 312/2003 is amended as follows:

1. in Article 3 the following paragraph 3 is added:

'3. The annual volume of the tariff quota at order No 09.1941 in the Annex shall be increased successively by five per cent each year of the original quantity from 1 January 2005.'

2. the Annex is amended as set out 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*.

It shall apply from 1 January 2005.

[1] OJ L 46, 20.2.2003, p. 1. Regulation as amended by Commission Regulation (EC) No 305/2005 (OJ L 52, 25.2.2005, p. 6).
[2] OJ L 352, 30.12.2002, p. 3.
[3] OJ L 38, 10.2.2005, p. 1.
[4] OJ L 38, 10.2.2005, p. 3.

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

Done at Brussels, 17 December 2007.

For the Commission
László KOVÁCS
Member of the Commission

ANNEX

In the Annex to Regulation (EC) No 312/2003, the Table is amended as follows:

1. In the row for the tariff quota with order number 09.1925, the annual tariff quota volume in the fourth column is replaced by the following:

   '581,50 tonnes (*)

   (*) This annual quota volume shall apply from 1 January 2005. It shall be increased successively each year, and for the first time in 2006 for that year, with 26,50 tonnes (five per cent of the original volume of 530 tonnes).';

2. In the row for the tariff quota with order number 09.1929, the annual tariff quota volume in the fourth column is replaced by the following:

   '42 275 tonnes (**)

   (**) This annual quota volume shall apply from 1 January 2005. It shall be increased successively each year, and for the first time in 2006 for that year, with 1 925 tonnes (five per cent of the original volume of 38 500 tonnes).';

3. In the row for the tariff quota with order number 09.1941, the annual tariff quota volume in the fourth column is replaced by the following:

   '1 050 tonnes (***)

   (***) This annual quota volume shall apply from 1 January 2005. It shall be increased successively each year, and for the first time in 2006 for that year, with 50 tonnes (five per cent of the original volume of 1 000 tonnes).'

COMMISSION REGULATION (EC) No 1493/2007

of 17 December 2007

establishing, pursuant to Regulation (EC) No 842/2006 of the European Parliament and of the Council, the format for the report to be submitted by producers, importers and exporters of certain fluorinated greenhouse gases

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 842/2006 of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases [1], and in particular Article 6(2) thereof;

Whereas:

(1) The data to be submitted by the importers and producers should include estimates of quantities of fluorinated greenhouse gases expected to be used in the main applications, including the quantities expected to be used as feedstock, in order to provide additional information for the Commission and the Member States with the objective of acquiring emission data for the relevant sectors.

(2) Producers purchase and sell fluorinated greenhouse gases from and to other producers for commercial reasons and in these cases only the purchasing producer can report on the quantities of those substances expected to be used in the main applications.

(3) Stakeholders have been consulted on the format of the report and their experience in reporting under Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer [2] has been taken into account.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 18(1) of Regulation (EC) No 2037/2000,

HAS ADOPTED THIS REGULATION:

Article 1

The format of the report referred to in Article 6(1) of Regulation (EC) No 842/2006 is set out in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 17 December 2007.

For the Commission
Stavros DIMAS
Member of the Commission

[1] OJ L 161, 14.6.2006, p. 1.

[2] OJ L 244, 29.9.2000, p. 1. Regulation as last amended by Commission Decision 2007/540/EC (OJ L 198, 31.7.2007, p. 35).

ANNEX

REPORTING FORM FOR PRODUCERS, IMPORTERS AND EXPORTERS OF FLUORINATED GREENHOUSE GASES

PART 1

INTRODUCTION

Article 6 of Regulation (EC) No 842/2006 on certain fluorinated greenhouse gases requires that producers, importers, and exporters of fluorinated greenhouse gases report certain activities to the European Commission annually, beginning in 2008 (for activities occurring during 2007). The following form is to be completed by producers, importers, and exporters in the European Community who produce, import, and/or export more than one metric tonne of fluorinated greenhouse gases, or preparations containing fluorinated greenhouse gases, per annum.

Quantities imported or exported shall include bulk shipments, including those shipped with equipment for the purpose of charging that equipment, but not quantities contained in equipment (i.e., pre-charged equipment). Reported imports and exports of fluorinated greenhouse gases should include only those quantities imported from or exported to countries outside the Community. Similarly, Regulation (EC) No 842/2006 does not require importers to report on quantities purchased from Community producers or distributors, or on stockpiled quantities originally obtained from Community producers or distributors.

Companies that produce and capture more than one tonne of fluorinated greenhouse gases as a by-product of other chemical production (e.g., production of HFC-23 from the manufacture of HCFC-22) are responsible for completing this form to account for captured fluorinated greenhouse gases; by-products that are emitted and not captured do not need to be reported in this form.

CONFIDENTIALITY

All information provided in this report shall be considered strictly confidential. No company-specific information shall be disclosed to the public; all company data shall be aggregated into summary reports before being made available to the public. Any concerns regarding confidentiality can be addressed to the Commission or to the entity designated by the Commission.

INSTRUCTIONS

Complete all applicable parts of this form to account for activities occurring during the previous calendar year (i.e., activities conducted in 2007 shall be reported and submitted in 2008, no later than 31 March). For your reference, definitions that may be helpful for completing the forms and a listing of the regulated fluorinated greenhouse gases with corresponding CAS numbers are provided in Part 2.

Note that reporting is normally done at the company level (not the facility level).

Submission

Once completed, this report must be submitted by 31 March of the year following the year for which the report applies. The report shall be submitted to the Commission or to the entity designated by the Commission and to the competent authority in your Member State.

PART 2

Definitions
Fluorinated greenhouse gases: hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF_6) as listed in Annex I of Regulation (EC) No 842/2006 and preparations containing those substances, but excluding substances controlled under Regulation (EC) No 2037/2000 on substances that deplete the ozone layer. Preparation (industry often refers to preparations as blends): A mixture composed of two or more substances at least one of which is a fluorinated greenhouse gas, except where the total global warming potential of the preparation is less than 150. The total global warming potential of the preparation shall be determined in accordance with Part 2 of Annex I of Regulation (EC) No 842/2006 on certain fluorinated greenhouse gases. Placing on the market: For the purposes of these reporting forms, placing on the market means the supplying of or making available to a third party within the Community for the first time, against payment or free of charge, bulk quantities of fluorinated greenhouse gases, and includes import into the customs territory of the Community excluding those contained in equipment. Community co-producer: A producer of fluorinated greenhouse gases in the Community with whom another producer may conduct transactions (i.e., sales and purchases of fluorinated greenhouse gases). Feedstock: Any substance that undergoes chemical transformation in a process by which the chemical is entirely converted from its original composition and whose emissions are insignificant. Reclamation: The reprocessing of a recovered fluorinated greenhouse gas in order to meet a specified standard of performance. Recycling: The reuse of a recovered fluorinated greenhouse gas following a basic cleaning process. Destruction: The process by which all or most of a fluorinated greenhouse gas is permanently transformed or decomposed into one or more stable substances which are not fluorinated greenhouse gases. *Note:* Production of a fluorinated greenhouse gas preparation refers to the production of the preparation constituents, not to the blending process

Reporting on production of fluorinated greenhouse gas by-product
This form should not be used to report emissions of fluorinated greenhouse gas by-products that result from the manufacture of other chemicals (e.g., emissions of HFC-23 from the manufacture of HCFC-22); do not report on by-product fluorinated greenhouse gas production that is emitted directly to the atmosphere. However, companies that produce fluorinated greenhouse gases as a by-product of other chemical production and capture the by-product fluorinated greenhouse gases produced are responsible for completing this form to account for the captured by-product fluorinated greenhouse gases, which are considered as new production.

Fluorinated greenhouse gases covered by Regulation (EC) No 842/2006		
The table below lists the regulated fluorinated greenhouse gases and their corresponding Chemical Abstract Service (CAS) numbers. For the Combined Nomenclature (CN8) of regulated fluorinated greenhouse gases, refer to the current regulation, published no later than 31 October of the year before the year to which it applies, available at: http://europa.eu.int/eur-lex/lex/en/index.htm		
Regulated fluorinated greenhouse gases	**Chemical formula**	**CAS No**
Sulphur hexafluoride	SF_6	2551-62-4
Hydrofluorocarbons (HFCs):		
HFC-23	CHF_3	75-46-7
HFC-32	CH_2F_2	75-10-5
HFC-41	CH_3F	593-53-3
HFC-43-10mee	$C_5H_2F_{10}$	138495-42-8
HFC-125	C_2HF_5	354-33-6
HFC-134	$C_2H_2F_4$	359-35-3
HFC-134a	CH_2FCF_3	811-97-2
HFC-152a	$C_2H_4F_2$	75-37-6
HFC-143	$C_2H_3F_3$	430-66-0
HFC-143a	$C_2H_3F_3$	420-46-2
HFC-227ea	C_3HF_7	431-89-0
HFC-236cb	$CH_2FCF_2CF_3$	677-56-5
HFC-236ea	CHF_2CHFCF_3	431-63-0
HFC-236fa	$C_3H_2F_6$	690-39-1
HFC-245ca	$C_3H_3F_5$	679-86-7
HFC-245fa	$CHF_2CH_2CF_3$	460-73-1
HFC-365mfc	$CF_3CH_2CF_2CH_3$	406-58-6
Perfluorocarbons (PFCs):		
Perfluoromethane	CF_4	75-73-0
Perfluoroethane	C_2F_6	76-16-4
Perfluoropropane	C_3F_8	76-19-7
Perfluorobutane	C_4F_{10}	355-25-9
Perfluoropentane	C_5F_{12}	678-26-2
Perfluorohexane	C_6F_{14}	355-42-0
Perfluorocyclobutane	$c\text{-}C_4F_8$	115-25-3
PFC preparations or HFC preparations	Variable	Variable

PART 3

Company contact information

Company name: _____

Company address: _____

Postal code: _____

Country: _____

Contact person: _____

Phone No: _____

Fax No: _____

Email address: _____

Date of Submission: _____

Transaction year (Year to which this report applies): _____

☐ I certify that I am the authorised representative for this company and have personally examined and am familiar with the information submitted in this and all attached documents. To the best of my knowledge, all information submitted is true, accurate, and complete.

Fluorinated greenhouse gas transaction(s)

Reporting is required for any entity that has produced, imported, and/or exported more than one metric tonne of fluorinated greenhouse gases, or preparations containing fluorinated greenhouse gases, per annum. Select the fluorinated greenhouse gas transaction type(s) conducted during this reporting period. For fluorinated greenhouse gas production and/or import, also indicate fluorinated greenhouse gas type(s) produced/imported.

☐ Production
- ☐ HFCs
- ☐ PFCs
- ☐ SF_6

☐ Import
- ☐ HFCs/HFC preparations
- ☐ PFCs/PFC preparations
- ☐ SF_6

☐ Export

Based on the fluorinated greenhouse gas types and transactions types indicated above, complete all relevant reporting forms attached.

PART 4

Reporting HFC production and import data
Five forms are available for reporting HFC production and import data, as described below. Determine which forms apply to your company and complete as appropriate.
Producer and Importer Form 1: HFCs
This form should be used to report on the production and/or import of HFCs, including those used to produce preparations. Constituents of HFC preparations that were produced or imported as a substance and blended or imported as a preparation and re-blended should also be reported on this form. Only the most common HFCs are included on this form. Note: — If your company imported or purchased preparations that you did not re-blend, report those substances on Form 3. — If your company imported or produced HFCs or HFC preparations that are not listed on this form, proceed to Form 2.
Co-Producer Form 1 (only for producers)
Use this form to itemise co-producer transactions of the common HFCs. Ensure that the totals are the same as those reported on Producer and Importer Form 1.
Producer and Importer Form 2: Other HFCs
This form should be used to report on other HFCs not listed on Form 1. Constituents of HFC preparations produced or imported as a substance and blended or imported as a preparation and re-blended by your company should also be reported on this form. Note: — If your company imported or purchased preparations that you did not re-blend, report those substances on Form 3.
Co-Producer Form 2 (only for producers)
Use this form to itemize co-producer transactions of other HFCs not listed on Co-Producer Form 1. Ensure that the totals are the same as those reported on Producer and Importer Form 2.
Importer Form 3: HFC preparations (only for importers)
This form should be used to report on imports of HFC preparations that your company did not re-blend. Note: — If your company imported HFCs for use in preparations, report those substances on Form 1 and/or Form 2. — If your company imported HFC preparations and re-blended them, report those substances on Form 1 and/or Form 2.

Producer and Importer Form 1: HFCs

Complete the table as appropriate to account for all transactions (in metric tonnes) of HFCs for this reporting period. Producers of HFC preparations should use this form to report on each preparation constituent. (Refer to the introductory information of Part 4 for more complete instructions.) For HFCs not listed in this table, proceed to Form 2. Quantities imported or exported should include bulk shipments, including those shipped with equipment for the purpose of charging that equipment, but not quantities contained in equipment (i.e., pre-charged equipment). Importers that also purchase from Community producers or distributors, or stockpile quantities purchased from Community producers or distributors, are not responsible for reporting those amounts. If the intended application is 'Other' or 'Unknown', provide further explanation in the space below this table. Refer to Part 2 for definitions of terms.

	Transactions/ (metric tonnes)	HFC-32	HFC-125	HFC-134a	HFC-143a	HFC-152a	HFC-227ea	HFC-245fa	HFC-365mfc	HFC-43-10mee
A	Total new production from your facility/ies									
B	Amount imported into the Community									
C	Amount exported for sale outside the Community									
D	Other amounts collected for reclamation or destruction from within the Community									
Transactions for producers only										
E	Purchases from Community co-producers									
F	Sales to Community co-producers									
G	Amount purchased from other Community sources									
Stockpiles held during reporting year [a]										
H	Stocks held at 1 January									
I	Stocks held at 31 December									
Reclamation, destruction, and feedstock use										
J	Amount reclaimed by your company									
K	Amount destroyed by your company (on-site)									
L	Amount destroyed on your behalf (off-site within the Community)									
M	amount used as a feedstock by your company									
Net amount available for sale in the Community										
N	Calculated total (A+B-C+D+E-F+G+H-I-K-L-M)									
Intended applications of amounts placed on Community market for the first time (best estimates) [b]										
O	Refrigeration and air-conditioning									
P	Fire protection									
Q	Aerosols									
R	Solvents									
S	Foams									
T	Feedstock									
U	Other or unknown [c]									
V	Total amount placed on the Community market [b] (O+P+Q+R+S+T+U)									
W	Total sold (C+F+N)									

[a] Importers should only report on imported quantities held in stocks, i.e. not on stockpiled quantities originally obtained from Community producers or distributors (best estimates where appropriate). Producers should report all stockpiled quantities regardless of source.

[b] Total amount placed on the Community market does not include any quantities previously held by Community importers and/or distributors. Therefore, for importers, row V should equal row N; for producers, row V should equal row N minus any quantities sold on the Community market that were previously purchased from Community importers/distributors in this reporting year or in previous years.

[c] Identify other application(s) in the space below. If intended application is unknown, explain why.

Description of 'Other' and/or explanation of 'Unknown' Intended Application(s). Specify fluorinated greenhouse gas type, if intended application of more than one fluorinated greenhouse gas is marked as 'Other' or 'Unknown'.

Co-producer Form 1: HFCs

Complete the table to account for all co-producer transactions (in metric tonnes) of HFCs for this reporting period. For HFCs purchased or sold as constituents of preparations, report on each HFC component of the preparation separately. Refer to the introductory information of Part 4 for more complete instructions, and to Part 2 for definitions of terms.

	Company name/(metric tonnes)	HFC-32	HFC-125	HFC-134a	HFC-143a	HFC-152a	HFC-227ea	HFC-245fa	HFC-365mfc	HFC-43-10mee
Purchases from Community co-producers										
1										
2										
3										
4										
5										
6										
7										
8										
9										
	Total									
Sales to Community co-producers										
1										
2										
3										
4										
5										
6										
7										
8										
9										
	Total									

Producer and Importer Form 2: Other HFCs

Complete the table as appropriate to account for all transactions (in metric tonnes) of HFCs for this reporting period. Producers of preparations should use this form to report on each preparation constituent. Quantities imported or exported should include bulk shipments, including those shipped with equipment for the purpose of charging that equipment, but not quantities contained in equipment (i.e., pre-charged equipment). Importers that also purchase from Community producers or distributors, or stockpile quantities purchased from Community producers or distributors, are not responsible for reporting those amounts. If the intended application is 'Other' or 'Unknown', provide further explanation in the space below this table. This table should not be used to report emissions of HFC-23 from the manufacture of HCFC-22. Refer to the introductory information of Part 4 for more complete instructions, and to Part 2 for definitions of terms.

	Transactions/ (metric tonnes)	HFC-23 [a]	HFC-41	HFC-134	HFC-143	HFC-236cb	HFC-236ea	HFC-236fa	HFC-245ca	Other HFCs (Specify)	
										Name	Name
A	Total new production from your facility/ies										
B	Amount imported into the Community										
C	Amount exported for sale outside the Community										
D	Other amounts collected for reclamation or destruction from within the Community										
Transactions for producers only											
E	Purchases from Community co-producers										
F	Sales to Community co-producers										
G	Amount purchased from other Community sources										
Stockpiles held during reporting year [b]											
H	Stocks held at 1 January										
I	Stocks held at 31 December										
Reclamation, destruction, and feedstock use											
J	Amount reclaimed by your company										
K	Amount destroyed by your company (on-site)										
L	Amount destroyed on your behalf (off-site within the Community)										
M	Amount used as a feedstock by your company										

Net amount available for sale in the Community											
N	Calculated total (A+B-C+D+E-F+G+H-I-K-L-M)										
Intended applications of amounts placed on Community market for the first time (best estimates) (c)											
O	Refrigeration and air-conditioning										
P	Fire protection										
Q	Aerosols										
R	Solvents										
S	Foams										
T	Feedstock										
U	Other or unknown (d)										
V	Total amount placed on the Community market (c) (O+P+Q+R+S+T+U)										
W	Total sold (C+F+N)										

(a) This form should not be used to report emissions of HFC-23 from the manufacture of HCFC-22.
(b) Importers should only report on imported quantities held in stocks, i.e., not on stockpiled quantities originally obtained from Community producers or distributors (best estimates where appropriate). Producers should report all stockpiled quantities regardless of source.
(c) Total amount placed on the Community market does not include any quantities previously held by Community importers and/or distributors. Therefore, for importers, row V should equal row N; for producers, row V should equal row N minus any quantities sold on the Community market that were previously purchased from Community importers/distributors in this reporting year or in previous years.
(d) Identify other application(s) in the space below. If intended application is unknown, explain why.

Description of 'Other' and/or explanation of 'Unknown' Intended Application(s). Specify fluorinated greenhouse gas type, if intended application of more than one fluorinated greenhouse gas is marked as 'Other' or 'Unknown'.

Co-Producer Form 2: Other HFCs

Complete the table to account for all co-producer transactions (in metric tonnes) of HFCs for this reporting period. For HFCs purchased or sold as constituents of preparations, report on each HFC component of the preparation separately. Refer to the introductory information of Part 4 for more complete instructions, and to Part 2 for definitions of terms.

	Company Name/(metric tonnes)	HFC-23 (*)	HFC-41	HFC-134	HFC-143	HFC-236cb	HFC-236ea	HFC-236fa	HFC-245ca	Other HFCs (Specify)	
										Name	Name
Purchases from Community co-producers											
1											
2											
3											
4											
5											
6											
7											
8											
9											
	Total										
Sales to Community co-producers											
1											
2											
3											
4											
5											
6											
7											
8											
9											
	Total										

Importer Form 3: HFC preparations*

* Not including preparations re-blended by your company

Complete the table as appropriate to account for all transactions (in metric tonnes) of HFC preparations for this reporting period. Do not use this form to report on preparations that you produced or re-blended. If the types of HFC preparations imported by your company are not listed in the table below, use the blank columns to identify and report on additional preparation types (and be sure to indicate composition). For preparations that also contain PFCs, report quantities on either the PFC Producer and Importer form or this form; do not duplicate information. Quantities imported or exported should include bulk shipments, including those shipped with equipment for the purpose of charging that equipment, but not quantities contained in equipment (i.e., pre-charged equipment). Importers that also purchase from Community producers or distributors are not responsible for reporting those quantities. Refer to the introductory information of Part 4 for more complete instructions, and to Part 2 for definitions of terms.

	Transactions/ (metric tonnes)	R-404a	R-407c	R-410a	R-507	Other HFC preparations (specify name and composition) [a]	
						Name	Name
A	Amount imported into the Community						
B	Amount exported for sale outside the Community						
C	Other amounts collected for reclamation or destruction from within the Community						
Stockpiles held during reporting year [b]							
D	Stocks held at 1 January						
E	Stocks held at 31 December						
Reclamation, destruction, and feedstock use							
F	Amount reclaimed by your company						
G	Amount destroyed by your company (on-site)						
H	Amount destroyed on your behalf (off-site within the Community)						
I	Amount used as a feedstock by your company						
Net amount available for sale in the Community							
J	Calculated Total (A-B+C+D+E-E-F-G-H)						
Intended applications of amounts placed on Community market for the first time (best estimates)							
K	Refrigeration and air-conditioning						
L	Fire protection						
M	Aerosols						
N	Solvents						
O	Foams						
P	Feedstock						
Q	Other or unknown [c]						
R	Total amount placed on the Community market [d] (K+L+M+N+O+P+Q)						
S	Total Sold (B+J)						

[a] Indicate the preparation composition for each HFC preparation added to the table in the space below this table. For preparations that also contain PFCs, report quantities on either the PFC Producer and Importer form or this form; do not duplicate information.

[b] Importers should only report on imported quantities held in stocks, i.e., not on stockpiled quantities originally obtained from Community producers or distributors (best estimates where appropriate). Producers should report all stockpiled quantities regardless of source.

[c] Identify other application(s) in the space below this table. If intended application is unknown, explain why.

[d] Total in row R should equal total in row J.

Preparation composition for each HFC preparation added to the table (e.g., R-404a: 44 % HFC-125, 4 % HFC-134a, 52 % HFC-143a).

Description of 'Other' and/or explanation of 'Unknown' Intended Application(s). Specify fluorinated greenhouse gas type, if intended application of more than one fluorinated greenhouse gas is marked as 'Other' or 'Unknown'.

PART 5

Producer and Importer Form: SF_6

Complete the table as appropriate to account for all transactions (in metric tonnes) of SF_6 for this reporting period. Quantities imported or exported should include bulk shipments, including those shipped with equipment for the purpose of charging that equipment, but not quantities contained in equipment (i.e., pre-charged equipment). Importers that also purchase from Community producers or distributors, or stockpile quantities purchased from Community producers or distributors, are not responsible for reporting those amounts. If the intended application is 'Other' or 'Unknown', provide further explanation in the space below this table. Refer to Part 2 for definitions of terms.

	Transactions/ (metric tonnes)	Sulphur Hexafluoride (SF_6)
A	Total new production from your facility/ies	
B	Amount imported into the Community	
C	Amount exported for sale outside the Community	
D	Other amounts collected for reclamation or destruction from within the Community	
Transactions for producers only		
E	Purchases from Community co-producers	
F	Sales to Community co-producers	
G	Amount purchased from other Community sources	
Stockpiles held during reporting year [a]		
H	Stocks held at 1 January	
I	Stocks held at 31 December	
Reclamation and destruction		
J	Amount reclaimed by your company	
K	Amount destroyed by your company (on-site)	
L	Amount destroyed on your behalf (off-site within the Community)	
Net amount available for sale in the Community		
M	Calculated total (A+B–C+D+E–F+G+H-I-K-L)	
Intended applications of amounts placed on Community market for the first time (best estimates) [b]		
N	Electrical equipment	
O	Magnesium die casting operations	
P	Semiconductor manufacture	
Q	Other or unknown [c]	
R	Total amount placed on the Community market [b] (N+O+P+Q)	
S	Total Sold (C+F+M)	

[a] Importers should only report on imported quantities held in stocks, i.e., not on stockpiled quantities originally obtained from Community producers or distributors (best estimates where appropriate). Producers should report all stockpiled quantities regardless of source.
[b] Total amount placed on the Community market does not include any quantities previously held by Community importers and/or distributors. Therefore, for importers, row R should equal row M; for producers, row R should equal row M minus any quantities sold on the Community market that were previously purchased from Community importers/distributors in this reporting year or in previous years.
[c] Identify other application(s) in the space below this table. If intended application is unknown, explain why.

Description of 'Other' and/or explanation of 'Unknown' intended application(s).

Co-Producer Form: SF_6		
Complete the table to account for all co-producer transactions (in metric tonnes) of SF_6 for this reporting period. Refer to Part 2 for definitions of terms.		
	Company name/(metric tonnes)	Sulphur hexafluoride (SF_6)
Purchases from Community co-producers		
1		
2		
3		
4		
5		
6		
7		
	Total	
Sales to Community co-producers		
1		
2		
3		
4		
5		
6		
7		
	Total	

Producer and Importer Form: PFCs

Complete the table to account for all transactions (in metric tonnes) of PFCs for this reporting period. If the types of PFCs/PFC preparations produced/imported by your company are not listed in the table below, use the blank columns to identify and report on additional types (and be sure to indicate composition of preparations). For PFC preparations that your company produced, report on each PFC constituent individually. Report by preparation type only if you imported the preparation and did not re-preparation it. For preparations that also contain HFCs, report quantities on either the HFC Producer and Importer form or this form; do not duplicate information. Quantities imported or exported should include bulk shipments, including those shipped with equipment for the purpose of charging that equipment, but not quantities contained in equipment (i.e., pre-charged equipment). Importers that also purchase from Community producers or distributors, or stockpile quantities purchased from Community producers or distributors, are not responsible for reporting those amounts. If the intended application is 'Other' or 'Unknown', provide further explanation in the space below this table.

	Transactions/ (metric tonnes)	Perfluoro-methane (CF_4)	Perfluoro-ethane (C_2F_6)	Perfluoro-propane (C_3F_8)	Perfluoro-butane (C_4F_{10})	Perfluoro-pentane (C_5F_{12})	Perfluoro-hexane (C_6F_{14})	Perfluoro-cyclobutane ($c\text{–}C_4F_8$)	Other PFC/PFC preparations [a] (specify name and composition) [b]	
									Name	Name
A	Total new production from your facility/ies									
B	Amount imported into the Community									
C	Amount exported for sale outside the Community									
D	Other amounts collected for reclamation or destruction from within the Community									
Transactions for producers only										
E	Purchases from Community co-producers									
F	Sales to Community co-producers									
G	Amount purchased from other Community Sources									
Stockpiles held during reporting year [c]										
H	Stocks held at 1 January									
I	Stocks held at 31 December									
Reclamation and destruction										
J	Amount reclaimed by your company									
K	Amount destroyed by your company (on-site)									
L	Amount destroyed by your company (off-site within the Community)									
Net amount available for sale in the Community										
M	Calculated total (A+B-C+D+E-F+G+H-I-K-L)									

Intended applications of amounts placed on Community market for the first time (best estimates) (d)										
N	Solvents									
O	Semiconductor manufacture									
P	Other or unknown (e)									
Q	Total amount placed on the Community market (d) (N+O+P)									
R	Total sold (C+F+M)									

(a) Only report on preparation types if your company did not create or re-blend the preparation; for preparations that were produced, report on each PFC constituent.
(b) If reporting on PFC preparations, indicate the preparation composition for each preparation added to the table in the space below. For preparations that also contain HFCs, report quantities on either the HFC Producer and Importer form or this form.
(c) Importers should only report on imported quantities held in stocks, i.e., not on stockpiled quantities originally obtained from Community producers or distributors (best estimates where appropriate). Producers should report all stockpiled quantities regardless of source.
(d) Total amount placed on the Community market does not include any quantities previously held by Community importers and/or distributors. Therefore, for importers, row Q should equal row M; for producers, row Q should equal row M minus any quantities sold on the Community market that were previously purchased from Community importers/distributors in this reporting year or in previous years.
(e) Identify other application(s) in the space below this table. If intended application is unknown, explain why.

Producer and Importer Form: PFCs (Continued)

Preparation composition for each PFC preparation added to the table (e.g., R-508a: 61 % Perfluoroethane, 39 % HFC-23).

Description of 'Other' and/or explanation of 'Unknown' Intended Application(s). Specify fluorinated greenhouse gas type, if intended application of more than one fluorinated greenhouse gas is marked as 'Other' or 'Unknown'.

Co-Producer Form: PFCs

Complete the table to account for all co-producer transactions (in metric tonnes) of PFCs for this reporting period. For PFCs purchased or sold as constituents of preparations, report on each PFC component of the preparation separately. Refer to Part 2 for definitions of terms.

Company Name/(metric tonnes)		Perfluoro-methane (CF_4)	Perfluoro-ethane (C_2F_6)	Perfluoro-propane (C_3F_8)	Perfluoro-butane (C_4F_{10})	Perfluoro-pentane (C_5F_{12})	Perfluoro-hexane (C_6F_{14})	Perfluoro-cyclobutane ($c\text{–}C_4F_8$)	Other PFCs (Specify)	
									Name	Name
Purchases from Community co-producers										
1										
2										
3										
4										
5										
6										
7										
8										
	Total									
Sales to Community co-producers										
1										
2										
3										
4										
5										
6										
7										
8										
	Total									

PART 7

Exporter Form (all fluorinated greenhouse gas types)

Complete sections 1 and 2 to account for all quantities of fluorinated greenhouse gases exported outside of the Community during the calendar year for which this form is being submitted. Use the blank rows to report on fluorinated greenhouse gases not listed, including any preparations. For preparations that contain both HFC and PFC components, report quantities as HFC preparations or PFC preparations; do not duplicate information. Quantities should include bulk shipments, including those shipped with equipment for the purpose of charging that equipment, but not quantities contained in equipment (i.e., pre-charged equipment). Refer to Part 2 for definitions of terms.

Section 1. Export totals (metric tonnes)			Section 2. Total amount exported for recycling, reclamation and/or destruction (metric tonnes)		
Fluorinated greenhouse gas type		Annual total exported from the European Community	Recycling	Reclamation	Destruction
SF_6	SF_6				
HFCs	HFC-23				
	HFC-32				
	HFC-41				
	HFC-43-10mee				
	HFC-125				
	HFC-134				
	HFC-134a				
	HFC-152a				
	HFC-143				
	HFC-143a				
	HFC-227ea				
	HFC-236cb				
	HFC-236ea				
	HFC-236fa				
	HFC-245ca				
	HFC-245fa				
	HFC-365mfc				
	Other:				
	Other:				
HFC preparations*	R-404a				
	R-407c				
	R-410a				
	R-507				
	Other:				
	Other:				
PFCs/PFC preparations	Perfluoromethane				
	Perfluoroethane				
	Perfluoropropane				
	Perfluorobutane				
	Perfluoropentane				
	Perfluorohexane				
	Perfluorocyclobutane				
	Other:				
	Other:				

(*) Indicate the preparation composition for each preparation added to the table in the space below.

Indicate the preparation composition for each preparation added to the table (e.g., R-404a: 44 % HFC-125, 4 % HFC-134a, 52 % HFC-143a). If you indicated the components of these preparations on a previous form (i.e., HFC Producer and Importer), you do not need to restate them here.

COMMISSION REGULATION (EC) No 1494/2007

of 17 December 2007

establishing, pursuant to Regulation (EC) No 842/2006 of the European Parliament and of the Council, the form of labels and additional labelling requirements as regards products and equipment containing certain fluorinated greenhouse gases

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 842/2006 of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases [1], and in particular Article 7(3) thereof,

Whereas:

(1) A review on the desirability of including additional environmental information on labels to be used on the products and equipment referred to in Article 7(2) of Regulation (EC) No 842/2006 has been carried out in accordance with Article 7(3) of that Regulation.

(2) The labelling requirements take into account labelling systems currently used in the Community for products and equipment containing fluorinated greenhouse gases, including labelling systems established by industry standards for such products and equipment.

(3) For the sake of clarity, it is appropriate to determine the exact wording of the information to be indicated on the labels. Member States should be able to decide to use their own language on those labels.

(4) Additional information indicating whether refrigeration and air conditioning products and equipment as well as heat pumps covered by this Regulation have been insulated with foam blown with fluorinated greenhouse gases should be included on the label in order to promote their potential recovery from such foams.

(5) In cases where fluorinated greenhouse gases are added to the product or equipment concerned outside the manufacturing site, the label should indicate the total quantity of fluorinated greenhouse gases contained in the product or equipment.

(6) The label should be designed so as to ensure that it is clearly legible and remains securely in place on the product or equipment throughout the entire period during which the product or equipment contains fluorinated greenhouse gases.

(7) The label should be placed in a way which ensures visibility to installation and servicing technicians.

(8) For air conditioning products and equipment and heat pumps the label should be placed in a way that takes into account the technical profile of the product or equipment.

(9) The possibility of inclusion of additional environmental information on labels has constrained manufacturers in making the necessary adjustments as regards to labels and therefore an adequate period should be allowed before this Regulation becomes applicable.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 18(1) of Regulation (EC) No 2037/2000 of the European Parliament and of the Council [2],

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation establishes the form of the labels to be used and the additional labelling requirements which shall apply to the types of products and equipment listed in Article 7(2) of Regulation (EC) No 842/2006.

Article 2

Labelling requirements

1. The products and equipment covered by this Regulation shall be marked with a label containing the following information:

(a) the text 'Contains fluorinated greenhouse gases covered by the Kyoto Protocol';

(b) the abbreviated chemical names for the fluorinated greenhouse gases contained or designed to be contained in the equipment using accepted industry nomenclature standard to the equipment or substance;

[1] OJ L 161, 14.6.2006, p. 1.

[2] OJ L 244, 29.9.2000, p. 1. Regulation as last amended by Commission Decision 2007/540/EC (OJ L 198, 31.7.2007, p. 35).

(c) the quantity of the fluorinated greenhouse gases, expressed in kilograms;

(d) the text 'hermetically sealed' where applicable.

2. In addition to the labelling requirements referred to in paragraph 1, refrigeration and air conditioning products and equipment as well as heat pumps, which are insulated with foam blown with fluorinated greenhouse gases, before being placed on the market, shall be marked with a label containing the following text: 'Foam blown with fluorinated greenhouse gases'.

3. Where fluorinated greenhouse gases may be added outside the manufacturing site and the resulting total quantity is not defined by the manufacturer, the label shall contain the quantity charged in the manufacturing plant and shall provide space on the label for the quantity to be added outside the manufacturing plant as well as for the resulting total quantity of fluorinated greenhouse gases.

4. Member States may make the placing on the market of products and equipment covered by this Regulation on their territory subject to use of their official languages in respect of the labelling requirements referred to in paragraphs 1, 2 and 3.

Article 3

Form of the label

1. The information referred to in Article 2 shall be indicated on a label which shall be affixed to the products and equipment covered by this Regulation.

2. The information shall stand out clearly from the background of the label and shall be of such size and spacing as to be clearly legible.

Where the information required by this Regulation is added to a label already affixed to the product or equipment concerned, the font size shall not be smaller than the minimum size of other information on that label.

3. The entire label and its contents shall be designed so as to ensure that it remains securely in place on the product or equipment and shall be legible under normal operational conditions, throughout the entire period during which the product or equipment contains fluorinated greenhouse gases.

Article 4

Placing of the label

1. In addition to the places indicated in Article 7(1) of Regulation (EC) No 842/2006, the labels may also be placed on, or adjacent to existing nameplates or product information labels, or adjacent to servicing access locations.

2. For air conditioning products and equipment as well as heat pumps with separate indoor and outdoor sections connected by refrigerant piping, the label information shall be placed on that part of the equipment which is initially charged with the refrigerant.

Article 5

Entry into force

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

It shall apply with effect from 1 April 2008.

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

Done at Brussels, 17 December 2007.

For the Commission

Stavros DIMAS

Member of the Commission

DIRECTIVES

DIRECTIVE 2007/65/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 December 2007

amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 47(2) and 55 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee [1],

Having regard to the opinion of the Committee of the Regions [2],

Acting in accordance with the procedure laid down in Article 251 of the Treaty [3],

Whereas:

(1) Council Directive 89/552/EEC [4] coordinates certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of broadcasting activities. However, new technologies in the transmission of audiovisual media services call for adaptation of the regulatory framework to take account of the impact of structural change, the spread of information and communication technologies (ICT) and technological developments on business models, especially the financing of commercial broadcasting, and to ensure optimal conditions of competitiveness and legal certainty for Europe's information technologies and its media industries and services, as well as respect for cultural and linguistic diversity.

(2) The laws, regulations and administrative measures in Member States concerning the pursuit of television broadcasting activities are already coordinated by Directive 89/552/EEC, whereas the rules applicable to activities such as on-demand audiovisual media services contain disparities, some of which may impede the free movement of those services within the European Community and may distort competition within the internal market.

(3) Audiovisual media services are as much cultural services as they are economic services. Their growing importance for societies, democracy — in particular by ensuring freedom of information, diversity of opinion and media pluralism — education and culture justifies the application of specific rules to these services.

(4) Article 151(4) of the Treaty requires the Community to take cultural aspects into account in its action under other provisions of the Treaty, in particular in order to respect and to promote the diversity of its cultures.

(5) In its resolutions of 1 December 2005 [5] and 4 April 2006 [6] on the Doha Round and on the WTO Ministerial Conferences, the European Parliament called for basic public services, such as audiovisual services, to be

[1] OJ C 318, 23.12.2006, p. 202.
[2] OJ C 51, 6.3.2007, p. 7.
[3] Opinion of the European Parliament of 13 December 2006 (not yet published in the Official Journal), Council Common Position of 15 October 2007 (not yet published in the Official Journal), Position of the European Parliament of 29 November 2007.
[4] Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by Law, Regulation or Administrative Action in Member States concerning the pursuit of television broadcasting activities. (OJ L 298, 17.10.1989, p. 23). Directive as last amended by Directive 97/36/EC (OJ L 202, 30.7.1997, p. 60).
[5] OJ C 285 E, 22.11.2006, p. 126.
[6] OJ C 293 E, 2.12.2006, p. 155.

excluded from liberalisation under the GATS negotiations. In its resolution of 27 April 2006 [1], the European Parliament supported the Unesco Convention on the Protection and Promotion of the Diversity of Cultural Expressions, which states in particular that 'cultural activities, goods and services have both an economic and a cultural nature, because they convey identities, values and meanings, and must therefore not be treated as solely having commercial value'. The Council Decision 2006/515/EC of 18 May 2006 on the conclusion of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions [2] approved the Unesco Convention on behalf of the Community. The Convention entered into force on 18 March 2007. This Directive respects the principles of that Convention.

(6) Traditional audiovisual media services — such as television — and emerging on-demand audiovisual media services offer significant employment opportunities in the Community, particularly in small and medium-sized enterprises, and stimulate economic growth and investment. Bearing in mind the importance of a level playing-field and a true European market for audiovisual media services, the basic principles of the internal market, such as free competition and equal treatment, should be respected in order to ensure transparency and predictability in markets for audiovisual media services and to achieve low barriers to entry.

(7) Legal uncertainty and a non-level playing-field exist for European companies delivering audiovisual media services as regards the legal regime governing emerging on-demand audiovisual media services. It is therefore necessary, in order to avoid distortions of competition, to improve legal certainty, to help complete the internal market and to facilitate the emergence of a single information area, that at least a basic tier of coordinated rules apply to all audiovisual media services, both television broadcasting (i.e. linear audiovisual media services) and on-demand audiovisual media services (i.e. non-linear audiovisual media services). The basic principles of Directive 89/552/EEC, namely the country of origin principle and common minimum standards, have proved their worth and should therefore be retained.

(8) On 15 December 2003, the Commission adopted a Communication on the future of European regulatory audiovisual policy, in which it stressed that regulatory policy in that sector has to safeguard certain public interests, such as cultural diversity, the right to information, media pluralism, the protection of minors and consumer protection and to enhance public awareness and media literacy, now and in the future.

(9) The Resolution of the Council and of the Representatives of the Governments of the Member States, meeting within the Council of 25 January 1999 concerning public service broadcasting [3] reaffirmed that the fulfilment of the mission of public service broadcasting requires that it continue to benefit from technological progress. The co-existence of private and public audiovisual media service providers is a feature which distinguishes the European audiovisual media market.

(10) The Commission has adopted the initiative 'i2010: European Information Society' to foster growth and jobs in the information society and media industries. This is a comprehensive strategy designed to encourage the production of European content, the development of the digital economy and the uptake of ICT, against the background of the convergence of information society services and media services, networks and devices, by modernising and deploying all EU policy instruments: regulatory instruments, research and partnerships with industry. The Commission has committed itself to creating a consistent internal market framework for information society services and media services by modernising the legal framework for audiovisual services, starting with a Commission proposal in 2005 to modernise the Television without Frontiers Directive and transform it into a Directive on Audiovisual Media Services. The goal of the i2010 initiative will in principle be achieved by allowing industries to grow with only the necessary regulation, as well as allowing small start-up businesses, which are the wealth and job creators of the future, to flourish, innovate and create employment in a free market.

(11) The European Parliament adopted on 4 September 2003 [4], 22 April 2004 [5] and 6 September 2005 [6] resolutions which called for the adaptation of Directive 89/552/EEC to reflect structural changes and technological developments while fully respecting its underlying principles, which remain valid. In addition, it in principle supported the general approach of basic rules for all audiovisual media services and additional rules for television broadcasting.

[1] OJ C 296 E, 6.12.2006, p. 104.
[2] OJ L 201, 25.7.2006, p. 15.
[3] OJ C 30, 5.2.1999, p. 1.
[4] European Parliament resolution on Television without Frontiers (OJ C 76 E, 25.3.2004, p. 453).
[5] European Parliament Resolution on the risks of violation, in the EU and especially in Italy, of freedom of expression and information (Article 11(2) of the Charter of Fundamental Rights) (OJ C 104 E, 30.4.2004, p. 1026).
[6] European Parliament resolution on the application of Articles 4 and 5 of Directive 89/552/EEC (Television without Frontiers), as amended by Directive 97/36/EC, for the period 2001-2002 (OJ C 193 E, 17.8.2006, p. 117).

(12) This Directive enhances compliance with fundamental rights and is fully in line with the principles recognised by the Charter of Fundamental Rights of the European Union ([1]), in particular Article 11 thereof. In this regard, this Directive should not in any way prevent Member States from applying their constitutional rules relating to freedom of the press and freedom of expression in the media.

(13) This Directive should not affect the obligations on Member States arising from the application of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations ([2]) and of rules on Information Society services. Accordingly, draft national measures applicable to on-demand audiovisual media services of a stricter or more detailed nature than those required to simply transpose this Directive should be subject to the procedural obligations established under Article 8 of Directive 98/34/EC.

(14) Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) ([3]) according to its Article 1(3) is without prejudice to measures taken at Community or national level, to pursue general interest objectives, in particular relating to content regulation and audiovisual policy.

(15) No provision of this Directive should require or encourage Member States to impose new systems of licensing or administrative authorisation on any type of audiovisual media service.

(16) For the purposes of this Directive, the definition of an audiovisual media service should cover only audiovisual media services, whether television broadcasting or on-demand, which are mass media, that is, which are intended for reception by, and which could have a clear impact on, a significant proportion of the general public. Its scope should be limited to services as defined by the Treaty and therefore should cover any form of economic activity, including that of public service enterprises, but should not cover activities which are primarily non-economic and which are not in competition with television broadcasting, such as private websites and services consisting of the provision or distribution of audiovisual content generated by private users for the purposes of sharing and exchange within communities of interest.

(17) It is characteristic of on-demand audiovisual media services that they are 'television-like', i.e. that they compete for the same audience as television broadcasts, and the nature and the means of access to the service would lead the user reasonably to expect regulatory protection within the scope of this Directive. In the light of this and in order to prevent disparities as regards free movement and competition, the notion of 'programme' should be interpreted in a dynamic way taking into account developments in television broadcasting.

(18) For the purposes of this Directive, the definition of an audiovisual media service should cover mass media in their function to inform, entertain and educate the general public, and should include audiovisual commercial communication but should exclude any form of private correspondence, such as e-mails sent to a limited number of recipients. That definition should exclude all services whose principal purpose is not the provision of programmes, i.e. where any audiovisual content is merely incidental to the service and not its principal purpose. Examples include websites that contain audiovisual elements only in an ancillary manner, such as animated graphical elements, short advertising spots or information related to a product or non-audiovisual service. For these reasons, games of chance involving a stake representing a sum of money, including lotteries, betting and other forms of gambling services, as well as on-line games and search engines, but not broadcasts devoted to gambling or games of chance, should also be excluded from the scope of this Directive.

(19) For the purposes of this Directive, the definition of media service provider should exclude natural or legal persons who merely transmit programmes for which the editorial responsibility lies with third parties.

(20) Television broadcasting currently includes, in particular, analogue and digital television, live streaming, webcasting and near-video-on-demand, whereas video-on-demand, for example, is an on-demand audiovisual media service. In general, for television broadcasting or television programmes which are also offered as on-demand audiovisual media services by the same media service provider, the requirements of this Directive should be deemed to be met by the fulfilment of the requirements applicable to the television broadcast i.e. linear transmission. However, where different kinds of services are offered in parallel, but are clearly separate services, this Directive should apply to each of the services concerned.

(21) The scope of this Directive should not cover electronic versions of newspapers and magazines.

([1]) OJ C 364, 18.12.2000, p. 1.
([2]) OJ L 204, 21.7.1998, p. 37. Directive as last amended by Council Directive 2006/96/EC (OJ L 363, 20.12.2006, p. 81).
([3]) OJ L 108, 24.4.2002, p. 33. Directive as amended by Regulation (EC) No 717/2007 (OJ L 171, 29.6.2007, p. 32).

(22) For the purpose of this Directive, the term 'audiovisual' should refer to moving images with or without sound, thus including silent films but not covering audio transmission or radio services. While the principal purpose of an audiovisual media service is the provision of programmes, the definition of such a service should also cover text-based content which accompanies programmes, such as subtitling services and electronic programme guides. Stand-alone text-based services should not fall within the scope of this Directive, which should not affect Member States' freedom to regulate such services at national level in accordance with the Treaty.

(23) The notion of editorial responsibility is essential for defining the role of the media service provider and therefore for the definition of audiovisual media services. Member States may further specify aspects of the definition of editorial responsibility, notably the notion of 'effective control', when adopting measures to implement this Directive. This Directive should be without prejudice to the exemptions from liability established in Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce) ([1]).

(24) In the context of television broadcasting, the notion of simultaneous viewing should also cover quasi-simultaneous viewing because of the variations in the short time lag which occurs between the transmission and the reception of the broadcast due to technical reasons inherent in the transmission process.

(25) All the characteristics of an audiovisual media service set out in its definition and explained in Recitals 16 to 23 should be present at the same time.

(26) In addition to television advertising and teleshopping, a wider definition of audiovisual commercial communication should be introduced in this Directive, which however should not include public service announcements and charity appeals broadcast free of charge.

(27) The country of origin principle should remain the core of this Directive, as it is essential for the creation of an internal market. This principle should therefore be applied to all audiovisual media services in order to ensure legal certainty for media service providers as the necessary basis for new business models and the deployment of such services. It is also essential in order to ensure the free flow of information and audiovisual programmes in the internal market.

([1]) OJ L 178, 17.7.2000, p. 1.

(28) In order to promote a strong, competitive and integrated European audiovisual industry and enhance media pluralism throughout the European Union, only one Member State should have jurisdiction over an audiovisual media service provider and pluralism of information should be a fundamental principle of the European Union.

(29) Technological developments, especially with regard to digital satellite programmes, mean that subsidiary criteria should be adapted in order to ensure suitable regulation and its effective implementation and to give players genuine power over the content of an audiovisual media service.

(30) As this Directive concerns services offered to the general public in the European Union, it should apply only to audiovisual media services that can be received directly or indirectly by the public in one or more Member States with standard consumer equipment. The definition of 'standard consumer equipment' should be left to the competent national authorities.

(31) Articles 43 to 48 of the Treaty lay down the fundamental right to freedom of establishment. Therefore, media service providers should in general be free to choose the Member States in which they establish themselves. The Court of Justice has also emphasised that 'the Treaty does not prohibit an undertaking from exercising the freedom to provide services if it does not offer services in the Member State in which it is established' ([2]).

(32) Member States should be able to apply more detailed or stricter rules in the fields coordinated by this Directive to media service providers under their jurisdiction, while ensuring that those rules are consistent with general principles of Community law. In order to deal with situations where a broadcaster under the jurisdiction of one Member State provides a television broadcast which is wholly or mostly directed towards the territory of another Member State, a requirement for Member States to cooperate with one another and, in cases of circumvention, the codification of the case-law of the Court of Justice ([3]), combined with a more efficient procedure, would be an appropriate solution that takes account of Member State concerns without calling into question the proper application of the country of origin principle. The notion of rules of general public interest has been developed by the Court of Justice in its case law in relation to Articles 43 and 49 of the Treaty and includes, *inter alia*, rules on the protection of consumers, the protection of minors and cultural policy. The Member State requesting cooperation should ensure that the specific national rules in question are objectively necessary, applied in a non-discriminatory manner, and proportionate.

([2]) Case C-56/96 VT4, paragraph 22; Case C-212/97 Centros v. Erhvervs-og Selskabsstyrelsen; see also: Case C-11/95 Commission v. Kingdom of Belgium and Case C-14/96 Paul Denuit.

([3]) Case C-212/97 Centros v. Erhvervs-og Selskabsstyrelsen; Case C-33/74 Van Binsbergen v. Bestuur van de Bedrijfsvereniging; Case C-23/93 TV 10 SA v. Commissariaat voor de Media, paragraph 21.

(33) A Member State, when assessing on a case-by-case basis whether a broadcast by a media service provider established in another Member State is wholly or mostly directed towards its territory, may refer to indicators such as the origin of the television advertising and/or subscription revenues, the main language of the service or the existence of programmes or commercial communications targeted specifically at the public in the Member State where they are received.

(34) Under this Directive, notwithstanding the application of the country of origin principle, Member States may still take measures that restrict freedom of movement of television broadcasting, but only under the conditions and following the procedure laid down in this Directive. However, the Court of Justice has consistently held that any restriction on the freedom to provide services, such as any derogation from a fundamental principle of the Treaty, must be interpreted restrictively ([1]).

(35) With respect to on-demand audiovisual media services, restrictions on their free provision should only be possible in accordance with conditions and procedures replicating those already established by Articles 3(4), (5) and (6) of Directive 2000/31/EC.

(36) In its Communication to the European Parliament and the Council on Better Regulation for Growth and Jobs in the European Union, the Commission stressed that a careful analysis of the appropriate regulatory approach is necessary, in particular, in order to establish whether legislation is preferable for the relevant sector and problem, or whether alternatives such as co-regulation or self-regulation should be considered. Furthermore, experience has shown that both co- and self-regulation instruments, implemented in accordance with the different legal traditions of the Member States, can play an important role in delivering a high level of consumer protection. Measures aimed at achieving public interest objectives in the emerging audiovisual media services sector are more effective if they are taken with the active support of the service providers themselves.

Thus self-regulation constitutes a type of voluntary initiative which enables economic operators, social partners, non-governmental organisations or associations to adopt common guidelines amongst themselves and for themselves. Member States should, in accordance with their different legal traditions, recognise the role which effective self-regulation can play as a complement to the legislative and judicial and/or administrative mechanisms in place and its useful contribution to the achievement of the objectives of this Directive. However, while self-regulation might be a complementary method of implementing certain provisions of this Directive, it should not constitute a substitute for the obligations of the national legislator.

Co-regulation gives, in its minimal form, a legal link between self-regulation and the national legislator in accordance with the legal traditions of the Member States. Co-regulation should allow for the possibility of State intervention in the event of its objectives not being met. Without prejudice to Member States' formal obligations regarding transposition, this Directive encourages the use of co-regulation and self-regulation. This should neither oblige Member States to set up co- and/or self-regulatory regimes nor disrupt or jeopardise current co- or self-regulatory initiatives which are already in place within Member States and which are working effectively.

(37) 'Media literacy' refers to skills, knowledge and understanding that allow consumers to use media effectively and safely. Media-literate people are able to exercise informed choices, understand the nature of content and services and take advantage of the full range of opportunities offered by new communications technologies. They are better able to protect themselves and their families from harmful or offensive material. Therefore the development of media literacy in all sections of society should be promoted and its progress followed closely.

The Recommendation of the European Parliament and of the Council of 20 December 2006 on the protection of minors and human dignity and on the right of reply in relation to the competitiveness of the European audiovisual and on-line information services industry ([2]) already contains a series of possible measures for promoting media literacy such as, for example, continuing education of teachers and trainers, specific Internet training aimed at children from a very early age, including sessions open to parents, or organisation of national campaigns aimed at citizens, involving all communications media, to provide information on using the Internet responsibly.

(38) Television broadcasting rights for events of high interest to the public may be acquired by broadcasters on an exclusive basis. However, it is essential to promote pluralism through the diversity of news production and programming across the European Union and to respect the principles recognised by Article 11 of the Charter of Fundamental Rights of the European Union.

([1]) Case C-355/98 Commission v. Belgium [2000] ECR I-1221, paragraph 28; Case C-348/96 Calfa [1999] ECR I-0011, paragraph 23.

([2]) OJ L 378, 27.12.2006, p. 72.

(39) In order to safeguard the fundamental freedom to receive information and to ensure that the interests of viewers in the European Union are fully and properly protected, those exercising exclusive television broadcasting rights to an event of high interest to the public should grant other broadcasters the right to use short extracts for the purposes of general news programmes on fair, reasonable and non-discriminatory terms taking due account of exclusive rights. Such terms should be communicated in a timely manner before the event of high interest to the public takes place to give others sufficient time to exercise such a right. A broadcaster should be able to exercise this right through an intermediary acting specifically on its behalf on a case-by-case basis. Such short extracts may be used for EU-wide broadcasts by any channel including dedicated sports channels and should not exceed 90 seconds.

The right of access to short extracts should apply on a trans-frontier basis only where it is necessary. Therefore a broadcaster should first seek access from a broadcaster established in the same Member State having exclusive rights to the event of high interest to the public.

The notion of general news programmes should not cover the compilation of short extracts into programmes serving entertainment purposes.

The country of origin principle should apply to both the access to, and the transmission of, the short extracts. In a trans-frontier case, this means that the different laws should be applied sequentially. Firstly, for access to the short extracts the law of the Member State where the broadcaster supplying the initial signal (i.e. giving access) is established should apply. This is usually the Member State in which the event concerned takes place. Where a Member State has established an equivalent system of access to the event concerned, the law of that Member State should apply in any case. Secondly, for transmission of the short extracts, the law of the Member State where the broadcaster transmitting the short extracts is established should apply.

(40) The requirements of this Directive regarding access to events of high interest to the public for the purpose of short news reports should be without prejudice to Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society [1] and the relevant international conventions in the field of copyright and neighbouring rights. Member States should facilitate access to events of high interests to the public by granting access to the broadcaster's signal within the meaning of this Directive. However, they may choose other equivalent means within the meaning of this Directive. Such means include, *inter alia*, granting access to the venue of these events prior to granting access to the signal. Broadcasters should not be prevented from concluding more detailed contracts.

(41) It should be ensured that the practice of media service providers of providing their live television broadcast news programmes in the on-demand mode after live transmission is still possible without having to tailor the individual programme by omitting the short extracts. This possibility should be restricted to the on-demand supply of the identical television broadcast programme by the same media service provider, so it may not be used to create new on-demand business models based on short extracts.

(42) On-demand audiovisual media services are different from television broadcasting with regard to the choice and control the user can exercise, and with regard to the impact they have on society [2]. This justifies imposing lighter regulation on on-demand audiovisual media services, which should comply only with the basic rules provided for in this Directive.

(43) Because of the specific nature of audiovisual media services, especially the impact of these services on the way people form their opinions, it is essential for users to know exactly who is responsible for the content of these services. It is therefore important for Member States to ensure that users have easy and direct access at any time to information about the media service provider. It is for each Member State to decide the practical details as to how this objective can be achieved without prejudice to any other relevant provisions of Community law.

(44) The availability of harmful content in audiovisual media services continues to be a concern for legislators, the media industry and parents. There will also be new challenges, especially in connection with new platforms and new products. It is therefore necessary to introduce rules to protect the physical, mental and moral development of minors as well as human dignity in all audiovisual media services, including audiovisual commercial communications.

(45) Measures taken to protect the physical, mental and moral development of minors and human dignity should be carefully balanced with the fundamental right to freedom of expression as laid down in the Charter on Fundamental Rights of the European Union. The aim of those measures, such as the use of personal identification numbers (PIN codes), filtering systems or labelling, should thus be to ensure an adequate level of protection of the physical, mental and moral development of minors and human dignity, especially with regard to on-demand audiovisual media services.

[1] OJ L 167, 22.6.2001, p. 10.

[2] Case C-89/04, Mediakabel.

The Recommendation on the protection of minors and human dignity and on the right of reply already recognised the importance of filtering systems and labelling and included a number of possible measures for the benefit of minors, such as systematically supplying users with an effective, updatable and easy-to-use filtering system when they subscribe to an access provider or equipping the access to services specifically intended for children with automatic filtering systems.

(46) Media service providers under the jurisdiction of the Member States should in any case be subject to a ban on the dissemination of child pornography according to the provisions of Council Framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography [1].

(47) None of the provisions introduced by this Directive that concern the protection of the physical, mental and moral development of minors and human dignity necessarily requires that the measures taken to protect those interests should be implemented through prior verification of audiovisual media services by public bodies.

(48) On-demand audiovisual media services have the potential to partially replace television broadcasting. Accordingly, they should, where practicable, promote the production and distribution of European works and thus contribute actively to the promotion of cultural diversity. Such support for European works might, for example, take the form of financial contributions by such services to the production of and acquisition of rights in European works, a minimum share of European works in video-on-demand catalogues, or the attractive presentation of European works in electronic programme guides. It is important to regularly re-examine the application of the provisions relating to the promotion of European works by audiovisual media services. Within the framework of the reports set out under this Directive, Member States should also take into account notably the financial contribution by such services to the production and rights acquisition of European works, the share of European works in the catalogue of audiovisual media services, and in the actual consumption of European works offered by such services.

(49) When defining 'producers who are independent of broadcasters' as referred to in Article 5 of Directive 89/552/EEC, Member States should take appropriate account notably of criteria such as the ownership of the production company, the amount of programmes supplied to the same broadcaster and the ownership of secondary rights.

(50) When implementing the provisions of Article 4 of Directive 89/552/EEC, Member States should encourage broadcasters to include an adequate share of co-produced European works or of European works of non-domestic origin.

(51) It is important to ensure that cinematographic works are transmitted within periods agreed between right holders and media service providers.

(52) The availability of on-demand audiovisual media services increases the choice of the consumer. Detailed rules governing audiovisual commercial communication for on-demand audiovisual media services thus appear neither to be justified nor to make sense from a technical point of view. Nevertheless, all audiovisual commercial communication should respect not only the identification rules but also a basic tier of qualitative rules in order to meet clear public policy objectives.

(53) The right of reply is an appropriate legal remedy for television broadcasting and could also be applied in the on-line environment. The Recommendation on the protection of minors and human dignity and on the right of reply already includes appropriate guidelines for the implementation of measures in national law or practice so as to ensure sufficiently the right of reply or equivalent remedies in relation to on-line media.

(54) As has been recognised by the Commission in its interpretative communication on certain aspects of the provisions on televised advertising in the 'Television without frontiers' Directive [2], the development of new advertising techniques and marketing innovations has created new effective opportunities for audiovisual commercial communications in traditional broadcasting services, potentially enabling them better to compete on a level playing-field with on-demand innovations.

(55) Commercial and technological developments give users increased choice and responsibility in their use of audiovisual media services. In order to remain proportionate with the goals of general interest, regulation should allow a certain degree of flexibility with regard to television broadcasting. The principle of separation should be limited to television advertising and teleshopping, product placement should be allowed under certain circumstances, unless a Member State decides otherwise, and some quantitative restrictions should be abolished. However, where product placement is surreptitious, it should be prohibited. The principle of separation should not prevent the use of new advertising techniques.

[1] OJ L 13, 20.1.2004, p. 44.

[2] OJ C 102, 28.4.2004, p. 2.

(56) Apart from the practices that are covered by this Directive, Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market ([1]) applies to unfair commercial practices, such as misleading and aggressive practices occurring in audiovisual media services. Moreover, as Directive 2003/33/EC of the European Parliament and of the Council of 26 May 2003 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products ([2]), which prohibits advertising and sponsorship for cigarettes and other tobacco products in printed media, information society services and radio broadcasting, is without prejudice to Directive 89/552/EEC, in view of the special characteristics of audiovisual media services, the relation between Directive 2003/33/EC and Directive 89/552/EEC should remain the same after the entry into force of this Directive. Article 88(1) of Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use ([3]) which prohibits advertising to the general public of certain medicinal products applies, as provided in paragraph 5 of that Article, without prejudice to Article 14 of Directive 89/552/EEC. The relation between Directive 2001/83/EC and Directive 89/552/EEC should remain the same after the entry into force of this Directive. Furthermore, this Directive should be without prejudice to Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods ([4]).

(57) Given the increased possibilities for viewers to avoid advertising through use of new technologies such as digital personal video recorders and increased choice of channels, detailed regulation with regard to the insertion of spot advertising with the aim of protecting viewers is no longer justified. While this Directive should not increase the hourly amount of admissible advertising, it should give flexibility to broadcasters with regard to its insertion where this does not unduly impair the integrity of programmes.

(58) This Directive is intended to safeguard the specific character of European television, where advertising is preferably inserted between programmes, and therefore limits possible interruptions to cinematographic works and films made for television as well as interruptions to some categories of programmes that still need specific protection.

(59) The limitation that existed on the amount of daily television advertising was largely theoretical. The hourly limit is more important since it also applies during 'prime time'. Therefore the daily limit should be abolished, while the hourly limit should be maintained for television advertising and teleshopping spots. The restrictions on the time allowed for teleshopping or advertising channels seem no longer justified given increased consumer choice. However, the limit of 20 % of television advertising spots and teleshopping spots per clock hour remains applicable. The notion of a television advertising spot should be understood as television advertising in the sense of Article 1(i) of Directive 89/552/EEC as amended by this Directive having a duration of not more than 12 minutes.

(60) Surreptitious audiovisual commercial communication is a practice prohibited by this Directive because of its negative effect on consumers. The prohibition of surreptitious audiovisual commercial communication should not cover legitimate product placement within the framework of this Directive, where the viewer is adequately informed of the existence of product placement. This can be done by signalling the fact that product placement is taking place in a given programme, for example by means of a neutral logo.

(61) Product placement is a reality in cinematographic works and in audiovisual works made for television, but Member States regulate this practice differently. In order to ensure a level playing field, and thus enhance the competitiveness of the European media industry, it is necessary to adopt rules for product placement. The definition of product placement introduced by this Directive should cover any form of audiovisual commercial communication consisting of the inclusion of or reference to a product, a service or the trade mark thereof so that it is featured within a programme, in return for payment or for similar consideration. The provision of goods or services free of charge, such as production props or prizes, should only be considered to be product placement if the goods or services involved are of significant value. Product placement should be subject to the same qualitative rules and restrictions applying to audiovisual commercial communication. The decisive criterion distinguishing sponsorship from product placement is the fact that in product placement the reference to a product is built into the action of a programme, which is why the definition in Article 1(m) of Directive 89/552/EEC as amended by this Directive contains the word 'within'. In contrast, sponsor references may be shown during a programme but are not part of the plot.

(62) Product placement should, in principle, be prohibited. However, derogations are appropriate for some kinds of programme, on the basis of a positive list. A Member State should be able to opt-out of these derogations, totally or partially, for example by permitting product placement only in programmes which have not been produced exclusively in that Member State.

([1]) OJ L 149, 11.6.2005, p. 22.
([2]) OJ L 152, 20.6.2003, p. 16.
([3]) OJ L 311, 28.11.2001, p. 67. Directive as last amended by Regulation (EC) No 1901/2006 (OJ L 378, 27.12.2006, p. 1).
([4]) OJ L 404, 30.12.2006, p. 9, as corrected by OJ L 12, 18.1.2007, p. 3.

(63) Furthermore, sponsorship and product placement should be prohibited where they influence the content of programmes in such a way as to affect the responsibility and the editorial independence of the media service provider. This is the case with regard to thematic placement.

(64) The right of persons with a disability and of the elderly to participate and be integrated in the social and cultural life of the Community is inextricably linked to the provision of accessible audiovisual media services. The means to achieve accessibility should include, but need not be limited to, sign language, subtitling, audio-description and easily understandable menu navigation.

(65) According to the duties conferred upon Member States by the Treaty, they are responsible for the transposition and effective implementation of this Directive. They are free to choose the appropriate instruments according to their legal traditions and established structures, and notably the form of their competent independent regulatory bodies, in order to be able to carry out their work in implementing this Directive impartially and transparently. More specifically, the instruments chosen by Member States should contribute to the promotion of media pluralism.

(66) Close cooperation between competent Member States' regulatory bodies and the Commission is necessary to ensure the correct application of this Directive. Similarly close cooperation between Member States and between Member States' regulatory bodies is particularly important with regard to the impact which broadcasters established in one Member State might have on another Member State. Where licensing procedures are provided for in national law and if more than one Member State is concerned, it is desirable that contacts between the respective bodies take place before such licences are granted. This cooperation should cover all fields coordinated by Directive 89/552/EEC as amended by this Directive and in particular Articles 2, 2a and 3 hereof.

(67) Since the objectives of this Directive, namely creation of an area without internal frontiers for audiovisual media services whilst ensuring at the same time a high level of protection of objectives of general interest, in particular the protection of minors and human dignity as well as promoting the rights of persons with disabilities, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of this Directive, be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve these objectives.

(68) In accordance with point 34 of the Interinstitutional Agreement on better law-making [1], Member States are encouraged to draw up, for themselves and in the interests of the Community, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 89/552/EEC is hereby amended as follows:

1. the title shall be replaced by the following:

'Directive 89/552/EEC of 3 October 1989 of the European Parliament and of the Council on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive)';

2. Article 1 shall be replaced by the following:

'*Article 1*

For the purpose of this Directive:

(a) "audiovisual media service" means:

— a service as defined by Articles 49 and 50 of the Treaty which is under the editorial responsibility of a media service provider and the principal purpose of which is the provision of programmes in order to inform, entertain or educate, to the general public by electronic communications networks within the meaning of Article 2(a) of Directive 2002/21/EC. Such an audiovisual media service is either a television broadcast as defined in point (e) of this Article or an on-demand audiovisual media service as defined in point (g) of this Article,

and/or

— audiovisual commercial communication,

(b) "programme" means a set of moving images with or without sound constituting an individual item within a schedule or a catalogue established by a media service provider and whose form and content is comparable to the form and content of television broadcasting. Examples of programmes include feature-length films, sports events, situation comedies, documentaries, children's programmes and original drama;

[1] OJ C 321, 31.12.2003, p. 1.

(c) "editorial responsibility" means the exercise of effective control both over the selection of the programmes and over their organisation either in a chronological schedule, in the case of television broadcasts, or in a catalogue, in the case of on-demand audiovisual media services. Editorial responsibility does not necessarily imply any legal liability under national law for the content or the services provided;

(d) "media service provider" means the natural or legal person who has editorial responsibility for the choice of the audiovisual content of the audiovisual media service and determines the manner in which it is organised;

(e) "television broadcasting" or "television broadcast" (i.e. a linear audiovisual media service) means an audiovisual media service provided by a media service provider for simultaneous viewing of programmes on the basis of a programme schedule;

(f) "broadcaster" means a media service provider of television broadcasts;

(g) "on-demand audiovisual media service" (i.e. a non-linear audiovisual media service) means an audiovisual media service provided by a media service provider for the viewing of programmes at the moment chosen by the user and at his individual request on the basis of a catalogue of programmes selected by the media service provider;

(h) "audiovisual commercial communication" means images with or without sound which are designed to promote, directly or indirectly, the goods, services or image of a natural or legal entity pursuing an economic activity. Such images accompany or are included in a programme in return for payment or for similar consideration or for self-promotional purposes. Forms of audiovisual commercial communication include, *inter alia*, television advertising, sponsorship, teleshopping and product placement;

(i) "television advertising" means any form of announcement broadcast whether in return for payment or for similar consideration or broadcast for self-promotional purposes by a public or private undertaking or natural person in connection with a trade, business, craft or profession in order to promote the supply of goods or services, including immovable property, rights and obligations, in return for payment;

(j) "surreptitious audiovisual commercial communication" means the representation in words or pictures of goods, services, the name, the trade mark or the activities of a producer of goods or a provider of services in programmes when such representation is intended by the media service provider to serve as advertising and might mislead the public as to its nature. Such representation shall, in particular, be considered as intentional if it is done in return for payment or for similar consideration;

(k) "sponsorship" means any contribution made by a public or private undertaking or natural person not engaged in providing audiovisual media services or in the production of audiovisual works, to the financing of audiovisual media services or programmes with a view to promoting its name, its trade mark, its image, its activities or its products;

(l) "teleshopping" means direct offers broadcast to the public with a view to the supply of goods or services, including immovable property, rights and obligations, in return for payment;

(m) "product placement" means any form of audiovisual commercial communication consisting of the inclusion of or reference to a product, a service or the trade mark thereof so that it is featured within a programme, in return for payment or for similar consideration;

(n) (i) "European works" means the following:

— works originating in Member States,

— works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe and fulfilling the conditions of point (ii),

— works co-produced within the framework of agreements related to the audiovisual sector concluded between the Community and third countries and fulfilling the conditions defined in each of those agreements,

— application of the provisions of the second and third indents shall be conditional on works originating in Member States not being the subject of discriminatory measures in the third country concerned;

(ii) The works referred to in the first and second indents of point (i) are works mainly made with authors and workers residing in one or more of the States referred to in the first and second indents of point (i) provided that they comply with one of the following three conditions:

— they are made by one or more producers established in one or more of those States, or

— production of the works is supervised and actually controlled by one or more producers established in one or more of those States, or

— the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States;

(iii) Works that are not European works within the meaning of point (i) but that are produced within the framework of bilateral co-production treaties concluded between Member States and third countries shall be deemed to be European works provided that the co-producers from the Community supply a majority share of the total cost of production and that the production is not controlled by one or more producers established outside the territory of the Member States.';

3. Article 2 shall be replaced by the following:

'*Article 2*

1. Each Member State shall ensure that all audiovisual media services transmitted by media service providers under its jurisdiction comply with the rules of the system of law applicable to audiovisual media services intended for the public in that Member State.

2. For the purposes of this Directive, the media service providers under the jurisdiction of a Member State are those:

(a) established in that Member State in accordance with paragraph 3; or

(b) to whom paragraph 4 applies.

3. For the purposes of this Directive, a media service provider shall be deemed to be established in a Member State in the following cases:

(a) the media service provider has its head office in that Member State and the editorial decisions about the audiovisual media service are taken in that Member State;

(b) if a media service provider has its head office in one Member State but editorial decisions on the audiovisual media service are taken in another Member State, it shall be deemed to be established in the Member State where a significant part of the workforce involved in the pursuit of the audiovisual media service activity operates. If a significant part of the workforce involved in the pursuit of the audiovisual media service activity operates in each of those Member States, the media service provider shall be deemed to be established in the Member State where it has its head office. If a significant part of the workforce involved in the pursuit of the audiovisual media service activity operates in neither of those Member States, the media service provider shall be deemed to be established in the Member State where it first began its activity in accordance with the law of that Member State, provided that it maintains a stable and effective link with the economy of that Member State;

(c) if a media service provider has its head office in a Member State but decisions on the audiovisual media service are taken in a third country, or vice-versa, it shall be deemed to be established in the Member State concerned, provided that a significant part of the workforce involved in the pursuit of the audiovisual media service activity operates in that Member State.

4. Media service providers to whom the provisions of paragraph 3 are not applicable shall be deemed to be under the jurisdiction of a Member State in the following cases:

(a) they use a satellite up-link situated in that Member State;

(b) although they do not use a satellite up-link situated in that Member State, they use satellite capacity appertaining to that Member State.

5. If the question as to which Member State has jurisdiction cannot be determined in accordance with paragraphs 3 and 4, the competent Member State shall be that in which the media service provider is established within the meaning of Articles 43 to 48 of the Treaty.

6. This Directive does not apply to audiovisual media services intended exclusively for reception in third countries and which are not received with standard consumer equipment directly or indirectly by the public in one or more Member States.';

4. Article 2a is hereby amended as follows:

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

'1. Member States shall ensure freedom of reception and shall not restrict retransmissions on their territory of audiovisual media services from other Member States for reasons which fall within the fields coordinated by this Directive.';

(b) in paragraph 2 the introductory phrase and point (a) shall be replaced by the following:

'2. In respect of television broadcasting, Member States may provisionally derogate from paragraph 1 if the following conditions are fulfilled:

(a) a television broadcast coming from another Member State manifestly, seriously and gravely infringes Article 22(1) or (2) and/or Article 3(b);'

(c) the following paragraphs shall be added:

'4. In respect of on-demand audiovisual media services, Member States may take measures to derogate from paragraph 1 in respect of a given service if the following conditions are fulfilled:

(a) the measures are:

(i) necessary for one of the following reasons:

— public policy, in particular the prevention, investigation, detection and prosecution of criminal offences, including the protection of minors and the fight against any incitement to hatred on grounds of race, sex, religion or nationality, and violations of human dignity concerning individual persons,

— the protection of public health,

— public security, including the safeguarding of national security and defence,

— the protection of consumers, including investors;

(ii) taken against an on-demand audiovisual media service which prejudices the objectives referred to in point (i) or which presents a serious and grave risk of prejudice to those objectives;

(iii) proportionate to those objectives;

(b) before taking the measures in question and without prejudice to court proceedings, including preliminary proceedings and acts carried out in the framework of a criminal investigation, the Member State has:

— asked the Member State under whose jurisdiction the media service provider falls to take measures and the latter did not take such measures, or they were inadequate,

— notified the Commission and the Member State under whose jurisdiction the media service provider falls of its intention to take such measures.

5. Member States may, in the case of urgency, derogate from the conditions stipulated in paragraph 4(b). Where this is the case, the measures shall be notified in the shortest possible time to the Commission and to the Member State under whose jurisdiction the media service provider falls, indicating the reasons for which the Member State considers that there is urgency.

6. Without prejudice to the Member State's possibility of proceeding with the measures referred to in paragraphs 4 and 5, the Commission shall examine the compatibility of the notified measures with Community law in the shortest possible time. Where it comes to the conclusion that the measures are incompatible with Community law, the Commission shall ask the Member State in question to refrain from taking any proposed measures or urgently to put an end to the measures in question.';

5. Article 3 shall be replaced by the following:

'*Article 3*

1. Member States shall remain free to require media service providers under their jurisdiction to comply with more detailed or stricter rules in the fields coordinated by this Directive provided that such rules are in compliance with Community law.

2. In cases where a Member State:

(a) has exercised its freedom under paragraph 1 to adopt more detailed or stricter rules of general public interest; and

(b) assesses that a broadcaster under the jurisdiction of another Member State provides a television broadcast which is wholly or mostly directed towards its territory;

it may contact the Member State having jurisdiction with a view to achieving a mutually satisfactory solution to any problems posed. On receipt of a substantiated request by the first Member State, the Member State having jurisdiction shall request the broadcaster to comply with the rules of general public interest in question. The Member State having jurisdiction shall inform the first Member State of the results obtained following this request within two months. Either Member State may invite the contact committee established under Article 23a to examine the case.

3. Where the first Member State assesses:

(a) that the results achieved through the application of paragraph 2 are not satisfactory; and

(b) that the broadcaster in question has established itself in the Member State having jurisdiction in order to circumvent the stricter rules, in the fields coordinated by this Directive, which would be applicable to it if it were established within the first Member State,

it may adopt appropriate measures against the broadcaster concerned.

Such measures shall be objectively necessary, applied in a non-discriminatory manner and be proportionate to the objectives which they pursue.

4. A Member State may take measures pursuant to paragraph 3 only if the following conditions are met:

(a) it has notified the Commission and the Member State in which the broadcaster is established of its intention to take such measures while substantiating the grounds on which it bases its assessment; and

(b) the Commission has decided that the measures are compatible with Community law, and in particular that assessments made by the Member State taking these measures under paragraphs 2 and 3 are correctly founded.

5. The Commission shall decide within three months following the notification provided for in paragraph 4(a). If the Commission decides that the measures are incompatible with Community law, the Member State in question shall refrain from taking the proposed measures.

6. Member States shall, by appropriate means, ensure, within the framework of their legislation, that media service providers under their jurisdiction effectively comply with the provisions of this Directive.

7. Member States shall encourage co- and/or self-regulatory regimes at national level in the fields coordinated by this Directive to the extent permitted by their legal systems. These regimes shall be such that they are broadly accepted by the main stakeholders in the Member States concerned and provide for effective enforcement.

8. Directive 2000/31/EC shall apply unless otherwise provided for in this Directive. In the event of a conflict between a provision of Directive 2000/31/EC and a provision of this Directive, the provisions of this Directive shall prevail, unless otherwise provided for in this Directive.';

6. Article 3a shall be deleted;

7. the following Chapter shall be inserted:

'CHAPTER IIA

PROVISIONS APPLICABLE TO ALL AUDIOVISUAL MEDIA SERVICES

Article 3a

Member States shall ensure that audiovisual media service providers under their jurisdiction shall make easily, directly and permanently accessible to the recipients of a service at least the following information:

(a) the name of the media service provider;

(b) the geographical address at which the media service provider is established;

(c) the details of the media service provider, including his electronic mail address or website, which allow him to be contacted rapidly in a direct and effective manner;

(d) where applicable, the competent regulatory or supervisory bodies.

Article 3b

Member States shall ensure by appropriate means that audiovisual media services provided by media service providers under their jurisdiction do not contain any incitement to hatred based on race, sex, religion or nationality.

Article 3c

Member States shall encourage media service providers under their jurisdiction to ensure that their services are gradually made accessible to people with a visual or hearing disability.

Article 3d

Member States shall ensure that media service providers under their jurisdiction do not transmit cinematographic works outside periods agreed with the rights holders.

Article 3e

1. Member States shall ensure that audiovisual commercial communications provided by media service providers under their jurisdiction comply with the following requirements:

(a) audiovisual commercial communications shall be readily recognisable as such. Surreptitious audiovisual commercial communication shall be prohibited;

(b) audiovisual commercial communications shall not use subliminal techniques;

(c) audiovisual commercial communications shall not:

(i) prejudice respect for human dignity;

(ii) include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation;

(iii) encourage behaviour prejudicial to health or safety;

(iv) encourage behaviour grossly prejudicial to the protection of the environment;

(d) all forms of audiovisual commercial communications for cigarettes and other tobacco products shall be prohibited;

(e) audiovisual commercial communications for alcoholic beverages shall not be aimed specifically at minors and shall not encourage immoderate consumption of such beverages;

(f) audiovisual commercial communication for medicinal products and medical treatment available only on prescription in the Member State within whose jurisdiction the media service provider falls shall be prohibited;

(g) audiovisual commercial communications shall not cause physical or moral detriment to minors. Therefore they shall not directly exhort minors to buy or hire a product or service by exploiting their inexperience or credulity, directly encourage them to persuade their parents or others to purchase the goods or services being advertised, exploit the special trust minors place in parents, teachers or other persons, or unreasonably show minors in dangerous situations.

2. Member States and the Commission shall encourage media service providers to develop codes of conduct regarding inappropriate audiovisual commercial communication, accompanying or included in children's programmes, of foods and beverages containing nutrients and substances with a nutritional or physiological effect, in particular those such as fat, trans-fatty acids, salt/sodium and sugars, excessive intakes of which in the overall diet are not recommended.

Article 3f

1. Audiovisual media services or programmes that are sponsored shall meet the following requirements:

(a) their content and, in the case of television broadcasting, their scheduling shall in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the media service provider;

(b) they shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services;

(c) viewers shall be clearly informed of the existence of a sponsorship agreement. Sponsored programmes shall be clearly identified as such by the name, logo and/or any other symbol of the sponsor such as a reference to its product(s) or service(s) or a distinctive sign thereof in a appropriate way for programmes at the beginning, during and/or the end of the programmes.

2. Audiovisual media services or programmes shall not be sponsored by undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products.

3. The sponsorship of audiovisual media services or programmes by undertakings whose activities include the manufacture or sale of medicinal products and medical treatment may promote the name or the image of the undertaking, but shall not promote specific medicinal products or medical treatments available only on prescription in the Member State within whose jurisdiction the media service provider falls.

4. News and current affairs programmes shall not be sponsored. Member States may choose to prohibit the showing of a sponsorship logo during children's programmes, documentaries and religious programmes.

Article 3g

1. Product placement shall be prohibited.

2. By way of derogation from paragraph 1, product placement shall be admissible unless a Member State decides otherwise:

— in cinematographic works, films and series made for audiovisual media services, sports programmes and light entertainment programmes, or

— where there is no payment but only the provision of certain goods or services free of charge, such as production props and prizes, with a view to their inclusion in a programme.

The derogation provided for in the first indent shall not apply to children's programmes.

Programmes that contain product placement shall meet at least all of the following requirements:

(a) their content and, in the case of television broadcasting, their scheduling shall in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the media service provider;

(b) they shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services;

(c) they shall not give undue prominence to the product in question;

(d) viewers shall be clearly informed of the existence of product placement. Programmes containing product placement shall be appropriately identified at the start and the end of the programme, and when a programme resumes after an advertising break, in order to avoid any confusion on the part of the viewer.

By way of exception, Member States may choose to waive the requirements set out in point (d) provided that the programme in question has neither been produced nor commissioned by the media service provider itself or a company affiliated to the media service provider.

3. In any event programmes shall not contain product placement of:

— tobacco products or cigarettes or product placement from undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products, or

— specific medicinal products or medical treatments available only on prescription in the Member State within whose jurisdiction the media service provider falls.

4. The provisions of paragraphs 1, 2 and 3 shall apply only to programmes produced after 19 December 2009.';

8. the following Chapter shall be inserted:

'CHAPTER IIB

PROVISIONS APPLICABLE ONLY TO ON-DEMAND AUDIOVISUAL MEDIA SERVICES

Article 3h

Member States shall take appropriate measures to ensure that on-demand audiovisual media services provided by media service providers under their jurisdiction which might seriously impair the physical, mental or moral development of minors are only made available in such a way that ensures that minors will not normally hear or see such on-demand audiovisual media services.

Article 3i

1. Member States shall ensure that on-demand audiovisual media services provided by media service providers under their jurisdiction promote, where practicable and by appropriate means, the production of and access to European works. Such promotion could relate, *inter alia*, to the financial contribution made by such services to the production and rights acquisition of European works or to the share and/or prominence of European works in the catalogue of programmes offered by the on-demand audiovisual media service.

2. Member States shall report to the Commission no later than 19 December 2011 and every four years thereafter on the implementation of paragraph 1.

3. The Commission shall, on the basis of the information provided by Member States and of an independent study, report to the European Parliament and the Council on the application of paragraph 1, taking into account the market and technological developments and the objective of cultural diversity.';

9. the following Chapter shall be inserted:

'CHAPTER IIC

PROVISIONS CONCERNING EXCLUSIVE RIGHTS AND SHORT NEWS REPORTS IN TELEVISION BROADCASTING

Article 3j

1. Each Member State may take measures in accordance with Community law to ensure that broadcasters under its jurisdiction do not broadcast on an exclusive basis events which are regarded by that Member State as being of major importance for society in such a way as to deprive a substantial proportion of the public in that Member State of the possibility of following such events by live coverage or deferred coverage on free television. If it does so, the Member State concerned shall draw up a list of designated events, national or non-national, which it considers to be of major importance for society. It shall do so in a clear and transparent manner in due time. In so doing the Member State concerned shall also determine whether these events should be available by whole or partial live coverage, or where necessary or appropriate for objective reasons in the public interest, whole or partial deferred coverage.

2. Member States shall immediately notify to the Commission any measures taken or to be taken pursuant to paragraph 1. Within a period of three months from the notification, the Commission shall verify that such measures are compatible with Community law and communicate them to the other Member States. It shall seek the opinion of the contact committee established pursuant to Article 23a. It shall forthwith publish the measures taken in the *Official Journal of the European Union* and at least once a year the consolidated list of the measures taken by Member States.

3. Member States shall ensure, by appropriate means within the framework of their legislation, that broadcasters under their jurisdiction do not exercise the exclusive rights purchased by those broadcasters following the date of publication of this Directive in such a way that a substantial proportion of the public in another Member State is deprived of the possibility of following events which are designated by that other Member State in accordance with paragraphs 1 and 2 by whole or partial live coverage or, where necessary or appropriate for objective reasons in the public interest, whole or partial deferred coverage on free television as determined by that other Member State in accordance with paragraph 1.

Article 3k

1. Member States shall ensure that for the purpose of short news reports, any broadcaster established in the Community has access on a fair, reasonable and non-discriminatory basis to events of high interest to the public which are transmitted on an exclusive basis by a broadcaster under their jurisdiction.

2. If another broadcaster established in the same Member State as the broadcaster seeking access has acquired exclusive rights to the event of high interest to the public, access shall be sought from that broadcaster.

3. Member States shall ensure that such access is guaranteed by allowing broadcasters to freely choose short extracts from the transmitting broadcaster's signal with, unless impossible for reasons of practicality, at least the identification of their source.

4. As an alternative to paragraph 3, Member States may establish an equivalent system which achieves access on a fair, reasonable and non-discriminatory basis through other means.

5. Short extracts shall be used solely for general news programmes and may be used in on-demand audiovisual media services only if the same programme is offered on a deferred basis by the same media service provider.

6. Without prejudice to paragraphs 1 to 5, Member States shall ensure, in accordance with their legal systems and practices, that the modalities and conditions regarding the provision of such short extracts are defined, in particular, any compensation arrangements, the maximum length of short extracts and time limits regarding their transmission. Where compensation is provided for, it shall not exceed the additional costs directly incurred in providing access.';

10. in Article 4(1), the phrase, 'within the meaning of Article 6,' shall be deleted;

11. Articles 6 and 7 shall be deleted;

12. the title of Chapter IV shall be replaced by the following:

'TELEVISION ADVERTISING AND TELESHOPPING';

13. Article 10 shall be replaced by the following:

'Article 10

1. Television advertising and teleshopping shall be readily recognisable and distinguishable from editorial content. Without prejudice to the use of new advertising techniques, television advertising and teleshopping shall be kept quite distinct from other parts of the programme by optical and/or acoustic and/or spatial means.

2. Isolated advertising and teleshopping spots, other than in transmissions of sports events, shall remain the exception.';

14. Article 11 shall be replaced by the following:

'Article 11

1. Member States shall ensure, where television advertising or teleshopping is inserted during programmes, that the integrity of the programmes, taking into account natural breaks in and the duration and the nature of the programme, and the rights of the right holders are not prejudiced.

2. The transmission of films made for television (excluding series, serials and documentaries), cinematographic works and news programmes may be interrupted by television advertising and/or teleshopping once for each scheduled period of at least thirty minutes. The transmission of children's programmes may be interrupted by television advertising and/or teleshopping once for each scheduled period of at least 30 minutes, provided that the scheduled duration of the programme is greater than 30 minutes. No television advertising or teleshopping shall be inserted during religious services.';

15. Articles 12 and 13 shall be deleted;

16. Article 14(1) shall be deleted;

17. Articles 16 and 17 shall be deleted;

18. Article 18 shall be replaced by the following:

'Article 18

1. The proportion of television advertising spots and teleshopping spots within a given clock hour shall not exceed 20 %.

2. Paragraph 1 shall not apply to announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes, sponsorship announcements and product placements.';

19. Article 18a shall be replaced by the following:

'Article 18a

Teleshopping windows shall be clearly identified as such by optical and acoustic means and shall be of a minimum uninterrupted duration of 15 minutes.';

20. Article 19 shall be replaced by the following:

'*Article 19*

The provisions of this Directive shall apply *mutatis mutandis* to television channels exclusively devoted to advertising and teleshopping as well as to television channels exclusively devoted to self-promotion. Chapter III as well as Article 11 and Article 18 shall not apply to these channels.';

21. Article 19a shall be deleted;

22. Article 20 shall be replaced by the following:

'*Article 20*

Without prejudice to Article 3, Member States may, with due regard for Community law, lay down conditions other than those laid down in Article 11(2) and Article 18 in respect of television broadcasts intended solely for the national territory which cannot be received directly or indirectly by the public in one or more other Member States.';

23. the title of Chapter V shall be replaced by following:

'PROTECTION OF MINORS IN TELEVISION BROADCASTING';

24. Articles 22a and 22b shall be deleted;

25. the title of Chapter VI shall be replaced by the following:

'RIGHT OF REPLY IN TELEVISION BROADCASTING';

26. in Article 23a(2), point (e) shall be replaced by the following:

'(e) to facilitate the exchange of information between the Member States and the Commission on the situation and the development of regulatory activities regarding audiovisual media services, taking account of the Community's audiovisual policy, as well as relevant developments in the technical field;'

27. the following Chapter shall be inserted:

'CHAPTER VIB

COOPERATION BETWEEN MEMBER STATES' REGULATORY BODIES

Article 23b

Member States shall take appropriate measures to provide each other and the Commission with the information necessary for the application of the provisions of this Directive, in particular Articles 2, 2a and 3 hereof, notably through their competent independent regulatory bodies.';

28. Articles 25 and 25a shall be deleted;

29. Article 26 shall be replaced by the following:

'*Article 26*

Not later than 19 December 2011, and every three years thereafter, the Commission shall submit to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Directive and, if necessary, make further proposals to adapt it to developments in the field of audiovisual media services, in particular in the light of recent technological developments, the competitiveness of the sector and levels of media literacy in all Member States.

This report shall also assess the issue of television advertising accompanying or included in children's programmes, and in particular whether the quantitative and qualitative rules contained in this Directive have afforded the level of protection required.'

Article 2

Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws [1] is hereby amended as follows:

— Point 4 of Annex 'Directives and Regulations covered by Article 3(a)' shall be replaced by the following:

'4. Directive 89/552/EEC of 3 October 1989 of the European Parliament and of the Council on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (*): Articles 3h and 3i and Articles 10 to 20. Directive as last amended by Directive 2007/65/EC of the European Parliament and of the Council (**).

(*) OJ L 298, 17.10.1989, p. 23.
(**) OJ L 332, 18.12.2007, p. 27.'

Article 3

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 19 December 2009 at the latest. They shall forthwith inform the Commission thereof.

[1] OJ L 364, 9.12.2004, p. 1. Regulation as amended by Directive 2005/29/EC.

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

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 4

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

Article 5

This Directive is addressed to the Member States.

Done at Strasbourg, 11 December 2007.

For the European Parliament	*For the Council*
The President	*The President*
H.-G. PÖTTERING	M. LOBO ANTUNES

II

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

DECISIONS

COUNCIL

COUNCIL DECISION

of 29 November 2007

concerning the conclusion of the Agreement between the European Community and Ukraine on readmission of persons

(2007/839/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular point 3(b) of Article 63 thereof, in conjunction with the first sentence of the first subparagraph of Article 300(2) and the first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament [1],

Whereas:

(1) The Commission has negotiated on behalf of the European Community an Agreement with Ukraine on the readmission of persons.

(2) The Agreement was signed, on behalf of the European Community, on 18 June 2007, subject to its possible conclusion at a later date, in accordance with a Council Decision adopted on 12 June 2007.

(3) The Agreement should be approved.

(4) The Agreement establishes a Joint Readmission Committee which may adopt its rules of procedure. It is appropriate to provide for a simplified procedure for the establishment of the Community position in this case.

(5) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, the United Kingdom has notified its wish to take part in the adoption and application of this Decision.

(6) In accordance with Articles 1 and 2 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, and without prejudice to Article 4 of the said Protocol, Ireland is not taking part in the adoption of this Decision and is not bound by nor subject to its application.

(7) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not take part in the adoption of this Decision and is not bound by it or subject to its application,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Community and Ukraine on the readmission of persons is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council shall give the notification provided for in Article 20(2) of the Agreement [2].

[1] Opinion delivered on 13 November 2007 (not yet published in the Official Journal).

[2] The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

Article 3

The Commission, assisted by experts from Member States, shall represent the Community in the Joint Readmission Committee established by Article 15 of the Agreement.

Article 4

The position of the Community within the Joint Readmission Committee with regard to the adoption of its rules of procedure as required under Article 15(5) of the Agreement shall be taken by the Commission after consultation with a special committee designated by the Council.

Article 5

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

Done at Brussels, 29 November 2007.

For the Council
The President
M. LINO

AGREEMENT

between the European Community and Ukraine on the readmission of persons

THE EUROPEAN COMMUNITY,

hereinafter referred to as 'the Community',

and

UKRAINE,

hereinafter referred to as 'the Contracting Parties,',

DETERMINED to strengthen their cooperation in order to combat illegal immigration more effectively,

CONCERNED at the significant increase in the activities of organised criminal groups in the smuggling of migrants,

DESIRING to establish, by means of this Agreement and on the basis of reciprocity, rapid and effective procedures for the identification and safe and orderly return of persons who do not, or who do no longer, fulfil the conditions for entry to and stay on the territories of Ukraine or one of the Member States of the European Union, and to facilitate the transit of such persons in a spirit of cooperation,

CONSIDERING that, in appropriate cases, Ukraine and the Member States of the European Union should make best efforts to send third-country nationals and stateless persons who illegally entered their respective territories, back to the States of origin or permanent residence,

ACKNOWLEDGING the necessity of observing human rights and freedoms, and emphasising that this Agreement shall be without prejudice to the rights and obligations of the Community, the Member States of the European Union and Ukraine arising from the Universal Declaration of Human Rights of 10 December 1948 and from international law, in particular, from the European Convention of 4 November 1950 for the Protection of Human Rights and Fundamental Freedoms, the Convention of 28 July 1951 and the Protocol of 31 January 1967 on the Status of Refugees, the international Covenant on Civil and Political Rights of 19 December 1966 and international instruments on extradition,

TAKING INTO ACCOUNT that cooperation between Ukraine and the Community in the fields of readmission and facilitation of mutual travel is of common interest,

CONSIDERING that the provisions of this Agreement, which falls within the scope of Title IV of the Treaty establishing the European Community, do not apply to the Kingdom of Denmark, in accordance with the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty establishing the European Community,

HAVE AGREED AS FOLLOWS:

Article 1

Definitions

For the purpose of this Agreement:

(a) 'Contracting Parties' shall mean Ukraine and the Community;

(b) 'Member State' shall mean any Member State of the European Union, with the exception of the Kingdom of Denmark and the Republic of Ireland;

(c) 'national of a Member State' shall mean any person who holds the nationality, as defined for Community purposes, of a Member State;

(d) 'national of Ukraine' shall mean any person who holds the nationality of Ukraine;

(e) 'third-country national' shall mean any person who holds a nationality other than that of Ukraine or one of the Member States;

(f) 'stateless person' shall mean any person who does not hold a nationality;

(g) 'residence authorisation' shall mean a certificate of any type issued by Ukraine or one of the Member States entitling a person to reside in its territory. This shall not include temporary permissions to stay in its territory in connection with the processing of an asylum application, an application for refugee status or an application for a residence authorisation;

(h) 'visa' shall mean an authorisation issued or a decision taken by Ukraine or one of the Member States which is required with a view to entry in, or transit through, its territory. This shall not include airport transit visa;

(i) 'requesting State' shall mean the State (Ukraine or one of the Member States) submitting the readmission application pursuant to Article 5 or a transit application pursuant to Article 11 of this Agreement;

(j) 'requested State' shall mean the State (Ukraine or one of the Member States) to which a readmission application pursuant to Article 5 or a transit application pursuant to Article 11 of this Agreement is addressed;

(k) 'competent Authority' shall mean any national authority of Ukraine or one of the Member States entrusted with the implementation of this Agreement in accordance with Article 16 thereof;

(l) 'border region' shall mean an area which extends up to 30 kilometres from the common land border between a Member State and Ukraine, as well as the territories of seaports including custom zones, and international airports of the Member States and Ukraine.

SECTION I

READMISSION OBLIGATIONS

Article 2

Readmission of own nationals

1. The requested State shall, upon application by the requesting State and without further formalities other than those provided for by this Agreement, readmit to its territory all persons who do not, or who no longer, fulfil the conditions in force for entry to or stay on the territory of the requesting State provided that evidence is furnished, in accordance with Article 6 of this Agreement, that they are nationals of the requested State.

The same shall apply to persons who, after entering the territory of the requesting State, have renounced the nationality of the requested State without acquiring the nationality of the requesting State.

2. The requested State shall, as necessary and without delay, issue the person whose readmission has been accepted with the travel document with a period of validity of at least six months; this is irrespective of the will of the person to be readmitted. If, for legal or factual reasons, the person concerned cannot be transferred within the period of validity of the travel document that was initially issued, the requested State shall, within 14 calendar days, extend the validity of the travel document or, where necessary, issue a new travel document with the same period of validity. If the requested State has not, within 14 calendar days, issued the travel document, extended its validity or, where necessary, renewed it, the requested State shall be deemed to accept the expired document.

Article 3

Readmission of third-country nationals and stateless persons

1. The requested State, upon application by the requesting State and without further formalities other than those provided for by this Agreement, shall readmit to its territory third-country nationals or stateless persons which do not, or no longer, fulfill the conditions in force for entry to or stay on the territory of the requesting State provided that evidence is furnished, in accordance with Article 7 of this Agreement, that such persons:

(a) illegally entered the territory of the Member States coming directly from the territory of Ukraine or illegally entered the territory of Ukraine coming directly from the territory of the Member States;

(b) at the time of entry held a valid residence authorisation issued by the requested State; or

(c) at the time of entry held a valid visa issued by the requested State and entered the territory of the requesting State coming directly from the territory of the requested State.

2. The readmission obligation in paragraph 1 shall not apply if:

(a) the third country national or stateless person has only been in airside transit via an international airport of the requested State;

(b) the requesting State has issued to the third country national or stateless person a visa or residence authorisation before or after entering its territory unless:

(i) that person is in possession of a visa or residence authorisation, issued by the requested State, which has a longer period of validity; or

(ii) the visa or residence authorisation issued by the requesting State has been obtained by using forged or falsified documents;

(c) the third country national or stateless person does not need a visa for entering the territory of the requesting State.

3. As far as Member States are concerned, the readmission obligation in paragraph 1(b) and/or (c) is for the Member State that issued a visa or residence authorisation. If two or more Member States issued a visa or residence authorisation, the readmission obligation in paragraph 1(b) and/or (c) is for the Member State that issued the document with a longer period of validity or, if one or several of them have already expired, the document that is still valid. If all of the documents have already expired, the readmission obligation in paragraph 1(b) and/or (c) is for the Member State that issued the document with the most recent expiry date. If no such documents can be presented, the readmission obligation in paragraph 1 is for the Member State of last exit.

4. After the requested State has given a positive reply to the readmission application, the requesting State issues the person whose readmission has been accepted a travel document recognised by the requested State. If the requesting State is an EU Member State this travel document is the EU standard travel document for expulsion purposes in line with the form set out in EU Council Recommendation of 30 November 1994 (Annex 7). If the requesting State is Ukraine this travel document is the Ukrainian return certificate (Annex 8).

Article 4

Readmission in error

The requesting State shall take back any person readmitted by the requested State if it is established, within a period of 3 months after the transfer of the person concerned, that the requirements laid down in Articles 2 or 3 of this Agreement are not met.

In such cases the procedural provisions of this Agreement shall apply *mutatis mutandis* and the requested State shall also communicate all available information relating to the actual identity and nationality of the person to be taken back.

SECTION II

READMISSION PROCEDURE

Article 5

Readmission application

1. Subject to paragraph 2, any transfer of a person to be readmitted on the basis of one of the obligations contained in Articles 2 and 3 shall require the submission of a readmission application to the competent authority of the requested State.

2. If the person to be readmitted is in possession of a valid travel document or identity card and, in the case of third country nationals or stateless persons, a valid visa or residence authorisation of the requested State, the transfer of such person can take place without the requesting State having to submit a readmission application or written communication to the competent authority of the requested State.

3. Without prejudice to paragraph 2, if a person has been apprehended in the border region of the requesting State within 48 hours from illegally crossing of the State border of that person (including seaports and airports) directly from the territory of the requested State, the requesting State may submit a readmission application within two days following this persons apprehension (accelerated procedure).

4. The readmission application shall contain the following information:

(a) all available particulars of the person to be readmitted (e.g. given names, surnames, date and place of birth, sex and the last place of residence);

(b) means of evidence regarding nationality, the conditions for the readmission of third-country nationals and stateless persons.

5. Where necessary, the readmission application should also contain the following information:

(a) a statement indicating that the person to be transferred may need help or care, provided the person concerned has explicitly consented to the statement;

(b) any other protection or security measure which may be necessary in the individual transfer case.

6. A common form to be used for readmission applications is attached as Annex 5 to this Agreement.

Article 6

Means of evidence regarding nationality

1. Nationality of the requested State pursuant to Article 2(1) of this Agreement may be:

(a) proven by any of the documents listed in Annex 1 to this Agreement even if their period of validity has expired. If such documents are presented, the requested State shall recognise the nationality without further investigation being required. Proof of nationality cannot be furnished through forged or falsified documents;

(b) established on the basis of any of the documents listed in Annex 2 to this Agreement even if their period of validity has expired. If such documents are presented, the requested State shall deem the nationality to be established, unless it can prove otherwise on the basic of an investigation with participation of the competent authorities of the requesting State. Nationality cannot be established through forged or falsified documents.

2. If none of the documents listed in Annexes 1 or 2 can be presented, the competent diplomatic representation of the requested State shall interview the person to be readmitted within a maximum of 10 calendar days, in order to establish his or her nationality. This time limit begins with the date of receipt of the readmission application.

Article 7

Means of evidence regarding third-country nationals and stateless persons

1. The conditions for the readmission of third-country nationals and stateless persons pursuant to Article 3(1)(a) of this Agreement may be:

(a) proven by any of the documents listed in Annex 3a to this Agreement. If such documents are presented, the requested State shall recognise the illegal entrance on the territory of the requesting State (or Member States if the requested State is Ukraine) from its territory;

(b) established on the basis of any of the documents listed in Annex 3b to this Agreement. If such documents are presented, the requested State shall carry out an investigation and shall give an answer within a maximum of 20 calendar days. In the event of a positive answer, or if no answer is given when the time limit has expired, the requested State shall recognise the illegal entrance on the territory of the requesting State (or Member States if the requested State is Ukraine) from its territory.

2. The unlawfulness of the entry to the territory of the requesting State pursuant to Article 3(1)(a) of this Agreement shall be established by means of the travel documents of the person concerned in which the necessary visa or other residence authorisation for the territory of the requesting State are missing. A duly motivated statement by the requesting State that the person concerned has been found not having the necessary travel documents, visa or residence authorisation shall likewise provide *prima facie* evidence of the unlawful entry, presence or residence.

3. The conditions for the readmission of third-country nationals and stateless persons pursuant to Article 3(1)(b) and (c) of this Agreement may be:

(a) proven by any of the documents listed in Annex 4a to this Agreement. If such documents are presented, the requested State shall recognise the residence of such persons in its territory without further investigation being required;

(b) established on the basis of any of the documents listed in Annex 4b to the present Agreement. If such documents are presented, the requested State shall carry out an investigation and shall give an answer within a maximum of 20 calendar days. In the event of a positive answer, or if not proven otherwise, or if no answer is given when the time limit has expired, the requested State shall recognise the stay of such persons in its territory.

4. Proof of the conditions for readmission of third-country nationals and stateless persons cannot be furnished through forged or falsified documents.

Article 8

Time limits

1. The application for readmission must be submitted to the competent authority of the requested State within a maximum of one year after the requesting State's competent authority has gained knowledge that a third-country national or a stateless person does not, or does no longer, fulfil the conditions in force for entry, presence or residence.

Readmission obligation shall not arise in case if the readmission application regarding such persons is submitted after the expiry of the mentioned term. Where there are legal or factual obstacles to the application being submitted in time, the time limit shall, upon request, be extended up to 30 calendar days.

2. With the exception of the time limits mentioned in Articles 7(1)(b) and 7(3)(b), a readmission application shall be replied to by the requested State without undue delay, and in any event within 14 calendar days after the date of receipt of such application. Where there are legal or factual obstacles to the application being replied to in time, the time limit shall, upon duly motivated request, be extended, in all cases, up to a maximum of 30 calendar days.

3. In the case of a readmission application submitted under the accelerated procedure (Article 5(3)), a reply has to be given within two working days after the date of receipt of such application. If necessary, upon duly motivated request by the requested State and after approval by the requesting State, the time limit for a reply to the application may be extended by one working day.

4. If there was no reply within the time limits referred to in paragraphs 2 and 3 of this Article, the transfer shall be deemed to have been agreed to.

5. Reasons for refusal of a readmission request shall be given to the requesting State.

6. After agreement has been given or, where applicable after expiry of the time limits laid down in paragraph 2, the person concerned shall be transferred without delay in the terms agreed upon by the competent authorities in accordance with Article 9(1) of this Agreement. Upon request of the requesting State, this time limit may be extended by the time taken to deal with legal or practical obstacles to the transfer.

Article 9

Transfer modalities and modes of transportation

1. Before the transfer of a person, the competent authorities of the requesting State and the requested State shall make arrangements in writing in advance regarding the transfer date, the point of entry, possible escorts and other information relevant to the transfer.

2. All means of transportation, whether by air, land or sea shall be allowed. Transfer by air shall not be restricted to the use of the national carriers of the requesting State or the requested State and may take place by using scheduled flights as well as charter flights. In case of need for escorts, such escorts shall not be restricted to authorised persons of the requesting State, provided that they are authorised persons from Ukraine or any Member State.

SECTION III

TRANSIT OPERATIONS

Article 10

Principles

1. The Member States and Ukraine should restrict the transit of third-country nationals or stateless persons to cases where such persons cannot be returned to the State of destination directly.

2. The requested State shall allow the transit of third-country nationals or stateless persons, if the further transportation of such persons in possible other States of transit and the readmission by the State of destination is guaranteed.

3. Transit of third-country nationals or stateless persons shall be carried out under escorts, if so requested by the requested State. The procedural details for escorted transit operations shall be laid down in the implementing protocols in accordance with Article 16.

4. Transit can be refused by the requested State:

(a) if the third-country national or the stateless person runs the real risk of being subjected to torture or to inhuman or degrading treatment or punishment or the death penalty or of persecution because of his race, religion, nationality, membership of a particular social group or political conviction in the State of destination or another State of transit;

(b) if the third-country national or the stateless person shall be subject to criminal prosecution or sanctions in the requested State or in another State of transit; or

(c) on grounds of public health, domestic security, public order or other national interests of the requested State.

5. The requested State may revoke any authorisation issued if circumstances referred to in paragraph 4 of this Article subsequently arise or come to light which stand in the way of the transit operation, or if the onward journey in possible States of transit or the readmission by the State of destination is no longer guaranteed.

Article 11

Transit procedure

1. An application for transit operations must be submitted to the competent authority of the requested State in writing and is to contain the following information:

(a) type of transit (by air, land or sea), route of transit, other States of transit, if any, and the State of final destination;

(b) the particulars of the person concerned (given name, surname, maiden name, other names used/by which known or aliases, date of birth, sex and where possible – place of birth, nationality, language, type and number of travel document);

(c) envisaged point of entry, time of transfer and possible use of escorts;

(d) a declaration that in the view of the requesting State the conditions pursuant to Article 10(2) are met, and that no reasons for a refusal pursuant to Article 10(4) are known of.

A common form to be used for transit applications is attached as Annex 6 to this Agreement.

2. The requested State shall, within 10 calendar days after receiving the application and in writing, inform the requesting State of its consent to the transit operation, confirming the point of entry and the envisaged time of admission, or inform it of the transit refusal and of the reasons for such refusal.

3. If the transit operation takes place by air, the person to be readmitted and possible escorts shall be exempted from having to obtain an airport transit visa.

4. The competent authorities of the requested State shall, subject to mutual consultations, assist in the transit operations, in particular through the surveillance of the persons in question and the provision of suitable amenities for that purpose.

SECTION IV

COSTS

Article 12

Transport and transit costs

All transport costs incurred in connection with readmission and transit operations pursuant to this Agreement as far as the border of the State of final destination shall be borne by the requesting State, as well as the transport and maintenance costs of the requested State relating to the return of persons in accordance with Article 4 of this Agreement. This shall be without prejudice to the right of the competent authorities of the Member States and Ukraine to recover such costs from the person concerned or third parties.

SECTION V

DATA PROTECTION AND NON-AFFECTION CLAUSE

Article 13

Data protection

1. The communication of personal data shall only take place if such communication is necessary for the implementation of this Agreement by the competent authorities of Ukraine or a Member State as the case may be. When communicating, processing or treating personal data in a particular case, the competent authorities of Ukraine shall abide by the relevant legislation of Ukraine, and the competent authorities of a Member State shall abide by the provisions of Directive 95/46/EC and by the national legislation of that Member State adopted pursuant to this Directive.

2. Additionally the following principles shall apply:

(a) personal data must be processed fairly and lawfully;

(b) personal data must be collected for the specified, explicit and legitimate purpose of implementing this Agreement and not further processed by the communicating authority nor by the receiving authority in a way incompatible with that purpose;

(c) personal data must be adequate, relevant and not excessive in relation to the purpose for which they are collected and/or further processed; in particular, personal data communicated may concern only the following:

(i) the particulars of the person to be transferred (given names, surnames, other names used/by which known or aliases, sex, civil status, date and place of birth, current and any previous nationality);

(ii) passport, identity card or driving license and other identification or travel documents (number, period of validity, date of issue, issuing authority, place of issue);

(iii) stop-overs and itineraries;

(iv) other information needed to identify the person to be transferred or to examine the readmission requirements pursuant to this Agreement;

(d) personal data must be accurate and, where necessary, kept up to date;

(e) personal data must be kept in a form which permits identification of data subjects for no longer than is necessary for the purpose for which the data were collected or for which they are further processed;

(f) both the communicating authority and the receiving authority shall take every reasonable step to ensure as appropriate the rectification, erasure or blocking of personal data where the processing does not comply with the provisions of this Article, in particular because that data are not adequate, relevant, accurate, or they are excessive in relation to the purpose of processing. This includes the notification of any rectification, erasure or blocking to the other Contracting Party;

(g) upon request, the receiving authority shall inform the communicating authority of the use of the communicated data and of the results obtained there from;

(h) personal data may only be communicated to the competent authorities. Further communication to other bodies requires the prior consent of the communicating authority;

(i) the communicating and the receiving authorities are under an obligation to make a written record of the communication and receipt of personal data.

Article 14

Non-affection clause

1. This Agreement shall be without prejudice to the rights, obligations and responsibilities of the Community, the Member States and Ukraine arising from International Law and, in particular, from any applicable International Convention or agreement to which they are Parties, including those referred to in the Preamble.

2. Nothing in this Agreement shall prevent the return of a person under other formal or informal arrangements.

SECTION VI

IMPLEMENTATION AND APPLICATION

Article 15

Joint Readmission committee

1. The Contracting Parties shall provide each other with mutual assistance in the application and interpretation of this Agreement. To this end, they shall set up a joint readmission committee (hereinafter referred to as 'the Committee'), which shall have the following tasks and competencies:

(a) to monitor the application of this Agreement and have regular exchanges of information on the implementing Protocols drawn up by individual Member States and Ukraine pursuant to Article 16;

(b) to prepare proposals and make recommendations for amendments to this Agreement;

(c) to decide on implementing arrangements necessary for the uniform application of this Agreement.

2. The decisions of the Committee shall be binding on the Contracting Parties.

3. The Committee shall be composed by representatives of the Community and Ukraine; the Community shall be represented by the Commission, assisted by experts from Member States.

4. The Committee shall meet where necessary at the request of one of the Contracting Parties.

5. The Committee shall establish its rules of procedures.

Article 16

Implementing Protocols

1. Ukraine and a Member State may draw up implementing Protocols which shall cover rules on:

(a) designation of the competent authorities;

(b) border crossing points for the transfer of persons;

(c) mechanism of communication between the competent authorities;

(d) modalities for returns under the accelerated procedure;

(e) conditions for escorted returns of persons, including the transit of third-country nationals and stateless persons under escort;

(f) additional means and documents necessary to implement this Agreement;

(g) modes and procedures for recovering costs in connection with implementation of Article 12 of this Agreement.

2. The implementing Protocols referred to in paragraph 1 shall enter into force only after the Committee, referred to in Article 15, has been notified.

3. Ukraine agrees to apply any provision relating to paragraph 1(d), (e), (f) or (g) of an implementing Protocol drawn up with one Member State also in its relations with any other Member State upon request of the latter.

Article 17

Relation to bilateral readmission agreements of Member States

1. Subject to paragraph 2 of this Article, the provisions of this Agreement shall take precedence over the provisions of any bilateral agreement or other legally binding instrument on the readmission of persons which have been or may, under Article 16, be concluded between individual Member States and Ukraine, in so far as the provisions of the latter are incompatible with those of this Agreement.

2. The provisions on readmission of stateless persons and nationals from third countries contained in bilateral agreements or other legally binding instruments which have been concluded between individual Member States and Ukraine shall continue to apply during the two-year period referred to in Article 20(3).

SECTION VII

FINAL PROVISIONS

Article 18

Territorial application

1. Subject to paragraph 2 of this Article, this Agreement shall apply to the territory in which the Treaty establishing the European Communities is applicable and to the territory of Ukraine.

2. This Agreement shall not apply to the territory of the Kingdom of Denmark.

Article 19

Amendments to the Agreement

This Agreement may be amended and supplemented by mutual consent of the Contracting Parties. Amendments and supplements shall be drawn up in the form of separate protocols, which shall form an integral part of this Agreement, and enter into force in accordance with the procedure laid down in Article 20 of this Agreement.

Article 20

Entry into force, duration and termination

1. This Agreement shall be ratified or approved by the Contracting Parties in accordance with their respective procedures.

2. Subject to paragraph 3 of this Article, this Agreement shall enter into force on the first day of the second month following the date on which the Parties notify each other that the procedures referred to in the first paragraph have been completed.

3. The obligations set out in Article 3 of this Agreement shall only become applicable two years after the date referred to in paragraph 2 of this Article. During that two-year period, they shall only be applicable to stateless persons and nationals from third-countries with which the Ukraine has concluded bilateral treaties or arrangements on readmission. As set out in Article 17(2), the provisions on the readmission of stateless persons and nationals from third countries contained in bilateral agreements or other legally binding instruments which have been concluded between individual Member States and Ukraine shall continue to apply during this two-year period.

4. This Agreement is concluded for an unlimited period.

5. Each Party may denounce this Agreement by officially notifying the other Party. This Agreement shall be terminated six months after the date of such notification.

Article 21

Annexes

Annexes 1 to 8 shall form an integral part of this Agreement.

Done at Luxembourg on the eighteenth day of June in the year two thousand and seven in duplicate in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish and Ukrainian languages, each of these texts being equally authentic.

За Европейската общност
Por la Comunidad Europea
Za Evropské společenství
For Det Europæiske Fællesskab
Für die Europäische Gemeinschaft
Euroopa Ühenduse nimel
Για την Ευρωπαϊκή Κοινότητα
For the European Community
Pour la Communauté européenne
Per la Comunità europea
Eiropas Kopienas vārdā
Europos bendrijos vardu
az Európai Közösség részéről
Għall-Komunità Ewropea
Voor de Europese Gemeenschap
W imieniu Wspólnoty Europejskiej
Pela Comunidade Europeia
Pentru Comunitatea Europeană
Za Európske spoločenstvo
Za Evropsko skupnost
Euroopan yhteisön puolesta
På Europeiska gemenskapens vägnar
За Європейське Співтовариство

За Украйна
Por Ucrania
Za Ukrajinu
For Ukraine
Für die Ukraine
Ukraina nimel
Για την Ουκρανία
For Ukraine
Pour l'Ukraine
Per l'Ucraina
Ukrainas vārdā
Ukrainos vardu
Ukrajna részéről
Għall-Ukrajna
Voor Oekraïne
W imieniu Ukrainy
Pela Ucrânia
Pentru Ucraina
Za Ukrajinu
Za Ukrajino
Ukrainan puolesta
På Ukrainas vägnar
За Україну

ANNEX 1

COMMON LIST OF DOCUMENTS REGARDING NATIONALITY

(Article 6(1)(a))

— passports of any kind (national passports, diplomatic passports, service passports, collective passports and surrogate passports including children's passports),

— national identity cards (including temporary and provisional ones),

— military service books and military identity cards,

— seaman's registration books, skippers' service cards and seaman's passports,

— citizenship certificates and other official documents that mention or indicate citizenship.

ANNEX 2

COMMON LIST OF DOCUMENTS REGARDING NATIONALITY

(Article 6(1)(b))

— photocopies of any of the documents listed in Annex 1 to this Agreement,

— driving licenses or photocopies thereof,

— birth certificates or photocopies thereof,

— company identity cards or photocopies thereof,

— statements by witnesses,

— statements made by the person concerned and language spoken by him or her, including the results of any official test conducted to establish the person's nationality. For the purpose of this Annex, the term 'official test' is defined as a test commissioned or conducted by the authorities of the requesting State and validated by the requested State

— any other document which may help to establish the nationality of the person concerned.

ANNEX 3

COMMON LIST OF DOCUMENTS REGARDING THIRD COUNTRY NATIONALS AND STATELESS PERSONS

(Article 7(1))

ANNEX 3A

— official statements made for the purpose of the accelerated procedure, in particular, by authorised border authority staff who can testify to the person concerned crossing the border from the requested State directly to the territory of the requesting State,

— named tickets of air, train, coach or boat passages, which testify to the presence and the itinerary of the person concerned from the territory of the requested State directly to the territory of the requesting State (or Member States if the requested State is Ukraine),

— passenger lists of air, train, coach or boat passages which testify to the presence and the itinerary of the person concerned from the territory of the requested State directly to the territory of the requesting State (or Member States if the requested State is Ukraine).

ANNEX 3B

— official statements made, in particular, by border authority staff of the Requesting State and other witnesses who can testify to the person concerned crossing the border,

— documents, certificates and bills of any kind (e.g. hotel bills, appointment cards for doctors/dentists, entry cards for public/private institutions, car rental agreements, credit card receipts, etc.) which clearly show that the person concerned stayed on the territory of the Requested State,

— information showing that the person concerned has used the services of a courier or travel agency,

— official statement by the person concerned in judicial or administrative proceedings.

ANNEX 4

COMMON LIST OF DOCUMENTS REGARDING THIRD-COUNTRY NATIONALS AND STATELESS PERSONS

(Article 7(2))

ANNEX 4A

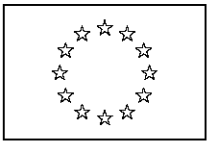
— valid visa and/or residence authorisation issued by the Requested State,

— entry/departure stamps or similar endorsement in the travel document of the person concerned or other evidence of entry/departure.

ANNEX 4B

Photocopies of any of the documents listed in Part A.

ANNEX 5



[Emblem of Ukraine]

....
(Place and date)

.....
(Designation of competent authority of the requesting State)

Reference: .....

☐ ACCELERATED PROCEDURE

To

.....

.....

.....
(Designation of competent authority of the requested State)

READMISSION APPLICATION

pursuant to Article 5 of the Agreement of .....
between the European Community and Ukraine on the readmission of persons authorisation

A. PERSONAL DETAILS

Photograph

1. Full name (underline surname):

.....

2. Maiden name:

.....

3. Date and place of birth:

.....

4. Address of residence in the State of origin or permanent residence (if known):

.....

5. Nationality and language:

.....

6. Civil status: ☐ married ☐ single ☐ divorced ☐ widowed

If married:

name of spouse .....

Names and age of children (if any): .....

7. Sex and physical description (height, colour of eyes, distinguishing marks, etc.):

.....

8. Also known as (earlier names, other names used/by which known or aliases):

.....

If married:

name of spouse .....

Names and age of children (if any): .....

Address in the requesting State:

.....

B. MEANS OF EVIDENCE ATTACHED

1. ..... (Passport No) ..... (date and place of issue)

..... (issuing authority) ..... (expiry date)

2. ..... (Identity card No) ..... (date and place of issue)

..... (issuing authority) ..... (expiry date)

3. ..... (Driving licence No) ..... (date and place of issue)

..... (issuing authority) ..... (expiry date)

4. ..... (Other official document No) ..... (date and place of issue)

..... (issuing authority) ..... (expiry date)

C. SPECIAL CIRCUMSTANCES RELATING TO THE TRANSFEREE

1. State of health

(e.g. possible reference to special medical care; Latin name of disease):

.....

2. Indication of particularly dangerous person

(e.g. suspected of serious offence; aggressive behaviour):

.....

D. OBSERVATIONS

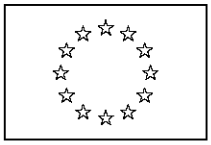
.....

.....

.....

(Signature of the competent authority of the requesting State)

ANNEX 6



[Emblem of Ukraine]

....
(Place and date)

.....
(Designation of competent authority of the requesting State)

Reference: .....

To

.....

.....

.....
(Designation of competent authority of the requested State)

TRANSIT APPLICATION

pursuant to Article 11 of the Agreement of .....
between the European Community and Ukraine on the readmission of persons

A. PERSONAL DETAILS

Photograph

1. Full name (underline surname):

.....

2. Maiden name:

.....

3. Date and place of birth:

.....

4. Sex and physical description (height, colour of eyes, distinguishing marks, etc.):

.....

5. Also known as (earlier names, other names used/by which known or aliases):

.....

6. Nationality and language:

.....

B. TRANSIT OPERATION

1. Type of transit:

☐ by air ☐ by sea ☐ by land

2. State of final destination:

.....

3. Possible other States of transit:

.....

4. Proposed border crossing point, date, time of transfer and possible escorts:

.....

.....

.....

5. Admission guaranteed in any other transit State and in the State of final destination

(Article 10 paragraph 2):

☐ yes ☐ no

6. Knowledge of any reason for a refusal of transit

(Article 10 paragraph 4):

☐ yes ☐ no

C. OBSERVATIONS

.....

.....

.....

(Signature of competent authority of the requesting State) (Seal/stamp)

ANNEX 7

EU STANDARD TRAVEL DOCUMENT FOR EXPULSION PURPOSES

(In line with the form set out in EU Council Recommendation of 30 November 1994)

ANNEX 8

UKRAINIAN RETURN CERTIFICATE

DECLARATION OF UKRAINE

'Travel document' shall mean a document valid for going abroad issued by Ukraine, one of the Member States or the state of citizenship or permanent residence of the person to be readmitted.

JOINT DECLARATION CONCERNING ARTICLE 2(1)

The Contracting Parties take note that, according to the nationality laws of Ukraine and the Member States, it is not possible for a Ukrainian or EU citizen to be deprived of his or her nationality without acquiring another nationality.

The Contracting Parties agree to consult each other in due time, should this legal situation change.

JOINT DECLARATION CONCERNING DENMARK

The Contracting Parties take note that this Agreement does not apply to the territory of the Kingdom of Denmark, nor to the nationals of the Kingdom of Denmark. In such circumstances it is appropriate that Ukraine and Denmark conclude a readmission agreement in the same terms as this Agreement.

JOINT DECLARATION CONCERNING ICELAND AND NORWAY

The Contracting Parties take note of the close relationship between the European Communities and Iceland and Norway, particularly by virtue of the Agreement of 18 May 1999 concerning the association of these countries with the implementation, application and development of the Schengen *acquis*. In such circumstances it is appropriate that Ukraine concludes with Norway and Iceland a readmission agreement in the same terms as this Agreement.

JOINT DECLARATION ON TECHNICAL AND FINANCIAL SUPPORT

Both parties agree to implement this Agreement based on the principles of joint responsibility, solidarity and an equal partnership to manage the migratory flows between Ukraine and the EU.

In this context the EC is committed to make available financial resources in order to support Ukraine in the implementation of this Agreement. In doing so, special attention will be devoted to capacity building. Such support is to be provided in the context of the overall priorities for assistance in favour of Ukraine, as part of the overall funding available for Ukraine and in full respect of the relevant implementation rules and procedures of EC external assistance.

COUNCIL DECISION

of 29 November 2007

on the conclusion of the Agreement between the European Community and Ukraine on the facilitation of the issuance of visas

(2007/840/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular points 2(b)(i) and (ii) of Article 62 thereof; in conjunction with the first sentence of the first subparagraph of Article 300(2) and the first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament [1],

Whereas:

(1) The Commission has negotiated on behalf of the European Community an Agreement with Ukraine on the facilitation of the issuance of visas.

(2) The Agreement was signed, on behalf of the European Community, on 18 June 2007 subject to its possible conclusion at a later date, in accordance with a Council Decision adopted on 12 June 2007.

(3) The Agreement should be approved.

(4) The Agreement establishes a Joint Committee for the management of the Agreement, which may adopt its rules of procedure. It is appropriate to provide for a simplified procedure for the establishment of the Community position in this case.

(5) In accordance with the Protocol on the position of the United Kingdom and Ireland, and the Protocol integrating the Schengen *acquis* into the framework of the European Union, annexed to the Treaty on European Union and to the Treaty establishing the European Community, the United Kingdom and Ireland are not taking part in the adoption of this Decision and are not bound by it or subject to its application.

(6) In accordance with the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not take part in the adoption of this Decision and is not bound by it or taking part subject to its application,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Community and Ukraine on the facilitation of the issuance of visas is hereby approved on behalf of the Community.

The text of the agreement is attached to this Decision.

Article 2

The President of the Council shall give the notification provided for in Article 14(1) of the Agreement [2].

Article 3

The Commission, assisted by experts from Member States, shall represent the Community in the Joint Committee of experts established by Article 12 of the Agreement.

Article 4

The position of the Community within the Joint Committee of experts with regard to the adoption of its rules of procedure as required under Article 12(4) of the Agreement shall be taken by the Commission after consultation with a special committee designated by the Council.

[1] Opinion delivered on 13 November 2007 (not yet published in the Official Journal).

[2] The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

Article 5

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

Done at Brussels, 29 November 2007.

For the Council
The President
M. LINO

AGREEMENT

between the European Community and Ukraine on the facilitation of the issuance of visas

THE EUROPEAN COMMUNITY,

hereinafter referred to as 'the Community', and

UKRAINE,

hereinafter referred to as 'the Parties',

WITH A VIEW to further developing friendly relations between the Contracting Parties and desiring to facilitate people to people contacts as an important condition for a steady development of economic, humanitarian, cultural, scientific and other ties, by facilitating the issuing of visas to Ukrainian citizens,

DESIRING to regulate the regime of mutual travel of citizens of Ukraine and Member States of the European Union,

BEARING IN MIND that, as from 1 May 2005, EU citizens are exempted from the visa requirement when travelling to Ukraine for a period of time not exceeding 90 days or transiting through the territory of Ukraine,

RECOGNISING that if Ukraine would reintroduce the visa requirement for EU citizens, the same facilitations granted under this agreement to the Ukrainian citizens would automatically, on the basis of reciprocity, apply to EU citizens,

HAVING REGARD to the EU Ukraine Policy Action Plan, which noted that a constructive dialogue on visa facilitation between the EU and Ukraine would be established, with a view to preparing for negotiations on a visa facilitation agreement, taking account of the need for progress on the ongoing negotiations for an EC-Ukraine readmission agreement,

RECOGNISING that visa facilitation should not lead to illegal migration and paying special attention to security and readmission,

RECOGNISING the introduction of a visa free travel regime for the citizens of Ukraine as a long term perspective,

TAKING INTO ACCOUNT the Protocol on the position of the United Kingdom and Ireland and the Protocol integrating the Schengen *acquis* into the framework of the European Union, annexed to the Treaty on European Union and the Treaty establishing the European Community and confirming that the provisions of this agreement do not apply to the United Kingdom and Ireland,

TAKING INTO ACCOUNT the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty establishing the European Community and confirming that the provisions of this agreement do not apply to the Kingdom of Denmark,

HAVE AGREED AS FOLLOWS:

Article 1

Purpose and scope of application

1. The purpose of this Agreement is to facilitate the issuance of visas for an intended stay of no more than 90 days per period of 180 days to the citizens of Ukraine.

2. If Ukraine would reintroduce the visa requirement for EU citizens or certain categories of EU citizens, the same facilitations granted under this agreement to the Ukrainian citizens would automatically, on the basis of reciprocity, apply to EU citizens concerned.

Article 2

General clause

1. The visa facilitations provided in this Agreement shall apply to citizens of Ukraine only insofar as they are not exempted from the visa requirement by the laws and regulations of the Community or the Member States, the present agreement or other international agreements.

2. The national law of Ukraine, or of the Member States or Community law shall apply to issues not covered by the provisions of this Agreement, such as the refusal to issue a visa, recognition of travel documents, proof of sufficient means of subsistence and the refusal of entry and expulsion measures.

Article 3

Definitions

For the purpose of this Agreement:

(a) 'Member State' shall mean any Member State of the European Union, with the exception of the Kingdom of Denmark, the Republic of Ireland and the United Kingdom;

(b) 'citizen of the European Union' shall mean a national of a Member State as defined in point (a);

(c) 'citizen of Ukraine' shall mean any person who holds the citizenship of Ukraine;

(d) 'visa' shall mean an authorisation issued by a Member State or a decision taken by such State which is required with a view to:

— entry for an intended stay in that Member State or in several Member States of no more than 90 days in total,

— entry for transit through the territory of that Member State or several Member States;

(e) 'legally residing person' shall mean a citizen of Ukraine authorised or entitled to stay for more than 90 days in the territory of a Member State, on the basis of Community or national legislation.

Article 4

Supporting documents regarding the purpose of the journey

1. For the following categories of citizens of Ukraine, the following documents are sufficient for justifying the purpose of the journey to the other Party:

(a) for members of official delegations who, following an official invitation addressed to Ukraine, shall participate in meetings, consultations, negotiations or exchange programmes, as well as in events held in the territory of one of the Member States by intergovernmental organisations:

— a letter issued by an Ukrainian authority confirming that the applicant is a member of its delegation travelling to the other Party to participate at the aforementioned events, accompanied by a copy of the official invitation;

(b) for business people and representatives of business organisations:

— a written request from a host legal person or company, or an office or a branch of such legal person or company, State and local authorities of the Member States or organising committees of trade and industrial exhibitions, conferences and symposia held in the territories of the Member States;

(c) for drivers conducting international cargo and passenger transportation services to the territories of the Member States in vehicles registered in Ukraine:

— a written request from the national association of carriers of Ukraine providing for international road transportation, stating the purpose, duration and frequency of the trips;

(d) for members of train, refrigerator and locomotive crews in international trains, travelling to the territories of the Member States:

— a written request from the competent railway company of Ukraine stating the purpose, duration and frequency of the trips;

(e) for journalists:

— a certificate or other document issued by a professional organisation proving that the person concerned is a qualified journalist and a document issued by his/her employer stating that the purpose of the journey is to carry out journalistic work;

(f) for persons participating in scientific, cultural and artistic activities, including university and other exchange programmes:

— a written request from the host organisation to participate in those activities;

(g) for pupils, students, post-graduate students and accompanying teachers who undertake trips for the purposes of study or educational training, including in the framework of exchange programmes as well as other school related activities:

— a written request or a certificate of enrolment from the host university, college or school or student cards or certificates of the courses to be attended;

(h) for participants in international sports events and persons accompanying them in a professional capacity:

— a written request from the host organisation: competent authorities, national sport Federations and National Olympic Committees of the Member States;

(i) for participants in official exchange programmes organised by twin cities: a written request of the Head of Administration/Mayor of these cities;

(j) for close relatives — spouse, children (including adopted), parents (including custodians), grandparents and grandchildren — visiting citizens of Ukraine legally residing in the territory of the Member States:

— a written request from the host person;

(k) relatives visiting for burial ceremonies:

— an official document confirming the fact of death as well as confirmation of the family or other relationship between the applicant and the buried;

(l) for visiting military and civil burial grounds:

— an official document confirming the existence and preservation of the grave as well as family or other relationship between the applicant and the buried;

(m) for visiting for medical reasons:

— an official document of the medical institution confirming necessity of medical care in this institution and proof of sufficient financial means to pay the medical treatment.

2. The written request mentioned in paragraph 1 of this Article shall contain the following items:

(a) for the invited person: name and surname, date of birth, sex, citizenship, number of the identity document, time and purpose of the journey, number of entries and name of minor children accompanying the invited person;

(b) for the inviting person: name and surname and address; or

(c) for the inviting legal person, company or organisation: full name and address and

— if the request is issued by an organisation, the name and position of the person who signs the request;

— if the inviting person is a legal person or company or an office or a branch of such legal person or company established in the territory of a Member State, the registration number as required by the national law of the Member State concerned.

3. For the categories of persons mentioned in paragraph 1 of this article, all categories of visas are issued according to the simplified procedure without requiring any other justification, invitation or validation concerning the purpose of the journey, provided for by the legislation of the Member States.

Article 5

Issuance of multiple-entry visas

1. Diplomatic missions and consular posts of the Member States shall issue multiple-entry visas with the term of validity of up to five years to the following categories of persons:

(a) members of national and regional Governments and Parliaments, Constitutional Courts and Supreme Courts if they are not exempted from the visa requirement by the present Agreement, in the exercise of their duties, with a term of validity limited to their term of office if this is less than 5 years;

(b) permanent members of official delegations who, following official invitations addressed to Ukraine, shall regularly participate in meetings, consultations, negotiations or exchange programmes, as well as in events held in the territory of the Member States by intergovernmental organisations;

(c) spouses and children (including adopted), who are under the age of 21 or are dependant, and parents (including custodians) visiting citizens of Ukraine legally residing in the territory of the Member States with the term of validity limited to the duration of the validity of their authorisation for legal residence.

(d) business people and representatives of business organisations who regularly travel to the Member States;

(e) journalists.

2. Diplomatic missions and consular posts of the Member States shall issue multiple-entry visas with the term of validity of up to one year to the following categories of persons, provided that during the previous year they have obtained at least one visa, have made use of it in accordance with the laws on entry and stay of the visited State and that there are reasons for requesting a multiple-entry visa:

(a) drivers conducting international cargo and passenger transportation services to the territories of the Member States in vehicles registered in Ukraine;

(b) members of train, refrigerator and locomotive crews in international trains, travelling to the territories of the Member States;

(c) persons participating in scientific, cultural and artistic activities, including university and other exchange programmes, who regularly travel to the Member States;

(d) participants in international sports events and persons accompanying them in a professional capacity;

(e) participants in official exchange programmes organised by twin cities.

3. Diplomatic missions and consular posts of the Member States shall issue multiple-entry visas with the term of validity of a minimum of two years and a maximum of five years to the categories of persons referred to in paragraph 2 of this Article, provided that during the previous two years they have made use of the one year multiple-entry visas in accordance with the laws on entry and stay of the visited State and that the reasons for requesting a multiple-entry visa are still valid.

4. The total period of stay of persons referred to in paragraphs 1 to 3 of this Article shall not exceed 90 days per period of 180 days in the territory of the Member States.

Article 6

Fees for processing visa applications

1. The fee for processing visa applications of Ukrainian citizens shall amount to EUR 35. The aforementioned amount may be reviewed in accordance with the procedure provided for in Article 14(4).

2. If Ukraine would reintroduce the visa requirement for EU citizens, the visa fee to be charged by Ukraine shall not be higher than EUR 35 or the amount agreed if the fee is reviewed in accordance with the procedure provided for in Article 14(4).

3. The Member States shall charge a fee of EUR 70 for processing visas in cases where the visa application and the supporting documents have been submitted by the visa applicant within three days before his/her envisaged date of departure. This will not apply to cases pursuant to Article 6(4)(b), (c), (e), (f), (j), (k) and Article 7(3). For categories mentioned in Article 6(4)(a), (d), (g), (h), (i), (l) to (n), the fee in urgent cases is the same as provided for in Article 6(1).

4. Fees for processing the visa application are waived for the following categories of persons:

(a) for close relatives — spouses, children (including adopted) parents (including custodians), grandparents and grandchildren — of citizens of Ukraine legally residing in the territory of the Member States;

(b) for members of official delegations who, following an official invitation addressed to Ukraine, shall participate in meetings, consultations, negotiations or exchange programmes, as well as in events held in the territory of one of the Member States by intergovernmental organisations;

(c) members of national and regional Governments and Parliaments, Constitutional Courts and Supreme Courts, in case they are not exempted from the visa requirement by the present Agreement;

(d) pupils, students, post-graduate students and accompanying teachers who undertake trips for the purpose of study or educational training;

(e) disabled persons and the person accompanying them, if necessary;

(f) persons who have presented documents proving the necessity of their travel on humanitarian grounds, including to receive urgent medical treatment and the person accompanying such person, or to attend a funeral of a close relative, or to visit a close relative seriously ill;

(g) participants in international sports events and persons accompanying them;

(h) persons participating in scientific, cultural and artistic activities including university and other exchange programmes;

(i) participants in official exchange programmes organised by twin cities;

(j) journalists;

(k) pensioners;

(l) drivers conducting international cargo and passenger transportation services to the territories of the Member States in vehicles registered in Ukraine;

(m) members of train, refrigerator and locomotive crews in international trains, travelling to the territories of the Member States;

(n) children under the age of 18 and dependant children under the age of 21.

Article 7

Length of procedures for processing visa applications

1. Diplomatic missions and consular posts of the Member States shall take a decision on the request to issue a visa within 10 calendar days of the date of the receipt of the application and documents required for issuing the visa.

2. The period of time for taking a decision on a visa application may be extended up to 30 calendar days in individual cases, notably when further scrutiny of the application is needed.

3. The period of time for taking a decision on a visa application may be reduced to two working days or less in urgent cases.

Article 8

Departure in case of lost or stolen documents

Citizens of the European Union and of Ukraine who have lost their identity documents, or from whom these documents have been stolen while staying in the territory of Ukraine or the Member States, may leave that territory on the grounds of valid identity documents entitling to cross the border issued by diplomatic missions or consular posts of the Member States or of the Ukraine without any visa or other authorisation.

Article 9

Extension of visa in exceptional circumstances

The citizens of Ukraine who do not have the possibility to leave the territory of the Member States by the time stated in their visas for reasons of *force majeur*e shall have the term of their visas extended free of charge in accordance with the legislation applied by the receiving State for the period required for their return to the State of their residence.

Article 10

Diplomatic passports

1. Citizens of Ukraine, holders of valid diplomatic passports can enter, leave and transit through the territories of the Member States without visas.

2. Persons mentioned in paragraph 1 of this Article may stay in the territories of the Member States for a period not exceeding 90 days per period of 180 days.

Article 11

Territorial validity of visas

Subject to the national rules and regulations concerning national security of the Member States and subject to EU rules on visas with limited territorial validity, the citizens of Ukraine shall be entitled to travel within the territory of the Member States on equal basis with European Union citizens.

Article 12

Joint Committee for management of the Agreement

1. The Parties shall set up a joint committee of experts (hereinafter referred to as 'the Committee'), composed by representatives of the European Community and of Ukraine. The Community shall be represented by the Commission of the European Communities, assisted by experts from the Member States.

2. The Committee shall, in particular, have the following tasks:

(a) monitoring the implementation of the present Agreement;

(b) suggesting amendments or additions to the present Agreement;

(c) settling disputes arising out of the interpretation or application of the provisions in this Agreement.

3. The Committee shall meet whenever necessary at the request of one of the Parties and at least once a year.

4. The Committee shall establish its rules of procedure.

Article 13

Relation of this Agreement with bilateral Agreements between Member States and Ukraine

As from its entry into force, this Agreement shall take precedence over provisions of any bilateral or multilateral agreements or arrangements concluded between individual Member States and Ukraine, insofar as the provisions of the latter agreements or arrangements cover issues dealt with by the present Agreement.

Article 14

Final clauses

1. This Agreement shall be ratified or approved by the Parties in accordance with their respective procedures and shall enter into force on the first day of the second month following the date on which the Parties notify each other that the procedures referred to above have been completed.

2. By way of derogation to paragraph 1 of this Article, the present agreement shall only enter into force at the date of the entry into force of the Agreement between the European Community and Ukraine on readmission of persons if this date is after the date provided for in paragraph 1 of this Article.

3. This Agreement is concluded for an indefinite period of time, unless terminated in accordance with paragraph 6 of this Article.

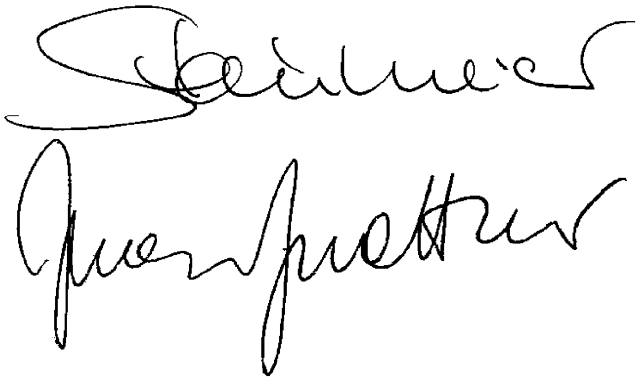
4. This Agreement may be amended by written agreement of the Parties. Amendments shall enter into force after the Parties have notified each other of the completion of their internal procedures necessary for this purpose.

5. Each Party may suspend in whole or in part this Agreement for reasons of public order, protection of national security or protection of public health. The decision on suspension shall be notified to the other Party not later than 48 hours before its entry into force. The Party that has suspended the application of this Agreement shall immediately inform the other Party once the reasons for the suspension no longer apply.

6. Each Party may terminate this Agreement by giving written notice to the other Party. This Agreement shall cease to be in force 90 days after the date of such notification.

Done at Luxembourg on the eighteenth day of June in the year two thousand and seven, in duplicate each in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish and Ukrainian languages, each of these texts being equally authentic.

За Европейската общност
Por la Comunidad Europea
Za Evropské společenství
For Det Europæiske Fællesskab
Für die Europäische Gemeinschaft
Euroopa Ühenduse nimel
Για την Ευρωπαϊκή Κοινότητα
For the European Community
Pour la Communauté européenne
Per la Comunità europea
Eiropas Kopienas vārdā
Europos bendrijos vardu
az Európai Közösség részéről
Għall-Komunità Ewropea
Voor de Europese Gemeenschap
W imieniu Wspólnoty Europejskiej
Pela Comunidade Europeia
Pentru Comunitatea Europeană
Za Európske spoločenstvo
Za Evropsko skupnost
Euroopan yhteisön puolesta
På Europeiska gemenskapens vägnar
За Європейське Співтовариство



За Украйна
Por Ucrania
Za Ukrajinu
For Ukraine
Für die Ukraine
Ukraina nimel
Για την Ουκρανία
For Ukraine
Pour l'Ukraine
Per l'Ucraina
Ukrainas vārdā
Ukrainos vardu
Ukrajna részéről
Għall-Ukrajna
Voor Oekraïne
W imieniu Ukrainy
Pela Ucrânia
Pentru Ucraina
Za Ukrajinu
Za Ukrajino
Ukrainan puolesta
På Ukrainas vägnar
За Україну

PROTOCOL TO THE AGREEMENT ON THE MEMBER STATES THAT DO NOT FULLY APPLY THE SCHENGEN *ACQUIS*

Those Member States which are bound by the Schengen *acquis* but which do not issue yet Schengen visas, while awaiting the relevant decision of the Council to that end, shall issue national visas the validity of which is limited to their own territory.

These Member States may unilaterally recognise Schengen visas and residence permits for the purpose of transit through their territory, in accordance with Council Decision No 895/2006/EC.

EUROPEAN COMMUNITY DECLARATION ON ISSUANCE OF SHORT-STAY VISAS FOR VISITS OF MILITARY AND CIVIL BURIAL GROUNDS

Diplomatic missions and consular posts of the Member States, shall as a general rule, issue short-stay visas for a period of up to 14 days for persons visiting military and civil burial grounds.

JOINT DECLARATION CONCERNING DENMARK

The Parties take note that the present Agreement does not apply to the procedures for issuing visas by the diplomatic missions and consular posts of the Kingdom of Denmark.

In such circumstances, it is desirable that the authorities of Denmark and of Ukraine conclude, without delay, a bilateral agreement on the facilitation of the issuance of visas in similar terms as the Agreement between the European Community and Ukraine.

JOINT DECLARATION CONCERNING THE UNITED KINGDOM AND IRELAND

The Parties take note that the present Agreement does not apply to the territory of the United Kingdom and Ireland.

In such circumstances, it is desirable that the authorities of the United Kingdom, Ireland and Ukraine, conclude bilateral agreements on the facilitation of the issuance of visas.

JOINT DECLARATION CONCERNING ICELAND AND NORWAY

The Parties take note of the close relationship between the European Community and Norway and Iceland, particularly by virtue of the Agreement of 18 May 1999 concerning the association of these countries with the implementation, application and development of the Schengen *acquis*.

In such circumstances, it is desirable that the authorities of Norway, Iceland and Ukraine conclude, without delay, bilateral agreements on the facilitation of the issuance of visas in similar terms as the Agreement between the European Community and Ukraine.

COMMISSION DECLARATION ON THE MOTIVATION OF THE DECISION TO REFUSE A VISA

Recognising the importance of transparency for visa applicants, the European Commission recalls that the legislative proposal on the recast of the Common Consular Instructions on visas for the diplomatic missions and consular posts has been adopted on 19 July 2006 and addresses the issue of the motivation of visa refusals and appeal possibilities.

EUROPEAN COMMUNITY DECLARATION ON ACCESS OF VISA APPLICANTS AND HARMONISATION OF INFORMATION ON PROCEDURES FOR ISSUING SHORT-STAY VISAS AND DOCUMENTS TO BE SUBMITTED WHEN APPLYING FOR SHORT-STAY VISAS

Recognising the importance of transparency for visa applicants, the European Community recalls that the legislative proposal on the recast of the Common Consular Instructions on visas for the diplomatic missions and consular posts has been adopted on 19 July 2006 by the European Commission and addresses the issue of conditions of access of visa applicants to diplomatic missions and consular posts of the Member States.

Regarding the information to be provided to visa applicants the European Community considers that appropriate measures should be taken:

— in general, to draw up basic information for applicants on the procedures and conditions for applying for visas and on their validity,

— the European Community will draw up a list of minimum requirements in order to ensure that Ukrainian applicants are given coherent and uniform basic information and are required to submit, in principle, the same supporting documents.

The information mentioned above is to be disseminated widely (on the notice boards of consulates, in leaflets, on websites, etc.).

The diplomatic missions and consular posts of the Member States shall provide information about existing possibilities under the Schengen *acquis* for facilitation of the issuing of short-stay visas on a case-by-case basis.

DRAFT POLITICAL DECLARATION ON LOCAL BORDER TRAFFIC

DECLARATION FROM POLAND, HUNGARY, SLOVAK REPUBLIC AND ROMANIA

The Republic of Hungary, the Republic of Poland, the Slovak Republic, as well as Romania as from the date of joining the EU, declare their willingness to enter into negotiations of bilateral agreements with Ukraine for the purpose of implementing the local border traffic regime established by the EC Regulation adopted on 5 October 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the Schengen Convention.

COMMISSION

COMMISSION DECISION

of 13 September 2007

relating to a proceeding pursuant to Article 81 of the EC Treaty

(Case COMP/E-2/39.141 — Fiat)

(notified under document number C(2007) 4274)

(Only the English text is authentic)

(2007/841/EC)

(1) This decision adopted pursuant to Article 9(1) of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty [1] is addressed to Fiat Auto SpA (hereinafter 'Fiat') and concerns the supply of technical information for the repair of vehicles of the Fiat, ALFA Romeo and Lancia brands.

(2) Technical information consists of data, processes and instructions which are necessary to check, repair and replace defective/broken/used parts of a motor vehicle or to fix failures in any of a vehicle's systems. It includes seven main categories:

— basic parameters (documentation of all reference values and set points of the measurable values concerning the vehicle, such as torque settings, brake clearance measurements, hydraulic and pneumatic pressures),

— diagrams and descriptions of stages in repair and maintenance operations (service handbooks, technical documents such as work plans, descriptions of tools used to carry out a given repair, and diagrams such as wiring schematics or hydraulics),

— testing and diagnosis (including diagnostic fault/trouble-shooting codes, software and other information needed to diagnose faults on vehicles) – much, but not all, of this information is contained in specialised electronic tools,

— codes, software and other information needed to re-program, re-set or re-initialise the electronic control units (ECUs) embarked on a vehicle. This category is linked to the preceding one, in that often the same electronic tools are used to diagnose the fault, and then make the necessary adjustments via the ECUs to deal with it,

— spare parts information, including parts catalogues with codes and descriptions, and vehicle identification methods (that is to say, data relating to a specific vehicle which enable a repairer to identify the individual codes for the parts fitted during vehicle assembly, and to identify the corresponding codes for compatible original replacement parts for that specific vehicle),

— special information (recall notices and notification of frequent faults),

— training materials.

(3) In December 2006, the Commission opened proceedings, and addressed a preliminary assessment to Fiat, containing the preliminary view that Fiat's agreements with its after-sales service partners raised concerns as to their compatibility with Article 81(1) of the EC Treaty.

(4) In the Commission's preliminary assessment, Fiat seemed to have failed to release certain categories of technical repair information well after the end of the transitional period provided for in Commission Regulation (EC) No 1400/2002 of 31 July 2002 on the application of Article 81(3) of the Treaty to categories of vertical agreements and concerted practices in the motor vehicle sector [2]. Moreover, at the time that the Commission's investigation was launched, Fiat had still not put in place an effective system to allow independent repairers to have access to technical repair information in an unbundled manner. Although Fiat improved the accessibility of its technical information over the course of the Commission investigation, notably by setting up a website (the TI website) in June 2005 designed for that purpose, the information made available to independent repairers seemed to be still incomplete.

[1] OJ L 1, 4.1.2003, p. 1. Regulation as last amended by Regulation (EC) No 411/2004 (OJ L 68, 6.3.2004, p. 1).

[2] OJ L 203, 1.8.2002, p. 30.

(5) That preliminary assessment found that the relevant markets affected by the practice at issue were the market for the provision of repair and maintenance services for passenger cars, and the market for the provision of technical information to repairers. The Fiat authorised networks had very high market shares on the first of these markets, while on the second, Fiat was the only supplier able to offer all of the technical information needed by repairers of its vehicles.

(6) In essence, Fiat's service and parts distribution agreements require the members of its authorised networks to carry out a full range of brand-specific repair services, and act as spare parts wholesalers. The Commission is concerned that possible negative effects stemming from such agreements could be strengthened by Fiat's failure to provide independent repairers with appropriate access to technical information thereby foreclosing firms which would be willing and able to offer repair services through a different business model.

(7) The Commission's preliminary conclusion was that Fiat's arrangements for providing its technical information to independent repairers did not correspond to the latters' needs either as regards the scope of the information available or as regards its accessibility, and that such a practice, in combination with similar practices by other car manufacturers, could have contributed to a decline in the market position of independent repairers. In turn, this could have caused considerable consumer harm in terms of a significant reduction in choice of spare parts, higher prices for repair services, a reduction in choice of repair outlets, potential safety issues, and a lack of access to innovative repair shops.

(8) Moreover, Fiat's apparent failure to provide independent repairers with appropriate access to technical information might prevent the agreements with its after-sales service partners from benefiting from the exemption granted by Regulation (EC) No 1400/2002, since according to Article 4(2) of the Regulation, the exemption granted therein does not apply where the supplier of motor vehicles refuses to give independent operators access to any technical information, diagnostic and other equipment, tools, including any relevant software, or training required for the repair and maintenance of these motor vehicles. As clarified in recital 26 of the Regulation, the conditions of access must not discriminate between authorised and independent operators.

(9) Finally, the Commission came to the preliminary view that in the context of lack of access to technical repair information, the agreements between Fiat and its authorised repairers were unlikely to benefit from the provision of Article 81(3).

(10) On 22 January 2007, Fiat offered commitments to the Commission in order to meet the competition concerns addressed in the preliminary assessment.

(11) According to those commitments, the principle determining the scope of the information to be provided is that of non-discrimination between independent and authorised repairers. In this light, Fiat will ensure that all technical information, tools, equipment, software and training required for the repair and maintenance of its vehicles which is provided to authorised repairers and/or independent importers in any EU Member State by or on behalf of Fiat is also made available to independent repairers.

(12) The commitments specify that 'technical information' within the meaning of Article 4(2) of Regulation (EC) No 1400/2002 includes all information provided to authorised repairers for the repair or maintenance of Fiat, ALFA Romeo and Lancia motor vehicles. Particular examples include software, fault codes and other parameters, together with updates, which are required to work on electronic control units (ECUs) with a view to introducing or restoring settings recommended by Fiat, vehicle identification methods, parts catalogues, working solutions resulting from practical experience and relating to problems typically affecting a given model or batch, and recall notices as well as other notices identifying repairs that may be carried out without charge within the authorised repair network.

(13) Access to tools includes access to electronic diagnostic and other repair tools, together with related software, including periodic updates thereof, and after-sales services for such tools.

(14) The commitments shall bind Fiat and its connected undertakings but shall not be directly binding on independent importers of Fiat's vehicle brands. In those Member States in which Fiat distributes Fiat, ALFA Romeo and/or Lancia vehicles via independent importers, Fiat has therefore agreed to make its best efforts to contractually oblige these undertakings to supply Fiat with any technical information or language versions of technical information that they have provided to authorised repairers in the Member State concerned. Fiat has committed itself to place this technical information or language versions on its TI website without delay.

(15) According to recital 26 of the Regulation, Fiat is not obliged to provide independent repairers with technical information that would enable a third party to bypass or disarm on-board anti-theft devices and/or recalibrate [1] electronic devices, or to tamper with devices which limit a vehicle's performance. As with any exception under EU law, recital 26 is to be interpreted narrowly. The commitments note that if Fiat were to invoke this exception as a reason for withholding any technical information from independent repairers, it has committed itself to ensure that the information withheld is limited to that necessary to provide the protection described in recital 26, and that the lack of the information in question does not prevent independent repairers from carrying out operations other than those listed in recital 26, including work on devices such as engine management ECUs, airbags, seatbelt pre-tensioners, or central locking elements.

(16) Article 4(2) of Regulation (EC) No 1400/2002 provides that technical information must be made available in a way that is proportionate to independent repairers' needs. This implies both unbundling of information and pricing that takes account of the extent to which independent repairers use the information.

(17) In line with this principle, the commitments specify that Fiat will include on the TI website all technical information relating to models launched after 1996, and will ensure that all updated technical information is on the TI website or on any successor site at all times. Moreover, Fiat will at all times ensure that the website may be easily located and provides an equivalent level of performance to the methods used for providing technical information to members of its authorised networks. When Fiat or another undertaking acting on Fiat's behalf makes a piece of technical information available to authorised repairers in a particular EU language, Fiat will ensure that this language version of the information is placed on the TI website without delay.

(18) The following three categories of technical information are not yet on the TI website, but Fiat has committed itself to place them there by 31 December 2007:

— translations in local languages of technical information currently not in Fiat's possession, but to be provided by its independent importers in the EU Member States concerned,

— notices identifying repairs that may be carried out without charge within the authorised repair network, and

— identification of the mediation centres referred to in paragraph 21 below.

(19) The commitments specify that Fiat's access fee structure for the site will be based on the cost of a yearly subscription to the full bundle of the CD-ROMs that it provides to its authorised repairers; namely EUR 3 356, plus EUR 65 for the parts catalogue and an additional monthly subscription fee of EUR 134 for updates. However, in order to respect the proportionality requirement laid down in the Regulation, Fiat agrees to provide for a *pro rata* breakdown into monthly, daily, and hourly time windows at a price for each brand of EUR 3 per hour, EUR 22 per day and EUR 350 per month. Fiat agrees to maintain this access fee structure, and not to increase fee levels above the average inflation rate within the EU during the whole currency of the commitments.

(20) Fiat's commitments are without prejudice to any current or future requirement established by Community or national law which might extend the scope of the technical information that Fiat is to provide to independent operators and/or might set out more favourable ways for such information to be provided.

(21) If an independent repairer or association of such repairers so requests, Fiat has committed itself to accept a mediation mechanism for settling disputes relating to the provision of technical information. The mediation will take place in the Member State where the requesting party's registered seat is located under the rules of a recognised local mediation centre. Mediation will not prejudice any right to file an application with the competent national court.

(22) The Decision finds that, in view of the commitments, there are no longer grounds for action by the Commission. The commitments will be binding until 31 May 2010.

(23) The Advisory Committee on Restrictive Practices and Dominant Positions issued a favourable opinion on 9 July 2007.

[1] i.e. to modify the original settings of an ECU in a way not recommended by Fiat.

COMMISSION DECISION

of 6 December 2007

amending Decision 2004/4/EC authorising Member States temporarily to take emergency measures against the dissemination of *Pseudomonas solanacearum* (Smith) Smith as regards Egypt

(notified under document number C(2007) 5898)

(2007/842/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community [1], and in particular Article 16(3) thereof,

Whereas:

(1) Under Commission Decision 2004/4/EC [2], tubers of *Solanum tuberosum* L., originating in Egypt, must not in principle be introduced into the Community. However, for the 2006/07 import season the entry into the Community of such tubers was permitted from 'pest-free areas' and subject to specific conditions.

(2) During the 2006/07 import season, one interception of *Pseudomonas solanacearum* (Smith) Smith was recorded.

(3) Egypt has reacted to this interception in a satisfactory way. The respective area has been taken off the list of 'pest free areas' for the 2007/08 import season.

(4) In the light of the information provided by Egypt, the Commission has established that there is no risk of spreading *Pseudomonas solanacearum* (Smith) Smith with the entry into the Community of tubers of *Solanum tuberosum* L. from 'pest-free areas' of Egypt, provided that certain conditions are satisfied.

(5) The entry into the Community of tubers of *Solanum tuberosum* L., originating in 'pest-free areas' of Egypt, should therefore be permitted for the 2007/08 import season.

(6) Decision 2004/4/EC should therefore be amended accordingly.

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

HAS ADOPTED THIS DECISION:

Article 1

Decision 2004/4/EC is amended as follows:

1. in Article 2 paragraph 1 '2006/07' is replaced by '2007/08';

2. in Article 4, '31 August 2007' is replaced by '31 August 2008';

3. in Article 7, '30 September 2007' is replaced by '30 September 2008';

4. the Annex is amended as follows:

   (a) in point 1(b)(iii), '2006/07' is replaced by '2007/08';

   (b) in the second indent of point 1(b)(iii), '1 January 2007' is replaced by '1 January 2008';

   (c) in point 1(b)(xii), '1 January 2007' is replaced by '1 January 2008'.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 6 December 2007.

For the Commission

Markos KYPRIANOU

Member of the Commission

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[1] OJ L 169, 10.7.2000, p. 1. Directive as last amended by Commission Directive 2007/41/EC (OJ L 169, 29.6.2007, p. 51).

[2] OJ L 2, 6.1.2004, p. 50. Decision as last amended by Decision 2006/749/EC (OJ L 302, 1.11.2006, p. 47).

COMMISSION DECISION

of 11 December 2007

concerning approval of *Salmonella* control programmes in breeding flocks of *Gallus gallus* in certain third countries in accordance with Regulation (EC) No 2160/2003 of the Eurpoean Parliament and of the Council and amending Decision 2006/696/EC, as regards certain public health requirements at import of poultry and hatching eggs

(notified under document number C(2007) 6094)

(Text with EEA relevance)

(2007/843/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2160/2003 of the European Parliament and of the Council of 17 November 2003 on the control of *Salmonella* and other specified food-borne zoonotic agents [1], and in particular Article 10(2) thereof,

Having regard to Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin [2], and in particular Article 9 thereof,

Having regard to Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption [3], and in particular Article 11(1) thereof,

Whereas:

(1) Regulation (EC) No 2160/2003 lays down requirements for the control of *Salmonella* in different poultry populations of the Member States. The requirements apply to Member States from the dates set out in Annex I to that Regulation, in particular 18 months after a target for reduction of the prevalence of *Salmonella* has been established.

(2) A target for such reduction applies for breeding flocks of *Gallus gallus* from 1 July 2005 in accordance with Commission Regulation (EC) No 1003/2005 [4], for laying hens from 1 August 2006 in accordance with Regulation (EC) No 1168/2006 and for broilers from 1 July 2007 in accordance with Regulation (EC) No 646/2007 [5].

(3) Canada, Israel, Tunisia and the United States have submitted to the Commission their control programmes for *Salmonella* in breeding poultry of *Gallus gallus*, hatching eggs thereof and day-old chicks of *Gallus gallus* intended for breeding. These programmes were found to provide guarantees equivalent to the guarantees provided for in Regulation (EC) No 2160/2003 and should therefore be approved.

(4) Commission Decision 2006/696/EC of 28 August 2006 laying down a list of third countries from which poultry, hatching eggs, day-old chicks, meat of poultry, ratites and wild game-birds, eggs and egg products and specified pathogen-free eggs may be imported into and transit through the Community and the applicable veterinary certification conditions and amending Decisions 93/342/EEC, 2000/585/EC and 2003/812/EC [6] covers imports into and transit through the Community of in particular breeding and productive poultry, hatching eggs and day-old chicks and sets out a list of third countries from which Member States are authorised to import the relevant animals and hatching eggs.

(5) Pursuant to Regulation (EC) No 2160/2003, admission to or retention on the lists of third countries provided for in Community legislation from which Member States are authorised to import the relevant animals and hatching eggs covered by that Regulation is subject to the submission to the Commission by the third country concerned of a programme equivalent to national control programmes for *Salmonella* to be established by the Member States, and its approval by the Commission.

[1] OJ L 325, 12.12.2003, p. 1. Regulation as last amended by Commission Regulation (EC) No 1237/2007 (OJ L 280, 24.10.2007, p. 5).

[2] OJ L 139, 30.4.2004, p. 55; corrected version in OJ L 226, 25.6.2004, p. 22. Regulation as last amended by Commission Regulation (EC) No 1243/2007 (OJ L 281, 25.10.2007, p. 8).

[3] OJ L 139, 30.4.2004, p. 206; corrected version in OJ L 226, 25.6.2004, p. 83. Regulation as last amended by Council Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

[4] OJ L 170, 1.7.2005, p. 12. Regulation as amended by Regulation (EC) No 1168/2006 (OJ L 211, 1.8.2006, p. 4).

[5] OJ L 151, 13.6.2007, p. 21.

[6] OJ L 295, 25.10.2006, p. 1. Decision as amended by Regulation (EC) No 1237/2007.

(6) As a consequence of the approval of programmes, Canada, Israel, Tunisia and the United States should remain on the list set out in Decision 2006/696/EC of third countries from which the Member States are authorised to import breeding poultry of *Gallus gallus*, hatching eggs thereof and day-old chicks of *Gallus gallus* intended for breeding.

(7) Certain other third countries currently listed in Decision 2006/696/EC have not yet submitted any control programme for *Salmonella* to the Commission. Since requirements on breeding poultry of *Gallus gallus*, hatching eggs thereof and day-old chicks of *Gallus gallus* intended for breeding, already apply within the Community, imports of such poultry and eggs should therefore no longer be authorised from those third countries. The list of third countries or parts thereof set out in Part 1 of Annex I to Decision 2006/696/EC should be amended accordingly.

(8) In order to provide guarantees, equivalent to the requirements within the Community, third countries, from which Member States are authorised to import breeding and productive poultry of *Gallus gallus* hatching eggs thereof and day-old chicks of *Gallus gallus*, should certify that the control programme for *Salmonella* has been applied to the flock of origin and that that flock has been tested for the presence of *Salmonella* serotypes of public health significance as soon as the requirements apply to the different poultry populations in the Community.

(9) In addition, pursuant to Regulation (EC) No 2160/2003, flocks of *Gallus gallus* can not be used for breeding purposes and their eggs can not be used as hatching eggs since 1 January 2007 in the Community if infected with *Salmonella* Enteritidis and/or *Salmonella* Typhimurium. Therefore, breeding poultry, day-old chicks intended for breeding and hatching eggs should only be authorised for import into the Community if the flocks of origin where tested and free of *Salmonella* Enteritidis and *Salmonella* Typhimurium.

(10) Commission Regulation (EC) No 1177/2006 of 1 August 2006 implementing Regulation (EC) No 2160/2003 of the European Parliament and of the Council as regards requirements for the use of specific control methods in the framework of the national control programmes for the control of *Salmonella* in poultry [1] lays down certain rules for the use of antimicrobials and vaccines in the framework of the national control programmes approved by the Commission pursuant to Regulation (EC) No 2160/2003.

(11) Third countries from which Member States are authorised to import breeding and productive poultry of *Gallus gallus* hatching eggs and day-old chicks of *Gallus gallus*, should certify that the specific requirements for the use of antimicrobials and vaccines provided for in Regulation (EC) No 1177/2006 have been applied as soon as the requirements apply to the different poultry populations in the Community. If antimicrobials have been used in day-old chicks for other purposes than the control of *Salmonella*, it should also be indicated on the certificate because such use may influence the testing for *Salmonella* at import.

(12) The model veterinary certificates for the import of breeding and productive poultry, day old chicks and hatching eggs in Decision 2006/696/EC should be amended accordingly. In order to avoid future amendments to the model veterinary certificates at the time when the provisions on imports in Regulation (EC) No 2160/2003 become applicable to productive poultry and day-old chickens, other than for breeding, the model veterinary certificates should be amended for imports of those animals as well, with a clear indication when those amendments apply to the different populations.

(13) Bulgaria and Romania acceded to the European Union on 1 January 2007. From that date, the provisions on intra-Community trade laid down in Decision 2006/696/EC apply to those new Member States. Bulgaria and Romania should therefore be deleted from the lists of third countries that are approved for imports by the Member States and set out in Part 1 of Annexes I and II to Decision 2006/696/EC.

(14) To avoid any disruption of trade, the use of veterinary certificates issued in accordance with Decision 2006/696/EC, as currently worded, should be allowed for a period of 60 days following the date of application of the present Decision.

[1] OJ L 212, 2.8.2006, p. 3.

(15) However, in order to avoid future amendments to the model veterinary certificates at the time when the provisions on imports in Regulation (EC) No 2160/2003 become applicable to laying hens and broilers of *Gallus gallus*, the model veterinary certificates should be amended for imports of those animals as well, with a clear indication when those amendments apply to the different populations. The date of application of these amendments should therefore be deferred as appropriate.

(16) Decision 2006/696/EC should therefore be amended accordingly.

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

HAS ADOPTED THIS DECISION:

Article 1

The control programmes submitted by Canada, Israel, Tunisia and United States in accordance with Article 10(1) of Regulation (EC) No 2160/2003 are hereby approved as regards *Salmonella* in flocks of breeding hens.

Article 2

Annexes I and II to Decision 2006/696/EC are amended in accordance with the Annex to this Decision.

Article 3

Consignments of breeding or productive poultry other than ratites, day-old chicks other than of ratites and hatching eggs of poultry other than ratites for which veterinary certificates have been issued in accordance with Decision 2006/696/EC, in the version applying before the date of application of the present Decision may be imported into the Community for a period of 60 days following the date of application of the present Decision.

Article 4

This Decision shall apply from 15 February 2008.

However, points II.2.5 of the model certificate for breeding or productive poultry other than ratites, II 2,4 of the model certificate for day-old chicks other than of ratites in Annex I of Decision 2006/696/EC as amended by the present Decision shall apply from 1 January 2009 if the productive poultry or day-old chicks is solely intended for the production of meat.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 11 December 2007.

For the Commission

Markos KYPRIANOU

Member of the Commission

ANNEX

(1) Annex I to Decision 2006/696/EC is amended as follows:

(a) Part 1 is replaced by the following:

'Part 1

List of third countries or parts thereof (*)

Country	Code of territory	Description of territory	Veterinary certificate		Specific conditions
			Model(s)	Additional Guarantees	
1	2	3	4	5	6
AR — Argentina	AR-0		SPF		
AU — Australia	AU-0		BPP, DOC, HEP, SPF, SRP		A
			BPR	I	
			DOR	II	
			HER	III	
BR — Brazil	BR-0		SPF		
	BR-1	States of Mato Grosso, Paraná, Rio Grande do Sul, Santa Catarina and São Paulo	BPP, DOC, HEP, SRP		A
	BR-2	States of Rio Grande do Sul, Santa Catarina, Paraná, São Paulo and Mato Grosso do Sul	BPR, DOR, HER, SRA		
BW — Botswana	BW-0		SPF		
			BPR	I	
			DOR	II	
			HER	III	
CA — Canada	CA-0		BPR, BPP, DOC, DOR, HEP, HER, SRA, SPF, SRP	IV	
CH — Switzerland	CH-0		(**)		
CL — Chile	CL-0		BPR, BPP, DOC, DOR, HEP, HER, SPF, SRA, SRP		A
HR — Croatia	HR-0		BPR, BPP, DOR, DOC, HEP, HER, SPF, SRA, SRP		A

1	2	3	4	5	6
GL — Greenland	GL-0		SPF		
IL — Israel	IL-0		BPR, BPP, DOC, DOR, HEP, HER, SPF, SRP	IV	
IS — Iceland	IS-0		SPF		
MG — Madagascar	MG-0		SPF		
MX — Mexico	MX-0		SPF		
NA — Namibia	NA-0		SPF		
			BPR	I	
			DOR	II	
			HER	III	
NZ — New Zealand	NZ-0		BPR, BPP, DOC, DOR, HEP, HER, SPF, SRA, SRP		A
PM — St Pierre and Miquelon	PM-0		SPF		
TH — Thailand	TH-0		SPF		
TN — Tunisia	TN-0		DOR, BPR, BPP, HER, SPF	IV	
TR — Turkey	TR-0		SPF		
US — United States	US-0		BPR, BPP, DOC, DOR, HEP, HER, SPF, SRA, SRP	IV	
UY — Uruguay	UY-0		SPF		
ZA — South Africa	ZA-0		SPF		
			BPR	I	
			DOR	II	
			HER	III	

(*) Without prejudice to specific certification requirements provided for in Community agreements with third countries.
(**) Certificates in accordance with the agreement between the European Community and the Swiss Confederation on trade in agricultural products, OJ L 114, 30.4.2002, p. 132.'

(b) Part 2 is amended as follows:

(i) in the section with the subheading 'Additional guarantees (AG)', the following is added:

'IV: Relevant guarantees for breeding poultry of *Gallus gallus*, day-old chicks of *Gallus gallus* intended for breeding purposes and hatching eggs of *Gallus gallus* in accordance with EU provisions on the control of *Salmonella*, have been provided and shall be certified in accordance with model BPP, DOC and HEP respectively.'

(ii) after the section with the subheading 'Additional Guarantees (AG)', the following section is inserted:

'Specific conditions:

"A": Prohibition to import into the Community breeding poultry of *Gallus gallus*, day-old chicks of *Gallus gallus* intended for breeding purposes and hatching eggs of *Gallus gallus* because a Salmonella control programme in accordance with Regulation (EC) No 2160/2003 has not been submitted to the Commission or approved by it.'

(iii) the model veterinary certificate for breeding or productive poultry other than ratites (BPP) is replaced by the following:

'Model veterinary certificate for breeding or productive poultry other than ratites (BPP)

COUNTRY **Veterirany certificate to EU**

Part I: Details of dispatched consignment

I.1. Consignor ☐ Name Address Tel. No	I.2. Certificate reference number I.2.a. I.3. Certificate reference number I.4. Local Competent Authority
I.5. Consignee Name Address Postal code Tel. No	I.6.
I.7. Country of origin ISO Code | I.8. Region of origin Code	I.9. Country of destination ISO Code | I.10.
I.11. Place of origin Name Approval number Address Name Approval number Address Name Approval number Address	I.12.
I.13. Place of loading Address Approval number	I.14. Date of departure time of departure
I.15. Means of transport Aeroplane ☐ Ship ☐ Railway wagon ☐ Road vehicle ☐ Other ☐ Identification: Documentary references:	I.16. Entry BIP in EU I.17. No(s) of CITES

I.18. Description of commodity	I.19. Commodity code (HS code) I.20. Quantity
I.21.	I.22. Number of packages
I.23. Identification of container/seal number	I.24.
I.25. Commodities certified for: Breeding ☐	
I.26.	I.27. For import or admission into EU ☐

I.28. Identification of the commodities

Species (Scientific name)	Breed/Category	Quantity

COUNTRY **BPP (breeding or productive poultry other than ratites)**

Part II: Certification

II. Health information ☐	II.a. Certificate reference number	II.b.

II.1. **Animal health attestation**

I, the undersigned official veterinarian, hereby certify that the poultry ([1]) described in this certificate:

II.1.1. complies with Directive 90/539/EEC;

II.1.2. has remained on the territory of code ..... ([2]) for at least three months or since hatching where it is less than three months old; where it was imported into the country of origin, this took place in accordance with veterinary conditions at least as strict as the relevant requirements of Directive 90/539/EEC and any subsidiary Decisions;

II.1.3. comes from the territory of code ..... ([2]), which, at the date of issue of this certificate, was free from Avian influenza and Newcastle disease as defined in Decision 93/342/EEC;

II.1.4. has been examined at the date of issue of this certificate and showed no clinical signs of or grounds for suspecting any disease;

II.1.5. has been kept since hatching or for at least six weeks immediately prior to export in the establishment(s) defined in Box I.11 of Part I, officially approved in accordance with requirements which are at least equivalent to those laid down in Annex II to Directive 90/539/EEC.

(a) the approval of which has not been suspended or withdrawn;

(b) which is (are) not subject to any animal health restriction;

(c) within a 25 km radius of which, including, where appropriate, the territory of a neighbouring country, there has been no outbreak of Avian influenza or Newcastle disease for at least 30 days;

II.1.6. during the period mentioned in II.1.5, has had no contact with poultry not complying with the requirements laid down in this certificate or with wild birds;

II.1.7. comes from a flock which:

(a) has been examined no more than 24 hours before loading and showed no clinical signs of or grounds for suspecting any disease;

(b) underwent a disease surveillance programme for:

([3]) *either* [(i) *Salmonella pullorum, S. gallinarum* and *Mycoplasma gallisepticum* (fowls);]

([3]) *and/or* [(ii) *Salmonella arizonae, S. pullorum* and*S. gallinarum, Mycoplasma meleagridis* and *M. gallisepticum* (turkeys);]

([3]) *and/or* [(iii) *Salmonella pullorum* and *S. gallinarum* (guinea fowl, quails, pheasants, partridges and ducks)]

in accordance with Chapter III of Annex II to Directive 90/539/EEC and was not found to be infected, or showed any grounds for suspecting any infection, by these agents;

([3]) *either* [(c) has not been vaccinated against Newcastle disease;]

([3]) *or* [has been vaccinated against Newcastle disease using:

.....

(name and type (live or inactivated) of Newcastle disease virus strain used in vaccine(s))

at the age of ..... weeks]

([3]) [(d) has been vaccinated using officially approved vaccines on

..... against ..... (repeat as necessary)]

II.2. **Additional guarantees**

I, the undersigned official veterinarian, further certify that:

([5]) [II.2.1. where the consignment is intended for a Member State or region the status of which has been established pursuant to Article 12(2) of Directive 90/539/EEC, the poultry described in this certificate:

(a) has not been vaccinated against Newcastle disease;

(b) was kept in isolation for 14 days before consignment at either the holding or a quarantine station under the supervision of an official veterinarian. In this connection, no poultry at the holding of origin or quarantine station, as applicable, was vaccinated against Newcastle disease during the 21 days preceding consignment and no bird which was not intended for consignment entered the holding or quarantine station during that time; in addition, no vaccinations were carried out at the quarantine station;

(c) underwent a serological examination for the presence of Newcastle disease antibodies in the 14 days preceding consignment and tested negative;]

II.2.2. the following additional guarantees laid down by the Member State of destination in accordance with Articles 13 and/or 14 of Directive 90/539/EEC are provided:

.....;

([4]) II.2.3. [if the Member State of destination is Finland or Sweden, the breeding poultry has tested negative accordance with the rules laid down in Commission Decision 2003/644/EC;]

([4]) II.2.4. [if the Member State of destination is Finland or Sweden, the laying hens (productive poultry reared with a view to producing eggs for consumption) have tested negative in accordance with the rules laid down in Commission Decision 2004/235/EC.]

([6]) II.2.5. [The *Salmonella* control programme referred to in Article 10 of Regulation (EC) No 2160/2003 and the specific requirements for the use of antimicrobials and vaccines in Regulation (EC) No 1177/2006, have been applied to the flock of origin and the flock has been tested for *Salmonella* serotypes of public health significance.

Date of last sampling of the flock from which the testing result is known: .....

Result of all testing in the flock:

([3]) ([7]) *either* [positive;]

([3]) ([7]) *or* [negative]

For reasons other than the *Salmonella* control programme, within the last 3 weeks prior to import

([3]) *either* antimicrobials were not administered to the breeding and productive poultry other than ratites

([3]) ([4]) *or* the following antimicrobials were administered to the breeding and productive poultry other than ratites: .....]

([6]) II.2.6. [If breeding poultry, neither *Salmonella Enteritidis* nor *Salmonella Typhimurium* were detected within the control programme referred to in point II.2.5.]

([8]) [II.3. **Additional health requirements**

I, the undersigned official veterinarian, further certify that, although the use of vaccines against Newcastle disease which do not fulfil the specific requirements of Annex B(2) to Decision 93/342/EEC is not prohibited in ..... ([2]), the poultry described in this certificate:

(a) has not been vaccinated for at least 12 months with such vaccines;

(b) comes from a flock which underwent a virus isolation test for Newcastle disease, carried out in an official laboratory not more than 14 days preceding consignment on a random sample of cloacal swabs from at least 60 birds in each flock and in which no avian paramyxoviruses with an Intracerebral Pathogenicity Index (ICPI) of more than 0.4 were found;

(c) in the 60 days before consignment was not in contact with poultry which does not fulfil the conditions in (a) and (b);

(d) was kept in isolation under official surveillance on the holding of origin during the 14 days mentioned in (b).]

II.4. **Animal transport attestation**

I, the undersigned official veterinarian, further certify, that the poultry is to be transported in crates or cages which:

(a) contain only poultry of the same species, category and type coming from the same establishment;

(b) bear the approval number of the establishment of origin;

(c) are closed in accordance with the instructions of the competent authority to avoid any possibility of substitution of the contents;

(d) in addition to the vehicles in which they are to be transported, are designed to:

(i) prevent any excrement escaping and reduce to a minimum any loss of feathers during transport;

(ii) allow visual inspection of the poultry;

(iii) allow cleaning and disinfection;

(e) have been cleaned and disinfected, as have the vehicles in which they are to be transported, before loading in accordance with the instructions of the competent authority.

Notes

Part I:

— Box I.8: provide the code for the region of origin, if necessary, as defined under code of territory in column 2, Part 1 of Annex I of Decision 2006/696/EC [as last amended].

— Box I.11: Name, address and approval number of breeding and rearing establishment.

— Box I.15: Indicate the registration number(s) of railway wagons and lorries, the names of ships and, if known, the flight numbers of aircraft. In the case of transport in containers or boxes, the total number of these and their registration and seal numbers, where applicable, should be indicated in box I.23.

— Box I.19: use the appropriate HS code: 01,05 or 01.06.39.

— Box I.28 (Category): select one of the following: Pure line/grandparents/parents/laying pullets/others.

Part II:

(1) Breeding poultry and productive poultry as defined in Decision 2006/696/EC [as last amended].

(2) Code of the territory as it appears in column 2, Part 1 of Annex I of Decision 2006/696/EC [as last amended].

(3) Keep as appropriate.

(4) Complete if appropriate.

(5) Where the consignment is not intended for such Member States or regions (currently Finland and Sweden), the guarantees given under point II.2.1 must be deleted.

(6) The guarantees given under points II.2.5 and II.26 apply only to poultry which belongs to the species *Gallus gallus,* and they apply only from 1 January 2009, if the poultry is reared solely for meat production.

(7) If any of the results were positive for the serotypes below during the life of the flock, indicate as positive.

— locks of breeding poultry: *Salmonella Hadar, Salmonella Virchow* and *Salmonella Infantis.*

— Flocks of productive poultry: *Salmonella Enteritidis* and *Salmonella Typhimurium*.

(8) This guarantee is required only for poultry coming from countries or parts thereof where Article 4(4) of Decision 93/342/EEC applies. It should be deleted in the case of poultry coming from other countries.

— This certificate is valid for 10 days.

Official veterinarian

Name (in capital letters): Qualification and title:

Local Competent Authority:

Date: Signature:

Stamp:'

(iv) the model veterinary certificate for day-old chicks other than of ratites (DOC) is replaced by the following:

'Model veterinary certificate for day-old chicks other than of ratites (DOC)

COUNTRY **Veterinary certificate to EU**

Part I: Details of dispatched consignment

I.1. Consignor ☐ Name Address Tel. No		I.2. Certificate reference number	I.2.a.
		I.3. Central Competent Authority	
		I.4. Local Competent Authority	
I.5. Consignee Name Address Postal code Tel. No		I.6.	
I.7. Country of origine ISO Code	I.8. Region of origin Code	I.9. Country of destination ISO Code	I.10.
I.11. Place of origin Name Approval number Address Name Approval number Address Name Approval number Address		I.12.	
I.13. Place of loading Address Approval number		I.14. Date of departure time of departure	
I.15. Means of transport Aeroplane ☐ Ship ☐ Railway wagon ☐ Road vehicle ☐ Other ☐ Identification: Documentary references:		I.16. Entry BIP in EU	
		I.17. No(s) of CITES	
I.18. Description of commodity		I.19. Commodity code (HS code)	
		I.20. Quantity	
I.21.		I.22. Number of packages	
I.23. Identification of container/seal number		I.24.	
I.25. Commodities certified for: Breeding ☐			
I.26.		I.27. For import or admission into EU ☐	

I.28. Identification of the commodities

Species (Scientific name)	Breed/Category	Quantity

COUNTRY **DOC (day-old chicks other than of ratites)**

Part II: Certification

II. Health information ☐	II.a. Certificate reference number	II.b.

II.1. **Animal health attestation**

I, the undersigned official veterinarian, hereby certify that the day-old chicks (1) described in this certificate:

II.1.1. meet the provisions of Directive 90/539/EEC;

II.1.2. have been hatched on the territory of code ..... (2). Where the flocks from which the hatching eggs come were imported into the country of origin, this took place in accordance with veterinary conditions at least as strict as the relevant requirements of Directive 90/539/EEC and any subsidiary Decisions;

II.1.3. come from the territory of code ..... (2), which, at the date of issue of this certificate, was free from Avian influenza and Newcastle disease as defined in Decision 93/342/EEC;

II.1.4. have been examined at the date of issue of this certificate and showed no clinical signs of or grounds for suspecting any disease;

II.1.5. have been hatched in the establishment(s) defined in Box I.11 of Part I officially approved in accordance with requirements which are at least equivalent to those laid down in Annex II to Directive 90/539/EEC:

(a) the approval of which has not been suspended or withdrawn;

(b) which, at the time of consignment, was (were) not subject to any animal health restriction;

(c) within a 25 km radius of which, including, where appropriate, the territory of a neighbouring country, there has been no outbreak of Avian influenza or Newcastle disease for at least 30 days;

II.1.6. have had no contact with poultry not meeting the requirements laid down in this certificate or with wild birds;

II.1.7. are hatched from eggs coming from flocks which:

(a) have been kept for at least six weeks immediately prior to export in officially approved establishments, the approval of which, at the time of consignment of the hatching eggs to the hatchery, had not been suspended or withdrawn;

(b) are not located in regions which are not free from Avian influenza or Newcastle disease;

(c) present, at the date of issue of this certificate, no clinical signs of or grounds for suspecting any disease;

(d) have undergone a disease surveillance programme for:

(3) *either* [*Salmonella pullorum, S. gallinarum* and *Mycoplasma gallisepticum* ((fowls)];

(3) *and/or* [*Salmonella arizonae, S. pullorum* and *S. gallinarum, Mycoplasma meleagridis* and *M. gallisepticum* (turkeys)];

(3) *and/or* [*Salmonella pullorum* and *S. gallinarum* ((guinea fowls, quails, pheasants, partridges and ducks)]

in accordance with Chapter III of Annex II to Directive 90/539/EEC and have not been found to be infected, or showed any grounds for suspecting infection, by these agents;]

(3) *either* [(e) have not been vaccinated against Newcastle disease;]

(3) *or* [have been vaccinated against Newcastle disease using:

.....

(name and type (live or inactivated) of Newcastle disease virus strain used in vaccine(s))

at the age of..... weeks]

(3) [(f) have been vaccinated using officially approved vaccines

on ..... against ..... (repeat as necessary)]

II.1.8. have been hatched from eggs which:

(a) prior to consignment to the hatchery, had been marked in accordance with the instructions of the competent authority;

(b) had been disinfected in accordance with the instructions of the competent authority.

II.1.9. hatched on ..... (dates).

II.1.10. have been vaccinated using officially approved vaccines on ....., against ..... (repeat as necessary).

II.2. **Additional guarantees**

I, the undersigned official veterinarian, further certify that:

([5]) [II.2.1. where the consignment is intended for a Member State or region the status of which has been established pursuant to Article 12(2) of Directive 90/539/EEC, the day-old chicks described in this certificate come from hatching eggs coming from flocks which:

([3]) *either* [(i) have not been vaccinated against Newcastle disease;]

([3]) *or* [(ii) have been vaccinated against Newcastle disease using an inactivated vaccine;]

([3]) *or* [(iii) were vaccinated against Newcastle disease using a live vaccine at the latest 60 days before the date the eggs were collected.]

II.2.2. the following additional guarantees, laid down by the Member State of destination under Articles 13 and/or 14 of Directive 90/539/EEC, are provided:

.....;

([4]) II.2.3. if the Member State of destination is Finland or Sweden, the day-old chicks for introduction into flocks of breeding poultry or flocks of productive poultry come from flocks which have tested negative in accordance with the rules laid down in Commission Decision 2003/644/EC.

([6]) II.2.4. [The *Salmonella* control programme referred to in Article 10 of Regulation (EC) No 2160/2003 and the specific requirements for the use of antimicrobials and vaccines in Regulation (EC) No 1177/2006, have been is applied to the parent flock of origin and this parent flock has been tested for Salmonella serotypes of public health significance.

Date of last sampling of the parent flock from which the testing result is known: .....

Result of all testing in the parent flock:

([3]) ([7]) *either* [positive;]

([3]) ([7]) *or* [negative]

The specific requirements for the use of antimicrobials and vaccines in Regulation (EC) No 1177/2006, have been applied to the day-old chicks.

For reasons other than the *Salmonella* control programme,

([3]) *either* antimicrobials were not administered to the day-old chicks (including in-ovo injection)

([3]) ([4]) *or* the following antimicrobials were administered to the day-old chicks (including in-ovo injection): .....]

([6]) II.2.5. [If the day-old chicks are intended for breeding, neither *Salmonella Enteritidis* nor *Salmonella Typhimurium* were detected within the control programme referred to in point II.2.4.]

([8]) [II.3. **Additional health requirements**

I, the undersigned official veterinarian, further certify that, although the use of vaccines against Newcastle disease which do not fulfil the specific requirements of Annex B(2) to Decision 93/342/EEC is not prohibited in ..... ([2]):

II.3.1. the breeding poultry from which the day-old chicks are derived:

(a) has not been vaccinated for at least 12 months with such vaccines;

(b) comes from a flock which underwent a virus isolation test for Newcastle disease, carried out in an official laboratory not earlier than 14 days preceding consignment on a random sample of cloacal swabs from at least 60 birds in each flock and in which no avian paramyxoviruses with an Intracerebral Pathogenicity Index (ICPI) of more than 0,4 were found;

(c) has not been in contact during the last 60 days before consignment with poultry which does not fulfil the conditions in (a) and (b);

(d) has been kept in isolation under official surveillance on the holding of origin in the 14-day period mentioned in (b), and

II.3.2. the hatching eggs from which they hatched have not been in contact in the hatchery or during transport with eggs or poultry which do not fulfil the abovementioned requirements.]

II.4. **Animal transport attestation**

I, the undersigned official veterinarian, further certify that:

II.4.1. the day-old chicks described in this certificate are to be transported in disposable boxes used for the first time and:

(a) contain only day-old chicks of the same species, category and type coming from the same establishment;

(b) bear the following information:

— the name of the country of consignment,

— the species of poultry concerned,

— the number of chicks,

— the category and type of production for which they are intended,

— the name, address and approval number of the production establishment,

— the approval number of the establishment of origin,

— the Member State of destination;

(c) are closed in accordance with the instructions of the competent authority to avoid any possibility of substitution of the contents;

II.4.2. the containers and vehicles in which the boxes mentioned in II.4.1 have been transported have been cleaned and disinfected before loading in accordance the instructions of the competent authority.

Notes

Part I:

— Box I.8: provide the code for the region of origin, if necessary, as defined under code of territory in column 2, Part 1 of Annex I of Decision 2006/696/EC [as last amended].

— Box I.11: Name, address and approval number of hatcheries and the breeding establishment.

— Box I.15: Indicate the registration number(s) of railway wagons and lorries, the names of ships and, if known, the flight numbers of aircraft. In the case of transport in containers or boxes, the total number of these and their registration and seal numbers, where applicable, should be indicated in box I.23.

— Box I.19: use the appropriate HS code: 01,05 or 01.06.39.

— Box I.28: (Category): select one of the following: Pure line/grandparents/parents/laying stock/broilers/others.

Part II:

(1) "Day-old chicks" as defined in Decision 2006/696/EC [as last amended].

(2) Code of the territory as it appears in column 2, Part 1 of Annex I of Decision 2006/696/EC [as last amended].

(3) Keep as appropriate.

(4) Complete if appropriate.

(5) Where the consignment is not intended for such Member States or regions (currently Finland and Sweden), the guarantees given under point II.2.1 must be deleted.

(6) The guarantees given under points II.2.4 and II.2.5 only apply m if the day-old chicks belong to the species *Gallus gallus* and they apply only from 1 January 2009, if the day-old chicks are intended solely for meat production.

(7) If any of the results were positive for the following serotypes during the life of the parent flock, indicate as positive: *Salmonella Infantis, Salmonella Virchow* and *Salmonella Hadar.*

(8) This guarantee is required only for poultry coming from countries or parts thereof where Article 4(4) of Decision 93/342/EEC applies. It should be deleted in the case of poultry coming from other countries.

— This certificate is valid for 10 days.

Official veterinarian

Name (in capital letters): Qualification and title:
Local Competent Authority:
Date: Signature:
Stamp:'

(v) the model veterinary certificate for hatching eggs of poultry other than ratites (HEP) is replaced by the following:

'Model veterinary certificate for hatching eggs of poultry other than ratites (HEP)

COUNTRY **Veterinary certificate to EU**

Part I: Details of dispatched consignment

I.1. Consignor ☐ Name Address Tel. No		I.2. Certificate reference number	I.2.a.
		I.3. Central Competent Authority	
		I.4. Local Competent Authority	
I.5. Consignee Name Address Postal codel Tel. No		I.6.	
I.7. Country of origin ISO Code	I.8. Region of origin Code	I.9. Country of destination ISO Code	I.10.
I.11. Place of origin Name Approval number Address Name Approval number Address Name Approval number Adresse		I.12.	
I.13. Place of loading Address Approval number		I.14. Date of departure time of departure	
I.15. Means of transport Aeroplane ☐ Ship ☐ Railway wagon ☐ Road vehicle ☐ Other ☐ Identification: Documentary references:		I.16. Entry BIP in EU	
		I.17. No(s) of CITES	

I.18. Description of commodity	I.19. Commodity code (HS code)	
		I.20. Quantity
I.21.		I.22. Number of packages
I.23. Identification of container/seal number		I.24.
I.25. Commodities certified for: Breeding ☐		
I.26.	I.27. For import or admission into EU ☐	

I.28. Identification of the commidities

Species (Scientific name)	Breed/Category	Identification system	Identification number	Quantity

COUNTRY **HEP (hatching eggs of poultry other than ratites)**

Part II: Certification

II. Health information ☐	II.a. Certificate reference number	II.b.

II.1. **Animal health attestation**

I, the undersigned official veterinarian, hereby certify that the hatching eggs (1) described in this certificate:

II.1.1. comply with Directive 90/539/EEC;

II.1.2. come from flocks which have remained on the territory of code ..... (2) for at least three months. Where these flocks were imported into the country of origin, this took place in accordance with veterinary conditions that are at least as strict as the relevant requirements of Directive 90/539/EEC and any subsidiary Decisions;

II.1.3. come from the territory of code ..... (2), which at the date of issue of this certificate was free from Avian influenza and Newcastle disease as defined in Decision 93/342/EEC;

II.1.4. come from flocks which:

(a) have been examined at the date of issue of this certificate and showed no clinical signs of or grounds for suspecting any disease;

(b) have been kept for at least six weeks immediately prior to export in the establishment(s) defined in Box I.11 of Part I, officially approved in accordance with requirements that are at least equivalent to those laid down in Annex II to Directive 90/539/EEC:

— the approval of which has not been suspended or withdrawn;

— which is (are) not subject to any animal health restriction;

within a 25 km radius of which, including, where appropriate, the territory of a neighbouring country, there has been no outbreak of Avian influenza or Newcastle disease for at least 30 days;

(c) during the period mentioned in (b), have had no contact with poultry not meeting the requirements laid down in this certificate or with wild birds,

(d) have undergone a disease surveillance programme for:

(3) *either* [*Salmonella pullorum, S. gallinarum* and *Mycoplasma gallisepticum* ((fowls)];

(3) *and/or* [*Salmonella arizonae, S. pullorum* and *S. gallinarum, Mycoplasma meleagridis* and *M. gallisepticum* (turkeys)];

(3) *and/or* [*Salmonella pullorum* and *S. gallinarum* ((guinea fowls, quails, pheasants, partridges and ducks)]

in accordance with Chapter III of Annex II to Directive 90/539/EEC and were not found to infected, or showed any grounds for suspecting infection, by these agents;

(3) *either* [(e) [have not been vaccinated against Newcastle disease;]

(3) *or* [have been vaccinated against Newcastle disease using:

.....

(name and type (live or inactivated) of Newcastle disease virus strain used in vaccine(s))

at the age of..... weeks]

(3) [(f) have been vaccinated using officially approved vaccines

on ..... against..... (repeat as necessary)]

II.1.5. have been marked as indicated in point I.28 of the certificate using ..... (colour ink)

II.1.6. have been disinfected in accordance with my instructions, using.....(name of the product and active substance) for ..... (time in minutes);

II.1.7 were collected from..... to ..... (dates).

II.2. **Additional guarantees**

I, the undersigned official veterinarian, further certify that:

([4]) [II.2.1. where the consignment is intended for a Member State or region the status of which has been established in accordance with Article 12(2) of Directive 90/539/EEC, the hatching eggs described this certificate are derived from poultry which:

([3]) *either* (a) have not been vaccinated against Newcastle disease,

([3]) *or* (b) have been vaccinated against Newcastle disease using an inactivated vaccine,

([3]) *or* (c) were vaccinated against Newcastle disease using a live vaccine at the latest 60 days before the date mentioned under point II.1.7 above.]

II.2.2. the following additional guarantees, laid down by the Member State of destination in accordance with Articles 13 and/or 14 of Directive 90/539/EEC, are provided:

.....;

([3]) II.2.3. if the Member State of destination is Finland or Sweden, the hatching eggs come from flocks which have tested negative in accordance with the rules laid down in Commission Decision 2003/644/EC.

([5]) II.2.4. [The *Salmonella* control programme referred to in Article 10 of Regulation (EC) No 2160/2003 and specific requirements for the use of antimicrobials and vaccines in Regulation (EC) No 1177/2006, have been applied to the parent flock of origin and this parent flock has been tested for *Salmonella* serotypes of public health significance.

Date of last sampling of the parent stock from which the testing result is known: .....

Result of all testing in the parent flock:

([3]) ([6]) *either* [positive;]

([3]) ([6]) *or* [negative]

([5]) II.2.5. Neither *Salmonella Enteritidis* nor *Salmonella Typhimurium* were detected within the control programme referred to in point II.2.4.

([7]) [II.3. **Additional health requirements for countries not free from Newcastle disease**

I, the undersigned official veterinarian, further certify that a lthough the use of vaccines against Newcastle disease which do not fulfil the specific requirements of Annex B(2) to Decision 93/342/EEC is not prohibited in ..... ([2]), the poultry from which the hatching eggs are derived:

(a) has not been vaccinated for at least 12 months with such vaccines;

(b) comes from a flock that underwent a virus isolation test for Newcastle disease, carried out in an official laboratory not earlier than 14 days preceding consignment on a random sample of cloacal swabs from at least 60 birds in each flock concerned and in which no avian paramyxoviruses with an Intracerebral Pathogenicity Index (ICPI) of more than 0,4 have been found;

(c) has not been in contact during the last 60 days before consignment with poultry that does not fulfil the conditions in (a) and (b);

(d) has been kept in isolation under official surveillance on the holding of origin in the 14-day period mentioned in (b).]

II.4. **Animal transport attestation**

I, the undersigned official veterinarian, further certify that:

II.4.1. the hatching eggs are to be transported in perfectly clean disposable boxes used for the first time and which:

(a) contain only hatching eggs of the same species, category and type coming from the same establishment;

(b) bear the following indications:

— the name of the country of consignment,

— the species of poultry concerned,

— the number of eggs,

— the category and type of production for which they are intended,

— the name, address and approval number of the production establishment,

— the approval number of the establishment of origin,

— the Member State of destination;

(c) are closed in accordance with the instructions of the competent authority to avoid any possibility of substitution of the contents;

II.4.2. the containers and vehicles in which the boxes mentioned in II.4.1 have been transported have been cleaned and disinfected before loading in accordance with the instructions of the competent authority.

Notes

Part I:

— Box I.8: provide the code for the region of origin, if necessary, as defined under code of territory in column 2, Part 1 of Annex I of Decision 2006/696/EC [as last amended].

— Box I.11: Name, address and approval number of the breeding establishment.

— Box I.15: Indicate the registration number(s) of railway wagons and lorries, the names of ships and, if known, the flight numbers of aircraft. In the case of transport in containers or boxes, the total numbers of these and their registration and seal numbers, where applicable, should be indicated in box I.23.

— Box I.28 (Category): select one of the following: Pure line/grandparents/parents/laying pullets/eggs of turkeys for consumption/others; (Identification system and identification number): indroduce the egg mark.

Part II:

([1]) For hatching eggs of poultry as defined in Decision 2006/696/EC [as last amended] with the exception of ratites.

([2]) Code of the territory as it appears in column 2, Part 1 of Annex I of Decision 2006/696/EC [as last amended].

([3]) Keep as appropriate.

([4]) Where the consignment is not intended for such Member States or regions (currently Finland and Sweden), the guarantees given under point II.2.1 must be deleted.

([5]) The guarantees given under points II.2.4 and II.2.5 only apply to the poultry which belongs to the species *Gallus gallus.*

([6]) If any of the results were positive for the following serotypes during the life of the parent flock, indicate as positive: *Salmonella Infantis, Salmonella Virchow* and *Salmonella Hadar*.

([7]) This guarantee is required only for poultry coming from countries or parts thereof where Article 4(4) of Decision 93/342/EEC applies. It should be deleted in the case of poultry coming from other countries.

— This certificate is valid for 10 days.

Official veterinarian

Name (in capitals): Qualification and title:

Local Competent Authority:

Date: Signature:

Stamp:'

(2) In Part 1 of Annex II to Decision 2006/696/EC, the entries for Bulgaria and Romania are deleted.

COMMISSION DECISION

of 17 December 2007

amending Decision 2006/415/EC concerning certain protection measures in relation to highly pathogenic avian influenza of the subtype H5N1 in poultry in Germany

(notified under document number C(2007) 6702)

(Text with EEA relevance)

(2007/844/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market [1], and in particular Article 9(3) thereof,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market [2], and in particular Article 10(3) thereof,

Whereas:

(1) Commission Decision 2006/415/EC of 14 June 2006 concerning certain protection measures in relation to highly pathogenic avian influenza of the subtype H5N1 in poultry in the Community and repealing Decision 2006/135/EC [3] lays down certain protection measures to be applied in order to prevent the spread of that disease, including the establishment of areas A and B following a suspected or confirmed outbreak of the disease.

(2) Germany has notified the Commission of an outbreak of highly pathogenic avian influenza of subtype H5N1 in a backyard holding on its territory and has taken the appropriate measures as provided for in Decision 2006/415/EC, including the establishment of Areas A and B as provided for in Article 4 of that Decision.

(3) The Commission has examined those measures in collaboration with Germany, and is satisfied that the borders of Areas A and B established by the competent authority in that Member State are at a sufficient distance to the actual location of the outbreak. Areas A and B in Germany can therefore be confirmed and the duration of that regionalisation fixed.

(4) Decision 2006/415/EC should therefore be amended accordingly.

(5) The measures provided for in this Decision should be reviewed at the next meeting of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 2006/415/EC is amended in accordance with the text in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 17 December 2007.

For the Commission
Markos KYPRIANOU
Member of the Commission

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[1] OJ L 395, 30.12.1989, p. 13. Directive as last amended by Directive 2004/41/EC of the European Parliament and of the Council (OJ L 157, 30.4.2004, p. 33); corrected version (OJ L 195, 2.6.2004, p. 12).

[2] OJ L 224, 18.8.1990, p. 29. Directive as last amended by Directive 2002/33/EC of the European Parliament and of the Council (OJ L 315, 19.11.2002, p. 14).

[3] OJ L 164, 16.6.2006, p. 51. Decision as last amended by Decision 2007/816/EC (OJ L 326, 12.12.2007, p. 32).

ANNEX

The Annex to Decision 2006/415/EC is amended as follows:

1. The following text is added to Part A:

'ISO Country Code	Member State	Area A		Date until applicable Article 4(4)(b)(iii)
		Code (if available)	Name	
DE	GERMANY		The 10 km zone established around the outbreak in the commune of Großwoltersdorf including all or parts of the communes of: Landkreis Oberhavel: Fürstenberg/Havel, Gransee, Großwoltersdorf, Sonnenberg, Stechlin Landkreis Ostprignitz-Ruppin: Lindow (Mark), Rheinsberg Landkreis Mecklenburg-Strelitz: Priepert, Wesenberg	15.1.2008'

2. The following text is added to Part B:

'ISO Country Code	Member State	Area B		Date until applicable Article 4(4)(b)(iii)
		Code (if available)	Name	
DE	GERMANY		The communes of: Landkreis Oberhavel: Fürstenberg/Havel, Gransee, Großwoltersdorf, Schönermark, Sonnenberg, Stechlin, Zehdenick Landkreis Ostprignitz-Ruppin: Lindow (Mark), Rheinsberg Landkreis Uckermark: Lychen, Templin Landkreis Mecklenburg-Strelitz: Godendorf, Priepert, Wesenberg, Wokuhl-Dabenow, Wustrow	15.1.2008'

III

(Acts adopted under the EU Treaty)

ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

COUNCIL DECISION 2007/845/JHA

of 6 December 2007

concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 30(1)(a) and (b) and 34(2)(c) thereof,

Having regard to the initiative of the Kingdom of Belgium, the Republic of Austria and the Republic of Finland,

Having regard to the opinion of the European Parliament [1],

Whereas:

(1) The main motive for cross-border organised crime is financial gain. This financial gain is a stimulus for committing further crime to achieve even more profit. Accordingly, law enforcement services should have the necessary skills to investigate and analyse financial trails of criminal activity. To combat organised crime effectively, information that can lead to the tracing and seizure of proceeds from crime and other property belonging to criminals has to be exchanged rapidly between the Member States of the European Union.

(2) The Council adopted Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence [2] and Framework Decision 2005/212/JHA of 24 February 2005 on Confiscation of Crime-Related Proceeds, Instrumentalities and Property [3], dealing with certain aspects of judicial cooperation in criminal matters in the field of the freezing and confiscation of the proceeds from, instrumentalities of, and other property related to, crime.

(3) Close cooperation is necessary between the relevant authorities of the Member States involved in the tracing of illicit proceeds and other property that may become liable to confiscation and provision should be made allowing for direct communication between those authorities.

(4) To that end, Member States should have national Asset Recovery Offices in place which are competent in these fields, and should ensure that these offices can exchange information rapidly.

(5) The Camden Assets Recovery Inter-Agency Network (CARIN) established at The Hague on 22-23 September 2004 by Austria, Belgium, Germany, Ireland, Netherlands and the United Kingdom already constitutes a global network of practitioners and experts with the intention of enhancing mutual knowledge on methods and techniques in the area of cross-border identification, freezing, seizure and confiscation of the proceeds from, and other property related to, crime. This Decision should complete the CARIN by providing a legal basis for the exchange of information between Asset Recovery Offices of all the Member States.

(6) In its Communication to the Council and the European Parliament 'The Hague Programme: Ten Priorities for the next five years', the Commission advocated strengthening tools to address the financial aspects of organised crime, *inter alia*, by promoting the establishment of criminal asset intelligence units in Member States.

[1] Opinion of 12 December 2006 (not yet published in the Official Journal).

[2] OJ L 196, 2.8.2003, p. 45.

[3] OJ L 68, 15.3.2005, p. 49.

(7) Cooperation between the Asset Recovery Offices and between the Asset Recovery Offices and other authorities charged with the facilitation of the tracing and identification of proceeds of crime should take place on the basis of the procedures and time limits provided for in Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union [1], including the grounds for refusal contained therein.

(8) This Decision should be without prejudice to the cooperation arrangements under Council Decision 2000/642/JHA of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in exchanging information [2] and to existing arrangements for police cooperation,

HAS DECIDED AS FOLLOWS:

Article 1

Asset Recovery Offices

1. Each Member State shall set up or designate a national Asset Recovery Office, for the purposes of the facilitation of the tracing and identification of proceeds of crime and other crime related property which may become the object of a freezing, seizure or confiscation order made by a competent judicial authority in the course of criminal or, as far as possible under the national law of the Member State concerned, civil proceedings.

2. Without prejudice to paragraph 1, a Member State may, in conformity with its national law, set up or designate two Asset Recovery Offices. Where a Member State has more than two authorities charged with the facilitation of the tracing and identification of proceeds of crime, it shall nominate a maximum of two of its Asset Recovery Offices as contact point(s).

3. Member States shall indicate the authorities which are the national Asset Recovery Offices within the meaning of this Article. They shall notify this information and any subsequent changes to the General Secretariat of the Council in writing. This notification shall not preclude other authorities which are charged with the facilitation of the tracing and identification of proceeds of crime from exchanging information under Articles 3 and 4 with an Asset Recovery Office of another Member State.

Article 2

Cooperation between Asset Recovery Offices

1. Member States shall ensure that their Asset Recovery Offices cooperate with each other for the purposes set out in Article 1(1), by exchanging information and best practices, both upon request and spontaneously.

2. Member States shall ensure that this cooperation is not hampered by the status of the Asset Recovery Offices under national law, regardless of whether they form part of an administrative, law enforcement or a judicial authority.

Article 3

Exchange of information between Asset Recovery Offices on request

1. An Asset Recovery Office of a Member State or other authorities in a Member State charged with the facilitation of the tracing and identification of proceeds of crime may make a request to an Asset Recovery Office of another Member State for information for the purposes set out in Article 1(1). To that end it shall rely on Framework Decision 2006/960/JHA and on the rules adopted in implementation thereof.

2. When filling out the form provided for under Framework Decision 2006/960/JHA, the requesting Asset Recovery Office shall specify the object of and the reasons for the request and the nature of the proceedings. It shall also provide details on property targeted or sought (bank accounts, real estate, cars, yachts and other high value items) and/or the natural or legal persons presumed to be involved (e.g. names, addresses, dates and places of birth, date of registration, shareholders, headquarters). Such details shall be as precise as possible.

Article 4

Spontaneous exchange of information between Asset Recovery Offices

1. Asset Recovery Offices or other authorities charged with the facilitation of the tracing and identification of proceeds of crime may, within the limits of the applicable national law and without a request to that effect, exchange information which they consider necessary for the execution of the tasks of another Asset Recovery Office in pursuance of purpose set out in Article 1(1).

2. Article 3 shall apply to the exchange of information under this Article *mutatis mutandis*.

Article 5

Data protection

1. Each Member State shall ensure that the established rules on data protection are applied also within the procedure on exchange of information provided for by this Decision.

[1] OJ L 386, 29.12.2006, p. 89.
[2] OJ L 271, 24.10.2000, p. 4.

2. The use of information which has been exchanged directly or bilaterally under this Decision shall be subject to the national data protection provisions of the receiving Member State, where the information shall be subject to the same data protection rules as if they had been gathered in the receiving Member State. The personal data processed in the context of the application of this Decision shall be protected in accordance with the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data, and, for those Member States which have ratified it, the Additional Protocol of 8 November 2001 to that Convention, regarding Supervisory Authorities and Transborder Data Flows. The principles of Recommendation No R(87) 15 of the Council of Europe Regulating the Use of Personal Data in the Police Sector should also be taken into account when law enforcement authorities handle personal data obtained under this Decision.

Article 6

Exchange of best practices

Member States shall ensure that the Asset Recovery Offices shall exchange best practices concerning ways to improve the effectiveness of Member States' efforts in tracing and identifying proceeds from, and other property related to, crime which may become the object of a freezing, seizure or confiscation order by a competent judicial authority.

Article 7

Relationship to existing arrangements for cooperation

This Decision shall be without prejudice to the obligations resulting from European Union instruments on mutual legal assistance or on mutual recognition of decisions regarding criminal matters, from bilateral or multilateral agreements or arrangements between the Member States and third countries on mutual legal assistance and from Decision 2000/642/JHA and Framework Decision 2006/960/JHA.

Article 8

Implementation

1. The Member States shall ensure that they are able to cooperate fully in accordance with the provisions of this Decision by 18 December 2008. By the same date Member States shall transmit to the General Secretariat of the Council and to the Commission the text of any provisions of their national law enabling them to comply with the obligations imposed on them under this Decision.

2. So long as the Member States have not yet implemented Framework Decision 2006/960/JHA, references to that Framework Decision in this Decision shall be understood as references to the applicable instruments on police cooperation between the Member States.

3. By 18 December 2010 the Council shall assess Member States' compliance with this Decision on the basis of a report made by the Commission.

Article 9

Application

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

Done at Brussels, 6 December 2007.

For the Council

The President

A. COSTA

CORRIGENDA

Corrigendum to the Council Regulation (EC) No 41/2007 of 21 December 2006 fixing for 2007 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required

(Official Journal of the European Union L 15 of 20 January 2007)

On page 11, Article 26(1):

for: 'dolphin fish fisheries',

read: 'dolphinfish fisheries';

on page 18, Chapter VIII, Title:

for: '… THIRD COUNTRY FISHING VESSELS IN THE NEAFC REGULATORY AREA',

read: '… THIRD COUNTRY FISHING VESSELS IN THE NEAFC CONVENTION AREA';

and in Article 49:

for: '… third-country fishing vessels in the NEAFC Regulatory area …',

read: '… third-country fishing vessels in the NEAFC Convention area …';

on page 19, Article 52(3) and Article 54(2):

for: '… in the NEAFC Regulatory area',

read: '… in the NEAFC Convention area';

on page 26, Article 75, table, heading of right-hand column:

for: 'Total Catch (Mt)',

read: 'Total Catch (tonnes)';

on page 48, Annex IA, Species: Megrims *Lepidorhombus* spp. in Zone VIIIc, IX and X:

for: 'Zone: VIIIc, IX and X; EC waters of CECAF 31.1.1 …',

read: 'Zone: VIIIc, IX and X; EC waters of CECAF 34.1.1 …';

on page 51, Annex IA, Species: Anglerfish *Lophiidae* in Zone VIIIc, IX and X:

for: 'Zone: VIIIc, IX and X; EC waters of CECAF 31.1.1 …',

read: 'Zone: VIIIc, IX and X; EC waters of CECAF 34.1.1 …';

on page 57, Annex IA, Species: Whiting *Merlangius merlangus* in Zone IX and X:

for: 'Zone: IX and X; EC waters of CECAF 31.1.1 ….',

read: 'Zone: IX and X; EC waters of CECAF 34.1.1 …';

on page 85, Annex IA, Species: Sprat *Sprattus sprattus* in Zone VIId and VIIe:

for: 'EC 6 144
TAC 6 144',

read: 'EC 6 145
TAC 6 145';

on page 98, Annex IB, Species: Saithe *Pollachius virens* in Færoese waters of Zone Vb:

for: 'France 1 630',

read: 'France 1 632';

on page 103, Annex IB, Species: Redfish *Sebastes* spp. in Færoese waters of Zone Vb:

for: 'Germany 2 083',

read: 'Germany 2 084';

on page 119, heading of Annex IIA:

for: '… IN THE SKAGERRAK AND KAYYEGAT',

read: '… IN THE SKAGERRAK AND KATTEGAT';

on page 121, Annex IIA, point 8.1.(b):

for: '… more than 70 % of lobster',

read: '… more than 70 % of Norway lobster';

on page 125, Annex IIA, point 13, Table I, Column 'Denomination', last entry of that page:

for: 'Trawls or Danish seines with mesh size > 120 mm …',

read: 'Trawls or Danish seines with mesh size ≥ 120 mm …';

on page 126, Annex IIA, point 13, table, last entry of that page:

for: 'c.iii — 8.1.(f) Gillnets and entangling nets …',

read: 'c.iv — 8.1.(f) Gillnets and entangling nets …';

on page 156, Annex IIIA, point 8.2.(b)(ii):

for: '(ii) are constructed in conformity with the technical details provided in the Annex.',

read: '(ii) are constructed in conformity with the technical details provided in the Annex to Council Regulation (EC) No 254/2002 of 12 February 2002 establishing measures to be applicable in 2002 for the recovery of the stock of cod in the Irish Sea (division CIE VIIa).';

on page 157, Annex IIIA, point 9.8.(b):

for: '(b) the buoy markings or VMS data indicate that the owner has been located at a distance less than 100 nautical miles from the gear for more than 120 hours;',

read: '(b) the buoy markings or VMS data indicate that the owner has not been located at a distance less than 100 nautical miles from the gear for more than 120 hours;'.