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I

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

REGULATIONS

COUNCIL REGULATION (EC) No 1087/2007

of 18 September 2007

amending Regulation (EC) No 1487/2005 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of certain finished polyester filament fabrics originating in the People's Republic of China

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ (the basic Regulation), and in particular Articles 9 and 12 thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Original measures

- (1) In September 2005, following an anti-dumping investigation (the original investigation) the Council, by Regulation (EC) No 1487/2005⁽²⁾, imposed definitive anti-dumping duties (the original measures) on imports of certain finished polyester filament fabrics (PPFAF) originating in the People's Republic of China (China). The duty rates applicable to Chinese PPFAF varied from 14,1 % to 56,2 %.

2. Request for an anti-absorption reinvestigation

- (2) On 13 November 2006, a request for a reinvestigation of the original measures was lodged pursuant to Article 12 of the basic Regulation. The request was submitted by AIUFFASS (the applicant), on behalf of producers representing a major proportion, in this case more than 30 % of the total Community production of PPFAF.

- (3) The applicant submitted sufficient information showing that following the imposition of the original anti-dumping duties on PPFAF originating in China export prices have decreased and that there has been insufficient movement in resale prices or subsequent selling prices in the Community. This allegedly resulted in an increase of dumping which has impeded the intended remedial effects of the measures in force. The applicant also provided evidence that imports of the product concerned from China have continued to enter in significant quantities the Community market.

3. The anti-absorption reinvestigation

- (4) On 28 December 2006, the Commission announced by a notice published in the *Official Journal of the European Union* (NOI)⁽³⁾ the initiation of a reinvestigation, pursuant to Article 12 of the basic Regulation, of the anti-dumping measures applicable to imports of PPFAF originating in China.
- (5) The Commission officially advised the producers/exporters known to be concerned, the representatives of the exporting country, importers and users of the initiation of the reinvestigation. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation. The Commission sent questionnaires to all parties known to be concerned.
- (6) In view of the high number of exporting producers and importers concerned during the original investigation, sampling was envisaged in the NOI in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers and importers were asked to make themselves known to the Commission and to provide basic information.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

⁽²⁾ OJ L 240, 16.9.2005, p. 1.

⁽³⁾ OJ C 320, 28.12.2006, p. 8.

- (7) The Commission sought and verified all the information deemed necessary to determine whether export prices have decreased and if there has been insufficient movement in resale prices or subsequent selling prices in the Community. Verification visits were carried out at the premises of the cooperating exporters/producers in China and their related companies where necessary:

— Nantong Teijin Co Ltd and its related importer NI-Teijin Shoji Europe GmbH,

— Fuzhou Fuhua Textile & Printing Dyeing Co Ltd,

— Fuzhou Ta-Tung Textile Works Co Ltd,

— Hangzhou Delicacy Textile Co Ltd,

— Shaoxing County Jiade Weaving and Dyeing Co Ltd,

— Wujiang Xiangsheng Textile dyeing & Finishing Co Ltd and its related company,

— Wujiang Longsheng Textile Co Ltd.

- (8) The investigation period of this reinvestigation (new IP) ran from 1 October 2005 to 30 September 2006. The new IP was used to determine the current level of export prices and the level of the prices delivered to the first independent customer in the Community. In establishing whether the prices in the Community had moved sufficiently, the price levels charged during the new IP were compared to those charged during the original investigation period (original IP) which had covered the period from 1 April 2003 to 30 March 2004.

- (9) It should be noted that the Commission had to allow sufficient time to the Parties to make themselves known and to select a sample of exporting producers in China in accordance with Article 17 of the basic Regulation. In view of various exceptional circumstances, the cooperating parties also requested extensions to submit their replies. These extensions were granted when duly justified. For these reasons, the reinvestigation slightly exceeded the normal period of six months provided for in Article 12(4) of the basic Regulation.

B. PRODUCT UNDER CONSIDERATION

- (10) The product for which the reinvestigation was initiated is the same as in the original investigation, namely finished polyester filament apparel fabrics (FPFAF), normally classified within CN codes ex 5407 51 00, 5407 52 00, 5407 54 00, ex 5407 61 10, 5407 61 30, 5407 61 90 and ex 5407 69 10 and ex 5407 69 90. The product concerned is woven fabrics of synthetic filament yarn containing 85 % or more by weight of textured and/or non-textured polyester filament, dyed (including dyed

white) or printed originating in the People's Republic of China. The product concerned is used mainly in the textile industry.

C. THE REINVESTIGATION

- (11) In general, a reinvestigation pursuant to Article 12 of the basic Regulation aims at establishing whether or not there was a sufficient movement in prices in the Community of FPFAF originating in China further to the imposition of original anti-dumping measures. As a second step, where it is concluded that absorption took place, a new dumping margin should be calculated. Article 12 of the basic Regulation provides for an opportunity to importers/users and exporters to submit evidence that could justify a lack of movement in prices in the Community following the imposition of measures for reasons other than absorption of the anti-dumping duty.

1. Sampling

- (12) As mentioned in recital (6) above the Commission requested all exporting producers and importers to make themselves known and to provide basic information on their activities during the new IP. These parties were also requested to indicate their willingness to be included in a sample.

(a) Exporters/producers

- (13) Twenty-six exporters/producers agreed to provide the requested information and to be included in a sample. Given the large number of exporters/producers, it was decided that sampling was necessary with regards to establishing possible absorption by exporters/producers in China. While preference was given to companies included in the sample of the original investigation, a selection was made, which covered the largest representative volume of exports and can be reasonably investigated within the time available. In accordance with Article 17(2) of the basic Regulation, the Chinese authorities were consulted on the sample and raised no objections.

- (14) Nine companies were initially selected to be included in the sample. One company which was granted individual treatment (IT) and eight others which were granted market economy status (MES) during the original investigation. Just before the verification visits took place in China, two companies (the one with IT and one with MES) decided to withdraw from the sample. These two companies were considered as non-cooperating in the current reinvestigation. As a result, 24 cooperating companies and a sample of seven exporters/producers with MES remained. At that stage the Commission observed that no exporters/producers with IT cooperated in the investigation.

- (15) The remaining seven companies included in the sample had all MES and represent around 78 % of the exports to the EU made by all the cooperating companies and 23,9 % of the total Chinese exports of FPFAP to the Community market. At that stage of the reinvestigation, it was concluded that these companies constituted the largest volume which could reasonably be investigated within the time available. These seven companies were therefore deemed to be representative for the purpose of sampling in the reinvestigation.

(b) Importers

- (16) No unrelated importers submitted the requested information within the time limit defined in the NOI.

2. Non-cooperation

- (17) The 24 cooperating exporters/producers which agreed to be included in the sample represented around 30 % of the total export of Chinese FPFAP to the Community. As mentioned in recital (14) above, two additional producers withdrew cooperation. As a result, non-cooperation finally amounted to around 70 % of total export of FPFAP to the Community market.

- (18) On that basis, it was considered that non-cooperation in this case was high.

3. Movement of prices in the Community

3.1. General

- (19) It is recalled that no unrelated importers/users of the product concerned offered cooperation for the reinvestigation. As mentioned in recital (18) above, non-cooperation from exporters/producers in China is high.

- (20) Except for one exporter/producer included in the sample, the pattern of trade for FPFAP originating in China is characterised by the absence of related intermediaries importing the product concerned into the Community for resale. The independent buyers of FPFAP are generally user companies which are directly importing the product concerned for their own internal consumption.

- (21) It was found that the sales conditions for the export sales made by the exporters/producers in the sample during the new IP were generally made on a CIF (cost, insurance and freight) basis. Therefore, for the purpose of assessing any price movement the price level for the product concerned was first determined at CIF level. For the new IP, the CIF price at the Community border was established on the basis of information submitted by the cooperating Chinese exporters/producers included in the sample.

3.2. Movement in resale price in the Community for the sample companies

- (22) In order to assess any movement of prices at exporter/producer level in the Community the average price of FPFAP, on a type by type basis, established for the new IP was compared with the average price of FPFAP established during the original IP at the same level of trade and for the same delivery conditions.

- (23) On that basis, the comparison showed that the average price in the Community of FPFAP originating in China for all the companies included in the sample did not decrease during the new IP.

- (24) The movement of resale price for one related importer established in the Community was assessed on a type by type basis. Resale prices to unrelated customers in the Community were compared for the same delivery conditions between both investigation periods. Based on the information gathered, it was demonstrated that prices had increased by amounts exceeding the anti-dumping duty.

3.3. Claims made by interested parties

- (25) Several interested parties claimed that an adjustment should be made to their export price. They invoked that the variation in USD/EUR exchange rate led to an artificial decrease of their export price during the new IP. However, given that no price decrease was found during the new IP even before the application of this claimed adjustment which would lead to decreasing prices in the old IP, it was not considered necessary to examine the claim.

3.4. Movement in resale price in the Community for the non-cooperators

- (26) Given the high level of non-cooperation, around 70 % in this case, an absorption duty should be imposed on all non-cooperating exporters/producers in the PRC. The absorption duty should be established on the basis of Article 18 of the basic Regulation, namely on the basis of the best information available.

- (27) In the present case it is considered that the data available under the Eurostat import statistic constitutes the most direct and the most reliable that can be used to establish the level at which non-cooperating Chinese exporters were exporting their FPFAP in the Community market. If we exclude from Eurostat the data verified at the level of cooperating companies for which no absorption was found to exist, the absorption margin for non-cooperating companies based on Eurostat is established at 18,6 %.

3.5. Conclusion on the movement of sales price in the Community

- (28) Based on the above facts and considerations, it was concluded that none of the exporters/producers included in the sample absorbed the anti-dumping duty in force. No absorption duty should therefore be established for all exporters/producers in China which agreed to cooperate and to be included in the sample.
- (29) An absorption duty set at 18,6 % should however be applied on all non-cooperating exporters/producers in China.

4. New level of the measure

(a) For the companies included in the sample

- (30) Given that the companies included in the sample could demonstrate that there was no decrease in their export price of the product concerned to the Community market, the level of the measures remains unchanged:

Company	Definitive duty
Fuzhou Fuhua Textile & Printing Dyeing Co., Ltd	14,1 %
Fuzhou Ta-Tung Textile Works Co., Ltd	14,1 %
Hangzhou De Licacy Textile Co., Ltd	14,1 %
Nantong Teijin Co., Ltd	14,1 %
Shaoxing County Jiade Weaving and Dyeing Co., Ltd	14,1 %
Wujiang Longsheng Textile Co., Ltd	14,1 %
Wujiang Xiangsheng Textile Dyeing & Finishing Co., Ltd	14,1 %

(b) For the cooperating exporting producers not included in the sample

- (31) The same conclusion should apply to the 17 companies which offered cooperation and agreed to be included in the sample:

Company	Definitive AD duty rate
Shaoxing Zhengda Group Co., Ltd	14,1 %
Far Eastern Industries (Shanghai) Ltd	14,1 %
Zhejiang Yonglong Enterprises Co., Ltd	14,1 %
Zhuji Bolan Textile Industrial Development Co., Ltd	14,1 %

Company	Definitive AD duty rate
Zhejiang Shaoxing Tianyuan Textile Printing and Dyeing Co., Ltd	14,1 %
Zhejiang XiangSheng Group Co., Ltd	14,1 %
Hangzhou ZhenYa Textile Co., Ltd	14,1 %
Huzhou Styly Jingcheng Textile Co., Ltd	14,1 %
Hangzhou Yongsheng Textile Co., Ltd	14,1 %
Zhejiang Shaoxing Yongli Printing and Dyeing Co., Ltd	14,1 %
Hangzhou Hongfeng Textile Group Co., Ltd	14,1 %
Shaoxing Yinuo Printing & Dyeing Co., Ltd	14,1 %
Shaoxing Ancheng Cloth industrial Co., Ltd	14,1 %
Hangzhou Jieenda Textile Co., Ltd	14,1 %
Hangzhou Mingyuan Textile Co., Ltd	14,1 %
Hangzhou Yililong Textile Co., Ltd	14,1 %
Zhejiang Singmetat Print and Dyeing Co., Ltd	56,2 %

(c) For all other exporting producers

- (32) For the non-cooperating parties, as mentioned above in recital (26), it was considered appropriate to amend the level of the anti-dumping duty in accordance with the last sentence of the Article 12(3) of the basic Regulation. The revised rate of anti-dumping duty applicable, before duty, to the net free-at-Community-frontier price will be as follows:

Company	Definitive duty
Hangzhou CaiHong Textile Co., Ltd	55,7 %
Hangzhou Fuen Textile Co., Ltd	55,7 %
Hangzhou Jinsheng Textile Co., Ltd	55,7 %
Hangzhou Shenda Textile Co., Ltd	28,2 %
Hangzhou Xiaoshan Phoenix Industry Co., Ltd	55,7 %
Hangzhou Zhengda Textile Co., Ltd	55,7 %
Shaoxing China Light & Textile Industrial City Somet Textile Co., Ltd	55,7 %
Shaoxing County Fengyi Textile Printing & Dyeing Co., Ltd	55,7 %
Shaoxing County Huaxiang Textile Co., Ltd	45,3 %

Company	Definitive duty
Shaoxing County Pengyue Textile Co., Ltd	28,2 %
Shaoxing County Qing Fang Cheng Textiles Imp. & Exp. Co., Ltd	52,5 %
Xingxin Holding Group Co., Ltd	28,2 %
Shaoxing Golden tree silk Printing Dyeing and Sandwashing Co., Ltd	55,7 %
Shaoxing Nanchi Textile Printing-Dyeing Co., Ltd	55,7 %
Shaoxing Ronghao Textiles Co., Ltd	52,5 %
Shaoxing Tianlong Import and Export Co., Ltd	65 %
Shaoxing Xinghui Textile Co., Ltd	55,7 %
Shaoxing Yongda Textiles Co., Ltd	55,7 %
Wujiang Canhua Imp. & Exp. Co., Ltd	74,8 %
Zhejiang Golden Time Printing and Dyeing knitwear Co., Ltd	55,7 %
Zhejiang Huagang Dyeing and Weaving Co., Ltd	55,7 %
Zhejiang Shaoxiao Printing and Dyeing Co., Ltd	55,7 %
All other companies	74,8 %

5. Special provision for exporters in China that may not absorb

- (33) In view of the findings of the investigation, the low cooperation in China which may be linked to the fact that exporting producers of PFPAF are Small and Medium Enterprises, the Community may re-examine the situation of exporters that could not cooperate in this reinvestigation in case they come forward with evidence showing that they were not absorbing the anti-dumping measures in force during the current investigation period. This possibility is open to all producers/exporters of the product under consideration in China,

HAS ADOPTED THIS REGULATION:

Article 1

Article 1(2) of Regulation (EC) No 1487/2005 shall be replaced by the following:

- '2. The rate of the definitive anti-dumping duty applicable to the net free-at-Community-frontier price, before duty, of the products described in paragraph 1 and manufactured by the companies below shall be as follows:

Company	Definitive anti-dumping duty	TARIC Additional code
Fuzhou Fuhua Textile & Printing Dyeing Co., Ltd	14,1 %	A617
Fuzhou Ta-Tung Textile Works Co., Ltd	14,1 %	A617
Hangzhou De Licacy Textile Co., Ltd	14,1 %	A617
Nantong Teijin Co. Ltd	14,1 %	A617
Shaoxing County Jiade Weaving and Dyeing Co., Ltd	14,1 %	A617
Wujiang Longsheng Textile Co., Ltd	14,1 %	A617
Wujiang Xiangsheng Textile Dyeing & Finishing Co., Ltd	14,1 %	A617
Shaoxing Zhengda Group Co., Ltd	14,1 %	A617
Far Eastern Industries (Shanghai) Ltd	14,1 %	A617
Zhejiang Yonglong Enterprises Co., Ltd	14,1 %	A617
Zhuji Bolan Textile Industrial Development Co., Ltd	14,1 %	A617
Zhejiang Shaoxing Tianyuan Textile Printing and Dyeing Co., Ltd	14,1 %	A617
Zhejiang XiangSheng Group Co., Ltd	14,1 %	A617
Hangzhou ZhenYa Textile Co., Ltd	14,1 %	A617
Huzhou Styly Jingcheng Textile Co., Ltd	14,1 %	A617
Hangzhou Yongsheng Textile Co., Ltd	14,1 %	A617
Zhejiang Shaoxing Yongli Printing and Dyeing Co., Ltd	14,1 %	A617
Hangzhou Hongfeng Textile Group Co., Ltd	14,1 %	A617
Shaoxing Yinuo Printing & Dyeing Co., Ltd	14,1 %	A617
Shaoxing Ancheng Cloth industrial Co., Ltd	14,1 %	A617

Company	Definitive anti-dumping duty	TARIC Additional code
Hangzhou Jienda Textile Co., Ltd	14,1 %	A617
Hangzhou Mingyuan Textile Co., Ltd	14,1 %	A617
Hangzhou Yililong Textile Co., Ltd	14,1 %	A617
Zhejiang Singmetat Print and Dyeing Co. Ltd	56,2 %	A836
Hangzhou CaiHong Textile Co., Ltd	55,7 %	A623
Hangzhou Fuen Textile Co., Ltd	55,7 %	A623
Hangzhou Jinsheng Textile Co., Ltd	55,7 %	A623
Hangzhou Shenda Textile Co., Ltd	28,2 %	A837
Hangzhou Xiaoshan Phoenix Industry Co., Ltd	55,7 %	A623
Hangzhou Zhengda Textile Co., Ltd	55,7 %	A623
Shaoxing China Light & Textile Industrial City Somet Textile Co., Ltd	55,7 %	A623
Shaoxing County Fengyi Textile Printing & Dyeing Co., Ltd	55,7 %	A623
Shaoxing County Huaxiang Textile Co., Ltd	45,3 %	A619
Shaoxing County Pengyue Textile Co., Ltd	28,2 %	A837
Shaoxing County Qing Fang Cheng Textiles Imp. & Exp. Co., Ltd	52,5 %	A621
Xingxin Holding Group Co., Ltd	28,2 %	A837
Shaoxing Golden tree silk Printing Dyeing and Sandwashing Co., Ltd	55,7 %	A623
Shaoxing Nanchi Textile Printing-Dyeing Co., Ltd	55,7 %	A623
Shaoxing Ronghao Textiles Co., Ltd	52,5 %	A620
Shaoxing Tianlong Import and Export Co., Ltd	65 %	A622
Shaoxing Xinghui Textile Co., Ltd	55,7 %	A623
Shaoxing Yongda Textiles Co., Ltd	55,7 %	A623
Wujiang Canhua Imp. & Exp. Co., Ltd	74,8 %	A618
Zhejiang Golden Time Printing and Dyeing knitwear Co., Ltd	55,7 %	A623
Zhejiang Huagang Dyeing and Weaving Co., Ltd	55,7 %	A623
Zhejiang Shaoxiao Printing and Dyeing Co., Ltd	55,7 %	A623
All other companies	74,8 %	A999'

Article 2

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

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

Done at Brussels, 18 September 2007.

For the Council
The President
R. PEREIRA

COMMISSION REGULATION (EC) No 1088/2007**of 20 September 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 21 September 2007.

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

Done at Brussels, 20 September 2007.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

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

ANNEX

to Commission Regulation of 20 September 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	MK	85,6
	TR	88,6
	XK	55,1
	XS	36,3
	ZZ	66,4
0707 00 05	JO	151,2
	MK	29,6
	TR	136,6
	ZZ	105,8
0709 90 70	IL	51,9
	TR	111,0
	ZZ	81,5
0805 50 10	AR	65,0
	UY	83,0
	ZA	73,7
	ZZ	73,9
0806 10 10	IL	65,2
	TR	113,5
	ZZ	89,4
0808 10 80	AU	215,7
	CL	81,4
	CN	79,8
	NZ	93,3
	US	96,9
	ZA	69,5
	ZZ	106,1
0808 20 50	CN	61,1
	TR	117,6
	ZA	106,2
	ZZ	95,0
0809 30 10, 0809 30 90	TR	158,7
	US	194,7
	ZZ	176,7
0809 40 05	BA	49,8
	IL	111,5
	TR	107,3
	ZZ	89,5

⁽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 1089/2007**of 20 September 2007****on the issuing of import licences for applications lodged during the first seven days of September 2007 under the tariff quota opened by Regulation (EC) No 812/2007 for pigmeat**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organisation of the market in pigmeat ⁽¹⁾,

Having regard to Commission Regulation (EC) No 812/2007 of 11 July 2007 opening and providing for the administration of a tariff quota for pigmeat allocated to the United States of America ⁽²⁾, in particular Article 5(5) thereof,

Whereas:

- (1) Regulation (EC) No 812/2007 opened tariff quotas for imports of pigmeat products.

- (2) The applications for import licences lodged during the first seven days of September 2007 for the subperiod 1 October to 31 December 2007 do not cover the total quantity available. The quantities for which applications have not been lodged should therefore be determined and these should be added to the quantity fixed for the following quota subperiod,

HAS ADOPTED THIS REGULATION:

Article 1

The quantities for which import licence applications covered by the quota with serial number 09.4170 have not been lodged under Regulation (EC) No 812/2007, to be added to the subperiod 1 January to 31 March 2008, are 1 516 625 kg.

Article 2

This Regulation shall enter into force on 21 September 2007.

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

Done at Brussels, 20 September 2007.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 282, 1.11.1975, p. 1. Regulation as last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).

⁽²⁾ OJ L 182, 12.7.2007, p. 7.

COMMISSION REGULATION (EC) No 1090/2007**of 20 September 2007****on the issuing of import licences for applications lodged during the first seven days of September 2007 under the tariff quota opened by Regulation (EC) No 979/2007 for pigmeat**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organisation of the market in pigmeat ⁽¹⁾,

Having regard to Commission Regulation (EC) No 979/2007 of 21 August 2007 opening and providing for the administration of an import tariff quota for pigmeat originating in Canada ⁽²⁾, and in particular Article 5(5) thereof,

Whereas:

- (1) Regulation (EC) No 979/2007 opened import tariff quotas for pigmeat products.
- (2) The applications for import licences lodged during the first seven days of September 2007 for the subperiod 1

October to 31 December 2007 do not cover the total quantity available. The quantities for which applications have not been lodged should therefore be determined and these should be added to the quantity fixed for the following quota subperiod,

HAS ADOPTED THIS REGULATION:

Article 1

The quantities for which import licence applications under quota 09.4204 have not been lodged under Regulation (EC) No 979/2007, to be added to the subperiod 1 January to 31 March 2008, are 2 312 000 kg.

Article 2

This Regulation shall enter into force on 21 September 2007.

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

Done at Brussels, 20 September 2007.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 282, 1.11.1975, p. 1. Regulation as last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).

⁽²⁾ OJ L 217, 22.8.2007, p. 12.

COMMISSION REGULATION (EC) No 1091/2007**of 20 September 2007****on the issuing of import licences for applications lodged during the first seven days of September 2007 under tariff quotas opened by Regulation (EC) No 806/2007 for pigmeat**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2759/75 of 29 October 1975 on the common organisation of the market in pigmeat ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ⁽²⁾, and in particular Article 7(2) thereof,

Having regard to Commission Regulation (EC) No 806/2007 of 10 July 2007 opening and providing for the administration of tariff quotas for pigmeat ⁽³⁾, in particular Article 5(6) thereof,

Whereas:

(1) Regulation (EC) No 806/2007 opened tariff quotas for imports of pigmeat products.

(2) The applications for import licences lodged during the first seven days of September 2007 for the subperiod 1 October to 31 December 2007 relate, for some quotas, to quantities exceeding those available. The extent to which licences may be issued should therefore be determined and an allocation coefficient laid down to be applied to the quantities applied for,

HAS ADOPTED THIS REGULATION:

Article 1

The quantities for which import licence applications have not been lodged under Regulation (EC) No 806/2007, to be added to subperiod 1 January to 31 March 2008, are fixed in the Annex.

Article 2

This Regulation shall enter into force on 21 September 2007.

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

Done at Brussels, 20 September 2007.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 282, 1.11.1975, p. 1. Regulation as last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).

⁽²⁾ OJ L 238, 1.9.2006, p. 13. Regulation as amended by Regulation (EC) No 289/2007 (OJ L 78, 17.3.2007, p. 17).

⁽³⁾ OJ L 181, 11.7.2007, p. 3.

ANNEX

Group No	Serial No	Allocation coefficient for import licence applications lodged for the subperiod 1.10.2007-31.12.2007 (%)	Quantities not applied for to be added to the subperiod 1.1.2008-31.3.2008 (kg)
G2	09.4038	(²)	8 521 375
G3	09.4039	(²)	1 851 000
G4	09.4071	(¹)	1 501 000
G5	09.4072	(¹)	3 080 500
G6	09.4073	(¹)	7 533 500
G7	09.4074	(²)	2 386 956

(¹) Not applicable: no licence application has been sent to the Commission.

(²) Not applicable: the applications do not cover the total quantity available.

COMMISSION REGULATION (EC) No 1092/2007**of 20 September 2007****on the issue of licences for importing rice under the tariff quotas opened for the September 2007 subperiod by Regulation (EC) No 2021/2006**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1785/2003 of 29 September 2003 on the common organisation of the market in rice ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ⁽²⁾, and in particular Article 7(2) thereof,

Having regard to Commission Regulation (EC) No 2021/2006 of 22 December 2006 opening and providing for the administration of import quotas for rice originating in the African, Caribbean and Pacific States (ACP States) and the overseas countries and territories (OCT) ⁽³⁾, and in particular Article 15(1) thereof,

Whereas:

(1) Regulation (EC) No 2021/2006 opens an annual overall tariff quota for the import of 160 000 tonnes of rice, in husked-rice equivalent, comprising 125 000 tonnes originating in the ACP States (serial number 09.4187), 25 000 tonnes originating in the Netherlands Antilles and Aruba (serial number 09.4189) and 10 000 tonnes originating in the least developed OCTs (serial number 09.4190), and an annual tariff quota of 20 000 tonnes of broken rice originating in the ACP States (serial number 09.4188).

(2) For these quotas, provided for in Article 1(1)(a) and (b) of Regulation (EC) No 2021/2006, the third subperiod is the month of September.

(3) The information provided in accordance with Article 17(a) of Regulation (EC) No 2021/2006 shows that in the case of the quota with serial number 09.4187 applications lodged during the first five working days of September 2007 in accordance with the first subparagraph of Article 13 of that Regulation cover a quantity in husked-rice equivalent greater than the quantity available. The extent to which import licences may be issued should therefore be determined by establishing the allocation coefficient to be applied to the quantities requested under the quota in question.

(4) The above information also shows that in the case of the quotas with serial numbers 09.4189 — 09.4190 applications lodged during the first five working days of September 2007 in accordance with the first subparagraph of Article 13 of that Regulation cover a quantity in husked-rice equivalent less than the quantity available.

(5) In accordance with Article 15(1) of Regulation (EC) No 2021/2006, the total quantities available for the next subperiod should therefore be laid down,

HAS ADOPTED THIS REGULATION:

Article 1

1. For import licence applications for rice under the quota[s] with serial number 09.4187 as referred to in Regulation (EC) No 2021/2006 lodged during the first five working days of September 2007, licences shall be issued for the quantities applied for, multiplied by the allocation coefficients set out in the Annex to this Regulation.

2. The total quantities available under the quotas with serial numbers 09.4187 — 09.4188 — 09.4189 — 09.4190 as referred to in Regulation (EC) No 2021/2006 for the next subperiod shall be as set out in the Annex to this Regulation.

⁽¹⁾ OJ L 270, 21.10.2003, p. 96. Regulation as amended by Regulation (EC) No 797/2006 (OJ L 144, 31.5.2006, p. 1).

⁽²⁾ OJ L 238, 1.9.2006, p. 13. Regulation as amended by Regulation (EC) No 289/2007 (OJ L 78, 17.3.2007, p. 17).

⁽³⁾ OJ L 384, 29.12.2006, p. 61.

Article 2

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, 20 September 2007.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

ANNEX

Quantities to be allocated for the September 2007 subperiod and quantities available for the next subperiod under Regulation (EC) No 2021/2006

Origin/product	Serial number	Allocation coefficient for September 2007 subperiod	Total quantities available for October 2007 subperiod (kg)
ACP States (Articles 2 and 3 of Regulation (EC) No 2021/2006) — CN codes 1006 10 21 to 1006 10 98, 1006 20 and 1006 30	09.4187	22,998 530 %	0
ACP States (Articles 4 and 5 of Regulation (EC) No 2021/2006) — CN code 1006 40 00	09.4188	— ⁽³⁾	348 241
OCTs (Article 8 and Article 9(1)(a) and (b) of Regulation (EC) No 2021/2006) — CN code 1006			
(a) Netherlands Antilles and Aruba:	09.4189	— ⁽²⁾	6 133 001
(b) least developed OCTs:	09.4190	— ⁽¹⁾	10 000 000

⁽¹⁾ No allocation coefficient for this subperiod: no licence applications were sent to the Commission.

⁽²⁾ Applications cover quantities less than or equal to the quantities available: all applications are therefore acceptable.

⁽³⁾ No quantity available for this subperiod.

COMMISSION REGULATION (EC) No 1093/2007**of 20 September 2007****laying down the allocation coefficient to be applied to applications for import licences lodged under the import tariff quota opened by Regulation (EC) No 964/2007 for rice originating in least-developed countries**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1785/2003 of 29 September 2003 on the common organisation of the market in rice ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ⁽²⁾, and in particular Article 7(2) thereof,

Whereas:

- (1) Commission Regulation (EC) No 964/2007 ⁽³⁾ opened for the marketing year 2007/2008 an annual import tariff quota of 5 821 tonnes of rice in husked rice equivalent falling within CN code 1006, originating in least-developed countries (serial number 09.4177).
- (2) The notification made in accordance with Article 4(a) of Regulation (EC) No 964/2007 shows that the appli-

cations lodged during the first seven days of September 2007 in accordance with Article 2(4) of that Regulation exceed the quantities available. The extent to which import licences may be issued should therefore be determined and the allocation coefficient to be applied to the quantities applied for should be laid down,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for import licences for rice originating in the least-developed countries listed in Annex I to Regulation (EC) No 980/2005, under the quota for the 2007/2008 marketing year referred to in Regulation (EC) No 964/2007, lodged during the first seven days of September 2007 shall be accepted for the quantities applied for multiplied by an allocation coefficient of 21,066830 %.

Article 2

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, 20 September 2007.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 270, 21.10.2003, p. 96. Regulation as last amended by Regulation (EC) No 797/2006 (OJ L 144, 31.5.2006, p. 1).

⁽²⁾ OJ L 238, 1.9.2006, p. 13. Regulation as amended by Regulation (EC) No 289/2007 (OJ L 78, 17.3.2007, p. 17).

⁽³⁾ OJ L 213, 15.8.2007, p. 26.

COMMISSION REGULATION (EC) No 1094/2007**of 19 September 2007****fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and amending Regulation (EC) No 1484/95**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organisation of the market in eggs ⁽¹⁾, and in particular Article 5(4) thereof,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organisation of the market in poultrymeat ⁽²⁾, and in particular Article 5(4) thereof,

Having regard to Council Regulation (EEC) No 2783/75 of 29 October 1975 on the common system of trade for ovalbumin and lactalbumin ⁽³⁾, and in particular Article 3(4) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1484/95 ⁽⁴⁾, fixes detailed rules for implementing the system of additional import duties and fixes representative prices in the poultrymeat and egg sectors and for egg albumin.

- (2) It results from regular monitoring of the information providing the basis for the verification of the import prices in the poultrymeat and egg sectors and for egg albumin that the representative prices for imports of certain products should be amended taking into account variations of prices according to origin. Therefore, representative prices should be published.

- (3) It is necessary to apply this amendment as soon as possible, given the situation on the market.

- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Poultrymeat and Eggs,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 1484/95 is hereby replaced by the Annex hereto.

Article 2

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 September 2007.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 282, 1.11.1975, p. 49. Regulation as last amended by Regulation (EC) No 679/2006 (OJ L 119, 4.5.2006, p. 1).

⁽²⁾ OJ L 282, 1.11.1975, p. 77. Regulation as last amended by Regulation (EC) No 679/2006.

⁽³⁾ OJ L 282, 1.11.1975, p. 104. Regulation as last amended by Commission Regulation (EC) No 2916/95 (OJ L 305, 19.12.1995, p. 49).

⁽⁴⁾ OJ L 145, 29.6.1995, p. 47. Regulation as last amended by Regulation (EC) No 842/2007 (OJ L 186, 18.7.2007, p. 17).

ANNEX

to the Commission Regulation of 19 September 2007 fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and amending Regulation (EC) No 1484/95

‘ANNEX I

CN code	Description	Representative price (EUR/100 kg)	Security referred to in Article 3(3) (EUR/100 kg)	Origin ⁽¹⁾
0207 12 10	Chicken carcasses 70 % presented, frozen	112,5	0	01
		99,8	0	02
0207 12 90	Chickens, plucked and drawn, without heads and feet and without necks, hearts, livers and gizzards, known as “65 % chickens”, or otherwise presented, frozen	116,4	1	01
		102,8	5	02
		143,2	0	03
0207 14 10	Boneless cuts of fowl of the species Gallus domesticus, frozen	214,0	26	01
		246,4	16	02
		347,6	0	03
0207 14 60	Legs and cuts of chicken, frozen	105,4	11	01
		149,0	0	03
0207 27 10	Boneless cuts of turkey, frozen	307,3	0	01
		353,0	0	03
1602 32 11	Preparations of uncooked fowl of the species Gallus domesticus	231,3	17	01
		124,5	63	02

⁽¹⁾ Origin of imports:

- 01 Brazil
- 02 Argentina
- 03 Chile.

COMMISSION REGULATION (EC) No 1095/2007

of 20 September 2007

amending Regulation (EC) No 1490/2002 laying down further detailed rules for the implementation of the third stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC and Regulation (EC) No 2229/2004 laying down further detailed rules for the implementation of the fourth stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽¹⁾, and in particular Article 8(2) thereof,

Whereas:

- (1) Article 8(2) of Directive 91/414/EEC provides that the Commission undertakes a programme of work for the gradual examination of active substances on the market two years after the date of notification of this Directive. This programme is still ongoing.
- (2) The second and third stage of work are laid down by Commission Regulation (EC) No 451/2000 of 28 February 2000 laying down the detailed rules for the implementation of the second and third stages of the work programme referred to in Article 8(2) of Council Directive 91/414/EEC ⁽²⁾ and Commission Regulation 1490/2002 of 14 August 2002 laying down further detailed rules for the implementation of the third stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC and amending Regulation (EC) No 451/2000 ⁽³⁾. The fourth stage of work is laid down by Commission Regulation (EC) No 2229/2004 of 3 December 2004 laying down further detailed rules for the implementation of the fourth stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC ⁽⁴⁾.

- (3) Several substances in the third and fourth stages are still in the assessment phase. It appears necessary to speed up the examination process. Depending on whether a substance is already under peer review or not, for certain aspects of the procedure, different provisions should apply.
- (4) To speed up the examination process the workflow of the peer review and relationship between notifiers, Member States, the European Food Safety Authority (EFSA) and the Commission and the obligations of each of the parties for the implementation of the programme should be adapted without harming the level of safety for health and the environment.
- (5) The resources of the EFSA should be used efficiently. Where there are clear indications that the active substance concerned meets the criteria referred to in Article 5(1) of Directive 91/414/EEC, and in particular does not have any harmful effects on humans or animal health or on groundwater or any unacceptable influence on the environment, that substance should be included in Annex I to that Directive. Such clear cases would not require detailed scientific advice from the EFSA before the substance is included in Annex I. The EFSA should, however, deliver its view on those substances later, in particular to ensure a harmonised approach when Member States apply the uniform principles at the evaluation of authorisations. Where, on the contrary, there are clear indications that an active substance has harmful effects; the Commission is not required to have this clear situation confirmed, so it should have the possibility to decide on non-inclusion without consulting the EFSA.
- (6) The EFSA should focus on cases where the remaining doubts need to be resolved before a decision on the inclusion of the active substance concerned can be taken.
- (7) To further speed up procedures, it should be possible to grant a longer withdrawal period in cases where there are such remaining doubts and notifiers agree to withdraw their support of the inclusion of the active substance. This procedure should only apply to cases where there are no clear indications that the substance has harmful effects on humans or animal health or on groundwater or any unacceptable influence on the environment.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2007/52/EC (OJ L 214, 17.8.2007, p. 3).

⁽²⁾ OJ L 55, 29.2.2000, p. 25. Regulation as last amended by Regulation (EC) No 1044/2003 (OJ L 151, 19.6.2003, p. 32).

⁽³⁾ OJ L 224, 21.8.2002, p. 23. Regulation as last amended by Regulation (EC) No 1744/2004 (OJ L 311, 8.10.2004, p. 23).

⁽⁴⁾ OJ L 379, 24.12.2004, p. 13. Regulation as amended by Regulation (EC) No 647/2007 (OJ L 151, 13.6.2007, p. 26).

- (8) To identify cases where there are clear indications of either a substance having no harmful effects or, on the contrary, a substance having such effects, criteria should be set out.
- (9) In order to ensure that the deadlines for evaluation are met, and to ensure equal treatment of all notifiers, the current legislation provides that notifiers may not submit new studies after a certain stage of the assessment, subject to limited exceptions. This general principle should be retained, but it is appropriate to clarify when notifiers may submit new information other than studies.
- (10) Regulations (EC) No 1490/2002 and (EC) No 2229/2004 should therefore be amended accordingly.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EC) No 1490/2002

Regulation (EC) No 1490/2002 is amended as follows:

1. Articles 11 and 12 are replaced by the following:

'Article 11

Receipt of and access to the draft assessment report

1. After receiving the updated summary dossier and the draft assessment report referred to in Article 10(1) the EFSA shall, within 30 days, acknowledge to the rapporteur Member State receipt of that report.

In exceptional cases where the draft assessment report clearly does not fulfil the requirements concerning the format recommended by the Commission, the Commission shall agree with the EFSA and the rapporteur Member State on a period for resubmission of an amended report. This period shall not exceed two months.

2. The EFSA shall without delay communicate the draft assessment report to the Commission, the other Member States and the notifiers setting a time period of no more than two months for the submission of comments by those Member States and the notifiers.

It shall collate the comments it receives, including available comments from the EFSA, and forward them to the Commission, Member States and the notifiers.

3. The EFSA shall make available at specific request or keep available for consultation by any person the following:

- (a) the draft assessment report except the elements thereof which have been accepted as confidential in accordance with Article 14 of Directive 91/414/EEC;
- (b) the list of any data required for the evaluation in view of the possible inclusion of the active substance in Annex I to that Directive as finalised by the EFSA where it has finalised such a list.

Article 11a

Examination of the draft assessment report

The Commission shall, without delay, examine the draft assessment report and the recommendation by the rapporteur Member State and the comments received from other Member States, the EFSA and from the notifiers in accordance with Article 11(2).

Article 11b

Active substance with clear indications that they do not have any harmful effects

If there are clear indications that it may be expected that the active substance does not have any harmful effects on human or animal health or on groundwater or any unacceptable influence on the environment, as set out in Annex V, Article 12(1)(a) and (2)(a) shall apply.

Article 11c

Consultation of the EFSA

1. Where Article 11b does not apply, the Commission may, at any time during the evaluation, ask the EFSA to carry out a peer review of the full draft assessment report or to focus on specific points including points related to criteria set out in Annex VI. The EFSA shall organise a consultation of Member States experts including the rapporteur Member State.

Where the Commission requests the EFSA to carry out a full peer review, the EFSA shall deliver its conclusion at the latest six months after the request. Where the Commission does not request a full peer review, but only a conclusion on specific points, the period shall be reduced to three months. The submission of the conclusions shall in any event be no later than 30 September 2008.

2. If during the peer review there are clear indications that an active substance is expected to have harmful effects on human or animal health or on groundwater as set out in Annex VI, the EFSA shall inform the Commission.

The Commission may take a Decision as referred to in Article 11f.

3. The Commission and the EFSA shall agree on a schedule for the delivery of the conclusions in order to facilitate the planning of the work. The Commission and the EFSA shall agree on the format in which the conclusions of the EFSA are submitted.

Article 11d

Submission of additional information after the draft assessment report has been submitted to the EFSA

1. Without prejudice to Article 7 of Directive 91/414/EEC, submission of new studies shall not be accepted.

2. Where the EFSA considers that additional information from the notifier is necessary to comply with a request made by the Commission under Article 11c, the rapporteur Member State shall request that information. Such requests shall be made explicitly and in writing, setting a time period for submission of one month. They shall not concern the submission of new studies. The rapporteur Member State shall inform the Commission and the EFSA of such requests in writing.

The rapporteur Member State shall, within one month after the receipt of such information, evaluate the information received and send its evaluation to the EFSA.

3. Information submitted by the notifier but which has not been requested, or which has not been submitted before the end of the time period referred to in paragraph 2, shall not be taken into account unless this information has been submitted in accordance with Article 7 of Directive 91/414/EEC.

Where the rapporteur Member State, pursuant to paragraph 1 or to the first subparagraph of this paragraph, refuses to take into account studies or information received from the notifier, it shall inform the Commission and the EFSA and indicate the reasons for such refusal.

Article 11e

Withdrawal by notifier

Where Article 11b does not apply, the notifier may withdraw his support of the inclusion of the active

substance in Annex I to Directive 91/414/EEC within two months from receipt of the draft assessment report referred to in Article 11(2).

Article 11f

Active substance for which there are clear indications of harmful effects

If there are clear indications that it may be expected that the active substance has harmful effects on human or animal health or on groundwater as set out in Annex VI, the Commission shall take a Decision on the non-inclusion of the active substance in Annex I to Directive 91/414/EEC, in accordance with Article 12(1)(a) and (2)(b) of this Regulation.

Article 12

Presentation of a draft directive or draft decision

1. The Commission shall submit to the Committee a draft review report at the latest six months after:

- (a) receipt of the draft assessment report where Article 11b or Article 11f applies;
- (b) receipt of the conclusion established by the EFSA where Article 11c applies;
- (c) receipt of a written withdrawal of the notifier's support where Article 11e applies.

2. Together with the draft review report the Commission shall submit to the Committee:

- (a) a draft directive including the active substance in Annex I to Directive 91/414/EEC, setting out where appropriate the conditions, including the time limit, for such inclusion; or
- (b) a draft decision addressed to the Member States requiring them to withdraw, within six months, the authorisations of plant protection products containing the active substance, pursuant to the fourth subparagraph of Article 8(2) of Directive 91/414/EEC, whereby that active substance is not included in Annex I to that Directive, mentioning the reasons for the non-inclusion.

The Directive or Decision shall be adopted in accordance with the procedure referred to in Article 19(2) of Directive 91/414/EEC.

3. By way of derogation from paragraph 2(b), the latest date for Member States to withdraw authorisations shall be 31 December 2010 in the case referred to in paragraph 1(c) unless the Commission has concluded that the substance meets the criteria of Annex VI, if appropriate after having consulted the EFSA.

Article 12a

View by the EFSA

Where an active substance is included in Annex I to Directive 91/414/EEC pursuant to Article 11b of this Regulation, the Commission shall request the EFSA to deliver its view on the draft review report by 31 December 2010 at the latest. Member States and notifiers shall cooperate with the EFSA and the Commission.

In order to facilitate the planning of the work, the Commission and the EFSA shall agree on a schedule for the delivery of the view of the EFSA on the draft review report and on the format in which that view is submitted.'

2. The Annexes to Regulation (EC) No 1490/2002 are amended in accordance with Annex I to this Regulation.

Article 2

Amendments to Regulation (EC) No 2229/2004

Regulation (EC) No 2229/2004 is amended as follows:

1. Articles 24 and 25 are replaced by the following:

'Article 24

Receipt of and access to the draft assessment report

1. After receiving the updated summary dossier and the draft assessment report referred to in Article 21(1) or Article 22(1) the EFSA shall, within 30 days, acknowledge to the rapporteur Member State receipt of that report.

In exceptional cases where the draft assessment report clearly does not fulfil the requirements concerning the format recommended by the Commission, the Commission shall agree with the EFSA and the rapporteur Member State on a period for resubmission of an amended report. This period shall not exceed two months.

2. The EFSA shall without delay communicate the draft assessment report to the Commission, the other Member States and the notifiers setting a time period of no more than two months for the submission of comments by those Member States and the notifiers.

It shall collate the comments it receives, including available comments from the EFSA, and forward them to the Commission, the Member States and the notifiers.

3. The EFSA shall make available at specific request or keep available for consultation by any person the following:

- (a) the draft assessment report except the elements thereof which have been accepted as confidential in accordance with Article 14 of Directive 91/414/EEC;
- (b) the list of any data required for the evaluation in view of the possible inclusion of the active substance in Annex I to that Directive as finalised by the EFSA where it has finalised such a list.

Article 24a

Evaluation of the draft assessment report

The Commission shall, without delay, examine the draft assessment report and the recommendation by the rapporteur Member State and the comments received from other Member States, the EFSA and from the notifiers in accordance with Article 24(2).

Article 24b

Active substances with clear indications that they do not have any harmful effects

If there are clear indications that it may be expected that the active substance does not have any harmful effects on human or animal health or on groundwater or any unacceptable influence on the environment, as set out in Annex VI, Article 25(1)(a) and (2)(a) shall apply.

Article 24c

Consultation of the EFSA

1. Where Article 24b does not apply, the Commission may, at any time during the evaluation, ask the EFSA to carry out a peer review of the full draft assessment report, or to focus on specific points including points related to criteria set out in Annex VII. The EFSA shall organise a consultation of Member States experts including the rapporteur Member State.

Where the Commission requests the EFSA to carry out a full peer review, the EFSA shall deliver its conclusion at the latest six months after the request. Where the Commission does not request a full peer review, but only a conclusion on specific points, the period shall be reduced to three months. The submission of the conclusions shall in any event be no later than 30 September 2008.

2. If during the peer review there are clear indications that an active substance is expected to have harmful effects on human or animal health or on groundwater as set out in Annex VII, the EFSA shall inform the Commission.

The Commission may take a Decision as referred to in Article 24f.

3. The Commission and the EFSA shall agree on a schedule for the delivery of the conclusions in order to facilitate the planning of the work. The Commission and the EFSA shall agree on the format in which the conclusions of the EFSA are submitted.

Article 24d

Submission of additional information after the draft assessment report has been submitted to the EFSA

1. Without prejudice to Article 7 of Directive 91/414/EEC submission of new studies shall not be accepted.

2. Where the EFSA considers that additional information from the notifier is necessary to comply with a request made by the Commission under Article 24c, the rapporteur Member State shall request that information. Such requests shall be made explicitly and in writing, setting a time period for submission of one month. They shall not concern the submission of new studies. The rapporteur Member State shall inform the Commission and the EFSA of such requests in writing.

The rapporteur Member State shall, within one month after the receipt of such information, evaluate the information received and send its evaluation to the EFSA.

3. Information submitted by the notifier but which has not been requested, or which has not been submitted before the end of the time period referred to in paragraph 2, shall not be taken into account unless this information has been submitted in accordance with Article 7 of Directive 91/414/EEC.

Where the rapporteur Member State, pursuant to paragraph 1 or to the first subparagraph of this paragraph, refuses to take into account studies or information received from the notifier, it shall inform the Commission and the EFSA and indicate the reasons for such refusal.

Article 24e

Withdrawal by notifier

Where Article 24b does not apply, the notifier may withdraw his support of the inclusion of the active

substance in Annex I to Directive 91/414/EEC within two months from receipt of the draft assessment report referred to in Article 24(2).

Article 24f

Active substance for which there are clear indications of harmful effects

If there are clear indications that it may be expected that the active substance has harmful effects on human or animal health or on groundwater as set out in Annex VII the Commission shall take a Decision on the non-inclusion of the active substance in Annex I to Directive 91/414/EEC, in accordance with Article 25(1)(a) and (2)(b) of this Regulation.

Article 25

Presentation of a draft directive or draft decision

1. The Commission shall submit to the Committee a draft review report at the latest six months after:

(a) receipt of the draft assessment report where Article 24b or Article 24f applies;

(b) receipt of the conclusion by the EFSA where Article 24c applies;

(c) receipt of a written withdrawal of the notifier's support where Article 24e applies.

2. Together with the draft review report the Commission shall submit to the Committee:

(a) a draft directive including the active substance in Annex I to Directive 91/414/EEC, setting out where appropriate the conditions, including the time limit, for such inclusion; or

(b) a draft decision addressed to the Member States requiring them to withdraw, within six months, the authorisations of plant protection products containing the active substance, pursuant to the fourth subparagraph of Article 8(2) of Directive 91/414/EEC, whereby that active substance is not included in Annex I to that Directive, mentioning the reasons for the non-inclusion.

The Directive or Decision shall be adopted in accordance with the procedure referred to in Article 19(2) of Directive 91/414/EEC.

3. By way of derogation from point (b) of paragraph 2, the latest date for Member States to withdraw authorisations shall be 31 December 2010 in the case referred to in point (c) of paragraph 1 unless the Commission concluded that the substance meets the criteria of Annex VII, if appropriate after having consulted the EFSA.

Article 25a

View by the EFSA

Where an active substance is included in Annex I to Directive 91/414/EEC pursuant to Article 24b of this Regulation, the Commission shall request the EFSA to deliver its view on the draft review report by 31 December 2010 at the latest. Member States and notifiers shall cooperate with the EFSA and the Commission.

In order to facilitate the planning of the work, the Commission and the EFSA shall agree on a schedule for the delivery of the view of the EFSA on the draft review report and on the format in which that view is submitted.'

2. The Annexes to Regulation (EC) No 2229/2004 are amended in accordance with Annex II to this Regulation.

Article 3

Transitional provisions for Regulation (EC) No 1490/2002

1. As regards active substances for which at the date of entry into force of this Regulation the EFSA had submitted its conclusions to the Commission, Regulation (EC) No 1490/2002, as it stood before its amendment by this Regulation, shall continue to apply.

2. As regards active substances for which, at the date of entry into force of this Regulation, the draft assessment report by the rapporteur Member State had been sent to the EFSA but for which the EFSA had not submitted its conclusions to the Commission, by way of derogation from Article 11e of Regulation (EC) No 1490/2002, Article 12(3) of that Regulation shall apply if both of the following conditions are satisfied:

(a) Article 11b does not apply and one of the following cases is present:

(i) the active substance is not expected to meet the criteria of Annex VI of that Regulation;

(ii) upon being consulted by the Commission, the EFSA has concluded that the active substance does not meet the criteria to Annex VI of that Regulation; and

(b) the notifier informs the Commission of the withdrawal of his support of the inclusion of the active substance in Annex I to Directive 91/414/EEC within two months from the entry into force of this Regulation.

Article 4

Transitional provisions for Regulation (EC) No 2229/2004

As regards active substances for which, at the date of entry into force of this Regulation, the draft assessment report by the rapporteur Member State had been sent to the EFSA but for which the EFSA had not submitted its conclusions to the Commission, by way of derogation from Article 24e of Regulation (EC) No 2229/2004, Article 25(3) of that Regulation shall apply if both of the following conditions are satisfied:

(a) Article 24b does not apply and one of the following cases is present:

(i) the active substance is not expected to meet the criteria of Annex VII of that Regulation;

(ii) upon being consulted by the Commission, the EFSA has concluded that the active substance does not meet the criteria to Annex VII of that Regulation; and

(b) the notifier informs the Commission of the withdrawal of his support of the inclusion of the active substance in Annex I to Directive 91/414/EEC within two months from the entry into force of this Regulation.

Article 5

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

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

Done at Brussels, 20 September 2007.

For the Commission

Markos KYPRIANOU

Member of the Commission

ANNEX I

Amendments to the Annexes to Regulation (EC) No 1490/2002

After Annex IV to Regulation (EC) No 1490/2002 the following Annexes are added as Annexes V and VI:

'ANNEX V

Criteria for clear indications of no harmful effects

An active substance shall be considered as fulfilling the requirement, as referred to in Article 11b, of there being clear indications that it may be expected that it does not have any harmful effects on human or animal health or on groundwater or any unacceptable influence on the environment if all the criteria set out in points 1 and 2 are met.

1. The active substance satisfies the following criteria:

- (a) it is not classified or proposed for classification as C (carcinogenic effects) M (mutagenic effects) R (toxic to reproduction) in categories 1, 2 or 3 in accordance with Directive 67/548/EEC;
- (b) either not requested or, if required, an ADI (Acceptable Daily Intake), AOEL (Acceptable Operator Exposure Level) and ARfD (Acute Reference Dose) can be established on the basis of the standard assessment factor of 100;
- (c) it is not considered to have the potential to meet the criteria of a persistent organic pollutant set out in Regulation (EC) No 850/2004 of the European Parliament and of the Council (*);
- (d) it is not considered to have the potential to meet the criteria set out in Annex XIII to the Regulation (EC) No 1907/2006 of the European Parliament and of the Council (**).

2. At least one supported representative use of the active substance satisfies all of the following criteria:

- (a) operator exposure is less than or equal to 75 % of the AOEL in modelled scenarios, considered relevant for the intended use and where the use of such modelling is appropriate to the supported use and at maximum using gloves as personal protective equipment (PPE);
- (b) bystander exposure and worker exposure is less than or equal to 75 % AOEL in modelled scenarios, considered relevant for the intended use and where the use of such modelling is appropriate to the supported use and without the use of PPE;
- (c) consumer exposure is less than or equal to 75 % of the ADI or ARfD (where such a value is necessarily established) in all available EU consumer diets on the basis of the MRLs (Maximum Residues Level) proposed for the active substance (without special refinements);
- (d) leaching to groundwater is below 0,1 µg/l in at least half of the scenarios considered relevant for the intended use, or in relevant lysimeter/field studies, for both the parent substance and relevant metabolites;
- (e) buffer zones for the protection of the environment do not exceed 30m without any further risk mitigation measures (e.g. drift reducing nozzles);
- (f) the risk to non-target organisms is acceptable based on standard refinements.

(*) OJ L 158, 30.4.2004, p. 7; corrected by OJ L 229, 29.6.2004, p. 5.

(**) OJ L 396, 30.12.2006, p. 1; corrected by OJ L 136, 29.5.2007, p. 3.

ANNEX VI

Criteria for clear indications of harmful effects

An active substance shall be considered as fulfilling the requirement, as referred to in Article 11f, of there being clear indications that on the basis on the available data, and which are evaluated in accordance with the provisions of Article 11d, it may be expected that it has harmful effects on human or animal health or on groundwater if either the criterion in point 1 or one of the criteria in point 2 is met.

1. As regards the active substance, the existing evidence is not sufficient to allow the establishment of an ADI, ARfD or an AOEL and such values are necessary to conduct a consumer and operator risk assessment.
 2. As regards each supported representative use, at least one of the following criteria is met:
 - (a) operator exposure is greater than 100 % AOEL in all modelled scenarios with the use of PPE/RPE (Personal Protective Equipment/Respiratory Protective Equipment), where the use of such modelling is appropriate to the supported use, and where actual exposure data, if available, also indicate that the AOEL will be exceeded under normal conditions of use;
 - (b) bystander exposure and worker exposure is greater than 100 % AOEL in modelled scenarios, where the use of such modelling is appropriate to the supported use, and where actual exposure data, if available, indicate that the AOEL will be exceeded for these groups under normal conditions of use;
 - (c) consumer exposure is greater than 100 % of the ADI or ARfD (where such a value is required) in at least one of the available EU consumer diets on the basis of the MRLs (Maximum Residues Level) proposed for the active substance;
 - (d) leaching to groundwater is equal to or above 0,1 µg/l in all modelled scenarios either for the parent substance or for relevant metabolites.'
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ANNEX II

Amendments to the Annexes to Regulation (EC) No 2229/2004

After Annex V to Regulation (EC) No 2229/2004 the following Annexes are added as Annexes VI and VII:

'ANNEX VI

Criteria for clear indications of no harmful effects

An active substance shall be considered as fulfilling the requirement, as referred to in Article 24b, of there being clear indications that it may be expected that it does not have any harmful effects on human or animal health or on groundwater or any unacceptable influence on the environment if all the criteria set out in points 1 and 2 are met.

1. The active substance satisfies the following criteria:

- (a) it is not classified or proposed for classification as C (carcinogenic effects) M (mutagenic effects) R (toxic to reproduction) in categories 1, 2 or 3 in accordance with Directive 67/548/EEC;
- (b) either not requested or, if required, an ADI (Acceptable Daily Intake), AOEL (Acceptable Operator Exposure Level) and ARfD (Acute Reference Dose) can be established on the basis of the standard assessment factor of 100;
- (c) it is not considered to have the potential to meet the criteria of a persistent organic pollutant set out in Regulation (EC) No 850/2004 of the European Parliament and of the Council (*);
- (d) it is not considered to have the potential to meet the criteria set out in Annex XIII to the Regulation (EC) No 1907/2006 of the European Parliament and of the Council (**).

2. At least one supported representative use of the active substance satisfies all of the following criteria:

- (a) operator exposure is less than or equal to 75 % of the AOEL in modelled scenarios, considered relevant for the intended use and where the use of such modelling is appropriate to the supported use and at maximum using gloves as personal protective equipment (PPE);
- (b) bystander exposure and worker exposure is less than or equal to 75 % AOEL in modelled scenarios, considered relevant for the intended use and where the use of such modelling is appropriate to the supported use and without the use of PPE;
- (c) consumer exposure is less than or equal to 75 % of the ADI or ARfD (where such a value is necessarily established) in all available EU consumer diets on the basis of the MRLs (Maximum Residues Level) proposed for the active substance (without special refinements);
- (d) leaching to groundwater is below 0,1 µg/l in at least half of the scenarios considered relevant for the intended use, or in relevant lysimeter/field studies, for both the parent substance and relevant metabolites;
- (e) Buffer zones for the protection of the environment do not exceed 30m without any further risk mitigation measures (e.g. drift reducing nozzles);
- (f) the risk to non-target organisms is acceptable based on standard refinements.

(*) OJ L 158, 30.4.2004, p. 7; corrected by OJ L 229, 29.6.2004, p. 5.

(**) OJ L 396, 30.12.2006, p. 1; corrected by OJ L 136, 29.5.2007, p. 3.

ANNEX VII

Criteria for clear indications of harmful effects

An active substance shall be considered as fulfilling the requirement, as referred to in Article 24f, of there being clear indications that on the basis on the available data, and which have been evaluated in accordance with the provisions of Article 24d, it may be expected that it has harmful effects on human or animal health or on groundwater if either the criterion in point 1 or one of the criteria in point 2 is met.

1. As regards the active substance, the existing evidence is not sufficient to allow the establishment of an ADI, ARfD or an AOEL and such values are necessary to conduct a consumer and operator risk assessment.
 2. As regards each supported representative use, at least one of the following criteria is met:
 - (a) operator exposure is greater than 100 % AOEL in all modelled scenarios with the use of PPE/RPE (Personal Protective Equipment/Respiratory Protective Equipment), where the use of such modelling is appropriate to the supported use, and where actual exposure data, if available, also indicate that the AOEL will be exceeded under normal conditions of use;
 - (b) bystander exposure and worker exposure is greater than 100 % AOEL in modelled scenarios, where the use of such modelling is appropriate to the supported use, and where actual exposure data, if available, indicate that the AOEL will be exceeded for these groups under normal conditions of use;
 - (c) consumer exposure is greater than 100 % of the ADI or ARfD (where such a value is required) in at least one of the available EU consumer diets on the basis of the MRLs (Maximum Residues Level) proposed for the active substance;
 - (d) leaching to groundwater is equal to or above 0,1 µg/l in all modelled scenarios either for the parent substance or for relevant metabolites.'
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COMMISSION REGULATION (EC) No 1096/2007**of 20 September 2007****amending Council Regulation (EC) No 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo ⁽¹⁾, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) Annex I to Regulation (EC) No 1183/2005 lists the natural and legal persons, entities and bodies covered by the freezing of funds and economic resources under that Regulation.

- (2) On 11 September 2007, the Sanctions Committee of the United Nations Security Council amended the list of natural and legal persons, entities and bodies to whom the freezing of funds and economic resources should apply. Annex I should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 1183/2005 is hereby amended as set out in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 20 September 2007.

For the Commission

Eneko LANDÁBURU

Director-General for External Relations

⁽¹⁾ OJ L 193, 23.7.2005, p. 1. Regulation as last amended by Commission Regulation (EC) No 933/2007 (OJ L 204, 4.8.2007, p. 5).

ANNEX

Annex I to Regulation (EC) No 1183/2005 is amended as follows:

The entry 'Kambale **Kisoni** (*alias* Dr Kisoni). Date of birth: 24.5.1961. Place of birth: Mulashe, Democratic Republic of Congo (DRC). Nationality: Congolese. Passport No: C0323172. Other information: resident of Butembo. Gold trader, owner of Butembo Airlines and Congocom Trading House in Butembo' shall be replaced by the following:

'Kisoni **Kambale** (*alias* (a) Dr Kisoni, (b) Kidubai, (c) Kambale **Kisoni**). Date of birth: 24.5.1961. Place of birth: Mulashe, Democratic Republic of Congo (DRC). Nationality: Congolese. Passport No: C0323172. Other information: (a) Gold trader, owner of Butembo Airlines and Congocom Trading House in Butembo, (b) Deceased on 5.7.2007 in Butembo, DRC.'

COMMISSION REGULATION (EC) No 1097/2007
of 20 September 2007
on the issuing of export licences for wine-sector products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 883/2001 of 24 April 2001, laying down detailed rules for implementing Council Regulation (EC) No 1493/1999 as regards trade with third countries in products in the wine sector⁽¹⁾, and in particular Article 7 and Article 9(3) thereof,

Whereas:

- (1) Article 63(7) of Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine⁽²⁾, limits the grant of export refunds for wine-sector products to the volumes and expenditure contained in the Agreement on Agriculture concluded during the Uruguay Round multilateral trade negotiations.
- (2) Article 9 of Regulation (EC) No 883/2001 lays down the conditions under which the Commission may take specific measures to prevent an overrun of the quantity laid down or the budget available under the said Agreement.
- (3) On the basis of information on export licence applications available to the Commission on 19 September 2007, the quantity still available for the period until

15 November 2007, for destination zones (1) Africa and (3) eastern Europe, referred to in Article 9(5) of Regulation (EC) No 883/2001, could be exceeded unless the issue of export licences with advance fixing of the refund is restricted. Therefore, a single percentage for the acceptance of applications submitted from 16 to 18 September 2007 should be applied and the submission of applications and the issue of licences suspended for this zone until 16 November 2007,

HAS ADOPTED THIS REGULATION:

Article 1

1. Export licences with advance fixing of the refund for wine-sector products for which applications are submitted from 16 to 18 September 2007 under Regulation (EC) No 883/2001 shall be issued in concurrence with 55,94 % of the quantities requested for zone (1) Africa and in concurrence with 72,83 % of the quantities requested for zone (3) eastern Europe.
2. The issue of export licences for wine-sector products referred to in paragraph 1 for which applications are submitted from 19 September 2007 and the submission of export licence applications from 21 September 2007 for destination zone (1) Africa and (3) eastern Europe shall be suspended until 16 November 2007.

Article 2

This Regulation shall enter into force on 21 September 2007.

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

Done at Brussels, 20 September 2007.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 128, 10.5.2001, p. 1. Regulation as last amended by Regulation (EC) No 560/2007 (OJ L 32, 24.5.2007, p. 31).

⁽²⁾ 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).

II

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

DECISIONS

COUNCIL

COUNCIL DECISION

of 30 January 2007

concerning the conclusion, by the Commission, of the Agreement between the European Atomic Energy Community and the Government of Japan for the Joint Implementation of the Broader Approach Activities in the Field of Fusion Energy Research

(2007/614/Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

attached joint paper on the role of the host (Euratom) and non-host (Japan) on the ITER Project.

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

- (3) In accordance with the joint paper referred to above and the amended Council Directives, the Commission has conducted negotiations with the Government of Japan on an Agreement for the Joint Implementation of the Broader Approach Activities.

Having regard to the proposal from the Commission,

Whereas:

- (4) On 20 June 2006, at a meeting in Tokyo, the representatives of Euratom and Japan adopted the Final Report of Negotiations on the Broader Approach Agreement which confirmed the completion of the negotiation process and records the subsidiary documents produced by Euratom and Japan.
- (1) The Commission has, in accordance with the Council Directives of 16 November 2000 as amended by Council Decisions of 27 May 2002, 26 November 2003 and 25 November 2004, conducted negotiations with the Government of China, the Government of Japan, the Government of the Republic of India, the Government of the Republic of Korea, the Government of the Russian Federation and the Government of the United States of America on an Agreement for the Establishment of the ITER International Fusion Energy Organisation for the Joint Implementation of the ITER Project.
- (5) On 22 November 2006, the representatives of Euratom and Japan signed a Joint Declaration for the implementation of the Broader Approach Activities which sets out details for the contributions of the Parties to the Broader Approach Activities.
- (2) The ITER Negotiation Parties have agreed at the Ministerial Meeting in Moscow on 28 June 2005 that ITER would be built in Cadarache. They also agreed on an
- (6) The conclusion, by the Commission, of the Agreement between the European Atomic Energy Community and the Government of Japan for the Joint Implementation of the Broader Approach Activities in the Field of Fusion Energy Research should be approved,

HAS DECIDED AS FOLLOWS:

Sole Article

1. The conclusion by the Commission, for and on behalf of the European Atomic Energy Community, of the Agreement between the European Atomic Energy Community and the Government of Japan for the Joint Implementation of the Broader Approach Activities in the Field of Fusion Energy Research is hereby approved.
2. The text of the Agreement is attached to this Decision.

Done at Brussels, 30 January 2007.

For the Council
The President
P. STEINBRÜCK

AGREEMENT**between the European Atomic Energy Community and the Government of Japan for the Joint Implementation of the Broader Approach Activities in the Field of Fusion Energy Research**

THE EUROPEAN ATOMIC ENERGY COMMUNITY (hereinafter referred to as Euratom) and THE GOVERNMENT OF JAPAN collectively referred to as 'the Parties',

HAVING REGARD to the Agreement for Cooperation between the Government of Japan and the European Atomic Energy Community in the Field of Controlled Thermonuclear Fusion;

HAVING REGARD to the Joint Declaration by the Representatives of the Parties to the ITER Negotiations, on the Occasion of the Ministerial Meeting for ITER, Moscow, 28 June 2005 and its attached Joint Paper — The roles of the Host and the non-Host for the ITER Project (hereinafter referred to as the Joint Paper) in which the main principles for the implementation of the Broader Approach Activities have been set out;

HAVING REGARD to the Joint Declaration by the Representatives of the Government of Japan and Euratom for the joint implementation of the Broader Approach Activities, 22 November 2006 (hereinafter referred to as the Brussels Joint Declaration);

RECALLING the Parties' contributions to the preparation for the joint implementation of the ITER Project through the ITER Engineering Design Activities and the establishment of the ITER International Fusion Energy Organisation;

RECOGNISING the role of the International Atomic Energy Agency in the ITER Project and the collaboration of the Parties in fusion research and development areas under the International Energy Agency of the Organisation for Economic Cooperation and Development;

DESIRING to jointly implement the Broader Approach Activities in support of the ITER Project and an early realisation of fusion energy for peaceful purposes on a time frame compatible with the ITER construction phase;

HAVE AGREED AS FOLLOWS:

CHAPTER 1**INTRODUCTION***Article 1***Objective**

The objective of this Agreement is to establish a framework for specific procedures and details for the joint implementation of broader approach activities (hereinafter referred to as the Broader Approach Activities) in support of the ITER Project and an early realisation of fusion energy for peaceful purposes in accordance with the Joint Paper.

*Article 2***Outline of the Broader Approach Activities**

1. The Broader Approach Activities shall comprise the following three projects:

- (a) the project on the Engineering Validation and Engineering Design Activities for the International Fusion Materials Irradiation Facility (hereinafter referred to as IFMIF/EVEDA);
- (b) the project on the International Fusion Energy Research Centre (hereinafter referred to as IFERC); and

(c) the project on the Satellite Tokamak Programme.

2. In accordance with the Joint Paper and on the basis of the Brussels Joint Declaration, the Broader Approach Activities shall be implemented on a time frame compatible with the ITER construction phase.

3. The general principles governing the Broader Approach Activities shall be as set out in this Agreement. The principles specific to each project of the Broader Approach Activities shall be as set out in Annexes I, II and III, which form an integral part of this Agreement.

CHAPTER 2**ADMINISTRATIVE STRUCTURE OF THE BROADER APPROACH ACTIVITIES***Article 3***Steering Committee on the Broader Approach Activities**

1. There is hereby established a Steering Committee on the Broader Approach Activities (hereinafter referred to as the Steering Committee) which shall be responsible in accordance with this Agreement for the overall direction and supervision of the implementation of the Broader Approach Activities.

2. The Steering Committee shall be assisted by the Secretariat established pursuant to paragraph 1 of Article 4 (hereinafter referred to as the Secretariat).

3. The Steering Committee shall have legal personality and shall enjoy in its relations with other States and international organisations and in the territories of the Parties such legal capacity as may be necessary to perform its functions and achieve its ends.

4. Each Party shall appoint an equal number of members to the Steering Committee and nominate one of its appointed members as the head of its delegation.

5. The Steering Committee shall meet at least twice per year, alternately in Europe and in Japan, or at other agreed times and places. The head of the delegation of the Party that hosts the meeting shall chair the meeting. The Steering Committee shall meet when convened by its chair.

6. The Steering Committee shall decide by consensus.

7. The expenditure of the Steering Committee shall be borne by the Parties on a mutually agreed basis.

8. The functions of the Steering Committee shall include:

(a) appointment of the staff of the Secretariat as provided for in paragraph 1 of Article 4;

(b) appointment of a project leader for each project of the Broader Approach Activities as provided for in paragraph 1 of Article 6 (hereinafter referred to as project leader(s));

(c) approval of a project plan, a work programme and an annual report of each project of the Broader Approach Activities as provided for in Chapter 3 (hereinafter referred to as project plan(s), work programme(s) and Annual Report(s) respectively);

(d) approval of the structure of a project team as provided for in paragraph 2 of Article 6 (hereinafter referred to as project team(s));

(e) appointment on an annual basis of experts made available by a Party to the Project Teams as part of its in-kind contribution as provided for in paragraph 1(a)(ii) of Article 12 (hereinafter referred to as the experts);

(f) in accordance with Article 25, decision on participation of any other party to the Agreement on the Establishment of the ITER International Fusion Energy Organisation for the Joint Implementation of the ITER Project (hereinafter referred to as the ITER Agreement) in a project of the Broader Approach Activities and subsequent conclusion of agreements and arrangements with that Party on such participation; and

(g) any other functions as may be necessary to direct and supervise the Broader Approach Activities.

Article 4

Secretariat

1. The Steering Committee shall establish the Secretariat which shall be located in Japan. The staff of the Secretariat shall be appointed by the Steering Committee.

2. The Secretariat shall assist the Steering Committee. The functions of the Secretariat shall be determined by the Steering Committee, and shall include:

(a) receiving and transmitting the Steering Committee's official communications;

(b) preparing meetings of the Steering Committee;

(c) preparing administrative and other reports for the Steering Committee; and

(d) undertaking any other activities as may be decided by the Steering Committee.

Article 5

Project Committee

1. For each project of the Broader Approach Activities, the Parties shall establish a project committee (hereinafter referred to as Project Committee).

2. Each Party shall appoint an equal number of members to each Project Committee.

3. Each Project Committee shall meet at least twice per year. Unless otherwise agreed by the Project Committee, it shall meet in Japan. The chair of each Project Committee shall be nominated by the Steering Committee from among the members of the Project Committee.

4. Each Project Committee shall decide by consensus.

5. The secretariat of each Project Committee shall be ensured by the respective Project Leader as provided for in Article 6.

6. The functions of each Project Committee shall include:

- (a) making recommendations on the respective draft project plans, work programmes and annual reports to be submitted to the Steering Committee by the Project Leader concerned in accordance with Chapter 3;
- (b) monitoring and reporting on the progress of the project of the Broader Approach Activities concerned; and
- (c) performing any other duties as directed by the Steering Committee.

Article 6

Project leader and project team

1. For each project of the Broader Approach Activities, a project leader shall be appointed by the Steering Committee. The project leader shall be responsible for the coordination of the implementation of the project as specified in Annexes I, II and III.

2. Each project leader shall be assisted by the respective project team in the exercise of his responsibilities and functions. The members of each project team shall comprise the Experts and other members such as visiting scientists. The structure of each project team shall be approved by the Steering Committee upon proposal by the respective project leader.

3. The functions of each project leader shall include:

- (a) organising, directing and supervising the project team in the implementation of the work programme;
- (b) preparing the Project Plan, the work programme and the annual report, and submitting them to the Steering Committee for approval after consultation with the respective Project Committee;
- (c) requesting the implementing agency designated by the Government of Japan in accordance with paragraph 1 of Article 7 (hereinafter referred to as the Japanese Implementing Agency) to disburse the expenditure to support the respective project team in accordance with Article 17;

(d) accounting of the contribution of each Party;

(e) ensuring the secretariat of the Project Committee; and

(f) reporting to the Project Committee on the progress of the respective project of the Broader Approach Activities.

Article 7

Implementing agencies

1. Each Party shall designate an implementing agency to discharge its obligations for the implementation of the Broader Approach Activities (hereinafter referred to as implementing agency(ies)), in particular to make available the resources for their implementation. If the Implementing Agencies have not been designated even after the entry into force of this Agreement, the Parties shall immediately consult with each other on how to resolve the issue.

2. The Japanese Implementing Agency shall host the project teams and shall make available working sites including office accommodations, goods and services required for the implementation of the tasks to be performed by the project teams under the terms and conditions set out in Annexes I, II and III.

3. Subject to paragraph 1 of Article 3, the Japanese Implementing Agency shall be responsible for the management of agreed financial contributions to operational costs and of the financial contributions to common expenses of each project team, dedicated to each project of the Broader Approach Activities in accordance with the respective project plan and work programme. For the purpose of the management of such financial contributions, the Japanese Implementing Agency shall designate a responsible person in charge of the management of financial contributions of the Parties. His functions shall include:

- (a) calling on the Party(ies) or the implementing agency(ies) to make financial contributions in accordance with project plans and work programmes; and
- (b) keeping separate accounts of the financial contributions for each project of the Broader Approach Activities and retaining them together with all books, records and any other documents in respect of the financial contributions for a minimum period of five years following the expiry or termination of this Agreement.

4. The Japanese implementing agency shall take the necessary steps to obtain all permits and licenses provided for in the laws and regulations in force in Japan and required for the implementation of the Broader Approach Activities.

CHAPTER 3

INSTRUMENTS OF IMPLEMENTATION OF THE BROADER APPROACH ACTIVITIES AND FINANCIAL AUDIT

Article 8

Project plan

1. After consultation with the respective Project Committee, each project leader shall submit, not later than 31 March of each year, a project plan of the respective project of the Broader Approach Activities to the Steering Committee for its approval.

2. Each project plan shall cover the entire duration of such project and be regularly updated. It shall:

- (a) outline an overall plan of activities including time schedule and major milestones for the implementation of such project in light of the progress achieved; and
- (b) provide a comprehensive overview of the contributions already made and to be made in the future for the implementation of such project.

Article 9

Work programme

After consultation with the respective Project Committee, each project leader shall submit, not later than 31 October of each year, an annual work programme of the respective project of the Broader Approach Activities for the following year to the Steering Committee for its approval. The work programmes shall provide the details of the respective project plans and shall provide the programmatic description of the activities to be undertaken, including objectives, planning, common expenses and the contributions to be provided by each Party.

Article 10

Annual report

1. Not later than 31 March of each year, each project leader shall submit an Annual Report covering all the activities conducted in the implementation of the respective project of the Broader Approach Activities including a summary of the contributions made by each Party and of the disbursement made by the Japanese implementing agency in accordance with Article 7(3) for such project to the Steering Committee for its approval. Upon approval by the Steering Committee, the project leader shall forward the annual report and any

comments by the Steering Committee to the Parties and to the implementing agencies.

2. The Japanese Implementing Agency shall provide each project leader with the data necessary for the summary of the contributions made by each Party and the disbursement made by the Japanese Implementing Agency for such project.

3. The project plans, work programmes and annual reports as provided for in Articles 8 to 10 and any other essential documents for the implementation of the Broader Approach Activities shall be drafted in English.

Article 11

Financial audit

Each Party may initiate a financial audit of the separate accounts kept by the Japanese Implementing Agency for the purposes of the Broader Approach Activities at any time during this Agreement and up to five years after the expiry or termination of this Agreement on the basis of documents and on the spot. All books, records and any other documents kept by the implementing agencies and by the project leaders in respect of the Broader Approach Activities shall be open, as necessary and appropriate, for the purposes of the audit.

CHAPTER 4

RESOURCES

Article 12

General principles

1. The resources for the implementation of the Broader Approach Activities shall comprise:

- (a) in-kind contributions, in accordance with technical specifications and under the terms and conditions as referred to in the Brussels Joint Declaration and its attachments, comprising:
 - (i) specific components, equipments, materials and other goods and services; and
 - (ii) the experts made available by a Party to the project teams after their appointment by the Steering Committee and the staff made available by a Party to the Secretariat after their appointment by the Steering Committee; and
- (b) financial contributions, under the terms and conditions as referred to in the Brussels Joint Declaration and its attachments.

2. Subject to the laws and regulations of each Party, the document Value Estimates and Allocations of Contributions of the Parties attached to the Brussels Joint Declaration may be annually updated by decision of the Steering Committee.

Article 13

Taxes

1. Each Party shall grant permission for duty-free importation and exportation to and from its territory of goods which are necessary for the implementation of this Agreement, and shall ensure their exemption from any other taxes and duties collected by the customs authorities and from import prohibitions and restrictions. This paragraph shall be implemented without regard to the country of origin of such necessary goods.

2. The Experts made available by a Party to the project teams after their appointment by the Steering Committee and the staff made available by a Party to the Secretariat after their appointment by the Steering Committee as in-kind contribution in accordance with paragraph 1(a)(ii) of Article 12 shall be exempt from taxes on salaries, wages and emoluments in the territory of the other Party.

Article 14

Regulation of in-kind contributions

1. Each in-kind contribution shall be the object of a procurement arrangement (hereinafter referred to as the Procurement Arrangement) agreed between the Implementing Agencies with the consent of the project leader concerned.

2. The Procurement Arrangement shall provide a detailed technical description of the contributions to be made including the technical specifications, schedules, milestones, risk assessments, deliverables and criteria for their acceptance, and shall set out the arrangements by which the project leader concerned will be enabled to exercise technical authority over the performance of the in-kind contributions. The Procurement Arrangement shall, in particular, set out:

- (a) the value attributed to each in-kind contribution;
- (b) the roles and responsibilities of the implementing agencies and the project leader;
- (c) the procedure for procurement;
- (d) the schedule and conditions for the acceptance of achievement of milestones and deliverables;

(e) the application of quality assurance measures;

(f) the relation and monitoring procedures among the project leader concerned, the implementing agencies and the entities involved in the supply of the deliverables;

(g) procedures to deal with changes of a procurement that can have an impact on costs, scheduling and performance; and

(h) the acceptance of the final deliverables and possible transfer of ownership.

3. The ownership of components to be contributed in kind by the implementing agency designated by Euratom in accordance with paragraph 1 of Article 7 (hereinafter referred to as the European Implementing Agency) shall be transferred to the Japanese Implementing Agency at the time of acceptance by the respective project leader and the Japanese Implementing Agency at the respective working site. The Japanese Implementing Agency shall be responsible for the transportation of components contributed by the European Implementing Agency from the port of entry to the working site.

4. For the experts or the staff to the Secretariat, the Procurement Arrangement shall take the form of a secondment arrangement. The value attributed to the experts or the staff to the Secretariat shall be as referred to in the document Value Estimates and Allocation of Contributions of the Parties attached to the Brussels Joint Declaration and may be updated by the Steering Committee from time to time as necessary.

5. Each Party shall be responsible for the salaries, insurances and allowances to be paid to the experts and the staff of the Secretariat made available by such Party, and shall, unless otherwise agreed, pay for the travel and living expenses of them. The Party that hosts the project teams and/or the Secretariat shall arrange for adequate accommodation for the Experts and the staff of the Secretariat and their families. The Party that hosts the project teams and/or the Secretariat shall also take appropriate measures to facilitate the entry to its territory of the experts and the staff of the Secretariat and their families, and shall request its implementing agency to use its best efforts to provide appropriate facilities with respect to legal and translation services in the event of any legal action brought against the Experts and the staff of the Secretariat resulting from the execution of their duties. The Experts and the staff to the Secretariat shall comply with the general and special rules of work and safety regulations in force at the host establishment, or as agreed in the secondment arrangement in the execution of their duties in the other Party.

*Article 15***Adjustments to allocations**

If unforeseen circumstances so require, a Party may propose to modify the allocation of contributions within a project of the Broader Approach Activities. Upon such proposal, the project leader concerned shall, following consultation with the Project Committee concerned, propose to the Steering Committee a revised allocation of resources while maintaining the total cost of such project and the overall balance of the contributions between the Parties within that project.

*Article 16***Financial contributions**

All payments made by the European Implementing Agency shall be made in euro. All payments made by the Japanese Implementing Agency shall be made in Yen.

*Article 17***Common expenses of the project teams**

Common expenses of each project team shall be disbursed in accordance with paragraph 3 of Article 7 by the Japanese Implementing Agency. For this purpose, the Japanese Implementing Agency shall undertake the necessary actions upon request by the project leader concerned and within the ceilings given in the relevant work programme.

CHAPTER 5

INFORMATION AND INTELLECTUAL PROPERTY*Article 18***Dissemination, use and protection of information**

1. For the purposes of this Chapter:

(a) 'information' means drawings, designs, computations, reports and other documents, documented data or methods of research and development, descriptions of inventions and discoveries, whether or not protectable; and

(b) 'business confidential information' means information containing know-how, trade secrets, or technical, commercial or financial information, which:

(i) has been held in confidence by its owner;

(ii) is not generally known or available from other sources;

(iii) has not been made available by its owner to other parties without an obligation concerning its confidentiality; and

(iv) is not available to the receiving party without obligations concerning its confidentiality.

2. Subject to the provisions of this Chapter, the Parties support the widest possible dissemination of information generated in the implementation of this Agreement.

3. Subject to the provisions of this Chapter, all information generated by the members of the project teams in the execution of the tasks assigned to them under this Agreement shall be made freely available to each of the Parties for use in the research and development of fusion as a source of energy for peaceful purposes.

4. Subject to the provisions of this Chapter, each Party shall be entitled to a non-exclusive, irrevocable and royalty-free license in all countries to translate, reproduce and publicly distribute scientific and technical journal articles, reports and books directly arising from the implementation of this Agreement. All publicly distributed copies of a copyrighted work prepared under the provisions of this Chapter shall indicate the names of the authors of the work unless an author explicitly declines to be named.

5. Subject to the provisions of this Chapter, all information generated by the personnel of an implementing agency in the execution of the tasks assigned to it under this Agreement shall be made freely available to the project teams and to each of the Parties for use in the research and development of fusion as a source of energy for peaceful purposes.

6. Any contract placed on the initiative of an implementing agency or a project leader for the execution of a task assigned to them under this Agreement shall contain provisions to allow the Parties to meet their obligations under this Agreement.

7. Subject to its laws and regulations and to its obligations to third parties and to the provisions of this Chapter, each Party shall use its best efforts to make freely available to the project teams and to the implementing agencies any information at its disposal which they need for the execution of the tasks assigned to them under this Agreement.

8. If business confidential information is made available in the implementation of this Agreement, it must be duly marked so and transmitted pursuant to an arrangement of confidentiality. The recipient of such information shall use it for the implementation of this Agreement, and preserve its confidentiality to the extent provided in that arrangement.

*Article 19***Intellectual property**

1. For the purposes of this Agreement, 'intellectual property' shall have the meaning defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation, done at Stockholm on 14 July 1967. In accordance with its laws and regulations, each Party shall ensure that the other Party can obtain the rights to intellectual property allocated in accordance with this Chapter. This Chapter does not alter or prejudice the allocation of rights between a Party and its nationals. Whether the rights concerning intellectual property shall be held by a Party or its nationals shall be determined as between themselves in accordance with their applicable laws and regulations.

2. Where protectable subject matter is generated by the members of the project teams in the implementation of this Agreement, the respective project leader shall promptly inform the Steering Committee with a recommendation on the countries where protection for such intellectual property should be obtained. Each Party, its implementing agency, or the members of the project teams made available by that Party shall, however, be entitled to acquire all right, title and interest in and to intellectual property in the territory of that Party. The Steering Committee shall decide whether and how to seek protection for such intellectual property in third countries. In all cases where protection for intellectual property is obtained by a Party, its implementing agency or the members of the project teams made available by that Party, the Party shall ensure that the members of the project teams can freely use such intellectual property for the execution of the tasks assigned to the project teams.

3. If intellectual property is generated by personnel of an implementing agency in the execution of a task assigned to it under this Agreement, the Party of that implementing agency, the implementing agency or its personnel shall be entitled to acquire all right, title and interest in all countries in and to such intellectual property according to applicable laws and regulations. The Party of such implementing agency shall ensure that the members of the project teams can freely use such intellectual property for the execution of the tasks assigned to the project teams, and that the other Party is granted an irrevocable, non-exclusive and royalty-free license, with the right to sublicense, for research and development on fusion as a source of energy for peaceful purposes.

4. If intellectual property is generated by personnel made available through an implementing agency while working in the implementing agency of the other Party, subject to relevant applicable laws:

(a) the receiving Party, its implementing agency or its personnel shall be entitled to acquire all right, title and interest in and to any such intellectual property in its own territory and in the third countries; and

(b) the sending Party, its implementing agency or its personnel shall be entitled to acquire all right, title and interest in and to any such intellectual property in its own territory.

5. Each Party shall, without prejudice to any rights of inventors or authors under the applicable laws and regulations, take all necessary steps to seek the cooperation from such inventors or authors, including the personnel of its implementing agency, which are required to implement this Agreement. Each Party shall ensure the payment of awards and compensations to such inventors or authors, according to its laws and regulations.

6. Notwithstanding paragraphs 2 to 4, if a Party decides not to exercise its right to seek protection for intellectual property in any country or region, it shall so notify the other Party, and the other Party may then seek to obtain such protection.

*Article 20***Expiry or termination**

The rights conferred and obligations imposed upon the Parties under this Chapter shall subsist in accordance with applicable laws and regulations after the expiry or termination of this Agreement.

CHAPTER 6

FINAL PROVISIONS*Article 21***Entry into force**

This Agreement shall enter into force on the date on which the Parties exchange diplomatic notes informing each other that their respective internal procedures necessary for its entry into force have been completed.

*Article 22***Duration and termination**

1. This Agreement shall remain in force for a period of 10 years and shall continue in force thereafter unless terminated by either Party at the end of the 10-year period or at any time thereafter by giving to the other Party at least six months' written advance notice of its intention to terminate this Agreement.

2. This Agreement may be terminated before its expiry only when:

(a) both Parties mutually agree;

(b) the ITER Agreement is terminated; or

(c) either of the Parties is no longer a party to the ITER Agreement.

3. The expiration or termination of this Agreement shall not affect the validity or duration of any arrangements made under it, or any specific rights and obligations that have accrued in compliance with Chapter 5.

Article 23

Amendment

The Parties shall, at the request of either of them, consult with each other whether to amend this Agreement, and may agree to the amendment. Such amendment shall enter into force on the date on which the Parties exchange diplomatic notes informing each other that their respective internal procedures necessary for its entry into force have been completed.

Article 24

Dispute settlement

All questions or disputes between the Parties concerning the interpretation or implementation of this Agreement shall be settled by consultation and negotiation between them.

Article 25

Participation of other ITER parties

In the event that any other party to the ITER Agreement expresses its intention to participate in a project of the Broader Approach Activities, the project leader concerned

shall, after consultation with the Project Committee, submit to the Steering Committee a proposal concerning the terms and conditions of the participation of that party in such project. The Steering Committee shall decide on the participation of that party upon the proposal of the project leader, and subject to the approval of the Parties following their internal procedures, may conclude agreements and arrangements with that Party on such participation.

Article 26

Application with regard to Euratom

In accordance with the Treaty establishing Euratom, this Agreement shall apply to the territories covered by that Treaty. In accordance with that Treaty and other relevant agreements, it shall also apply to the Swiss Confederation, participating in the Euratom fusion programme as a fully associated third State.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by the Government of Japan and the European Atomic Energy Community respectively, have signed this Agreement.

Done at Tokyo on 5 February 2007, in duplicate, in the English and Japanese languages, both texts being equally authentic.

*For the European Atomic Energy
Community*

H. RICHARDSON

*For the Government
of Japan*

T. ASO

ANNEX I

IFMIF/EVEDA

Article 1

Objective

1. The Parties, subject to this Agreement as well as their laws and regulations, shall conduct the Engineering Validation and Engineering Design Activities (hereinafter referred to as EVEDA) to produce a detailed, complete and fully integrated engineering design of the International Fusion Materials Irradiation Facility (hereinafter referred to as IFMIF) and all data necessary for future decisions on the construction, operation, exploitation and decommissioning of IFMIF, and to validate continuous and stable operation of each IFMIF subsystem.

2. Such design and data shall then be set out in a final design report to be adopted by the Steering Committee upon proposal by the project leader after consultation with the Project Committee, and be made available for each of the Parties to use either as a part of an international collaborative programme or in its own domestic programme.

Article 2

Scope

1. In pursuance of the objectives set out in Article 1 of this Annex, the following tasks shall be carried out:

(a) establishment of the engineering design of IFMIF, including:

- (i) a complete description of IFMIF including its three main subsystems (the accelerators, the target facility and the test facility), the buildings including the hot cells for post irradiation examination, the auxiliary systems and the safety systems;
- (ii) detailed designs of the components, the subsystems and buildings with specific regard to their interfaces and integration;
- (iii) a planning schedule for the various stages of supply, construction, assembly, tests and commissioning together with the corresponding plan of human and financial resources requirements; and
- (iv) the technical specifications for the components allowing calls for tender for the supply of items needed for the start-up of the construction;

(b) establishment of the site requirements for IFMIF, and performance of the necessary safety and environmental analyses;

(c) proposal of the programme and corresponding estimates of the cost, human resources and schedule for the operation, exploitation and decommissioning of IFMIF; and

(d) validating research and development work required for performing the activities described in points sub-paragraphs (a) to (c), including:

- (i) designing, building and assembling the prototype of the low energy part and the first high energy section of one of the two accelerators including its radio frequency power supplies, generators and their auxiliaries, and conducting their integrated beam testing operation;
- (ii) designing, manufacturing and testing of scalable models to ensure engineering feasibility of the target facility and of the test facility; and
- (iii) constructing the buildings to house the prototypical accelerator and its auxiliary systems.

2. The implementation of the tasks set out in paragraph 1 shall be further specified in the project plan and work programmes.

*Article 3***Working site**

The working site for IFMIF/EVEDA shall be located at Rokkasho, Aomori Prefecture.

*Article 4***Resources**

The Parties shall make available the resources required for the implementation of the IFMIF/EVEDA as referred to in the Brussels Joint Declaration and its attachments.

*Article 5***Duration**

The duration of the IFMIF/EVEDA shall be six years and may be extended by decision of the Steering Committee.

*Article 6***Ownership of accelerator components**

Notwithstanding paragraph 3 of Article 14 of this Agreement, the European implementing agency shall retain the ownership of the prototypical accelerator components specified in this Article that it provides as an in-kind contribution, and shall take responsibility for shipping these components back after the dismantling of the prototypical accelerator:

- (a) injector;
 - (b) radio frequency power supplies, generators and their auxiliaries; and
 - (c) control system.
-

*ANNEX II***IFERC***Article 1***Objective**

The Parties, subject to this Agreement as well as their laws and regulations, shall conduct research and development activities at IFERC aiming at contributing to the ITER Project and at promoting a possible early realisation of a future demonstration power reactor (hereinafter referred to as DEMO).

*Article 2***Scope**

In pursuance of the objectives set out in Article 1 of this Annex, the following tasks shall be carried out:

- (a) activities of the DEMO Design Research and Development Coordination Centre aiming at establishing a common basis for a DEMO design, including:
 - (i) holding of seminars and other meetings;
 - (ii) provision and exchange of scientific and technical information;
 - (iii) DEMO conceptual design activities; and
 - (iv) research and development activities on DEMO technologies;
- (b) activities of the Computational Simulation Centre, including the provision and exploitation of a super-computer for large scale simulation activities to analyse experimental data on fusion plasmas, prepare scenarios for ITER operation, predict the performance of the ITER facilities and contribute to DEMO design; and
- (c) activities of the ITER Remote Experimentation Centre to facilitate broad participation of scientists into ITER experiments, including the development of remote experimentation techniques for burning Tokamak plasmas, to be tested on existing machines, such as the Advanced Superconducting Tokamak, as provided for in Article 1 of Annex III.

*Article 3***Working site**

The working site for IFERC shall be located at Rokkasho, Aomori Prefecture.

*Article 4***Resources**

The Parties shall make available the resources required for the implementation of the IFERC activities as referred to in the Brussels Joint Declaration and its attachments.

*Article 5***Duration**

The duration of the IFERC activities shall be 10 years and may be extended by decision of the Steering Committee.

*Article 6***Details of delivery and possible transfer of ownership of super computer systems**

Notwithstanding paragraph 3 of Article 14 of this Agreement, details of delivery and possible transfer of ownership of super computer systems shall be determined by the Steering Committee in accordance with the project plan.

ANNEX III

SATELLITE TOKAMAK PROGRAMME*Article 1***Objective**

1. The Parties, subject to this Agreement as well as their laws and regulations, shall conduct the satellite Tokamak programme (hereinafter referred to as the Satellite Tokamak Programme). This programme includes:

- (a) the participation in the upgrade of the Tokamak experimental equipment owned by the Japanese Implementing Agency to an advanced superconducting Tokamak (hereinafter referred to as the Advanced Superconducting Tokamak); and
- (b) the participation in its exploitation, to support the exploitation of ITER and research towards DEMO by addressing key physics issues for ITER and DEMO.

2. The construction and exploitation of the Advanced Superconducting Tokamak shall be conducted under the Satellite Tokamak Programme and the Japanese national programme. The exploitation opportunities of the Advanced Superconducting Tokamak shall be equally shared between the national programme and the Satellite Tokamak Programme.

*Article 2***Scope**

1. In pursuance of the objectives set out in Article 1 of this Annex, the following tasks shall be carried out:

- (a) Construction phase: design, manufacturing of components and systems, and assembly of the Advanced Superconducting Tokamak; and
- (b) Exploitation phase: planning and execution of Satellite Tokamak Programme experiments.

2. The implementation of the tasks set out in paragraph 1 shall be further specified in the project plan and work programmes on the following basis:

- (a) the conceptual design report, including the functional specifications of the components to be supplied by the Parties for the implementation of the Satellite Tokamak Programme, shall be provided by the Japanese Implementing Agency and reviewed and accepted by the Parties;
- (b) each implementing agency shall develop the detailed design of the components to be supplied by it as in-kind contribution;
- (c) the Japanese Implementing Agency shall be responsible for the integration of the Advanced Superconducting Tokamak components and for the general assembly and operation of the device; and
- (d) Euratom shall be entitled to participate in the exploitation of the Advanced Superconducting Tokamak on an equitable basis.

*Article 3***Working site**

The working site for the Satellite Tokamak Programme shall be located at Naka, Ibaraki Prefecture.

*Article 4***Resources**

The Parties shall make available the resources required for the implementation of the Satellite Tokamak Programme as referred to in the Brussels Joint Declaration and its attachments.

*Article 5***Duration**

The duration of the Satellite Tokamak Programme shall be 10 years including three years for commissioning and operation and may be extended by decision of the Steering Committee.

COMMISSION

COMMISSION DECISION

of 20 September 2007

concerning the non-inclusion of benfuracarb in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing that substance

(notified under document number C(2007) 4285)

(Text with EEA relevance)

(2007/615/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽¹⁾, and in particular the fourth subparagraph of Article 8(2) thereof,

Whereas:

(1) Article 8(2) of Directive 91/414/EEC provides that a Member State may, during a period of 12 years following the notification of that Directive, authorise the placing on the market of plant protection products containing active substances not listed in Annex I of that Directive that are already on the market two years after the date of notification, while those substances are gradually being examined within the framework of a programme of work.

(2) Commission Regulations (EC) No 451/2000 ⁽²⁾ and (EC) No 703/2001 ⁽³⁾ lay down the detailed rules for the implementation of the second stage of the programme of work referred to in Article 8(2) of Directive 91/414/EEC and establish a list of active substances to be assessed with a view to their possible inclusion in Annex I to Directive 91/414/EEC. That list includes benfuracarb.

(3) For benfuracarb the effects on human health and the environment have been assessed in accordance with the

provisions laid down in Regulations (EC) No 451/2000 and (EC) No 703/2001 for a range of uses proposed by the notifier. Moreover, those regulations designate the Rapporteur Member States which have to submit the relevant assessment reports and recommendations to the European Food Safety Authority (EFSA) in accordance with Article 8(1) of Regulation (EC) No 451/2000. For benfuracarb the Rapporteur Member State was Belgium and all relevant information was submitted on 2 August 2004.

(4) The assessment report has been peer reviewed by the Member States and the EFSA within its Working Group Evaluation and presented to the Commission on 28 July 2006 in the format of the EFSA conclusion regarding the peer review of the pesticide risk assessment of the active substance benfuracarb. This report has been reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 16 March 2007 in the format of the Commission review report for benfuracarb.

(5) During the evaluation of this active substance, a number of concerns have been identified. Benfuracarb is a substance of which the main metabolite is carbofuran, itself an active substance which has been reviewed under Directive 91/414/EEC. The use of benfuracarb leads to the presence of the metabolite carbofuran which is considerably more toxic than the parent compound benfuracarb. For the carbofuran residues, resulting from the use of benfuracarb, the assessment has raised a concern about the acute exposure of vulnerable groups of consumers, in particular children. However, the EFSA has stated that it is not possible to assess the risk for consumers completely due to a lack of data in the dossier presented by the notifier. Furthermore, the data lodged within the legal deadlines were insufficient for the EFSA to allow a full assessment of the risk of ground water contamination from metabolites other than carbofuran. Finally, based on the available data, it has not been demonstrated that the risk to birds and mammals,

⁽¹⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2007/52/EC (OJ L 214, 17.8.2007, p. 3).

⁽²⁾ OJ L 55, 29.2.2000, p. 25. Regulation as last amended by Regulation (EC) No 1044/2003 (OJ L 151, 19.6.2003, p. 32).

⁽³⁾ OJ L 98, 7.4.2001, p. 6.

aquatic organisms, ground dwelling organisms, earthworms and other non-target organisms is acceptable. Consequently, it was not possible to conclude on the basis of the information available that benfuracarb met the criteria for inclusion in Annex I to Directive 91/414/EEC.

- (6) The Commission invited the notifier to submit its comments on the results of the peer review and on its intention or not to further support the substance. The notifier submitted its comments which have been carefully examined. However, despite the arguments put forwards by the notifier, the concerns identified could not be eliminated, and assessments made on the basis of the information submitted and evaluated during the EFSA expert meetings have not demonstrated that it may be expected that, under the proposed conditions of use, plant protection products containing benfuracarb satisfy in general the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC.
- (7) Benfuracarb should therefore not be included in Annex I to Directive 91/414/EEC.
- (8) Measures should be taken to ensure that authorisations granted for plant protection products containing benfuracarb are withdrawn within a fixed period of time and are not renewed and that no new authorisations for such products are granted.
- (9) Any period of grace granted by a Member State for the disposal, storage, placing on the market and use of existing stocks of plant protection products containing benfuracarb should be limited to 12 months in order to allow existing stocks to be used in one further growing season, which ensures that plant protection products containing benfuracarb remain available to farmers for 18 months from the adoption of this Decision.
- (10) This Decision does not prejudice the submission of an application for benfuracarb according to the provisions of Article 6(2) of Directive 91/414/EEC in view of a possible inclusion in its Annex I.

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

HAS ADOPTED THIS DECISION:

Article 1

Benfuracarb shall not be included as active substance in Annex I to Directive 91/414/EEC.

Article 2

Member States shall ensure that:

- (a) authorisations for plant protection products containing benfuracarb are withdrawn by 20 March 2008;
- (b) no authorisations for plant protection products containing benfuracarb are granted or renewed from the date of publication of this Decision.

Article 3

Any period of grace granted by Member States in accordance with the provisions of Article 4(6) of Directive 91/414/EEC, shall be as short as possible and shall expire on 20 March 2009 at the latest.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 20 September 2007.

For the Commission

Markos KYPRIANOU

Member of the Commission

CORRIGENDA

Corrigendum to Commission Regulation (EC) No 1086/2007 of 19 September 2007 amending Regulation (EC) No 1054/2007 fixing the export refunds on white and raw sugar exported without further processing*(Official Journal of the European Union L 245 of 20 September 2007)*

On Page 31, the Annex should read as follows:

‘ANNEX

Export refunds on white and raw sugar exported without further processing applicable from 20 September 2007 ^(a)

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	S00	EUR/100 kg	33,27 ⁽¹⁾
1701 11 90 9910	S00	EUR/100 kg	31,43 ⁽¹⁾
1701 12 90 9100	S00	EUR/100 kg	33,27 ⁽¹⁾
1701 12 90 9910	S00	EUR/100 kg	31,43 ⁽¹⁾
1701 91 00 9000	S00	EUR/1 % sucrose × 100 kg of net product	0,3617
1701 99 10 9100	S00	EUR/100 kg	36,17
1701 99 10 9910	S00	EUR/100 kg	34,17
1701 99 10 9950	S00	EUR/100 kg	34,17
1701 99 90 9100	S00	EUR/1 % sucrose × 100 kg of net product	0,3617

NB: The destinations are defined as follows:

S00 — All destinations with the exception of:

- (a) third countries: Albania, Croatia, Bosnia-Herzegovina, Montenegro, Serbia, Kosovo, the former Yugoslav Republic of Macedonia, Andorra, Liechtenstein and the Holy See (Vatican City State);
- (b) territories of the EU Member States not forming part of the customs territory of the Community: Gibraltar, Ceuta, Melilla, the Communes of Livigno and Campione d'Italia, Heligoland, Greenland, the Faeroe Islands and the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control.

^(a) The amounts set out in this Annex are not applicable with effect from 1 February 2005 pursuant to Council Decision 2005/45/EC of 22 December 2004 concerning the conclusion and application of the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972 as regards the provisions applicable to processed agricultural products (OJ L 23, 26.1.2005, p. 17).

⁽¹⁾ This amount is applicable to raw sugar with a yield of 92 %. Where the yield for exported raw sugar differs from 92 % the refund amount applicable shall be multiplied, for each exporting operation concerned, by a conversion factor obtained by dividing by 92 the yield of the raw sugar exported, calculated in accordance with paragraph 3 of Point III of the Annex I of Regulation (EC) No 318/2006.’