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I

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

REGULATIONS

COMMISSION REGULATION (EC) No 115/2008**of 7 February 2008****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 1580/2007 of 21 December 2007 laying down implementing rules of Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector ⁽¹⁾, and in particular Article 138(1) thereof,

Whereas:

- (1) Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes

the standard values for imports from third countries, in respect of the products and periods stipulated in 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 138 of Regulation (EC) No 1580/2007 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 8 February 2008.

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

Done at Brussels, 7 February 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

to Commission Regulation of 7 February 2008 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	IL	143,2
	JO	84,0
	MA	48,6
	TN	111,3
	TR	93,2
	ZZ	96,1
0707 00 05	EG	208,2
	JO	187,5
	MA	130,0
	TR	126,0
	ZZ	162,9
0709 90 70	MA	56,3
	TR	149,9
	ZZ	103,1
0805 10 20	EG	44,1
	IL	50,8
	MA	62,0
	TN	50,0
	TR	66,4
	ZZ	54,7
0805 20 10	IL	106,7
	MA	106,8
	TR	101,8
	ZZ	105,1
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	41,9
	EG	76,3
	IL	70,6
	JM	97,3
	MA	133,4
	TR	115,1
	US	60,6
	ZZ	85,0
0805 50 10	EG	73,4
	IL	135,3
	MA	83,2
	TR	116,4
	ZZ	102,1
0808 10 80	CA	103,0
	CN	91,7
	MK	39,9
	US	113,2
	ZZ	87,0
0808 20 50	CN	65,9
	US	107,7
	ZA	99,1
	ZZ	90,9

⁽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'.

II

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

DECISIONS

COMMISSION

COMMISSION DECISION

of 19 December 2007

concerning the accession of the European Atomic Energy Community to the Convention on the Physical Protection of Nuclear Material and Nuclear Facilities

(2008/99/EC, Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to Council Decision 2007/513/Euratom of 10 July 2007 approving the accession of the European Atomic Energy Community to the amended Convention on the Physical Protection of Nuclear Material and Nuclear Facilities ⁽¹⁾,

Whereas:

- (1) Article 2(e) of the Treaty establishing the European Atomic Energy Community (Euratom Treaty) states that the European Atomic Energy Community (the Community) shall make certain, by appropriate supervision, that nuclear materials are not diverted to purpose other than those for which they are intended.
- (2) The Convention on the Physical Protection of Nuclear Material (CPPNM) was adopted in 1979 and entered into force in 1987. 128 States and the Community are parties to the CPPNM ⁽²⁾. All the Member States are Parties to the CPPNM.
- (3) The Court of Justice of the European Communities (Court of Justice) ⁽³⁾ decided that the participation of

the Member States in the CPPNM is compatible with the provisions of the Euratom Treaty only subject to the conditions that, insofar as its own powers and jurisdiction are concerned, the Community as such is a party to the CPPNM on the same lines as the Member States and that certain commitments of the CPPNM can only be implemented, where the Community is concerned, by means of close association between the Community and the Member States, both in negotiation and conclusion process and in fulfilment of the commitments assumed,

HAS DECIDED AS FOLLOWS:

Article 1

Accession to the Convention on the Physical Protection of Nuclear Material and Nuclear Facilities is hereby approved on behalf of the European Atomic Energy Community.

The text of the Convention on the Physical Protection of Nuclear Material and Nuclear Facilities (Annex 1) and the declaration by the European Atomic Energy Community according to Articles 18(4) and 17(3) of that Convention are attached to this Decision (Annex 2).

Article 2

The instrument of accession shall be deposited with the Director General of the International Atomic Energy Agency, depositary of the Convention on the Physical Protection of Nuclear Material and Nuclear Facilities, as soon as possible after the adoption of this Decision in the form of a letter signed by the Head of Delegation of the European Commission to the International Organisations in Vienna.

⁽¹⁾ OJ L 190, 21.7.2007, p. 12.

⁽²⁾ Status of 31 May 2007.

⁽³⁾ Ruling 1/78 of 14 November 1978, ECR 1978, p. 2151, in particular First operative part of the Ruling and paragraph 34.

Article 3

The Member of the European Commission responsible for External Relations shall confirm in a note, as attached to this Decision (Annex 3), the appointment of the Head of Delegation of the European Commission to the International Organisations in Vienna to deposit the declaration attached to the Decision with the Director General of the International Atomic Energy Agency, depositary of the Convention (Full powers), as soon as possible after the adoption of this Decision.

Done at Brussels, 19 December 2007.

For the Commission

Andris PIEBALGS

Member of the Commission

ANNEX 1

Convention on the Physical Protection of Nuclear Material and Nuclear Facilities

THE STATES PARTIES TO THIS CONVENTION,

RECOGNISING the right of all States to develop and apply nuclear energy for peaceful purposes and their legitimate interests in the potential benefits to be derived from the peaceful application of nuclear energy,

CONVINCED of the need to facilitate international cooperation and the transfer of nuclear technology for the peaceful application of nuclear energy,

BEARING IN MIND that physical protection is of vital importance for the protection of public health, safety, the environment and national and international security,

HAVING IN MIND the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of good-neighbourliness and friendly relations and cooperation among States,

CONSIDERING that under the terms of paragraph 4 of Article 2 of the Charter of the United Nations, 'All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations,'

RECALLING the Declaration on Measures to Eliminate International Terrorism, annexed to General Assembly resolution 49/60 of 9 December 1994,

DESIRING to avert the potential dangers posed by illicit trafficking, the unlawful taking and use of nuclear material and the sabotage of nuclear material and nuclear facilities, and noting that physical protection against such acts has become a matter of increased national and international concern,

DEEPLY CONCERNED by the worldwide escalation of acts of terrorism in all its forms and manifestations, and by the threats posed by international terrorism and organised crime,

BELIEVING that physical protection plays an important role in supporting nuclear non-proliferation and counter-terrorism objectives,

DESIRING through this Convention to contribute to strengthening worldwide the physical protection of nuclear material and nuclear facilities use for peaceful purposes,

CONVINCED that offences relating to nuclear material and nuclear facilities are a matter of grave concern and that there is an urgent need to adopt appropriate and effective measures, or to strengthen existing measures, to ensure the prevention, detection and punishment of such offences,

DESIRING to strengthen further international cooperation to establish, in conformity with the national law of each State Party and with this Convention, effective measures for the physical protection of nuclear material and nuclear facilities,

CONVINCED that this Convention should complement the safe use, storage and transport of nuclear material and the safe operation of nuclear facilities,

RECOGNISING that there are internationally formulated physical protection recommendations that are updated from time to time which can provide guidance on contemporary means of achieving effective levels of physical protection,

RECOGNISING also that effective physical protection of nuclear material and nuclear facilities used for military purposes is a responsibility of the State possessing such nuclear material and nuclear facilities, and understanding that such material and facilities are and will continue to be accorded stringent physical protection,

HAVE AGREED as follows:

Article 1

For the purposes of this Convention:

- (a) 'nuclear material' means plutonium except that with isotopic concentration exceeding 80 % in plutonium-238; uranium-233; uranium enriched in the isotope 235 or 233; uranium containing the mixture of isotopes as occurring in nature other than in the form of ore or ore-residue; any material containing one or more of the foregoing;
- (b) 'uranium enriched in the isotope 235 or 233' means uranium containing the isotope 235 or 233 or both in an amount such that the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature;
- (c) 'international nuclear transport' means the carriage of a consignment of nuclear material by any means of transportation intended to go beyond the territory of the State where the shipment originates beginning with the departure from a facility of the shipper in that State and ending with the arrival at a facility of the receiver within the State of ultimate destination;
- (d) 'nuclear facility' means a facility (including associated buildings and equipment) in which nuclear material is produced, processed, used, handled, stored or disposed of, if damage to or interference with such facility could lead to the release of significant amounts of radiation or radioactive material;
- (e) 'sabotage' means any deliberate act directed against a nuclear facility or nuclear material in use, storage or transport which could directly or indirectly endanger the health and safety of personnel, the public or the environment by exposure to radiation or release of radioactive substances.

Article 1A

The purposes of this Convention are to achieve and maintain worldwide effective physical protection of nuclear material used for peaceful purposes and of nuclear facilities used for peaceful purposes; to prevent and combat offences relating to such material and facilities worldwide; as well as to facilitate cooperation among States Parties to those ends.

Article 2

- 1. This Convention shall apply to nuclear material used for peaceful purposes in use, storage and transport and to nuclear facilities used for peaceful purposes, provided, however, that Articles 3 and 4 and paragraph 4 of Article 5 of this Convention shall only apply to such nuclear material while in international nuclear transport.
- 2. The responsibility for the establishment, implementation and maintenance of a physical protection regime within a State Party rests entirely with that State.
- 3. Apart from the commitments expressly undertaken by States Parties under this Convention, nothing in this Convention shall be interpreted as affecting the sovereign rights of a State.
- 4. (a) Nothing in this Convention shall affect other rights, obligations and responsibilities of States Parties under international law, in particular the purposes and principles of the Charter of the United Nations and international humanitarian law.

(b) The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by this Convention, and the activities undertaken by the military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

(c) Nothing in this Convention shall be construed as a lawful authorisation to use or threaten to use force against nuclear material or nuclear facilities used for peaceful purposes.

(d) Nothing in this Convention condones or makes lawful otherwise unlawful acts, nor precludes prosecution under other laws.

5. This Convention shall not apply to nuclear material used or retained for military purposes or to a nuclear facility containing such material.

Article 2A

1. Each State Party shall establish, implement and maintain an appropriate physical protection regime applicable to nuclear material and nuclear facilities under its jurisdiction, with the aim of:

- (a) protecting against theft and other unlawful taking of nuclear material in use, storage and transport;
- (b) ensuring the implementation of rapid and comprehensive measures to locate and, where appropriate, recover missing or stolen nuclear material; when the material is located outside its territory, that State Party shall act in accordance with Article 5;
- (c) protecting nuclear material and nuclear facilities against sabotage; and
- (d) mitigating or minimising the radiological consequences of sabotage.

2. In implementing paragraph 1, each State Party shall:

- (a) establish and maintain a legislative and regulatory framework to govern physical protection;
- (b) establish or designate a competent authority or authorities responsible for the implementation of the legislative and regulatory framework; and
- (c) take other appropriate measures necessary for the physical protection of nuclear material and nuclear facilities.

3. In implementing the obligations under paragraphs 1 and 2, each State Party shall, without prejudice to any other provisions of this Convention, apply insofar as is reasonable and practicable the following Fundamental Principles of Physical Protection of Nuclear Material and Nuclear Facilities.

FUNDAMENTAL PRINCIPLE A: *Responsibility of the State*

The responsibility for the establishment, implementation and maintenance of a physical protection regime within a State rests entirely with that State.

FUNDAMENTAL PRINCIPLE B: *Responsibilities during international transport*

The responsibility of a State for ensuring that nuclear material is adequately protected extends to the international transport thereof, until that responsibility is properly transferred to another State, as appropriate.

FUNDAMENTAL PRINCIPLE C: *Legislative and regulatory framework*

The State is responsible for establishing and maintaining a legislative and regulatory framework to govern physical protection. This framework should provide for the establishment of applicable physical protection requirements and include a system of evaluation and licensing or other procedures to grant authorisation. This framework should include a system of inspection of nuclear facilities and transport to verify compliance with applicable requirements and conditions of the license or other authorising document, and to establish a means to enforce applicable requirements and conditions, including effective sanctions.

FUNDAMENTAL PRINCIPLE D: *Competent authority*

The State should establish or designate a competent authority which is responsible for the implementation of the legislative and regulatory framework, and is provided with adequate authority, competence and financial and human resources to fulfil its assigned responsibilities. The State should take steps to ensure an effective independence between the functions of the State's competent authority and those of any other body in charge of the promotion or utilisation of nuclear energy.

FUNDAMENTAL PRINCIPLE E: *Responsibility of the licence holders*

The responsibilities for implementing the various elements of physical protection within a State should be clearly identified. The State should ensure that the prime responsibility for the implementation of physical protection of nuclear material or of nuclear facilities rests with the holders of the relevant licences or of other authorising documents (e.g. operators or shippers).

FUNDAMENTAL PRINCIPLE F: *Security culture*

All organisations involved in implementing physical protection should give due priority to the security culture, to its development and maintenance necessary to ensure its effective implementation in the entire organisation.

FUNDAMENTAL PRINCIPLE G: *Threat*

The State's physical protection should be based on the State's current evaluation of the threat.

FUNDAMENTAL PRINCIPLE H: *Graded approach*

Physical protection requirements should be based on a graded approach, taking into account the current evaluation of the threat, the relative attractiveness, the nature of the material and potential consequences associated with the unauthorised removal of nuclear material and with the sabotage against nuclear material or nuclear facilities.

FUNDAMENTAL PRINCIPLE I: *Defence in depth*

The State's requirements for physical protection should reflect a concept of several layers and methods of protection (structural or other technical, personnel and organisational) that have to be overcome or circumvented by an adversary in order to achieve his objectives.

FUNDAMENTAL PRINCIPLE J: *Quality assurance*

A quality assurance policy and quality assurance programmes should be established and implemented with a view to providing confidence that specified requirements for all activities important to physical protection are satisfied.

FUNDAMENTAL PRINCIPLE K: *Contingency plans*

Contingency (emergency) plans to respond to unauthorised removal of nuclear material or sabotage of nuclear facilities or nuclear material, or attempts thereof, should be prepared and appropriately exercised by all licence holders and authorities concerned.

FUNDAMENTAL PRINCIPLE L: *Confidentiality*

The State should establish requirements for protecting the confidentiality of information, the unauthorised disclosure of which could compromise the physical protection of nuclear material and nuclear facilities.

4. (a) The provisions of this Article shall not apply to any nuclear material which the State Party reasonably decides does not need to be subject to the physical protection regime established pursuant to paragraph 1, taking into account the nature of the material, its quantity and relative attractiveness and the potential radiological and other consequences associated with any unauthorised act directed against it and the current evaluation of the threat against it.

- (b) Nuclear material which is not subject to the provisions of this Article pursuant to subparagraph (a) should be protected in accordance with prudent management practice.

Article 3

Each State Party shall take appropriate steps within the framework of its national law and consistent with international law to ensure as far as practicable that, during international nuclear transport, nuclear material within its territory, or on board a ship or aircraft under its jurisdiction insofar as such ship or aircraft is engaged in the transport to or from that State, is protected at the levels described in Annex I.

Article 4

1. Each State Party shall not export or authorise the export of nuclear material unless the State Party has received assurances that such material will be protected during the international nuclear transport at the levels described in Annex I.

2. Each State Party shall not import or authorise the import of nuclear material from a State not party to this Convention unless the State Party has received assurances that such material will during the international nuclear transport be protected at the levels described in Annex I.

3. A State Party shall not allow the transit of its territory by land or internal waterways or through its airports or seaports of nuclear material between States that are not parties to this Convention unless the State Party has received assurances as far as practicable that this nuclear material will be protected during international nuclear transport at the levels described in Annex I.

4. Each State Party shall apply within the framework of its national law the levels of physical protection described in Annex I to nuclear material being transported from a part of that State to another part of the same State through international waters or airspace.

5. The State Party responsible for receiving assurances that the nuclear material will be protected at the levels described in Annex I according to paragraphs 1 to 3 shall identify and inform in advance States which the nuclear material is expected to transit by land or internal waterways, or whose airports or seaports it is expected to enter.

6. The responsibility for obtaining assurances referred to in paragraph 1 may be transferred, by mutual agreement, to the State Party involved in the transport as the importing State.

7. Nothing in this Article shall be interpreted as in any way affecting the territorial sovereignty and jurisdiction of a State, including that over its airspace and territorial sea.

Article 5

1. States Parties shall identify and make known to each other directly or through the International Atomic Energy Agency their point of contact in relation to matters within the scope of this Convention.

2. In the case of theft, robbery or any other unlawful taking of nuclear material or credible threat thereof, States Parties shall, in accordance with their national law, provide cooperation and assistance to the maximum feasible extent in the recovery and protection of such material to any State that so requests. In particular:

- (a) a State Party shall take appropriate steps to inform as soon as possible other States which appear to it to be concerned, of any theft, robbery or other unlawful taking of nuclear material or credible threat thereof, and to inform, where appropriate, the International Atomic Energy Agency and other relevant international organisations;

(b) in doing so, as appropriate, the States Parties concerned shall exchange information with each other, the International Atomic Energy Agency and other relevant international organisations with a view to protecting threatened nuclear material, verifying the integrity of the shipping container or recovering unlawfully taken nuclear material and shall:

- (i) coordinate their efforts through diplomatic and other agreed channels;
- (ii) render assistance, if requested;
- (iii) ensure the return of recovered nuclear material stolen or missing as a consequence of the above mentioned events.

The means of implementation of this cooperation shall be determined by the States Parties concerned.

3. In the case of a credible threat of sabotage of nuclear material or a nuclear facility or in the case of sabotage thereof, States Parties shall, to the maximum feasible extent, in accordance with their national law and consistent with their relevant obligations under international law, cooperate as follows:

- (a) if a State Party has knowledge of a credible threat of sabotage of nuclear material or a nuclear facility in another State the former shall decide on appropriate steps to be taken in order to inform that State as soon as possible and, where appropriate, the International Atomic Energy Agency and other relevant international organisations of that threat, with a view to preventing the sabotage;
- (b) in the case of sabotage of nuclear material or a nuclear facility in a State Party and if in its view other States are likely to be radiologically affected, the former, without prejudice to its other obligations under international law, shall take appropriate steps to inform as soon as possible the State or the States which are likely to be radiologically affected and to inform, where appropriate, the International Atomic Energy Agency and other relevant international organisations, with a view to minimising or mitigating the radiological consequences thereof;
- (c) if in the context of subparagraphs (a) and (b), a State Party requests assistance, each State Party to which a request for assistance is directed shall promptly decide and notify the requesting State Party, directly or through the International Atomic Energy Agency, whether it is in a position to render the assistance requested and the scope and terms of the assistance that may be rendered;
- (d) coordination of the cooperation under subparagraphs (a) to (c) shall be through diplomatic or other agreed channels. The means of implementation of this cooperation shall be determined bilaterally or multilaterally by the States Parties concerned.

4. States Parties shall cooperate and consult, as appropriate, with each other directly or through the International Atomic Energy Agency and other relevant international organisations, with a view to obtaining guidance on the design, maintenance and improvement of systems of physical protection of nuclear material in international transport.

5. A State Party may consult and cooperate as appropriate, with other States Parties directly or through the International Atomic Energy Agency and other relevant international organisations, with a view to obtaining their guidance on the design, maintenance and improvement of its national system of physical protection of nuclear material in domestic use, storage and transport and of nuclear facilities.

Article 6

1. States Parties shall take appropriate measures consistent with their national law to protect the confidentiality of any information which they receive in confidence by virtue of the provisions of this Convention from another State Party or through participation in an activity carried out for the implementation of this Convention. If States Parties provide information to international organisations or to States that are not parties to this Convention in confidence, steps shall be taken to ensure that the confidentiality of such information is protected. A State Party that has received information in confidence from another State Party may provide this information to third parties only with the consent of that other State Party.

2. State Parties shall not be required by this Convention to provide any information which they are not permitted to communicate pursuant to national law or which would jeopardise the security of the State concerned or the physical protection of nuclear material or nuclear facilities.

Article 7

1. The intentional commission of:

- (a) an act without lawful authority which constitutes the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material and which causes or is likely to cause death or serious injury to any person or substantial damage to property or to the environment;
- (b) a theft or robbery of nuclear material;
- (c) an embezzlement or fraudulent obtaining of nuclear material;
- (d) an act which constitutes the carrying, sending, or moving of nuclear material into or out of a State without lawful authority;
- (e) an act directed against a nuclear facility, or an act interfering with the operation of a nuclear facility, where the offender intentionally causes, or where he knows that the act is likely to cause, death or serious injury to any person or substantial damage to property or to the environment by exposure to radiation or release of radioactive substances, unless the act is undertaken in conformity with the national law of the State Party in the territory of which the nuclear facility is situated;
- (f) an act constituting a demand for nuclear material by threat or use of force or by any other form of intimidation;
- (g) a threat:
 - (i) to use nuclear material to cause death or serious injury to any person or substantial damage to property or to the environment or to commit the offence described in subparagraph (e), or
 - (ii) to commit an offence described in subparagraphs (b) and (e) in order to compel a natural or legal person, international organisation or State to do or to refrain from doing any act;
- (h) an attempt to commit any offence described in subparagraphs (a) to (e);
- (i) an act which constitutes participation in any offence described in subparagraphs (a) to (h);
- (j) an act of any person who organises or directs others to commit an offence described in subparagraphs (a) to (h); and
- (k) an act which contributes to the commission of any offence described in subparagraphs (a) to (h) by a group of persons acting with a common purpose; such act shall be intentional and shall either:
 - (i) be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence described in subparagraphs (a) to (g), or
 - (ii) be made in the knowledge of the intention of the group to commit an offence described in subparagraphs (a) to (g) shall be made a punishable offence by each State Party under its national law.

2. Each State Party shall make the offences described in this Article punishable by appropriate penalties which take into account their grave nature.

Article 8

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in Article 7 in the following cases:

(a) when the offence is committed in the territory of that State or on board a ship or aircraft registered in that State;

(b) when the alleged offender is a national of that State.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these offences in cases where the alleged offender is presented in its territory and it does not extradite him pursuant to Article 11 to any of the States mentioned in paragraph 1.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

4. In addition to the States Parties mentioned in paragraphs 1 and 2, each State Party may, consistent with international law, establish its jurisdiction over the offences set forth in Article 7 when it is involved in international nuclear transport as the exporting or importing State.

Article 9

Upon being satisfied that the circumstances so warrant, the State Parties in whose territory the alleged offender is present shall take appropriate measures, including detention, under its national law to ensure his presence for the purpose of prosecution or extradition. Measures taken according to this Article shall be notified without delay to the States required to establish jurisdiction pursuant to Article 8 and, where appropriate, all other States concerned.

Article 10

The State Party in whose territory the alleged offender is present shall, if it does not extradite him, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State.

Article 11

1. The offences in Article 7 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include those offences in every future extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of those offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognise those offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Each of the offences shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States Parties required to establish their jurisdiction in accordance with paragraph 1 of Article 8.

Article 11A

None of the offences set forth in Article 7 shall be regarded for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

Article 11B

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in Article 7 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 12

Any person regarding whom proceedings are being carried out in connection with any of the offences set forth in Article 7 shall be guaranteed fair treatment at all stages of the proceedings.

Article 13

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in Article 7, including the supply of evidence at their disposal necessary for the proceeding. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

Article 13A

Nothing in this Convention shall affect the transfer of nuclear technology for peaceful purposes that is undertaken to strengthen the physical protection of nuclear material and nuclear facilities.

Article 14

1. Each State Party shall inform the depositary of its laws and regulations which give effect to this Convention. The depositary shall communicate such information periodically to all States Parties.

2. The State Party where an alleged offender is prosecuted shall, wherever practicable, first communicate the final outcome of the proceedings to the States directly concerned. The State Party shall also communicate the final outcome to the depositary who shall inform all States.

3. Where an offence involves nuclear material in domestic use, storage or transport, and both the alleged offender and the nuclear material remain in the territory of the State Party in which the offence was committed, or where an offence involves a nuclear facility and the alleged offender remains in the territory of the State Party in which the offence was committed, nothing in this Convention shall be interpreted as requiring that State Party to provide information concerning criminal proceedings arising out of such an offence.

Article 15

The Annexes constitute an integral part of this Convention.

Article 16

1. A conference of States Parties shall be convened by the depositary five years after the entry into force of the Amendment adopted on 8 July 2005 to review the implementation of this Convention and its adequacy as concerns the preamble, the whole of the operative part and the annexes in the light of the then prevailing situation.

2. At intervals of not less than five years thereafter, the majority of States Parties may obtain, by submitting a proposal to this effect to the depositary, the convening of further conferences with the same objective.

Article 17

1. In the event of a dispute between two or more States Parties concerning the interpretation or application of this Convention, such States Parties shall consult with a view to the settlement of the dispute by negotiation, or by any other peaceful means of settling disputes acceptable to all parties to the dispute.

2. Any dispute of this character which cannot be settled in the manner prescribed in paragraph 1 shall, at the request of any party to such dispute, be submitted to arbitration or referred to the International Court of Justice for decision. Where a dispute is submitted to arbitration, if, within six months from the date of the request, the parties to the dispute are unable to agree on the organisation of the arbitration, a party may request the President of the International Court of Justice or the Secretary-General of the United Nations to appoint one or more arbitrators. In case of conflicting requests by the parties to the dispute, the request to the Secretary-General of the United Nations shall have priority.

3. Each State Party may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by either or both of the dispute settlement procedures provided for in paragraph 2. The other States Parties shall not be bound by a dispute settlement procedure provided for in paragraph 2, with respect to a State Party which has made a reservation to that procedure.

4. Any State Party which has made a reservation in accordance with paragraph 3 may at any time withdraw that reservation by notification to the depositary.

Article 18

1. This Convention shall be open for signature by all States at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York from 3 March 1980 until its entry into force.

2. This Convention is subject to ratification, acceptance or approval by the signatory States.

3. After its entry into force, this Convention will be open for accession by all States.

4. (a) This Convention shall be open for signature or accession by international organisations and regional organisations of an integration or other nature, provided that any such organisation is constituted by sovereign States and has competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

(b) In matters within their competence, such organisation shall, on their own behalf, exercise the rights and fulfil the responsibilities which this Convention attributes to States Parties,

(c) When becoming party to this Convention such an organisation shall communicate to the depositary a declaration indicating which States are members thereof and which Articles of this Convention do not apply to it.

(d) Such an organisation shall not hold any vote additional to those of its Member States.

5. Instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

Article 19

1. This Convention shall enter into force on the 30th day following the date of deposit of the 21st instrument of ratification, acceptance or approval with the depositary.

2. For each State ratifying, accepting, approving or acceding to the Convention after the date of deposit of the 21st instrument of ratification, acceptance or approval, the Convention shall enter into force on the 30th day after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 20

1. Without prejudice to Article 16 a State Party may propose amendments to this Convention. The proposed amendment shall be submitted to the depositary who shall circulate it immediately to all States Parties. If a majority of States Parties request the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to begin not sooner than 30 days after the invitations are issued. Any amendment adopted by the conference by a two-thirds majority of all States Parties shall be promptly circulated by the depositary to all States Parties.

2. The amendment shall enter into force for each State Party that deposits its instrument of ratification, acceptance or approval of the amendment on the 30th day after the date on which two thirds of the States Parties have deposited their instruments of ratification, acceptance or approval with the depositary. Thereafter, the amendment shall enter into force for any other State Party on the day on which that State Party deposits its instrument of ratification, acceptance or approval of the amendment.

Article 21

1. Any State Party may denounce this Convention by written notification to the depositary.
2. Denunciation shall take effect 180 days following the date on which notification is received by the depositary.

Article 22

The depositary shall promptly notify all States of:

- (a) each signature of this Convention;
- (b) each deposit of an instrument of ratification, acceptance, approval or accession;
- (c) any reservation or withdrawal in accordance with Article 17;
- (d) any communication made by an organisation in accordance with paragraph 4(c) of Article 18;
- (e) the entry into force of this Convention;
- (f) the entry into force of any amendment to this Convention; and
- (g) any denunciation made under Article 21.

Article 23

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Director General of the International Atomic Energy Agency who shall send certified copies thereof to all States.

ANNEX I

Levels of physical protection to be applied in international transport of nuclear material as categorised in Annex II

1. Levels of physical protection for nuclear material during storage incidental to international nuclear transport include:

- (a) For Category III materials, storage within an area to which access is controlled;
- (b) For Category II materials, storage within an area under constant surveillance by guards or electronic devices, surrounded by a physical barrier with a limited number of points of entry under appropriate control or any area with an equivalent level of physical protection;
- (c) For Category I material, storage within a protected area as defined for Category II above, to which, in addition, access is restricted to persons whose trustworthiness has been determined, and which is under surveillance by guards who are in close communication with appropriate response forces. Specific measures taken in this context should have as their object the detection and prevention of any assault, unauthorised access or unauthorised removal of material.

2. Levels of physical protection for nuclear material during international transport include:

- (a) For Category II and III materials, transportation shall take place under special precautions including prior arrangements among sender, receiver, and carrier, and prior agreement between natural or legal persons subject to the jurisdiction and regulation of exporting and importing States, specifying time, place and procedures for transferring transport responsibility;
 - (b) For Category I materials, transportation shall take place under special precautions identified above for transportation of Category II and III materials, and in addition, under constant surveillance by escorts and under conditions which assure close communication with appropriate response forces;
 - (c) For natural uranium other than in the form of ore or ore-residue; transportation protection for quantities exceeding 500 kilograms uranium shall include advance notification of shipment specifying mode of transport, expected time of arrival and confirmation of receipt of shipment.
-

ANNEX II

Table: Categorisation of nuclear material

Material	Form	Category		
		I	II	III ^(c)
1. Plutonium ^(a)	Unirradiated ^(b)	2 kg or more	Less than 2 kg but more than 500 g	500 g or less but more than 15 g
2. Uranium-235	Unirradiated ^(b)	5 kg or more	Less than 5 kg but more than 1 kg	1 kg or less but more than 15 g
	— Uranium enriched to 20 % ²³⁵ U or more		10 kg or more	Less than 10 kg but more than 1 kg
	— Uranium enriched to 10 % ²³⁵ U but less than 20 %			10 kg or more
3. Uranium-233	Unirradiated ^(b)	2 kg or more	Less than 2 kg but more than 500 g	500 g or less but more than 15 g
	— Uranium enriched above natural, but less than 10 % ²³⁵ U			
4. Irradiated fuel			Depleted or natural uranium, thorium or low-enriched fuel (less than 10 % fissile content) ^(d) ^(e)	

^(a) All plutonium except that with isotopic concentration exceeding 80 % in plutonium-238.

^(b) Material not irradiated in a reactor or material irradiated in a reactor but with a radiation level equal to or less than 1 gray/hour (100 rads/hour) at one metre unshielded.

^(c) Quantities not falling in Category III and natural uranium should be protected in accordance with prudent management practice.

^(d) Although this level of protection is recommended, it would be open to States, upon evaluation of the specific circumstances, to assign a different category of physical protection.

^(e) Other fuel which by virtue of its original fissile material content is classified as Category I and II before irradiation may be reduced one category level while the radiation level from the fuel exceeds 1 gray/hour (100 rads/hour) at one metre unshielded.

ANNEX 2

Declaration by the European Atomic Energy Community according to Articles 18(4) and 17(3) of the Convention

The following States are presently members of the European Atomic Energy Community: the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland.

The Community declares that Articles 8 to 13 and Article 14(2) and (3) of the Convention on the Physical Protection of Nuclear Material and Nuclear Facilities do not apply to it.

Furthermore, pursuant to Article 17(3) of the Convention, the Community also declares that since only States may be parties in cases before the International Court of Justice, the Community is only bound by the arbitration procedure referred to in 17(2).

ANNEX 3

FULL POWERS

I, the undersigned,, Member of the Commission of the European Communities responsible for External Relations and European Neighbourhood Policy, do hereby confirm the appointment of:

Mr/Ms

Head of the Delegation of the European Commission

to the International Organisations in Vienna

to deposit with the Director general of the International Atomic Energy Agency, on behalf of the European Atomic Energy Community, the instrument of accession to the Convention on the Physical Protection of Nuclear Material and Nuclear Facilities.

Brussels,

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

COMMISSION

**DECISION No 1/2007 OF THE JOINT COMMUNITY/SWITZERLAND AIR TRANSPORT
COMMITTEE SET UP UNDER THE AGREEMENT BETWEEN THE EUROPEAN COMMUNITY
AND THE SWISS CONFEDERATION ON AIR TRANSPORT****of 5 December 2007****replacing the Annex to the Agreement between the European Community and the Swiss
Confederation on Air Transport**

(2008/100/EC)

THE COMMUNITY/SWITZERLAND AIR TRANSPORT COMMITTEE,

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

HAS DECIDED AS FOLLOWS:

Sole Article

The Annex to this Decision replaces the Annex to the Agreement.

Done at Brussels, 5 December 2007.

*For the Joint Committee**The Head of the Community Delegation*

Daniel CALLEJA CRESPO

The Head of the Swiss Delegation

Raymond CRON

ANNEX

For the purposes of this Agreement:

- wherever acts specified in this Annex contain references to Member States of the European Community, or a requirement for a link with the latter, the references shall, for the purpose of the Agreement, be understood to apply equally to Switzerland or to the requirement of a link with Switzerland,
- without prejudice to Article 15 of this Agreement, the term 'Community air carrier' referred to in the following Community directives and regulations shall include an air carrier which is licensed and has its principal place of business and, if any, its registered office in Switzerland in accordance with the provisions of Council Regulation (EEC) No 2407/92.

1. Third aviation liberalisation package and other civil aviation rules

No 2407/92

Council Regulation of 23 July 1992 on licensing of air carriers.

(Articles 1-18)

As regards the application of Article 13(3), the reference to Article 226 of the EC Treaty shall be understood to mean a reference to the applicable procedures of this Agreement.

No 2408/92

Council Regulation of 23 July 1992 on access for Community air carriers to intra-Community air routes.

(Articles 1-10, 12-15)

(The Annexes will be amended in order to include Swiss airports).

(The amendments to Annex I, arising from Annex II, Chapter 8 (Transport policy), Section G (Air transport), point 1 of the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, shall apply).

No 2409/92

Council Regulation of 23 July 1992 on fares and rates for air services.

(Articles 1-11)

No 2000/79

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

No 93/104

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

- Directive No 2000/34/EC of 22 June 2000.

No 437/2003

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

No 1358/2003

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

No 785/2004

Regulation of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators.

No 91/670

Council Directive of 16 December 1991 on mutual acceptance of personnel licences for the exercise of functions in civil aviation.

(Articles 1-8)

No 95/93

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

— Regulation No 793/2004 of the European Parliament and of the Council of 21 April 2004 (Articles 1-2).

No 96/67

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

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

No 2027/97

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

— Regulation (EC) No 889/2002 of the European Parliament and of the Council of 13 May 2002 (Articles 1-2).

2. Competition rules

Any reference in the following texts to Articles 81 and 82 of the Treaty shall be understood to mean Articles 8 and 9 of this Agreement.

No 17/62

Council Regulation of 6 February 1962 implementing Article 81 and 82 of the Treaty (Article 8(3)), amended by:

— Regulation No 59/62,

— Regulation No 118/63,

— Regulation No 2822/71,

— Regulation No 1216/99,

— Regulation (EC) No 1/2003 of 16 December 2002 (Articles 1-13, 15-45).

No 2988/74

Council Regulation of 26 November 1974 concerning limitation periods in proceedings and the enforcement of sanctions under the rules of the EEC relating to transport and competition (Articles 1-7), amended by:

— Council Regulation (EC) No 1/2003 of 16 December 2002 (Articles 1-13, 15-45).

No 3975/87

Council Regulation of 14 December 1987 laying down the procedures for the application of the rules on competition to undertakings in the air transport sector (Articles 1-7, 8(1), 8(2), 9-11, 12(1), 12(2), 12(4), 12(5), 13(1), 13(2), and 14-19), amended by:

— Council Regulation (EEC) No 1284/91 of 14 May 1991 (Article 1),

— Council Regulation (EEC) No 2410/92 of 23 July 1992 (Article 1),

— Council Regulation (EC) No 1/2003 of 16 December 2002 (Articles 1-13, 15-45).

No 3976/87

Council Regulation of 14 December 1987 on the application of Article 81(3) of the Treaty to certain categories of agreement and concerted practices in the air transport sector (Articles 1, 5, and 7), amended by:

- Council Regulation (EEC) No 2344/90 of 24 July 1990 (Article 1),
- Council Regulation (EEC) No 2411/92 of 23 July 1992 (Article 1),
- Council Regulation (EC) No 1/2003 of 16 December 2002 (Articles 1-13, 15-45).

No 1617/93(2)

Commission Regulation of 25 June 1993 on the application of Article 81(3) of the Treaty to certain categories of agreements and concerted practices concerning joint planning and coordination of schedules, joint operations, consultations on passenger and cargo tariffs on scheduled air services and slot allocation at airports (Articles 1-7), amended by:

- Commission Regulation (EC) No 1523/96 of 24 July 1996 (Articles 1 and 2),
- Commission Regulation (EC) No 1083/1999 of 26 May 1999,
- Commission Regulation (EC) No 1324/2001 of 29 June 2001.

No 4261/88

Commission Regulation of 16 December 1988 on the complaints, applications and hearings provided for in Council Regulation (EEC) No 3975/87.

(Articles 1-14)

80/723

Commission Directive of 25 June 1980 on the transparency of financial relations between Member States and public undertakings (Articles 1-9), amended by:

- Commission Directive No 85/413/EEC of 24 July 1985 (Articles 1-3).

No 1/2003

Council Regulation of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty.

(Articles 1-13, and 15-45)

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

No 773/2004

Commission Regulation of 7 April 2004 relating to proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty.

No 139/2004

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

(Article 1-18, 19(1)-(2), 20-23)

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

- (1) With regard to a concentration as defined in Article 3 of Regulation (EC) No 139/2004 which does not have a Community dimension within the meaning of Article 1 of that Regulation and which is capable of being reviewed under the national competition laws of at least three EC Member States and Switzerland, the persons or undertakings referred to in Article 4(2) of that Regulation may, before any notification to the competent authorities, inform the EC Commission by means of a reasoned submission that the concentration should be examined by the Commission.

- (2) The EC Commission shall transmit all submissions pursuant to Article 4(5) of Regulation (EC) No 139/2004 and the previous paragraph to the Swiss Confederation without delay.
- (3) Where the Swiss Confederation has expressed its disagreement as regards the request to refer the case, the competent Swiss competition authority shall retain its competence, and the case shall not be referred from the Swiss Confederation pursuant to this paragraph.

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

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

No 802/2004

Commission Regulation of 7 April 2004 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings.

(Articles 1-24)

3. Aviation safety

No 3922/91

Council Regulation of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation.

(Articles 1-3, 4(2), (5-11, and 13))

No 94/56/EC

Council Directive of 21 November 1994 establishing the fundamental principles governing the investigation of civil aviation accidents and incidents.

(Articles 1-13)

No 36/2004

Directive of the Parliament and of the Council of 21 April 2004 on the safety of third-country aircraft using Community airports.

(Articles 1-9, and 11-14)

No 42/2003

Directive of the European Parliament and the Council of 13 June 2003 on occurrence reporting in civil aviation

(Articles 1-12)

No 1592/2002

Regulation of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (hereinafter referred to as the Regulation), amended by:

- Regulation (EC) No 1643/2003 of 22 July 2003,
- Regulation (EC) No 1701/2003 of 24 September 2003,
- Commission Regulation (EC) No 334/2007 of 28 March 2007,
- Commission Regulation (EC) No 103/2007 of 2 February 2007 on the extension of the transitional period referred to in Article 53(4),
- the committee established by Regulation (EC) No 1592/2002.

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

The Commission shall enjoy also in Switzerland the powers granted to it for decisions pursuant to Article 10(2), (4), (6), Article 16(4), Article 29(3)(i), Article 31(3), Article 32(5) and Article 53(4).

Notwithstanding the horizontal adaptation provided for in the first indent of the Annex to the Agreement between the European Community and the Swiss Confederation on Air Transport, the references to the 'Member States' made in Article 54 of the Regulation or in the provisions of Decision 1999/468/EC mentioned in that provision shall not be understood to apply to Switzerland.

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

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

(a) Article 9 is amended as follows:

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

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

Switzerland shall, in turn, endeavour to conclude with third countries agreements corresponding to those of the Community'.

(b) In Article 20, the following paragraph shall be added:

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

(c) In Article 21, the following paragraph is added:

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

(d) In Article 28, the following paragraph is added:

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

(e) In Article 48, the following paragraph shall be added:

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

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

where:

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

a = the number of Associated States

b = the number of EU Member States

c = the contribution of Switzerland to the ICAO budget,

C = the total contribution of the EU Member States and of the Associated States to the ICAO budget.'

(f) In Article 50, the following paragraph is added:

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

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

A/c - [HB IDJ] – type CL600-2B19,

A/c - [HB-IGM] – type Gulfstream G-V-SP,

A/c - [HB-IIS, HB-IYY, HB-IMJ, HB-IVL, HB-IVZ, HB-JES] – type Gulfstream G-V,

A/c - [HB-IBX, HB-IKR, HB-IMY, HB-ITF, HB-IWY] – type Gulfstream G-IV,

A/c - [HB-XJF, HB-ZCW, HB-ZDF, HB-ZDO] – type MD 900.

No 736/2006

Commission Regulation of 16 May 2006 on working methods of the European Aviation Safety Agency for conducting standardisation inspections.

No 768/2006

Commission Regulation of 19 May 2006 implementing Directive 2004/36/EC of the European Parliament and of the Council as regards the collection and exchange of information on the safety of aircraft using Community airports and the management of the information system.

No 779/2006

Commission Regulation of 24 May 2006 amending Regulation (EC) No 488/2005 on the fees and charges levied by the European Aviation Safety Agency.

No 2111/2005

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

No 473/2006

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

This Regulation shall apply as long as it is in force in the EU.

No 1702/2003

Regulation of 24 September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations, amended by:

— Commission Regulation (EC) No 381/2005 of 7 March 2005,

— Commission Regulation (EC) No 706/2006 of 8 May 2006,

⁽¹⁾ OJ L 243, 27.9.2003, p. 6.

— Commission Regulation (EC) No 335/2007 of 28 March 2007,

— Commission Regulation (EC) No 375/2007 of 30 March 2007.

For the purposes of the Agreement, the provisions of Regulation No 1702/2003 shall be read subject to the following adjustment:

Article 2 is amended as follows:

In paragraphs 3, 4, 6, 8, 10, 11, 13 and 14, the date '28 September 2003' shall be replaced by 'the date of entry into force of the Decision of the Community/Switzerland Air Transport Committee which incorporates Regulation 1592/2002 into the Annex to the Regulation.'

No 2042/2003

Commission Regulation of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks, amended by:

— Commission Regulation (EC) No 707/2006 of 8 May 2006,

— Commission Regulation (EC) No 376/2007 of 30 March 2007.

No 104/2004

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

No 488/2005

Commission Regulation of 21 March 2005 on the fees and charges levied by the European Aviation Safety Agency.

4. Aviation Security

No 2320/2002

Regulation of the European Parliament and of the Council of 16 December 2002 establishing common rules in the field of civil aviation security (Articles 1-8, and 10-13), amended by:

— Regulation (EC) No 849/2004 of the European Parliament and of the Council of 29 April 2004.

No 622/2003

Commission Regulation of 4 April 2003 laying down measures for the implementation of the common basic standards on aviation security, amended by:

— Commission Regulation (EC) No 68/2004 of 15 January 2004,

— Commission Regulation (EC) No 781/2005 of 24 May 2005 (Articles 1-2),

— Commission Regulation (EC) No 857/2005 of 6 June 2005 (Articles 1-2).

No 1217/2003

Commission Regulation of 4 July 2003 laying down common specifications for national civil aviation security quality control programmes.

No 1486/2003

Commission Regulation of 22 August 2003 laying down procedures for conducting Commission inspections in the field of civil aviation security.

(Articles 1-13, and 15-18)

No 1138/2004

Commission Regulation of 21 June 2004 establishing a common definition of critical parts of security restricted areas of airports.

No 65/2006

Commission Regulation of 13 January 2006 amending Regulation (EC) No 622/2003 laying down measures for the implementation of the common basic standards on aviation security.

No 240/2006

Commission Regulation of 10 February 2006 amending Regulation (EC) No 622/2003 laying down measures for the implementation of the common basic standards on aviation security.

No 831/2006

Commission Regulation of 2 June 2006 amending Regulation (EC) No 622/2003 laying down measures for the implementation of the common basic standards on aviation security.

5. Air traffic management

No 549/2004

Regulation of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the Single European Sky (the Framework Regulation).

The Commission shall enjoy in Switzerland the powers granted to it pursuant to Articles 6, 8(1), 10, 11 and 12.

Notwithstanding the horizontal adjustment referred to in the first indent of the Annex to the Agreement between the European Community and the Swiss Confederation on Air Transport, the references to the 'Member States' made in Article 5 of Regulation 549/2004 or in the provisions of Decision 1999/468/EC mentioned in that provision shall not be understood to apply to Switzerland.

— committee established by Regulation (EC) No 549/2004 (Single Sky Committee).

No 550/2004

Regulation of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the Single European Sky (the Service Provision Regulation).

The Commission shall enjoy towards Switzerland the powers granted to it pursuant to Article 16, as amended below.

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

(a) Article 3 shall be amended as follows:

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

(b) Article 7 is amended as follows:

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

(c) Article 8 is amended as follows:

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

(d) Article 10 is amended as follows:

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

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

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

No 551/2004

Regulation of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the Single European Sky (the Airspace Regulation).

The Commission shall enjoy in Switzerland the powers granted to it pursuant to Articles 2, 3(5) and 10.

No 552/2004

Regulation of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management network (the Interoperability Regulation).

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

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

(a) Article 5 is amended as follows:

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

(b) Article 7 is amended as follows:

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

(c) Annex III shall be amended as follows:

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

No 2096/2005

Commission Regulation of 20 December 2005 laying down common requirements for the provision of air navigation services (Text with EEA relevance).

The Commission shall enjoy in Switzerland the powers granted to it pursuant to Article 9.

No 2150/2005

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

No 2006/23

Directive of the European Parliament and of the Council of 5 April 2006 on a Community air traffic controller licence.

No 730/2006

Commission Regulation of 11 May 2006 on airspace classification and access of flights operated under visual flight rules above flight level 195.

No 1033/2006

Commission Regulation of 4 July 2006 laying down the requirements on procedures for flight plans in the pre-flight phase for the Single European Sky.

No 1032/2006

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

6. Environment and noise

No 2002/30

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

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

No 80/51

Council Directive of 20 December 1979 on the limitation of noise emissions from subsonic aircraft (Articles 1-9), amended by:

— Directive No 83/206/EEC.

No 89/629

Council Directive of 4 December 1989 on the limitation of noise emissions from civil subsonic jet aeroplanes. (Articles 1-8)

No 92/14

Council Directive of 2 March 1992 on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Volume I, of Annex 16 to the Convention of International Civil Aviation, second edition (1988).

(Articles 1-11)

7. Consumer protection

No 90/314

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

(Articles 1-10)

No 93/13

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

(Articles 1-11)

No 2299/89

Council Regulation of 24 July 1989 on a code of conduct for computerised reservation systems (Articles 1-22), amended by:

— Council Regulation No 3089/93,

— Council Regulation No 323/1999 of 8 February 1999.

No 261/2004

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

(Articles 1-18)

8. Miscellaneous

No 2003/96

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

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

Annexes:

A: Protocol on the Privileges and Immunities of the European Communities;

B: Provisions on financial control by the Community as regards Swiss participants in activities of the EASA;

C: Déclarations du Conseil concernant la participation de la Suisse dans les Comités.

ANNEX A

PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF THE EUROPEAN COMMUNITIES

THE HIGH CONTRACTING PARTIES,

CONSIDERING that, in accordance with Article 28 of the Treaty establishing a Single Council and a Single Commission of the European Communities, these Communities and the European Investment Bank shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of their tasks,

HAVE AGREED upon the following provisions, which shall be annexed to this Treaty.

CHAPTER I

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

The premises and buildings of the Communities shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation.

The property and assets of the Communities shall not be the subject of any administrative or legal measure of constraint without the authorisation of the Court of Justice.

Article 2

The archives of the Communities shall be inviolable.

Article 3

The Communities, their assets, revenues and other property shall be exempt from all direct taxes.

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

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

Article 4

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

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

Article 5

The European Coal and Steel Community may hold currency of any kind and operate accounts in any currency.

CHAPTER II

COMMUNICATIONS AND LAISSEZ PASSER*Article 6*

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

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

Article 7

1. *Laissez passer* in a form to be prescribed by the Council, which shall be recognized as valid travel documents by the authorities of the Member States, may be issued to members and servants of the institutions of the Communities by the Presidents of these institutions. These *laissez passer* shall be issued to officials and other servants under conditions laid down in the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the Communities.

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

2. The provisions of Article 6 of the Protocol on the Privileges and Immunities of the European Coal and Steel Community shall, however, remain applicable to members and servants of the institutions who are at the date of entry into force of this Treaty in possession of the *laissez passer* provided for in that Article, until the provisions of paragraph 1 of this Article are applied.

CHAPTER III

MEMBERS OF THE EUROPEAN PARLIAMENT*Article 8*

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

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

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

Article 9

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

Article 10

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

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

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

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

CHAPTER IV

REPRESENTATIVES OF MEMBER STATES TAKING PART IN THE WORK OF THE INSTITUTIONS OF THE EUROPEAN COMMUNITIES*Article 11*

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

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

CHAPTER V

OFFICIALS AND OTHER SERVANTS OF THE EUROPEAN COMMUNITIES*Article 12*

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

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

Article 13

Officials and other servants of the Communities shall be liable to a tax for the benefit of the Communities on salaries, wages and emoluments paid to them by the Communities, in accordance with the conditions and procedure laid down by the Council, acting on a proposal from the Commission.

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

Article 14

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

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

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

Article 15

The Council shall, acting unanimously on a proposal from the Commission, lay down the scheme of social security benefits for officials and other servants of the Communities.

Article 16

The Council shall, acting on a proposal from the Commission and after consulting the other institutions concerned, determine the categories of officials and other servants of the Communities to whom the provisions of Article 12, the second paragraph of Article 13, and Article 14 shall apply, in whole or in part.

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

CHAPTER VI

PRIVILEGES AND IMMUNITIES OF MISSIONS OF THIRD COUNTRIES ACCREDITED TO THE EUROPEAN COMMUNITIES

Article 17

The Member State in whose territory the Communities have their seat shall accord the customary diplomatic immunities and privileges to missions of third countries accredited to the Communities.

CHAPTER VII

GENERAL PROVISIONS

Article 18

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

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

Article 19

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

Article 20

Articles 12 to 15 and Article 18 shall apply to Members of the Commission.

Article 21

Articles 12 to 15 and Article 18 shall apply to the Judges, the Advocates General, the Registrar and the Assistant Rapporteurs of the Court of Justice, without prejudice to the provisions of Article 3 of the Protocols on the Statute of the Court of Justice concerning immunity from legal proceedings of Judges and Advocates General.

Article 22

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

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

Article 23

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

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

The above provisions shall also apply to the European Monetary Institute. Similarly, its dissolution or liquidation shall not give rise to any imposition.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this Protocol.

Done at Brussels this eighth day of April in the year one thousand nine hundred and sixty-five.

APPENDIX

PROCEDURES FOR THE APPLICATION IN SWITZERLAND OF THE PROTOCOL ON PRIVILEGES AND IMMUNITIES OF THE EUROPEAN COMMUNITIES

1. Extension of application to Switzerland

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

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

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

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

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

As regards the second paragraph of Article 13 of the Protocol, Switzerland shall exempt, according to the principles of its national law, officials and other servants of the Agency within the meaning of Article 2 of Regulation (Euratom, ECSC, EEC) No 549/69 ⁽¹⁾ from federal, cantonal and communal taxes on salaries, wages and emoluments paid to them by the Community and subject to an internal tax for its own benefit.

Switzerland shall not be considered as a Member State within the meaning of point 1 above for the application of Article 14 of the Protocol.

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

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

⁽¹⁾ Regulation (Euratom, ECSC, EEC) No 549/69 of the Council of 25 March 1969 determining the categories of officials and other servants of the European Communities to whom the provisions of Article 12, the second paragraph of Article 13 and Article 14 of the Protocol on the Privileges and Immunities of the Communities apply (OJ L 74, 27.3.1969, p. 1). Regulation as last amended by Commission Regulation (EC) No 1749/2002 (OJ L 264, 2.10.2002, p. 13).

⁽²⁾ Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (Conditions of Employment of Other Servants) (OJ L 56, 4.3.1968, p. 1). Regulation as last amended by Commission Regulation (EC) No 2104/2005 (OJ L 337, 22.12.2005, p. 7).

ANNEX B

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

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

*Article 2***Checks**

1. In accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾ and the Financial Regulation adopted by the Management Board of the Agency on 26 March 2003, with Commission Regulation (EC, Euratom) No 2343/2002 of 23 December 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽²⁾ and with the other instruments referred to in this Decision, contracts or agreements concluded and decisions taken with beneficiaries established in Switzerland may provide for scientific, financial, technological or other audits to be conducted at any time on the premises of the beneficiaries and of their subcontractors by Agency and Commission officials or by other persons mandated by the Agency and the Commission.

2. Agency and Commission officials and other persons mandated by the Agency and the Commission shall have appropriate access to sites, works and documents and to all the information required in order to carry out such audits, including in electronic form. This right of access shall be stated explicitly in the contracts or agreements concluded to implement the instruments referred to in this Decision.

3. The Court of Auditors of the European Communities is to have the same rights as the Commission.

4. The audits may take place until five years after the expiry of this Decision or under the terms of the contracts or agreements concluded and the decisions taken.

5. The Swiss Federal Audit Office is to be informed in advance of audits conducted on Swiss territory. This information will not be a legal condition for carrying out such audits.

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

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

2. On-the-spot checks and inspections shall be prepared and conducted by the Commission in close cooperation with the Swiss Federal Audit Office or with other competent Swiss authorities appointed by the Swiss Federal Audit Office, which shall be notified in good time of the object, purpose and legal basis of the checks and inspections, so that they can provide all the requisite help. To that end, the officials of the competent Swiss authorities may participate in the on-the-spot checks and inspections.

3. If the Swiss competent authorities concerned so wish, the on-the-spot checks and inspections may be carried out jointly by the Commission and the Swiss competent authorities.

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.

⁽²⁾ OJ L 357, 31.12.2002, p. 72.

⁽³⁾ OJ L 292, 15.11.1996, p. 2.

4. Where the participants in the programme resist an on-the-spot check or inspection, the Swiss authorities, acting in accordance with national rules, shall give the Commission inspectors such assistance as they need to allow them to discharge their duty in carrying out an on-the-spot check or inspection.

5. The Commission shall report as soon as possible to the Swiss Federal Audit Office any fact or suspicion relating to an irregularity which has come to its notice in the course of the on-the-spot check or inspection. In any event the Commission is required to inform the aforementioned authority of the result of such checks and inspections.

Article 4

Information and consultation

1. For the purposes of proper implementation of this Annex, the competent Swiss and Community authorities shall exchange information regularly and, at the request of one of the Parties, shall conduct consultations.

2. The competent Swiss authorities shall inform the Agency and the Commission without delay of any fact or suspicion which has come to their notice relating to an irregularity in connection with the conclusion and implementation of the contracts or agreements concluded in application of the instruments referred to in this Decision.

Article 5

Confidentiality

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

Article 6

Administrative measures and penalties

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

Article 7

Recovery and enforcement

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

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

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

⁽¹⁾ OJ L 312, 23.12.1995, p. 1.

ANNEX C

DECLARATION OF THE COUNCIL CONCERNING ATTENDANCE OF SWITZERLAND IN THE COMMITTEES

- The Council of the European Union accepts that the declaration on Swiss attendance of committees annexed to the final act of the Agreement between the European Community and the Swiss Confederation on Air Transport shall contain an additional indent: ‘– The Committee established under Regulation (EC) No 549/2004 (the single sky committee)’
 - The Council of the European Union accepts that the declaration on Swiss attendance of committees annexed to the final act of the Agreement between the European Community and the Swiss Confederation on Air Transport shall contain an additional indent: ‘– The Committee established under Regulation (EC) No 1592/2002’.
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III

(Acts adopted under the EU Treaty)

ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

COUNCIL DECISION 2008/101/CFSP

of 28 January 2008

on the launching of the European Union military operation in the Republic of Chad and in the Central African Republic (Operation EUFOR Tchad/RCA)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 17(2) thereof,

Having regard to Council Joint Action 2007/677/CFSP of 15 October 2007 on the European Union military operation in the Republic of Chad and in the Central African Republic ⁽¹⁾ (Operation EUFOR Tchad/RCA), and in particular Article 5 thereof,

Whereas:

- (1) On 25 September 2007, the United Nations Security Council unanimously adopted Resolution 1778 (2007) approving the establishment of a UN Mission in the Central African Republic and Chad (MINURCAT) and authorising the EU to conduct an operation in those countries for a period of 12 months from the declaration of Initial Operating Capability.
- (2) The authorities of Chad and the Central African Republic have welcomed a possible EU military presence in their respective countries, by statements made on 25 October 2007 and 16 October 2007 respectively.
- (3) In accordance with Article 6 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not participate in the elaboration and implementation of decisions and actions of the European Union which have defence implications and therefore does not participate in the financing of the operation,

HAS DECIDED AS FOLLOWS:

Article 1

The Operation Plan is approved.

Article 2

The Rules of Engagement are approved.

Article 3

The EU military operation in the Republic of Chad and in the Central African Republic (Operation EUFOR Tchad/RCA) shall be launched on 28 January 2008.

Article 4

The EU Operation Commander is hereby authorised with immediate effect to release the activation order (ACTORD) in order to execute the deployment of the forces and start execution of the mission.

Article 5

This Decision shall take effect on the date of its adoption.

Article 6

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

Done at Brussels, 28 January 2008.

For the Council

The President

D. RUPEL

⁽¹⁾ OJ L 279, 23.10.2007, p. 21.