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I

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REGULATIONS

COMMISSION REGULATION (EC) No 292/2007**of 19 March 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 20 March 2007.

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

Done at Brussels, 19 March 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 386/2005 (OJ L 62, 9.3.2005, p. 3).

ANNEX

to Commission Regulation of 19 March 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	166,2
	MA	92,4
	TN	143,7
	TR	132,7
	ZZ	133,8
0707 00 05	JO	132,2
	MA	65,6
	TR	175,9
	ZZ	124,6
0709 90 70	MA	66,2
	TR	67,1
	ZZ	66,7
0709 90 80	IL	121,6
	ZZ	121,6
0805 10 20	CU	47,3
	EG	45,3
	IL	53,0
	MA	41,7
	TN	50,9
	TR	65,1
	ZZ	50,6
0805 50 10	EG	58,7
	IL	68,1
	TR	44,3
	ZZ	57,0
0808 10 80	AR	77,4
	BR	80,4
	CA	92,2
	CL	95,2
	CN	75,4
	US	114,1
	UY	71,1
	ZA	87,1
0808 20 50	ZZ	86,6
	AR	74,8
	CL	73,1
	UY	70,9
	ZA	71,7
	ZZ	72,6

⁽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 293/2007**of 19 March 2007****opening a tendering procedure for the sale of wine alcohol for use as bioethanol in the Community**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine ⁽¹⁾, and in particular Article 33 thereof,

Whereas:

- (1) Commission Regulation (EC) No 1623/2000 of 25 July 2000 laying down detailed rules for implementing Regulation (EC) No 1493/1999 on the common organisation of the market in wine with regard to market mechanisms ⁽²⁾, lays down, among other things, detailed rules for disposing of stocks of alcohol obtained from distillation under Articles 35, 36 and 39 of Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organisation of the market in wine ⁽³⁾ and referred to in Articles 27, 28 and 30 of Regulation (EC) No 1493/1999 and held by the intervention agencies.
- (2) A tendering procedure for the sale of wine alcohol for exclusive use as bioethanol in the fuel sector in the Community should be organised in accordance with Article 92 of Regulation (EC) No 1623/2000 with a view to reducing Community stocks of wine alcohol and ensuring the continuity of supplies to firms approved under that Article.
- (3) Since 1 January 1999, in accordance with Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro ⁽⁴⁾, the selling price and securities must be expressed, and payments made, in euro.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Wine,

Article 1

1. Tendering procedure No 9/2007 EC is hereby opened for the sale of wine alcohol for use as bioethanol in the Community.

The alcohol concerned has been produced from distillation under Articles 27, 28 and 30 of Regulation (EC) No 1493/1999 and is held by the intervention agencies of the Member States.

2. The total volume put up for sale is 653 380,74 hectolitres of alcohol at 100 % vol., broken down as follows:

- (a) one lot with the number 96/2007 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;
- (b) one lot with the number 97/2007 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;
- (c) one lot with the number 98/2007 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;
- (d) one lot with the number 99/2007 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;
- (e) one lot with the number 100/2007 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;
- (f) one lot with the number 101/2007 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;
- (g) one lot with the number 102/2007 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;
- (h) one lot with the number 103/2007 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;
- (i) one lot with the number 104/2007 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;

⁽¹⁾ OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

⁽²⁾ OJ L 194, 31.7.2000, p. 45. Regulation as last amended by Regulation (EC) No 2016/2006 (OJ L 384, 29.12.2006, p. 38).

⁽³⁾ OJ L 84, 27.3.1987, p. 1. Regulation repealed by Regulation (EC) No 1493/1999.

⁽⁴⁾ OJ L 349, 24.12.1998, p. 1.

- (j) one lot with the number 105/2007 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;
- (k) one lot with the number 106/2007 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;
- (l) one lot with the number 107/2007 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;
- (m) one lot with the number 108/2007 EC for a quantity of 53 380,74 hectolitres of alcohol at 100 % vol.
3. The location and references of the vats making up the lots, the quantity of alcohol in each vat, the alcoholic strength and the characteristics of the alcohol are as set out in Annex I to this Regulation.
4. Only firms approved under Article 92 of Regulation (EC) No 1623/2000 may take part in the tendering procedure.
- (b) the name and address of the tenderer, the reference number of the notice of invitation to tender and the price proposed, expressed in euro per hectolitre of alcohol at 100 % vol.;
- (c) an undertaking by tenderers that they will comply with all the rules applicable to this tendering procedure;
- (d) a statement by tenderers to the effect that:
- (i) they waive all claims in respect of the quality and characteristics of any alcohol awarded to them;
- (ii) they agree to submit to any checks made on the destination and use made of the alcohol;
- (iii) they accept that it is their responsibility to provide evidence that the alcohol is used as specified in the notice of invitation to tender in question.

Article 2

The sale shall be conducted in accordance with Articles 93, 94, 94b, 94c, 94d, 95, 96, 97, 98, 100 and 101 of Regulation (EC) No 1623/2000 and Article 2 of Regulation (EC) No 2799/98.

Article 3

1. Tenders shall be delivered to the intervention agencies holding the alcohol listed in Annex II or sent by registered mail to the address of the intervention agency.
2. Tenders shall be placed in a sealed double envelope, the inside envelope marked 'Tender under procedure No 9/2007 EC for use as bioethanol in the Community', the outer envelope bearing the address of the intervention agency concerned.
3. Tenders must reach the intervention agency concerned not later than 12 noon (Brussels time) on 2 April 2007.

Article 4

1. To be eligible for consideration, tenders must comply with Articles 94 and 97 of Regulation (EC) No 1623/2000.
2. To be eligible for consideration, when they are presented, tenders must be accompanied by:
- (a) proof that a tendering security of EUR 4 per hectolitre of alcohol at 100 % vol. has been lodged with the intervention agency holding the alcohol concerned;

Article 5

The notifications provided for in Article 94a of Regulation (EC) No 1623/2000 relating to the tendering procedure opened by this Regulation shall be sent to the Commission at the address given in Annex III to this Regulation.

Article 6

The formalities for sampling shall be as set out in Article 98 of Regulation (EC) No 1623/2000.

The intervention agency shall provide all the necessary information on the characteristics of the alcohol put up for sale.

On application to the intervention agency concerned, interested parties may obtain samples of the alcohol put up for sale, taken by a representative of the intervention agency concerned.

Article 7

1. The intervention agencies in the Member States in which the alcohol put up for sale is stored shall carry out appropriate checks to verify the nature of the alcohol at the time of end-use. To that end, they may:

- (a) apply Article 102 of Regulation (EC) No 1623/2000 *mutatis mutandis*;

(b) carry out checks on samples using nuclear magnetic resonance analysis to verify the nature of the alcohol at the time of end-use.

2. The costs of the checks referred to in paragraph 1 shall be borne by the firms to which the alcohol is sold.

Article 8

This Regulation shall enter into force on the day of 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, 19 March 2007.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX I

Member State and lot number	Location	Vat No	Quantity in hectolitres of alcohol at 100 % vol.	Regulation (EC) No 1493/1999 (Article)	Type of alcohol
Spain Lot No 96/2007 EC	Tarancon	A-2	21 335	27	raw
		B-9	24 685	27	raw
		B-10	3 980	27	raw
	Total		50 000		
Spain Lot No 97/2007 EC	Tarancon	C-7	24 882	30	raw
		D-7	24 659	30	raw
		C-8	459	30	raw
	Total		50 000		
Spain Lot No 98/2007 EC	Tarancon	C-8	24 313	30	raw
		D-8	24 867	30	raw
		A-6	820	30	raw
	Total		50 000		
France Lot No 99/2007 EC	Viniflor — Port-la-Nouvelle M. Mortefon Entrepôt d'alcool Av. Adolphe-Turrel Bp 62 F-11210 Port-la-Nouvelle	8	12 550	27	raw
		6	11 590	27	raw
		33	6 250	27	raw
		8B	1 490	28	raw
		8B	2 015	30	raw
		6B	8 250	30	raw
		6B	1 150	30	raw
		6B	555	28	raw
		8B	6 150	30	raw
	Total		50 000		
France Lot No 100/2007 EC	Viniflor — Port-la-Nouvelle M. Mortefon Entrepôt d'alcool Av. Adolphe-Turrel Bp 62 F-11210 Port-la-Nouvelle	10	14 155	27	raw
		13	5 200	27	raw
		13B	6 220	30	raw
		13B	220	30	raw
		13B	645	28	raw
		10B	3 920	30	raw
		10B	690	30	raw
		10B	2 105	28	raw
		15	2 980	30	raw
		15	9 210	30	raw
		33	4 655	27	raw
	Total		50 000		
France Lot No 101/2007 EC	Viniflor — Port-la-Nouvelle M. Mortefon Entrepôt d'alcool Av. Adolphe-Turrel Bp 62 F-11210 Port-la-Nouvelle	26	5 790	30	raw
		20B	1 080	28	raw
		26B	3 485	27	raw
		26	3 080	30	raw
		22	7 450	30	raw
		22	4 910	30	raw
		33	12 855	27	raw
		20	11 350	27	raw
	Total		50 000		

Member State and lot number	Location	Vat No	Quantity in hectolitres of alcohol at 100 % vol.	Regulation (EC) No 1493/1999 (Article)	Type of alcohol
France Lot No 102/2007 EC	Viniflhor — Longuefuye M ^{me} Bretaudeau F-53200 Longuefuye	4B	1 835	28	raw
		4	18 410	27	raw
		22	4 980	27	raw
		9BIS	2 245	30	raw
		9BIS	915	30	raw
		9BIS	4 425	28	raw
		9	14 900	27	raw
		4B	815	30	raw
		4B	1 475	30	raw
	Total		50 000		
France Lot No 103/2007 EC	Deulep M. Coulomb Bld Chanzy F-30800 Saint-Gilles-du-Gard	73B	5 930	27	raw
		501	7 510	27	raw
		503	5 450	27	raw
		506	7 120	30	raw
		504B	6 765	27	raw
		501B	570	30	raw
		501B	1 010	30	raw
		506	1 530	30	raw
		506	275	28	raw
		502	9 145	27	raw
		73	930	30	raw
		503B	270	28	raw
		503B	2 545	30	raw
		503B	950	30	raw
	Total		50 000		
France Lot No 104/2007 EC	Deulep — Psl F-13230 Port-Saint-Louis-du-Rhône	D2	2 745	28	raw
		D2	28 630	30	raw
		D2	18 625	30	raw
	Total		50 000		
Italy Lot No 105/2007 EC	Cipriani — Chizzola d'Ala (TN)	27a	4 700	27	raw
	Dister — Faenza (RA)	127a	4 500	27	raw
	I.C.V. — Borgoricco (PD)	6a	2 200	27	raw
	Mazzari — S. Agata sul Santerno (RA)	4a-15a	10 100	30	raw
	Tampieri — Faenza (RA)	6a-7a-16a	1 500	27	raw
	Villapana — Faenza (RA)	4a-2a-10a	7 300	27	raw
	Deta-Barberino Val d'Elsa (FI)	7a	2 200	27	raw
	Caviro — Faenza (RA)	15a-6a-8a-5a	17 500	27	raw
	Total		50 000		
Italy Lot No 106/2007 EC	Bonollo — Paduni (FR)	35a-37a	24 500	27/30	raw
	Mazzari — S. Agata sul Santerno (RA)	4a-15a	12 100	30	raw
	Di Lorenzo — Ponte Valleceppi (PG)	19a-22a	10 500	27	raw
	D'Auria — Ortona (CH)	22a-62a-76a	1 000	27	raw
	S.V.A. — Ortona (CH)	19a	1 900	30	raw
	Total		50 000		

Member State and lot number	Location	Vat No	Quantity in hectolitres of alcohol at 100 % vol.	Regulation (EC) No 1493/1999 (Article)	Type of alcohol
Italy Lot No 107/2007 EC	Balice Distill. — San Basilio Mottola (TA)	4a	1 900	27	raw
	Balice S.n.c. — Valenzano (BA)	1a-13a-14a-15a-16a-45a	8 300	27	raw
	De Luca — Novoli (LE)	1a-8a-9a	2 800	27	raw
	Bertolino — Partinico (PA)	24a-27a	18 700	30	raw
	D'Auria — Ortona (CH)	22a-62a-76a	6 000	27	raw
	S.V.M. — Sciacca (AG)	2a-3a-4a-8a-21a-30a-35a-36a-37	4 200	27/30	raw
	GE.DIS — Marsala (TP)	14b	8 100	30	raw
	Total		50 000		
Greece Lot No 108/2007 EC	Οινοποιητικός συνεταιρισμός Μεσσηνίας Πύργος τριφυλίας (Oinopoiitikos Sinetairismos Messinias)	76	454,96	30	raw
		77	432,94	30	raw
		85	1 782,89	30	raw
		86	1 684,51	30	raw
		87	1 756,59	30	raw
		88	1 753,86	30	raw
		95	873,44	30	raw
		75	444,79	30	raw
		28	904,89	30	raw
		80	463,46	30	raw
		73	387,14	30	raw
		78	27,72	30	raw
		15	1 747,04	30	raw
		16	1 713,67	30	raw
		26	853,18	30	raw
		74	427,35	30	raw
		17	1 743,76	30	raw
		94	887,65	30	raw
		84	1 786,52	30	raw
		79	439,47	30	raw
		93	908,63	30	raw
		83	1 795,78	30	raw
		82	1 758,86	30	raw
		12	1 800,87	30	raw
		11	1 744,16	30	raw
		18	1 707,83	30	raw
		13	1 788,73	30	raw
		96	827,49	30	raw
		81	1 805,07	30	raw
		14	1 800,04	30	raw
		97	915,07	30	raw
		92	908,96	30	raw
		99	911,94	30	raw
		25	905,06	30	raw
		108	432,18	30	raw
		107	432,77	30	raw
		105	448,22	30	raw

Member State and lot number	Location	Vat No	Quantity in hectolitres of alcohol at 100 % vol.	Regulation (EC) No 1493/1999 (Article)	Type of alcohol
		106	441,22	30	raw
		27	897,73	30	raw
		29	579,19	30	raw
		30	667,69	30	raw
		19	901,65	27	raw
		20	892,07	27	raw
		21	900,28	27	raw
		22	899,54	27	raw
		23	882,32	27	raw
		24	653,58	27	raw
		89	847,09	27	raw
		90	880,83	27	raw
		91	856,22	27	raw
		98	878,23	27	raw
		100	745,61	27	raw
	Total		53 380,74		

ANNEX II

Intervention agencies holding the alcohol referred to in Article 3

Viniflor — Libourne	Délégation nationale, 17 avenue de la Ballastière, BP 231, F-33505 Libourne Cedex (Tél. (33-5) 57 55 20 00; télex 57 20 25; fax (33) 557 55 20 59)
FEGA	Beneficencia, 8, E-28004 Madrid (Tél. (34-91) 347 64 66; fax (34-91) 347 64 65)
AGEA	Via Torino, 45, I-00184 Rome (Tél. (39) 06 49 49 97 14; fax (39) 06 49 49 97 61)
O.Π.E.K.E.Π.E.	Αχαρνών (Acharnon) 241, 10446 Athènes, Grèce (Tél. (30-210) 212 47 99; fax (30-210) 212 47 91)

ANNEX III

Address referred to in Article 5

European Commission

Directorate-General for Agriculture and Rural Development, Unit D-2

B-1049 Brussels

Fax (32-2) 292 17 75

E-mail: agri-market-tenders@ec.europa.eu

DIRECTIVES

COMMISSION DIRECTIVE 2007/16/EC

of 19 March 2007

implementing Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards the clarification of certain definitions

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 85/611/EEC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) ⁽¹⁾, and in particular point (a) of Article 53a thereof,

Whereas:

- (1) Directive 85/611/EEC contains several definitions, sometimes interlinked, related to the assets which are eligible for investment by undertakings for collective investment in transferable securities, hereinafter 'UCITS', such as a definition of transferable securities and a definition of money market instruments.
- (2) Since the adoption of Directive 85/611/EEC, the variety of financial instruments traded on financial markets has increased considerably, leading to uncertainty in determining whether certain categories of financial instruments are encompassed by those definitions. Uncertainty in applying the definitions gives rise to divergent interpretations of the Directive.
- (3) In order to ensure a uniform application of Directive 85/611/EEC, to help Member States to develop a common understanding as to whether a given asset category is eligible for a UCITS and to ensure that the definitions are understood in a manner consistent with

the principles underlying Directive 85/611/EEC, such as those governing risk-diversification and limits to exposure, the ability of the UCITS to redeem its units at the request of the unit-holders and to calculate its net asset value whenever units are issued or redeemed, it is necessary to provide competent authorities and market participants with more certainty in this respect. Greater certainty will also facilitate a better functioning of the notification procedure for the cross-border distribution of UCITS.

- (4) The clarifications provided by this Directive do not of themselves give rise to any new behavioural or operational obligations for competent authorities or market participants. Rather than establishing exhaustive lists of financial instruments and transactions, they elucidate basic criteria as an aid in assessing whether or not a class of financial instrument is covered by the various definitions.
- (5) The eligibility of an asset for a UCITS must be assessed not only with regard to whether it falls within the scope of the definitions as clarified by this text but also with regard to the other requirements of Directive 85/611/EEC. National competent authorities could work together through the Committee of European Securities Regulators (CESR) to develop common approaches on the practical, day-to-day application of those clarifications in the context of their supervisory duties, notably in connection with other requirements of Directive 85/611/EEC such as control or risk management procedures, and to ensure the smooth functioning of the product passport.
- (6) Directive 85/611/EEC defines transferable securities exclusively from a formal/legal point of view. Accordingly the definition of transferable securities is applicable to a wide range of financial products with differing features and different levels of liquidity. For each of those financial products, consistency between the definition of transferable securities and other provisions of the Directive should be ensured.

⁽¹⁾ OJ L 375, 31.12.1985, p. 3. Directive as last amended by Directive 2005/1/EC of the European Parliament and of the Council (OJ L 79, 24.3.2005, p. 9).

- (7) Closed end funds constitute an asset class which is not explicitly referred to as an eligible asset for a UCITS under Directive 85/611/EEC. However, the units of closed end funds are often treated as transferable securities and their admission to trading on a regulated market often gives grounds for such a treatment. It is therefore necessary to provide market participants and competent authorities with certainty as to whether units of closed end funds are covered by the definition of transferable securities. National competent authorities could work together through the CESR to develop common approaches as regards the practical, day-to-day application of the criteria applicable to closed end funds, notably in respect of minimum core standards in relation to corporate governance mechanisms.
- (8) Additional legal certainty is also necessary with regard to the categorisation, as transferable securities, of financial instruments which are linked to the performance of other assets, including assets which are not referred to by Directive 85/611/EEC itself, or which are backed by such assets. It should be made clear that if the linkage to the underlying or to another component of the instrument amounts to an element which has to be considered as an embedded derivative, the financial instrument falls in the subcategory of transferable securities embedding a derivative element. This has the consequence that the criteria for derivatives under Directive 85/611/EEC have to be applied in respect of that element.
- (9) In order to be covered by the definition of money market instruments in Directive 85/611/EEC, a financial instrument should fulfil certain criteria, notably it must normally be dealt in on the money market, it must be liquid and it must have a value which can be accurately determined at any time. It is necessary to ensure a uniform application of those criteria taking into account certain market practices. It is also necessary to clarify that the criteria have to be understood in coherence with other principles of Directive 85/611/EEC. The definition of money market instruments should extend to financial instruments which are not admitted to or dealt in on a regulated market and for which Directive 85/611/EEC sets out criteria in addition to the general criteria for money market instruments. It was therefore equally necessary to clarify those criteria in the light of investor protection requirements and taking into account principles of the Directive such as portfolio liquidity, as resulting from Article 37 thereof.
- (10) Under Directive 85/611/EEC financial derivative instruments are to be considered as liquid financial assets if they fulfil the criteria set out in that Directive. It is necessary to ensure a uniform application of those criteria and it is also necessary to make clear that the criteria have to be understood in a way which is consistent with other provisions of the Directive. It should also be made clear that if credit derivatives comply with those criteria, they are financial derivative instruments within the meaning of Directive 85/611/EEC and hence eligible for treatment as liquid financial assets.
- (11) The need for clarification is particularly pressing for derivatives on financial indices. There is currently a wide range of financial indices which function as the underlying for a derivative instrument. These indices may vary as regards their composition or the weighting of their components. In all cases it has to be ensured that the UCITS is able to fulfil its obligations as regards portfolio liquidity, as resulting from Article 37 of Directive 85/611/EEC, and the calculation of the net asset value and that those obligations are not negatively affected by the features of the underlying of a derivative. It should be clarified that derivatives on financial indices whose composition is sufficiently diversified, which represent an adequate benchmark to the market to which they refer and which are subject to appropriate information regarding the index composition and calculation fall under the category of derivatives as liquid financial assets. National competent authorities could work together through the CESR to develop common approaches as regards the practical, day-to-day application of those criteria in respect of indices based on assets which are not individually identified as eligible assets in the Directive.
- (12) Directive 85/611/EEC recognises as a sub-category of transferable securities and money market instruments those which embed a derivative element. Embedding a derivative element into a transferable security or money market instrument does not transform the whole financial instrument into a financial derivative instrument which would fall outside the definitions of transferable security or money market instrument. Therefore, it is necessary to make clear whether a financial derivative can be considered embedded in another instrument. In addition, embedding a derivative into a transferable security or money market instrument entails the risk that the rules for derivatives imposed by Directive 85/611/EEC are bypassed. For that reason, the Directive requires identification of the embedded derivative element and compliance with those rules. Given the level of financial innovation, the identification of an embedded derivative element is not always evident. In order to achieve more certainty in this respect, criteria for identifying such elements should be laid down.
- (13) Pursuant to Directive 85/611/EEC, techniques and instruments relating to transferable securities or money market instruments for the purpose of efficient portfolio management do not fall under the definitions of transferable securities and money market instruments. To clarify the boundaries of those definitions it is

necessary to set out criteria to identify the transactions which would fall under those techniques and instruments. It is also necessary to recall that those techniques and instruments have to be understood in coherence with the other obligations of a UCITS, particularly as regards its risk profile. That is to say, they must be consistent with the rules laid down by Directive 85/611/EEC on risk management and on risk diversification, as well as with its restrictions on short sales and borrowing.

- (14) Directive 85/611/EEC sets out criteria to define UCITS which replicate bond or share indices. UCITS which comply with those criteria are subject to a more flexible treatment as regards issuer concentration limits. It is therefore necessary to develop a clear understanding of those criteria and to ensure their uniform application in all Member States. That entails giving further clarification as to whether a UCITS can be considered to be an index-replicating UCITS, and thus more certainty about the conditions which justify the preferential treatment of index-replicating UCITS.
- (15) The Committee of European Securities Regulators has been consulted for technical advice.
- (16) The measures provided for in this Directive are in accordance with the opinion of the European Securities Committee,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Subject matter

This Directive lays down rules clarifying, for the purposes of their uniform application, the following terms:

- 1. transferable securities, as defined in Article 1(8) of Directive 85/611/EEC;
- 2. money market instruments, as defined in Article 1(9) of Directive 85/611/EEC;
- 3. liquid financial assets, as referred to in the definition of UCITS laid down in Article 1(2) of Directive 85/611/EEC, with respect to financial derivative instruments;
- 4. transferable securities and money market instruments embedding derivatives, as referred to in the fourth subparagraph of Article 21(3) of Directive 85/611/EEC;
- 5. techniques and instruments for the purpose of efficient portfolio management, as referred to in Article 21(2) of Directive 85/611/EEC;

- 6. index-replicating UCITS, as referred to in Article 22a(1) of Directive 85/611/EEC.

Article 2

Article 1(8) of Directive 85/611/EEC

Transferable securities

- 1. The reference in Article 1(8) of Directive 85/611/EEC to transferable securities shall be understood as a reference to financial instruments which fulfil the following criteria:

- (a) the potential loss which the UCITS may incur with respect to holding those instruments is limited to the amount paid for them;
- (b) their liquidity does not compromise the ability of the UCITS to comply with Article 37 of Directive 85/611/EEC;
- (c) reliable valuation is available for them as follows:
 - (i) in the case of securities admitted to or dealt in on a regulated market as referred to in points (a) to (d) of Article 19(1) of Directive 85/611/EEC, in the form of accurate, reliable and regular prices which are either market prices or prices made available by valuation systems independent from issuers;
 - (ii) in the case of other securities as referred to in Article 19(2) of Directive 85/611/EEC, in the form of a valuation on a periodic basis which is derived from information from the issuer of the security or from competent investment research;
- (d) appropriate information is available for them as follows:
 - (i) in the case of securities admitted to or dealt in on a regulated market as referred to in points (a) to (d) of Article 19(1) of Directive 85/611/EEC, in the form of regular, accurate and comprehensive information to the market on the security or, where relevant, on the portfolio of the security;
 - (ii) in the case of other securities as referred to in Article 19(2) of Directive 85/611/EEC, in the form of regular and accurate information to the UCITS on the security or, where relevant, on the portfolio of the security;

- (e) they are negotiable;
- (f) their acquisition is consistent with the investment objectives or the investment policy, or both, of the UCITS pursuant to Directive 85/611/EEC;
- (g) their risks are adequately captured by the risk management process of the UCITS.

For the purposes of points (b) and (e) of the first subparagraph, and unless there is information available to the UCITS that would lead to a different determination, financial instruments which are admitted or dealt in on a regulated market in accordance with points (a), (b) or (c) of Article 19(1) of Directive 85/611/EEC shall be presumed not to compromise the ability of the UCITS to comply with Article 37 of Directive 85/611/EEC and shall also be presumed to be negotiable.

2. Transferable securities as referred to in Article 1(8) of Directive 85/611/EEC shall be taken to include the following:

- (a) units in closed end funds constituted as investment companies or as unit trusts which fulfil the following criteria:
 - (i) they fulfil the criteria set out in paragraph 1;
 - (ii) they are subject to corporate governance mechanisms applied to companies;
 - (iii) where asset management activity is carried out by another entity on behalf of the closed end fund, that entity is subject to national regulation for the purpose of investor protection;
- (b) units in closed end funds constituted under the law of contract which fulfil the following criteria:
 - (i) they fulfil the criteria set out in paragraph 1;
 - (ii) they are subject to corporate governance mechanisms equivalent to those applied to companies as referred to in point (a)(ii);
 - (iii) they are managed by an entity which is subject to national regulation for the purpose of investor protection;

(c) financial instruments which fulfil the following criteria:

- (i) they fulfil the criteria set out in paragraph 1;
- (ii) they are backed by, or linked to the performance of, other assets, which may differ from those referred to in Article 19(1) of Directive 85/611/EEC.

3. Where a financial instrument covered by point (c) of paragraph 2 contains an embedded derivative component as referred to in Article 10 of this Directive, the requirements of Article 21 of Directive 85/611/EEC shall apply to that component.

Article 3

Article 1(9) of Directive 85/611/EEC

Instruments normally dealt in on the money market

1. The reference in Article 1(9) of Directive 85/611/EEC to money market instruments as instruments shall be understood as a reference to the following:

- (a) financial instruments which are admitted to trading or dealt in on a regulated market in accordance with points (a), (b) and (c) of Article 19(1) of Directive 85/611/EEC;

(b) financial instruments which are not admitted to trading.

2. The reference in Article 1(9) of Directive 85/611/EEC to money market instruments as instruments normally dealt in on the money market shall be understood as a reference to financial instruments which fulfil one of the following criteria:

- (a) they have a maturity at issuance of up to and including 397 days;
- (b) they have a residual maturity of up to and including 397 days;
- (c) they undergo regular yield adjustments in line with money market conditions at least every 397 days;
- (d) their risk profile, including credit and interest rate risks, corresponds to that of financial instruments which have a maturity as referred to in points (a) or (b), or are subject to a yield adjustment as referred to in point (c).

Article 4

Article 1(9) of Directive 85/611/EEC

Liquid instruments with a value which can be accurately determined at any time

1. The reference in Article 1(9) of Directive 85/611/EEC to money market instruments as instruments which are liquid shall be understood as a reference to financial instruments which can be sold at limited cost in an adequately short time frame, taking into account the obligation of the UCITS to repurchase or redeem its units at the request of any unit holder.

2. The reference in Article 1(9) of Directive 85/611/EEC to money market instruments as instruments which have a value which can be accurately determined at any time shall be understood as a reference to financial instruments for which accurate and reliable valuations systems, which fulfil the following criteria, are available:

(a) they enable the UCITS to calculate a net asset value in accordance with the value at which the financial instrument held in the portfolio could be exchanged between knowledgeable willing parties in an arm's length transaction;

(b) they are based either on market data or on valuation models including systems based on amortised costs.

3. The criteria referred to in paragraphs 1 and 2 shall be presumed to be fulfilled in the case of financial instruments which are normally dealt in on the money market for the purposes of Article 1(9) of Directive 85/611/EEC and which are admitted to, or dealt in on, a regulated market in accordance with points (a), (b) or (c) of Article 19(1) thereof, unless there is information available to the UCITS that would lead to a different determination.

Article 5

Article 19(1)(h) of Directive 85/611/EEC

Instruments of which the issue or issuer is regulated for the purpose of protecting investors and savings

1. The reference in Article 19(1)(h) of Directive 85/611/EEC to money market instruments, other than those dealt in on a regulated market, of which the issue or the issuer is itself regulated for the purpose of protecting investors and savings, shall be understood as a reference to financial instruments which fulfil the following criteria:

(a) they fulfil one of the criteria set out in Article 3(2) and all the criteria set out in Article 4(1) and (2);

(b) appropriate information is available for them, including information which allows an appropriate assessment of the credit risks related to the investment in such instruments, taking into account paragraphs 2, 3 and 4 of this Article;

(c) they are freely transferable.

2. For money market instruments covered by the second and the fourth indents of Article 19(1)(h) of Directive 85/611/EEC, or for those which are issued by a local or regional authority of a Member State or by a public international body but are not guaranteed by a Member State or, in the case of a federal State which is a Member State, by one of the members making up the federation, appropriate information as referred to in point (b) of paragraph 1 of this Article shall consist in the following:

(a) information on both the issue or the issuance programme and the legal and financial situation of the issuer prior to the issue of the money market instrument;

(b) updates of the information referred to in point (a) on a regular basis and whenever a significant event occurs;

(c) the information referred to in point (a), verified by appropriately qualified third parties not subject to instructions from the issuer;

(d) available and reliable statistics on the issue or the issuance programme.

3. For money market instruments covered by the third indent of Article 19(1)(h) of Directive 85/611/EEC, appropriate information as referred to in point (b) of paragraph 1 of this Article shall consist in the following:

(a) information on the issue or the issuance programme or on the legal and financial situation of the issuer prior to the issue of the money market instrument;

(b) updates of the information referred to in point (a) on a regular basis and whenever a significant event occurs;

(c) available and reliable statistics on the issue or the issuance programme or other data enabling an appropriate assessment of the credit risks related to the investment in such instruments.

4. For all money market instruments covered by the first indent of Article 19(1)(h) of Directive 85/611/EEC except those referred to in paragraph 2 of this Article and those issued by the European Central Bank or by a central bank from a Member State, appropriate information as referred to in point (b) of paragraph 1 of this Article shall consist in information on the issue or the issuance programme or on the legal and financial situation of the issuer prior to the issue of the money market instrument.

Article 6

Article 19(1)(h) of Directive 85/611/EEC

Establishment which is subject to and complies with prudential rules considered by the competent authorities to be at least as stringent as those laid down by Community law

The reference in the third indent of Article 19(1)(h) of Directive 85/611/EEC to an establishment which is subject to and complies with prudential rules considered by the competent authorities to be at least as stringent as those laid down by Community law shall be understood as a reference to an issuer which is subject to and complies with prudential rules and fulfils one of the following criteria:

1. it is located in the European Economic Area;
2. it is located in the OECD countries belonging to the Group of Ten;
3. it has at least investment grade rating;
4. it can be demonstrated on the basis of an in-depth analysis of the issuer that the prudential rules applicable to that issuer are at least as stringent as those laid down by Community law.

Article 7

Article 19(1)(h) of Directive 85/611/EEC

Securitisation vehicles which benefit from a banking liquidity line

1. The reference in the fourth indent of Article 19(1)(h) of Directive 85/611/EEC to securitisation vehicles shall be understood as a reference to structures, whether in corporate, trust or contractual form, set up for the purpose of securitisation operations.
2. The reference in the fourth indent of Article 19(1)(h) of Directive 85/611/EEC to banking liquidity lines shall be understood as a reference to banking facilities secured by a financial institution which itself complies with the third indent of Article 19(1)(h) of Directive 85/611/EEC.

Article 8

Articles 1(2) and 19(1)(g) of Directive 85/611/EEC

Liquid financial assets with respect to financial derivative instruments

1. The reference in Article 1(2) of Directive 85/611/EEC to liquid financial assets shall be understood, with respect to financial derivative instruments, as a reference to financial derivative instruments which fulfil the following criteria:

(a) their underlyings consist in one or more of the following:

(i) assets as listed in Article 19(1) of Directive 85/611/EEC including financial instruments having one or several characteristics of those assets;

(ii) interest rates;

(iii) foreign exchange rates or currencies;

(iv) financial indices;

(b) in the case of OTC derivatives, they comply with the conditions set out in the second and third indents of Article 19(1)(g) of Directive 85/611/EEC.

2. Financial derivative instruments as referred to in Article 19(1)(g) of Directive 85/611/EEC shall be taken to include instruments which fulfil the following criteria:

(a) they allow the transfer of the credit risk of an asset as referred to in point (a) of paragraph 1 of this Article independently from the other risks associated with that asset;

(b) they do not result in the delivery or in the transfer, including in the form of cash, of assets other than those referred to in Article 19(1) and (2) of Directive 85/611/EEC;

(c) they comply with the criteria for OTC-derivatives laid down in the second and third indents of Article 19(1)(g) of Directive 85/611/EEC and in paragraphs 3 and 4 of this Article;

(d) their risks are adequately captured by the risk management process of the UCITS, and by its internal control mechanisms in the case of risks of asymmetry of information between the UCITS and the counterparty to the credit derivative resulting from potential access of the counterparty to non-public information on firms the assets of which are used as underlyings by credit derivatives.

3. For the purposes of the third indent of Article 19(1)(g) of Directive 85/611/EEC, the reference to fair value shall be understood as a reference to the amount for which an asset could be exchanged, or a liability settled, between knowledgeable, willing parties in an arm's length transaction.

4. For the purposes of the third indent of Article 19(1)(g) of Directive 85/611/EEC, the reference to reliable and verifiable valuation shall be understood as a reference to a valuation, by the UCITS, corresponding to the fair value as referred to in paragraph 3 of this Article, which does not rely only on market quotations by the counterparty and which fulfils the following criteria:

(a) the basis for the valuation is either a reliable up-to-date market value of the instrument, or, if such a value is not available, a pricing model using an adequate recognised methodology;

(b) verification of the valuation is carried out by one of the following:

(i) an appropriate third party which is independent from the counterparty of the OTC-derivative, at an adequate frequency and in such a way that the UCITS is able to check it;

(ii) a unit within the UCITS which is independent from the department in charge of managing the assets and which is adequately equipped for such purpose.

5. The reference in Articles 1(2) and 19(1)(g) of Directive 85/611/EEC to liquid financial assets shall be understood as excluding derivatives on commodities.

Article 9

Article 19(1)(g) of Directive 85/611/EEC

Financial indices

1. The reference in point (g) of Article 19(1) of Directive 85/611/EEC to financial indices shall be understood as a reference to indices which fulfil the following criteria:

(a) they are sufficiently diversified, in that the following criteria are fulfilled:

(i) the index is composed in such a way that price movements or trading activities regarding one

component do not unduly influence the performance of the whole index;

(ii) where the index is composed of assets referred to in Article 19(1) of Directive 85/611/EEC, its composition is at least diversified in accordance with Article 22a of that Directive;

(iii) where the index is composed of assets other than those referred to in Article 19(1) of Directive 85/611/EEC, it is diversified in a way which is equivalent to that provided for in Article 22a of that Directive;

(b) they represent an adequate benchmark for the market to which they refer, in that the following criteria are fulfilled:

(i) the index measures the performance of a representative group of underlyings in a relevant and appropriate way;

(ii) the index is revised or rebalanced periodically to ensure that it continues to reflect the markets to which it refers following criteria which are publicly available;

(iii) the underlyings are sufficiently liquid, which allows users to replicate the index, if necessary;

(c) they are published in an appropriate manner, in that the following criteria are fulfilled:

(i) their publication process relies on sound procedures to collect prices and to calculate and to subsequently publish the index value, including pricing procedures for components where a market price is not available;

(ii) material information on matters such as index calculation, rebalancing methodologies, index changes or any operational difficulties in providing timely or accurate information is provided on a wide and timely basis.

2. Where the composition of assets which are used as underlyings by financial derivatives in accordance with Article 19(1) of Directive 85/611/EEC does not fulfil the criteria set out in paragraph 1 of this Article, those financial derivatives shall, where they comply with the criteria set out in Article 8(1) of this Directive, be regarded as financial derivatives on a combination of the assets referred to in points (i), (ii) and (iii) of Article 8(1)(a).

Article 10

Article 21(3) of Directive 85/611/EEC, fourth subparagraph

Transferable securities and money market instruments embedding derivatives

1. The reference in the fourth subparagraph of Article 21(3) of Directive 85/611/EEC to transferable securities embedding a derivative shall be understood as a reference to financial instruments which fulfil the criteria set out in Article 2(1) of this Directive and which contain a component which fulfils the following criteria:

- (a) by virtue of that component some or all of the cash flows that otherwise would be required by the transferable security which functions as host contract can be modified according to a specified interest rate, financial instrument price, foreign exchange rate, index of prices or rates, credit rating or credit index, or other variable, and therefore vary in a way similar to a stand-alone derivative;
- (b) its economic characteristics and risks are not closely related to the economic characteristics and risks of the host contract;
- (c) it has a significant impact on the risk profile and pricing of the transferable security.

2. Money market instruments which fulfil one of the criteria set out in Article 3(2) and all the criteria set out in Article 4(1) and (2) thereof and which contain a component which fulfils the criteria set out in paragraph 1 of this Article shall be regarded as money market instruments embedding a derivative.

3. A transferable security or a money market instrument shall not be regarded as embedding a derivative where it contains a component which is contractually transferable independently of the transferable security or the money market instrument. Such a component shall be deemed to be a separate financial instrument.

Article 11

Article 21(2) of Directive 85/611/EEC

Techniques and instruments for the purpose of efficient portfolio management

1. The reference in Article 21(2) of Directive 85/611/EEC to techniques and instruments which relate to transferable securities and which are used for the purpose of efficient portfolio management shall be understood as a reference to techniques and instruments which fulfil the following criteria:

- (a) they are economically appropriate in that they are realised in a cost-effective way;

(b) they are entered into for one or more of the following specific aims:

- (i) reduction of risk;
- (ii) reduction of cost;
- (iii) generation of additional capital or income for the UCITS with a level of risk which is consistent with the risk profile of the UCITS and the risk diversification rules laid down in Article 22 of Directive 85/611/EEC;

(c) their risks are adequately captured by the risk management process of the UCITS.

2. Techniques and instruments which comply with the criteria set out in paragraph 1 and which relate to money market instruments shall be regarded as techniques and instruments relating to money market instruments for the purpose of efficient portfolio management as referred to in Article 21(2) of Directive 85/611/EEC.

Article 12

Article 22a(1) of Directive 85/611/EEC

Index replicating UCITS

1. The reference in Article 22a(1) of Directive 85/611/EEC to replicating the composition of a stock or debt securities index shall be understood as a reference to replication of the composition of the underlying assets of the index, including the use of derivatives or other techniques and instruments as referred to in Article 21(2) of Directive 85/611/EEC and Article 11 of this Directive.

2. The reference in the first indent of Article 22a(1) of Directive 85/611/EEC to an index whose composition is sufficiently diversified shall be understood as a reference to an index which complies with the risk diversification rules of Article 22a of that Directive.

3. The reference in the second indent of Article 22a(1) of Directive 85/611/EEC to an index which represents an adequate benchmark shall be understood as a reference to an index whose provider uses a recognised methodology which generally does not result in the exclusion of a major issuer of the market to which it refers.

4. The reference in the third indent of Article 22a(1) of Directive 85/611/EEC to an index which is published in an appropriate manner shall be understood as a reference to an index which fulfils the following criteria:

- (a) it is accessible to the public;

(b) the index provider is independent from the index-replicating UCITS.

Point (b) shall not preclude index providers and the UCITS forming part of the same economic group, provided that effective arrangements for the management of conflicts of interest are in place.

Article 13

Transposition

1. Member States shall adopt and publish, by 23 March 2008 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 23 July 2008.

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. Member States shall determine how such reference is to be made.

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 14

Entry into force

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

Article 15

Addressees

This Directive is addressed to the Member States.

Done at Brussels, 19 March 2007.

For the Commission

Charlie McCREEVY

Member of the Commission

II

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

DECISIONS

COMMISSION

COMMISSION DECISION

of 16 March 2007

laying down the network requirements for the Schengen Information System II (1st pillar)

(notified under document number C(2007) 845)

(Only the Bulgarian, Czech, Dutch, German, Estonian, Finnish, French, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, and Swedish text is authentic)

(2007/170/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2424/2001 of 6 December 2001 on the development of the second generation of the Schengen Information System (SIS II) ⁽¹⁾ and in particular Article 4(a) thereof,

Whereas:

- (1) In order to develop SIS II it is necessary to set out technical specifications concerning the communication network, its components, and the specific network requirements.
- (2) Appropriate arrangements, in particular as regards the elements of the uniform national interface located in Member States, should be put in place between the Commission and the Member States.
- (3) This decision is without prejudice to the adoption in future of other Commission's Decisions related to the development of SIS II, in particular on the development of the security requirements.

- (4) Both Regulation (EC) No 2424/2001 and Council Decision 2001/886/JHA ⁽²⁾ govern the development of the SIS II. In order to ensure that there will be one single implementing process for the development of SIS II as a whole, the provisions of this Decision should mirror the provisions of the Commission's Decision laying down the network requirements for SIS II to be taken in application of Decision 2001/886/JHA.

- (5) In accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* ⁽³⁾, the United Kingdom has not taken part in the adoption of Regulation (EC) No 2424/2001 and is not bound by it or subject to its application as it constitutes a development of provisions of the Schengen *acquis*. The United Kingdom is therefore not an addressee of this Commission decision.

- (6) In accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* ⁽⁴⁾, Ireland has not taken part in the adoption of Regulation (EC) No 2424/2001 and is not bound by it or subject to its application as it constitutes a development of provisions of the Schengen *acquis*. Ireland is therefore not an addressee of this Commission decision.

⁽¹⁾ OJ L 328, 13.12.2001, p. 4. Regulation as amended by Regulation (EC) No 1988/2006 (OJ L 411, 30.12.2006, p. 1).

⁽²⁾ OJ L 328, 13.12.2001, p. 1.

⁽³⁾ OJ L 131, 1.6.2000, p. 43. Decision as amended by Decision 2004/926/EC (OJ L 395, 31.12.2004, p. 70).

⁽⁴⁾ OJ L 64, 7.3.2002, p. 20.

- (7) Pursuant to Article 5 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and the Treaty establishing the European Community, Denmark has decided to implement Council Regulation (EC) No 2424/2001 in Danish law. Regulation (EC) No 2424/2001 is thus binding upon Denmark in international law.
- (8) As regards Iceland and Norway, Regulation (EC) No 2424/2001 and Decision 2001/886/JHA constitute a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* ⁽¹⁾, which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* ⁽²⁾.
- (9) As regards Switzerland, Regulation (EC) No 2424/2001 and Decision 2001/886/JHA constitute a development of the provisions of the Schengen *acquis* within the meaning of the Agreement signed by the European Union, the European Community and the Swiss Confederation on the latter's association with the implementation, application and development of the Schengen *acquis* which fall within the area referred to in Article 4(1) of the Council decision on the signing, on behalf of the European Community, and on the provisional application of certain provisions of this Agreement.
- (10) This Decision constitutes an act building on the Schengen *acquis* or otherwise related to it within the meaning of Article 3(1) of the Act of Accession.
- (11) The measures provided for in this Decision are in accordance with the opinion of the Committee set up by Article 6(1) of Regulation (EC) No 2424/2001,

HAS ADOPTED THIS DECISION:

Article 1

The technical specifications related to the design of the physical architecture of the communication infrastructure of the SIS II shall be as set out in the Annex.

Article 2

This Decision is addressed to the Kingdom of Belgium, the Republic of Bulgaria, Romania, the Czech Republic, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic, the Republic of Finland and the Kingdom of Sweden.

Done at Brussels, 16 March 2007.

For the Commission

Franco FRATTINI

Vice-President

⁽¹⁾ OJ L 176, 10.7.1999, p. 36.

⁽²⁾ OJ L 176, 10.7.1999, p. 31.

ANNEX

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1. Introduction

This document describes the design of the communication network, its included components and the specific network requirements.

1.1. Acronyms and abbreviations

This section describes the acronyms used throughout the document.

Acronyms and abbreviations	Explanation
BLNI	Backup Local National Interface
CEP	Central End Point
CNI	Central National Interface
CS	Central System
CS-SIS	Technical support function containing the SIS II database
DNS	Domain Name Server
FCIP	Fibre Channel over IP
FTP	File Transport Protocol
HTTP	Hyper Text Transfer Protocol
IP	Internet Protocol
LAN	Local Area Network
LNI	Local National Interface
Mbps	Megabits per second
MDC	Main Developer Contractor
N.SIS II	The national section in each Member State
NI-SIS	A uniform national interface
NTP	Network Time Protocol
SAN	Storage Area Network
SDH	Synchronous Digital Hierarchy
SIS II	Schengen Information System, second generation
SMTP	Simple Mail Transport Protocol
SNMP	Simple Network Management Protocol
s-TESTA	Secure Trans-European Services for Telematics between Administrations, is a measure of the IDABC Programme (Interoperable delivery of pan-European eGovernment services to public administrations, business and citizens. Decision of the European Parliament and Council 2004/387/EC of 21.4.2004).
TCP	Transmission Control Protocol
VIS	Visa Information System
VPN	Virtual Private Network
WAN	Wide Area Network

2. General overview

The SIS II is composed of:

- The central system (hereinafter referred to as 'the Central SIS II') consists of:
 - a technical support function (hereinafter referred to as 'CS-SIS') containing the SIS II database. The principal CS-SIS carries out technical supervision and administration and a backup CS-SIS is capable of ensuring all functionalities of the principal CS-SIS in case of failure of this system,
 - a uniform national interface (hereinafter referred to as 'NI-SIS');
- A national section (hereinafter referred to as 'N.SIS II') in each of the Member States, consisting of the national data systems which communicate with the Central SIS II. An N.SIS II may contain a data file (hereinafter referred to as 'national copy'), containing a complete or partial copy of the SIS II database;
- A communication infrastructure between the CS-SIS and the NI-SIS (hereinafter referred to as 'Communication Infrastructure') that provides an encrypted virtual network dedicated to SIS II data and the exchange of data between Sirene Bureaux.

The NI-SIS consists of:

- One Local National Interface (hereinafter referred to as 'LNI') in each Member State which is the interface that physically connect the Member State to the secure communication network and contain the encryption devices dedicated to SIS II and Sirene traffic. The LNI is located at the Member State premises,
- An optional Backup Local National Interface (hereinafter referred to as 'BLNI') which has exact the same content and function as the LNI.

The LNI and BLNI are to be used exclusively by the SIS II system and for Sirene exchange. The specific configuration of the LNI and BLNI will be specified and agreed with each individual Member State in order to take account of security requirements, the physical location and conditions of installation, including the provision of services by the network provider, meaning the physical s-TESTA connection may contain several VPN tunnels for other systems, for example VIS and Eurodac.

- A Central National Interface (hereinafter referred to as 'CNI') which is an application securing access to the CS-SIS. Each Member State has separate logical access points to the CNI via a central firewall.

The Communication Infrastructure between the CS-SIS and the NI-SIS consists of:

- The network for Secure Trans-European Services for Telematics between Administrations (hereinafter referred to as 's-TESTA') that provides an encrypted, virtual, private network dedicated to SIS II data and Sirene traffic.

3. Geographical Coverage

The Communication Infrastructure must be able to cover and provide the required services to all Member States:

All EU Member States (Belgium, Czech Republic, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, Netherlands, Austria, Poland, Portugal, Slovenia, Slovakia, Finland, Sweden, United Kingdom) and Iceland, Norway, Switzerland.

In addition, coverage of the accession countries Romania and Bulgaria needs to be catered for.

Finally, the Communication Infrastructure must be able to be extended to any other country or entity acceding to the Central SIS II (e.g. Europol, Eurojust).

4. Network services

When ever a protocol or architecture is mentioned, it should be understood that equal future technologies, protocols and architecture also are acceptable.

4.1. Network layout

The SIS II architecture makes use of centralised services, which are accessible from the different Member States. For resiliency purposes these centralised services are duplicated to two different locations namely Strasbourg in France and St Johann im Pongau in Austria, respectively the CS-SIS, CU and backup CS-SIS, BCU.

The central units, main and backup, must be accessible from the different Member States. The participating countries may have multiple network access points, a LNI and a BLNI, to interconnect their National System to the central services.

Apart from the main connectivity towards the central services, the Communication Infrastructure must also support bilateral supplementary information exchange between the Sirene offices of the different Member States.

4.2. Connection type principal CS-SIS — backup CS-SIS

The required connection type for the interconnectivity between the principal CS-SIS and the backup CS-SIS must be an SDH ring or equivalent, meaning be open also for the new future architectures and technologies. The SDH infrastructure will be used to extend the local networks of both central units to create a seamless single LAN. This LAN will then be used for the continuous synchronisation between the CU and BCU.

4.3. Bandwidth

A critical requirement of the Communication Infrastructure is the bandwidth size that it may grant to the different interconnected sites and its capability to support this bandwidth inside its backbone network.

The bandwidth needed for the LNI and the optional BLNI will be different for each Member State, mainly dependent on the choices of using national copies, central searching and biometric data exchange.

The actual sizes that the Communication Infrastructure decides to offer are irrelevant as long as they comply with the minimal need of each Member State.

Each of the aforementioned site types may transfer large chunks of data (alphanumeric, biometric and complete documents) in either direction. Therefore, the Communication Infrastructure must supply sufficient minimal guaranteed upload and download speeds for each connection.

The Communication Infrastructure must offer connection sizes varying from 2 Mbps up to 155 Mbps or higher. The network must supply sufficient minimal guaranteed upload and download speeds for each connection and it must be sized to support the total bandwidth size of the network access points.

4.4. Classes of service

The Central SIS II will support the capability of prioritisation of queries/alerts. As a derived requirement, the Communication Infrastructure will also support the possibility of traffic prioritisation.

The network prioritisation parameters are assumed to be set by the Central SIS II for all packets that require it. Weighted Fair Queuing will be used. This implies that the Communications Infrastructure must be able to take over the prioritisation assigned to the data packets on the source LAN and treat the packets accordingly within its own backbone network. Furthermore, at the remote site the Communication Infrastructure must deliver the initial packets containing the same prioritisation as set in the source LAN.

4.5. *Supported protocols*

The Central SIS II will make use of several networking communication protocols. The Communications Infrastructure should support a wide set of network communication protocols. The standard protocols to be supported are HTTP, FTP, NTP, SMTP, SNMP and DNS.

In addition to the standard protocols, the Communication Infrastructure must also be capable of handling different tunnelling protocols, SAN replication protocols and the proprietary Java-to-Java connection protocols of BEA WebLogic. The tunnelling protocols, e.g. IPsec in tunnel mode, will be used to transfer encrypted traffic to its destination.

4.6. *Technical specifications*

4.6.1. IP addressing

The Communications Infrastructure must have a range of reserved IP addresses that may solely be used within that network. Within the reserved IP range, the Central SIS II will use a dedicated set of IP addresses that will not be used anywhere else.

4.6.2. Support for IPv6

It can be assumed that the protocol used on the local networks of the Member States will be TCP/IP. However some sites will be based on version 4 while others will be based on version 6. The network access points must offer the possibility to act as a gateway and must be able to operate independently from the network protocols used in the Central SIS II as well as in the N.SIS II.

4.6.3. Static route injection

The CU and BCU can use a single and identical IP address for their communication to the Member States. Therefore the Communication Infrastructure should support static route injection.

4.6.4. Sustained flow rate

As long as the CU or BCU connection has a load rate less of 90 %, a given Member State must be able to sustain continually 100 % of its specified bandwidth.

4.6.5. Other specifications

To support the CS-SIS, the Communication Infrastructure must at least comply with a minimum set of technical specifications:

The transit delay must be (including the busy hours) less or equal to 150 ms in 95 % of packets and less than 200 ms in 100 % of packets.

Its probability of packet loss must be (including the busy hours) less or equal to 10^{-4} in 95 % of packets and less than 10^{-3} in 100 % of packets.

The aforementioned specifications are to be considered for each access point separately.

The connection between the CU and BCU must have a round trip delay less or equal to 60 ms.

4.7. *Resiliency*

The CS-SIS has been designed with high availability as a requirement. For this reason the system have integrated resiliency against component malfunctions by duplicating all equipment.

The components of the Communication Infrastructure must also be resilient against component failure. For the Communication Infrastructure, it means that the following components must be resilient:

- backbone network
- routing devices

- points of presence
- local loop connections (including physically redundant cabling)
- security devices (crypto devices, firewalls, etc.)
- all generic services (DNS, NTP, etc.)
- LNI/BLNI.

The failover mechanisms for all network equipment should occur without any manual intervention.

5. **Monitoring**

To facilitate the monitoring, the Communication Infrastructure's monitoring tools must be able to be integrated with those of the monitoring facilities of the organisation responsible for the operational management for the Central SIS II.

6. **Generic services**

Apart from the dedicated network and security services, the Communication Infrastructure must also offer generic services.

Dedicated services must be implemented within both central units, for redundancy purposes.

The following optional generic services must be present in the Communication Infrastructure:

Service	Additional information
DNS	Currently the failover procedure for switching from the CU to the BCU in case of network failure is based on changing the IP address within the generic DNS server.
E-mail relay	Using a generic e-mail relay might be useful for standardising the e-mail set-up for the different Member States and, contrary to a dedicated server, does not use up any network resources from the CU/BCU. E-mails using the generic e-mail relay must still comply with their security template.
NTP	This service may be used to synchronize the clocks of network equipment.

7. **Availability**

The CS-SIS and the LNI and BLNI must be able to deliver an availability of 99,99 % over a 28-day rolling period excluding the network availability.

The availability of the Communication Infrastructure must be 99,99 %.

8. **Security services**

8.1. *Network encryption*

The Central SIS II does not allow data with high or very high protection requirements to be transferred outside the LAN without encryption. It should be ensured that the network provider will not have an access to the SIS II operational data as well as to the related Sirene exchange by any means.

To maintain a high level of security, the Communication Infrastructure must allow to manage the certificates/keys. Remote administration and remote monitoring of the encryption boxes must be possible. Encryption algorithms at least must comply with the following requirements:

— Symmetric encryption algorithms:

- 3DES (128 bits) or better,
- key generation must depend on random value that does not allow for key space reduction while under attack,
- encryption keys or information that can be used for deriving the keys are always protected while in storage 002E;

— Asymmetric encryption algorithms:

- RSA (1 024 bit modulus) or better,
- key generation must depend on random value that does not allow for key space reduction while under attack.

The Encapsulated Security Payload (ESP, RFC2406) protocol shall be used. It shall be used in tunnel mode. The Payload and the original IP-header shall be encrypted.

For exchange of session keys the Internet Key Exchange (IKE) protocol shall be used.

IKE keys shall not be valid longer than one day.

Session keys shall not be longer than one hour.

8.2. *Other security features*

Besides protecting the SIS II access points, the Communication Infrastructure must also protect the optional generic services. These services should meet the same protection measures comparable to those in CS-SIS. All generic services must therefore, at a minimum, be protected by a firewall, antivirus and an intrusion detection system. Furthermore, the generic services devices and its protection measures should be under continuous security surveillance (logging and follow-up).

In order to maintain a high level of security, the organisation responsible for the operational management for the Central SIS II must be aware of any security incidents that occur on the Communication Infrastructure. Therefore, the Communication Infrastructure must allow all major security incidents to be reported without any delay to the organisation responsible for the operational management for the Central SIS II. All security incidents must be provided on a regular basis, e.g. monthly reporting and *ad-hoc* basis.

9. **Helpdesk and support structure**

The provider of the Communication Infrastructure must deliver a helpdesk that interacts with the organisation responsible for the operational management for the Central SIS II.

10. **Interaction with other systems**

The Communication Infrastructure must ensure that information cannot go outside the assigned communication channels. For the technical implementation this implies that:

- All unauthorised and/or uncontrolled access to other networks is strictly prohibited. This includes the inter-connectivity to the Internet.
- Data leakage to other systems on the network may not occur; e.g. interconnection of different IP VPNs is not allowed.

Apart from the aforementioned technical restrictions it causes, it also impacts the communications infrastructure's helpdesk. The helpdesk may not release any information with regard to the Central SIS II to any party else than the one responsible for the operational management for the Central SIS II.

COMMISSION DECISION

of 16 March 2007

laying down the network requirements for the Schengen Information System II (3rd pillar)

(2007/171/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* ⁽³⁾.

Having regard to the Treaty on European Union,

Having regard to Council Decision 2001/886/JHA of 6 December 2001 on the development of the second generation of the Schengen Information System (SIS II) ⁽¹⁾, and in particular Article 4(a) thereof,

Whereas:

- (1) In order to develop SIS II it is necessary to set out technical specifications concerning the communication network, its components, and the specific network requirements.
- (2) Appropriate arrangements, in particular as regards the elements of the uniform national interface located in Member States, should be put in place between the Commission and the Member States.
- (3) This Decision is without prejudice to the adoption in future of other Commission Decisions related to the development of SIS II, in particular on the development of the security requirements.
- (4) Both Council Regulation (EC) No 2424/2001 ⁽²⁾ and Decision 2001/886/JHA govern the development of the SIS II. In order to ensure that there will be one single implementing process for the development of SIS II as a whole, the provisions of this Decision should mirror the provisions of the Commission's Decision laying down the network requirements for SIS II to be taken in application of Regulation (EC) No 2424/2001.
- (5) The United Kingdom is taking part in this Decision, in accordance with Article 5 of the Protocol integrating the Schengen *acquis* into the framework of the European Union annexed to the EU Treaty and to the EC Treaty, and Article 8(2) of Council Decision 2000/365/EC of 29 May 2000, concerning the request of the United

- (6) Ireland is taking part in this Decision in accordance with Article 5 of the Protocol integrating the Schengen *acquis* into the framework of the European Union annexed to the EU Treaty and to the EC Treaty, and Article 5(1) and 6(2) of Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* ⁽⁴⁾.

- (7) As regards Iceland and Norway, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* which fall within the area referred to in Article 1, point G of Council Decision 1999/437/EC ⁽⁵⁾ on certain arrangements for the application of that Agreement.

- (8) As regards Switzerland, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement signed between the European Union, the European Community and the Swiss Confederation concerning the association of the Swiss Confederation with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in Article 1, point G of Council Decision 1999/437/EC read in conjunction with Article 4(1) of Council Decision 2004/849/EC on the signing, on behalf of the European Union, and on the provisional application of certain provisions of that Agreement ⁽⁶⁾.

- (9) This Decision constitutes an act building on the Schengen *acquis* or otherwise related to it within the meaning of Article 3(1) of the Act of Accession.

- (10) The measures provided for in this Decision are in accordance with the opinion of the Committee set up by Article 5(1) of Decision 2001/886/JHA,

⁽¹⁾ OJ L 328, 13.12.2001, p. 1.

⁽²⁾ OJ L 328, 13.12.2001, p. 4. Regulation as amended by Regulation (EC) No 1988/2006 (OJ L 411, 30.12.2006, p. 1).

⁽³⁾ OJ L 131, 1.6.2000, p. 43. Decision as amended by Decision 2004/926/EC (OJ L 395, 31.12.2004, p. 70).

⁽⁴⁾ OJ L 64, 7.3.2002, p. 20.

⁽⁵⁾ OJ L 176, 10.7.1999, p. 31.

⁽⁶⁾ OJ L 368, 15.12.2004, p. 26.

HAS DECIDED AS FOLLOWS:

Article 1

The technical specifications related to the design of the physical architecture of the communication infrastructure of the SIS II shall be as set out in the Annex.

Done at Brussels, 16 March 2007.

For the Commission

Franco FRATTINI

Vice-president

ANNEX

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1. Introduction

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Acronyms and abbreviations	Explanation
BLNI	Backup Local National Interface
CEP	Central End Point
CNI	Central National Interface
CS	Central System
CS-SIS	Technical support function containing the SIS II database
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FCIP	Fibre Channel over IP
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HTTP	Hyper Text Transfer Protocol
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SIS II	Schengen Information System, second generation
SMTP	Simple Mail Transport Protocol
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TCP	Transmission Control Protocol
VIS	Visa Information System
VPN	Virtual Private Network
WAN	Wide Area Network

2. General overview

The SIS II is composed of:

- the central system (hereinafter referred to as 'the Central SIS II') consists of:
 - a technical support function (herein after referred to as 'CS-SIS') containing the SIS II database. The principal CS-SIS carries out technical supervision and administration and a backup CS-SIS is capable of ensuring all functionalities of the principal CS-SIS in case of failure of this system,
 - a uniform national interface (hereinafter referred to as 'NI-SIS');
- a national section (hereinafter referred to as 'N.SIS II') in each of the Member States, consisting of the national data systems which communicate with the Central SIS II. An N.SIS II may contain a data file (hereinafter referred to as 'national copy'), containing a complete or partial copy of the SIS II database,
- a communication infrastructure between the CS-SIS and the NI-SIS (hereinafter referred to as 'Communication Infrastructure') that provides an encrypted virtual network dedicated to SIS II data and the exchange of data between Sirene Bureaux.

The NI-SIS which consists of:

- one Local National Interface (hereinafter referred to as 'LNI') in each Member State which is the interface that physically connect the Member State to the secure communication network and contain the encryption devices dedicated to SIS II and Sirene traffic. The LNI is located at the Member State premises,
- an optional Backup Local National Interface (hereinafter referred to as 'BLNI') which has exact the same content and function as the LNI.

The LNI and BLNI are to be used exclusively by the SIS II system and for Sirene exchange. The specific configuration of the LNI and BLNI will be specified and agreed with each individual Member State in order to take account of security requirements, the physical location and conditions of installation, including the provision of services by the network provider, meaning the physical s-TESTA connection may contain several VPN tunnels for other systems, for example VIS and Eurodac.

- a Central National Interface (hereinafter referred to as 'CNI') which is an application securing access to the CS-SIS. Each Member State has separate logical access points to the CNI via a central firewall.

The Communication Infrastructure between the CS-SIS and the NI-SIS consists of:

- the network for Secure Trans-European Services for Telematics between Administrations (hereinafter referred to as 's-TESTA') that provides an encrypted, virtual, private network dedicated to SIS II data and Sirene traffic.

3. Geographical Coverage

The Communication Infrastructure must be able to cover and provide the required services to all Member States:

All EU Member States (Belgium, Czech Republic, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, Netherlands, Austria, Poland, Portugal, Slovenia, Slovakia, Finland, Sweden, United Kingdom) and Iceland, Norway, Switzerland.

In addition, coverage of the accession countries Romania and Bulgaria needs to be catered for.

Finally, the Communication Infrastructure must be able to be extended to any other country or entity acceding to the Central SIS II (e.g. Europol, Eurojust).

4. Network services

Whenever a protocol or architecture is mentioned, it should be understood that equal future technologies, protocols and architecture also are acceptable.

4.1. Network layout

The SIS II architecture makes use of centralised services, which are accessible from the different Member States. For resiliency purposes these centralised services are duplicated to two different locations namely Strasbourg in France and St Johann im Pongau in Austria, respectively the CS-SIS, CU and backup CS-SIS, BCU.

The central units, main and backup, must be accessible from the different Member States. The participating countries may have multiple network access points, a LNI and a BLNI, to interconnect their National System to the central services.

Apart from the main connectivity towards the central services, the Communication Infrastructure must also support bilateral supplementary information exchange between the Sirene offices of the different Member States.

4.2. Connection type principal CS-SIS — backup CS-SIS

The required connection type for the interconnectivity between the principal CS-SIS and the backup CS-SIS must be an SDH ring or equivalent, meaning be open also for the new future architectures and technologies. The SDH infrastructure will be used to extend the local networks of both central units to create a seamless single LAN. This LAN will then be used for the continuous synchronisation between the CU and BCU.

4.3. Bandwidth

A critical requirement of the Communication Infrastructure is the bandwidth size that it may grant to the different interconnected sites and its capability to support this bandwidth inside its backbone network.

The bandwidth needed for the LNI and the optional BLNI will be different for each Member State, mainly dependent on the choices of using national copies, central searching and biometric data exchange.

The actual sizes that the Communication Infrastructure decides to offer are irrelevant as long as they comply with the minimal need of each Member State.

Each of the aforementioned site types may transfer large chunks of data (alphanumeric, biometric and complete documents) in either direction. Therefore, the Communication Infrastructure must supply sufficient minimal guaranteed upload and download speeds for each connection.

The Communication Infrastructure must offer connection sizes varying from 2 Mbps up to 155 Mbps or higher. The network must supply sufficient minimal guaranteed upload and download speeds for each connection and it must be sized to support the total bandwidth size of the network access points.

4.4. Classes of service

The Central SIS II will support the capability of prioritisation of queries/alerts. As a derived requirement, the Communication Infrastructure will also support the possibility of traffic prioritisation.

The network prioritisation parameters are assumed to be set by the Central SIS II for all packets that require it. Weighted Fair Queuing will be used. This implies that the Communications Infrastructure must be able to take over the prioritisation assigned to the data packets on the source LAN and treat the packets accordingly within its own backbone network. Furthermore, at the remote site the Communication Infrastructure must deliver the initial packets containing the same prioritisation as set in the source LAN.

4.5. *Supported protocols*

The Central SIS II will make use of several networking communication protocols. The Communications Infrastructure should support a wide set of network communication protocols. The standard protocols to be supported are HTTP, FTP, NTP, SMTP, SNMP and DNS.

In addition to the standard protocols, the Communication Infrastructure must also be capable of handling different tunnelling protocols, SAN replication protocols and the proprietary Java-to-Java connection protocols of BEA WebLogic. The tunnelling protocols, e.g. IPsec in tunnel mode, will be used to transfer encrypted traffic to its destination.

4.6. *Technical specifications*

4.6.1. *IP addressing*

The Communications Infrastructure must have a range of reserved IP addresses that may solely be used within that network. Within the reserved IP range, the Central SIS II will use a dedicated set of IP addresses that will not be used anywhere else.

4.6.2. *Support for IPv6*

It can be assumed that the protocol used on the local networks of the Member States will be TCP/IP. However some sites will be based on version 4 while others will be based on version 6. The network access points must offer the possibility to act as a gateway and must be able to operate independently from the network protocols used in the Central SIS II as well as in the N.SIS II.

4.6.3. *Static Route Injection*

The CU and BCU can use a single and identical IP address for their communication to the Member States. Therefore the Communication Infrastructure should support static route injection.

4.6.4. *Sustained Flow Rate*

As long as the CU or BCU connection has a load rate less of 90 %, a given Member State must be able to sustain continually 100 % of its specified bandwidth.

4.6.5. *Other specifications*

To support the CS-SIS, the Communication Infrastructure must at least comply with a minimum set of technical specifications:

The transit delay must be (including the busy hours) less or equal to 150 ms in 95 % of packets and less than 200 ms in 100 % of packets.

Its probability of packet loss must be (including the busy hours) less or equal to 10^{-4} in 95 % of packets and less than 10^{-3} in 100 % of packets

The aforementioned specifications are to be considered for each access point separately.

The connection between the CU and BCU must have a round trip delay less or equal to 60 ms.

4.7. *Resiliency*

The CS-SIS has been designed with high availability as a requirement. For this reason the system have integrated resiliency against component malfunctions by duplicating all equipment.

The components of the Communication Infrastructure must also be resilient against component failure. For the Communication Infrastructure, it means that the following components must be resilient:

- backbone network,
- routing devices,

- points of Presence,
- local loop connections (including physically redundant cabling),
- security devices (crypto devices, firewalls, etc.),
- all generic services (DNS, NTP, etc.),
- LNI/BLNI.

The failover mechanisms for all network equipment should occur without any manual intervention.

5. **Monitoring**

To facilitate the monitoring, the Communication Infrastructure's monitoring tools must be able to be integrated with those of the monitoring facilities of the organisation responsible for the operational management for the Central SIS II.

6. **Generic services**

Apart from the dedicated network and security services, the Communication Infrastructure must also offer generic services.

Dedicated services must be implemented within both central units, for redundancy purposes.

The following optional generic services must be present in the Communication Infrastructure:

Service	Additional Information
DNS	Currently the failover procedure for switching from the CU to the BCU in case of network failure is based on changing the IP address within the generic DNS server.
E-mail relay	Using a generic e-mail relay might be useful for standardising the e-mail set-up for the different Member States and, contrary to a dedicated server, does not use up any network resources from the CU/BCU. E-mails using the generic e-mail relay must still comply with their security template.
NTP	This service may be used to synchronize the clocks of network equipment.

7. **Availability**

The CS-SIS and the LNI and BLNI must be able to deliver an availability of 99,99 % over a 28-day rolling period excluding the network availability.

The availability of the Communication Infrastructure must be 99,99 %.

8. **Security services**

8.1. *Network encryption*

The Central SIS II does not allow data with high or very high protection requirements to be transferred outside the LAN without encryption. It should be ensured that the network provider will not have access to the SIS II operational data as well as to the related Sirene exchange by any means.

To maintain a high level of security, the Communication Infrastructure must allow the possibility to manage the certificates/keys. Remote administration and remote monitoring of the encryption boxes must be possible. Encryption algorithms at least must comply with the following requirements:

— symmetric encryption algorithms:

- 3DES (128 bits) or better,
- key generation must depend on random value that does not allow for key space reduction while under attack,
- encryption keys or information that can be used for deriving the keys are always protected while in storage002E;

— asymmetric encryption algorithms:

- RSA (1 024 bit modulus) or better,
- key generation must depend on random value that does not allow for key space reduction while under attack.

The Encapsulated Security Payload (ESP, RFC2406) protocol shall be used. It shall be used in tunnel mode. The Payload and the original IP-header shall be encrypted.

For exchange of session keys the Internet Key Exchange (IKE) protocol shall be used.

IKE keys shall not be valid longer than one day.

Session keys shall not be longer than one hour.

8.2. *Other security features*

Besides protecting the SIS II access points, the Communication Infrastructure must also protect the optional generic services. These services should meet the same protection measures comparable to those in CS-SIS. All generic services must therefore, at a minimum, be protected by a firewall, antivirus and an intrusion detection system. Furthermore, the generic services devices and its protection measures should be under continuous security surveillance (logging and follow-up).

In order to maintain a high level of security, the organisation responsible for the operational management for the Central SIS II must be aware of any security incidents that occur on the Communication Infrastructure. Therefore, the Communication Infrastructure must allow security incidents to be reported without any delay to the organisation responsible for the operational management for the Central SIS II. All security incidents must be provided on a regular basis, e.g. monthly reporting and ad-hoc basis.

9. **Helpdesk and support structure**

The provider of the Communication Infrastructure must deliver a helpdesk that interacts with the organisation responsible for the operational management for the Central SIS II.

10. **Interaction with other systems**

The Communication Infrastructure must ensure that information cannot go outside the assigned communication channels. For the technical implementation this implies that:

- all unauthorised and/or uncontrolled access to other networks is strictly prohibited. This includes the inter-connectivity to the Internet,
- data leakage to other systems on the network may not occur; e.g. interconnection of different IP VPNs is not allowed.

Apart from the aforementioned technical restrictions it causes, it also impacts the communications infrastructure's helpdesk. The helpdesk may not release any information with regard to the Central SIS II to any party else than the one responsible for the operational management for the Central SIS II.

COMMISSION DECISION

of 19 March 2007

setting up the group of coordinators for the recognition of professional qualifications

(2007/172/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Whereas:

(1) Article 3(1)(c) of the Treaty assigned the European Community and the Member States the task of abolishing obstacles to the free movement of persons and services. For the nationals of the Member States, free movement implies in particular the possibility to pursue a profession, either as a self-employed person or as an employee, in a Member State other than the one in which they have obtained their professional qualifications. Moreover, Article 47 of the Treaty aims at ensuring the free movement of fully qualified professionals in the field of professions regulated as to qualifications.

(2) Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications ⁽¹⁾ was adopted to ensure the free movement of fully qualified professionals where the access to a profession is regulated as to qualifications by Member States. That Directive consolidates 15 existing Directives and aims at simplifying the existing regimes of recognition as well as at further facilitating the temporary provision of services. In order to implement this Directive and to develop the internal market where the professions are regulated as to qualifications, the Commission may need to call upon the expertise of specialists in an advisory body.

(3) It is therefore appropriate to set up an expert group in the field of recognition of professional qualifications and to define its tasks and its structure.

(4) The expert group should help to develop the internal market in the field of professions regulated as to qualifications.

(5) The group of coordinators for the recognition of professional qualifications should be composed of the national coordinators designated by the Member States pursuant to Directive 2005/36/EC. According to that

Directive, the remit of those coordinators is to promote a uniform application of the said Directive and to collect all the information which is relevant for its application.

(6) Rules on disclosure of information by members of the group should be provided for without prejudice to the Commission's rules on security as set out in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom ⁽²⁾.

(7) Personal data relating to members of the group should be processed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽³⁾,

HAS DECIDED AS FOLLOWS:

*Article 1***Group of coordinators for the recognition of professional qualifications**

The group of coordinators for the recognition of professional qualifications, hereinafter 'the Group', is set up with effect from the date of publication in the *Official Journal of the European Union* of this decision.

*Article 2***Tasks**

The Group's tasks are the following:

(a) to establish cooperation between Member States' authorities and the Commission on questions relating to the recognition of professional qualifications;

(b) to monitor the evolution of policies having an impact on professions regulated as to qualifications;

(c) to facilitate the implementation of Directive 2005/36/EC, in particular through the elaboration of documents of interest, such as interpreting guidelines;

⁽¹⁾ OJ L 255 of 30.9.2005, p. 22. Directive as amended by Council Directive 2006/100/EC (OJ L 363, 20.12.2006, p. 141).

⁽²⁾ OJ L 317, 3.12.2001, p. 1. Decision as last amended by Decision 2006/548/EC, Euratom (OJ L 215, 5.8.2006, p. 38).

⁽³⁾ OJ L 8, 12.1.2001, p. 1.

- (d) to bring about an exchange of experience and good practice in the fields referred to in the previous points.

Article 3

Consultation

The Commission may consult the Group on any matter relating to the implementation of Directive 2005/36/EC as well as, in a general manner, matters relating to the development of the internal market in the field of the professions regulated as to qualifications.

Article 4

Composition — Appointment

1. The members of the Group shall be the coordinators designated by the Member States in accordance with Article 56(4) of Directive 2005/36/EC.

Alternate members for the members of the Group are appointed by Member States in equal numbers. Alternate members automatically replace members who are absent.

2. Members and alternates of the Group shall remain in office until such time as they are replaced.

3. The names of the members shall be collected, processed and published in accordance with Regulation (EC) No 45/2001.

Article 5

Operation

1. The Group shall be chaired by the Commission.
2. The Group may, with the agreement of the Commission, set up sub-groups to examine specific questions under terms of reference established by the Group. Such sub-groups shall be dissolved as soon as their mandates are fulfilled.
3. The Commission's representative may ask experts or observers with specific competence on a subject on the agenda to participate in the work of the Group or in the deliberations or work of a sub-group if, in the opinion of the Commission, this is necessary or useful.

In particular, representatives of the Member States of the European Economic Area and of Switzerland may be invited as observers.

4. Information obtained by participating in the deliberations or work of the Group or sub-group shall not be divulged if, in the opinion of the Commission, that information relates to confidential matters.

5. The Group and its sub-groups shall normally meet on Commission premises in accordance with the procedures and schedule established by it. The Commission shall provide secretarial services.

Commission officials with an interest in the proceedings may attend meetings of the Group and its sub-groups.

6. The Group shall adopt its rules of procedure on the basis of the standard rules of procedure adopted by the Commission.

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

Article 6

Reimbursement of expenses

The Commission shall reimburse travel expenses limited to one member or alternate per Member State in connection with the Group's activities in accordance with the Commission's rules on the compensation of external experts.

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

Meeting expenses shall be reimbursed within the limits of the annual budget allocated to the Group by the competent Commission department.

Done at Brussels, 19 March 2007.

For the Commission
Charlie McCREEVY
Member of the Commission

III

(Acts adopted under the EU Treaty)

ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

COUNCIL COMMON POSITION 2007/173/CFSP

of 19 March 2007

renewing restrictive measures against certain officials of Belarus

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 15 thereof,

Whereas:

- (1) On 10 April 2006, the Council adopted Common Position 2006/276/CFSP concerning restrictive measures against certain officials of Belarus ⁽¹⁾. These measures expire on 10 April 2007.
- (2) In view of the situation in Belarus, Common Position 2006/276/CFSP should be extended for a further period of 12 months,

HAS ADOPTED THIS COMMON POSITION:

Article 1

Common Position 2006/276/CFSP is hereby extended until 10 April 2008.

Article 2

This Common Position shall take effect on the date of its adoption.

Article 3

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

Done at Brussels, 19 March 2007.

For the Council
The President
Horst SEEHOFER

⁽¹⁾ OJ L 101, 11.4.2006, p. 5. Common Position as last amended by Decision 2006/718/CFSP (OJ L 294, 25.10.2006, p. 72).

CORRIGENDA**Corrigendum to Council Regulation (EC) No 980/2005 of 27 June 2005 applying a scheme of generalised tariff preferences***(Official Journal of the European Union L 169 of 30 June 2005)*

On Page 19, in Annex II, in the 'List of products included in the arrangements referred to in Article 1(2) (a) and (b)':

for:

'0208	Other meat and edible meat offal, fresh, chilled or frozen: ⁽¹⁾	S
0208 10	Of rabbits or hares	S
0208 20 00	Frogs' legs	NS
0208 30 00	Of primates	S
0208 40 00	Of whales, dolphins and porpoises (mammals of the order Cetacea); of manatees and dugongs (mammals of the order Sirenia)	S
0208 50	Of reptiles (including snakes and turtles)	S
ex 0208 90	Other, excluding products of 0208 90 55	S

⁽¹⁾ For these products, the arrangement referred to in Section 1 of Chapter II does not apply.'

read:

'ex 0208	Other meat and edible meat offal, fresh, chilled or frozen, excluding products of 0208 90 55 ⁽¹⁾ (except 0208 20 00 for which the footnote does not apply)	S
0208 20 00	Frogs' legs	NS

⁽¹⁾ For these products, the arrangement referred to in Section 1 of Chapter II does not apply.'
