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I

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

REGULATIONS

COUNCIL REGULATION (EC) No 189/2008

of 18 February 2008

on the tests of the second generation Schengen Information System (SIS II)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2424/2001 of 6 December 2001 on the development of the second generation Schengen Information System (SIS II) ⁽¹⁾, and in particular Article 4(c) and Article 5(3) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The development of the second generation Schengen Information System (SIS II) has been entrusted to the Commission pursuant to Regulation (EC) No 2424/2001 and Council Decision 2001/886/JHA of 6 December 2001 on the development of the second generation Schengen Information System (SIS II) ⁽²⁾. The network requirements for SIS II development are established by Commission Decision 2007/170/EC of 16 March 2007 laying down the network requirements for the Schengen Information System II (first pillar) ⁽³⁾ and by Commission Decision 2007/171/EC of 16 March 2007 laying down the network requirements for the Schengen Information System II (third pillar) ⁽⁴⁾.

(2) The second generation Schengen Information System (SIS II) was established by Regulation (EC) No 1987/2006 of the European Parliament and of the Council ⁽⁵⁾ and by Council Decision 2007/533/JHA of 12 June 2007 ⁽⁶⁾ on the establishment, operation and use of the second generation Schengen Information System. This Regulation is without prejudice to those texts, including their final provisions.

(3) Those final provisions define the conditions that will allow the Council, acting by the unanimity of its Members representing the Governments of the Member States participating in SIS 1+, to fix the date of application of those texts. They provide, *inter alia*, that the Commission declares the successful completion of a comprehensive test of SIS II, as referred to in Article 55(3)(c) of Regulation (EC) No 1987/2006 and Article 71(3)(c) of Decision 2007/533/JHA, which shall be conducted by the Commission together with the Member States, and the preparatory bodies of the Council validate the proposed test result and confirm that the level of performance of SIS II is at least equivalent to that achieved with SIS 1+.

(4) It is understood that this Regulation should be complemented by the adoption in the future of the appropriate legislation to regulate, in detail, the organisation and coordination of a SIS II comprehensive test, which should be executed in full cooperation between the Member States and the Commission. The CS-SIS should remain the sole responsibility of the Commission.

⁽¹⁾ OJ L 328, 13.12.2001, p. 4. Regulation as amended by Regulation (EC) No 1988/2006 (OJ L 411, 30.12.2006, p. 1), corrected by OJ L 27, 2.2.2007, p. 3.

⁽²⁾ OJ L 328, 13.12.2001, p. 1. Decision as amended by Decision 2006/1007/JHA (OJ L 411, 30.12.2006, p. 78), corrected by OJ L 27, 2.2.2007, p. 43.

⁽³⁾ OJ L 79, 20.3.2007, p. 20.

⁽⁴⁾ OJ L 79, 20.3.2007, p. 29.

(5) It is necessary to conduct tests in order to assess whether SIS II can work in accordance with the technical and functional requirements as defined in the SIS II legal instruments.

⁽⁶⁾ OJ L 381, 28.12.2006, p. 4.

⁽⁷⁾ OJ L 205, 7.8.2007, p. 63.

- (6) Tests should also assess non-functional requirements such as robustness, availability and performance.
- (7) It is necessary for the Commission to test that the Central SIS II can be connected to the national systems of the Member States, whereas Member States participating in SIS 1+ should make the necessary technical arrangements to process SIS II data and exchange supplementary information.
- (8) It is necessary to clarify further the tasks to be performed by the Commission and the Member States with regard to the completion of certain SIS II tests.
- (9) It is necessary to set out the requirements for the definition, development and application of the test specifications and how the tests should be validated.
- (10) SIS II can become operational only when all Member States fully participating in SIS 1+ have made the necessary arrangements to process SIS II data. Cases where a Member State considers that tests could not be successfully completed should therefore be documented.
- (11) The Committee assisting the Commission during the development of SIS II, and referred to in Article 5 of Regulation (EC) No 2424/2001, has not delivered a favourable opinion on the draft measures of the Commission in implementation of Article 4(c) of Regulation (EC) No 2424/2001. In accordance with Article 5(3) of Regulation (EC) No 2424/2001 read in conjunction with Article 5(6) of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽¹⁾, the Commission therefore submitted to the Council a proposal relating to the measures to be taken and informed the European Parliament.
- (12) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen *acquis* under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 5 of the said Protocol, decide, within a period of six months after the adoption of this Regulation, whether it will implement it in its national law.
- (13) This Regulation constitutes a development of provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis*⁽²⁾; the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (14) This Regulation constitutes a development of provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis*⁽³⁾; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (15) This Regulation is without prejudice to the arrangements for the United Kingdom's and Ireland's partial participation in the Schengen *acquis* as respectively defined by the Decisions 2000/365/EC and 2002/192/EC.
- (16) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis*⁽⁴⁾, which fall within the area referred to in Article 1, point G, of Council Decision 1999/437/EC⁽⁵⁾ on certain arrangements for the application of that Agreement.
- (17) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded between the European Union, the European Community and the Swiss Confederation concerning the association of the Swiss Confederation with the implementation, application and development of the Schengen *acquis*⁽⁶⁾, which falls within the area referred to in Article 1, point G, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decisions 2008/149/JHA⁽⁷⁾ and 2008/146/EC⁽⁸⁾ on the conclusion of that Agreement on behalf of the European Union and on behalf of the European Community,

⁽¹⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽²⁾ OJ L 131, 1.6.2000, p. 43.

⁽³⁾ OJ L 64, 7.3.2002, p. 20.

⁽⁴⁾ OJ L 176, 10.7.1999, p. 36.

⁽⁵⁾ OJ L 176, 10.7.1999, p. 31.

⁽⁶⁾ OJ L 53, 27.2.2008, p. 52.

⁽⁷⁾ OJ L 53, 27.2.2008, p. 50.

⁽⁸⁾ OJ L 53, 27.2.2008, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

The specifications relevant to certain SIS II tests related to the Central SIS II, the communication infrastructure and the interactions between Central SIS II and the national systems (N.SIS

II), in particular their scope and objectives, their requirements and their process shall be as set out in the Annex.

Article 2

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

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community.

Done at Brussels, 18 February 2008.

For the Council

The President

D. RUPEL

ANNEX

1. SCOPE OF SIS II TESTS

Certain SIS II tests referred to in this Regulation shall demonstrate that Central SIS II, the communication infrastructure and the interactions between Central SIS II and the national systems (N.SIS II) (except those of Bulgaria and Romania) ⁽¹⁾ work in accordance with the technical and functional requirements set out in the SIS II legal instruments.

These SIS II tests shall also demonstrate that Central SIS II, the communication infrastructure and the interactions between Central SIS II and the national systems (N.SIS II) can work in accordance with non-functional requirements such as robustness, availability and performance.

2. PROCESS DETAILED SCOPE AND ORGANISATION OF SIS II TESTS

The sequence of tests, their objective, scope and organisation shall be articulated as follows.

The first phase of tests shall address testing of the connectivity and resilience of the SIS II communication infrastructure.

The second phase of tests shall address testing of the Central SIS II without N.SIS II.

The third phase of tests shall address testing of the Central SIS II with some N.SIS II and testing of the compliance of each national system with the specifications described in the reference version of the Interface Control Document (ICD).

The Test Advisory Group ⁽²⁾ established by the SIS II Committee is competent to report on the results of the tests to the SIS II Committee. The Test Advisory Group shall identify, categorise and describe any issue it detects and propose options for solutions. The Commission services and the Member States' experts shall provide all necessary information for the Test Advisory Group to perform its task.

2.1. Test documentation

The Commission shall define the detailed specifications of the tests. The Commission shall make available to the Member States involved the draft and finalised test specifications and the provisions for the management and coordination of the tests within a schedule agreed with the Member States' experts.

2.2. Coordination of the tests

All tests set out in the test documentation shall be coordinated by the Commission. For doing so the Commission shall work in close cooperation with the Test Advisory Group.

2.3. Running the tests

The Commission shall execute the tests, together with the Member States involved on the basis of the test specifications and in accordance with the schedule agreed by the Commission together with Member States' experts, and demonstrate that the test results are as foreseen in the test specifications.

For the N.SIS II compliance tests, each Member State, with the support of the Commission, shall be responsible for running and ensuring the smooth performance of the tests within the agreed schedule.

2.4. Acceptance of the tests

The Test Advisory Group shall report on the results of certain SIS II tests to the SIS II Committee. The Test Advisory Group shall identify, categorise and describe any issue it detects and propose options for solutions. The Commission services and the Member States experts shall provide all necessary information for the Test Advisory Group to perform its task.

The Commission will decide on the successful completion of certain SIS II tests, taking into account the views expressed by Member States experts within the framework of SIS II Committee.

⁽¹⁾ As regards other Member States not participating in SIS 1+ like Cyprus, their participation in the SIS II tests referred to in this Regulation is without prejudice to any future Council Decision on the full application of the SIS II.

⁽²⁾ The Test Advisory Group, created on 27 April 2007 according to Article 7 of the Rules of Procedure of the SIS II Committee, reports to the SIS II Committee. It reports after the completion of each test part to help preparing the acceptance of SIS II tests.

Where the tests documentation divides the tests into separate phases the Commission shall inform Member States of the results of each phase before the start of the following phase.

The acceptance of the N.SIS II compliance tests will be based on a report, prepared by an expert appointed by the Member States, containing a detailed analysis of the test results and conclusions as to the validation of the Member States' national systems.

If a Member State considers that tests could not be successfully completed, this should be noted in the report.

2.5. Tests of the communication infrastructure

The objective of this test exercise shall be to demonstrate that the communication infrastructure of SIS II up to the uniform national interface (NI-SIS) can work in accordance with the requirements laid down in Decisions 2007/170/EC and 2007/171/EC. The scope of this test exercise includes testing the connectivity and the resilience of the SIS II communication infrastructure between CS-SIS and each NI-SIS, between the CS-SIS and backup CS-SIS as well as the resilience of the Local National Interfaces (LNI) and, where applicable, the Back-up Local National Interfaces (BLNI).

2.6. Central SIS II and national compliance tests

The objective of the whole set of Central SIS II tests shall be to test that the Central SIS II meets the functional and non-functional specifications defined in the reference version of the ICD (Interface Control Document) and the DTS (Detailed Technical Specifications).

The objective of the N.SIS II Compliance test shall be to ensure the compatibility of each N.SIS II with the CS-SIS and to verify the compliance of the National Systems with the reference version of the Interface Control Document. The compliance tests for the N.SIS II may run in parallel with the tests of the Central SIS II.

After the successful completion of certain SIS II tests, the Commission shall inform Member States' experts within the framework of the SIS II Committee that the test results of the communication infrastructure and of the Central SIS II tests are as foreseen in the test specifications.

After the successful completion of certain SIS II tests, the Commission shall set up a migration environment for the Central SIS II. This environment shall be stable and suitable to be used for migration.

3. REFERENCE VERSIONS OF THE INTERFACE CONTROL DOCUMENT (ICD) AND DETAILED TECHNICAL SPECIFICATION (DTS) FOR TESTING

The Central SIS II and the national systems (N.SIS II) in each of the Member States shall be tested against the same specifications.

The DTS prepared by the Commission shall define the functional and non-functional specifications of the Central SIS II.

The ICD prepared by the Commission shall define the interface between the Central SIS II and the national systems. It shall contain the technical specifications of the system-to-system interactions in terms of data items and messages passed, protocols used as well as timing and sequencing of events.

Specifications, as provided in the ICD and DTS, shall be stable for a given period and the timing of the update of both systems shall be laid down in a release plan that shall define the reference version for a given test phase. Issues found during the test campaigns shall be reported, analysed and solved in accordance with a release management plan and associated change management plan. The release management plan and associated change management plan shall be made available by the Commission, taking into account the opinion of Member States' experts.

4. INTERIM AND FINAL REPORT ON THE RESULTS OF THE TEST PHASES

The Commission shall draw up, on a regular basis, reports on the status of the tests. The reports shall note which test phase is currently being dealt with and which Member States have completed, begun or not yet begun that phase. If any repercussions for the project timetable are noticeable, they and their cause should be recorded.

On conclusion of each test phase the Commission shall draw up a report on the results, any issue it detects and options for solutions. In cases where a Member State considers that tests could not be successfully completed it shall record this fact, stating the reasons, in a note for the minutes.

COMMISSION REGULATION (EC) No 190/2008**of 29 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 1 March 2008.

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

Done at Brussels, 29 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 29 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	JO	69,6
	MA	49,2
	TN	129,8
	TR	88,8
	ZZ	84,4
0707 00 05	EG	244,4
	JO	190,5
	MA	114,7
	TR	166,2
	ZZ	179,0
0709 90 70	MA	89,5
	TR	118,4
	ZZ	104,0
0709 90 80	EG	54,8
	ZZ	54,8
0805 10 20	EG	42,5
	IL	54,8
	MA	56,7
	TN	50,5
	TR	69,2
	ZZ	54,7
0805 50 10	IL	110,5
	SY	56,4
	TR	123,2
	ZZ	96,7
0808 10 80	AR	102,3
	CA	86,4
	CN	91,9
	MK	42,4
	US	108,2
	UY	89,9
	ZZ	86,9
0808 20 50	AR	89,5
	CL	102,9
	CN	78,3
	US	123,2
	ZA	96,5
	ZZ	98,1

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

COMMISSION REGULATION (EC) No 191/2008**of 29 February 2008****fixing the import duties in the cereals sector applicable from 1 March 2008**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 on rules of application (cereal sector import duties) for Council Regulation (EEC) No 1766/92 ⁽²⁾, and in particular Article 2(1) thereof,

Whereas:

- (1) Article 10(2) of Regulation (EC) No 1784/2003 states that the import duty on products falling within CN codes 1001 10 00, 1001 90 91, ex 1001 90 99 (high quality common wheat), 1002, ex 1005 other than hybrid seed, and ex 1007 other than hybrids for sowing, is to be equal to the intervention price valid for such products on importation and increased by 55 %, minus the cif import price applicable to the consignment in question. However, that duty may not exceed the rate of duty in the Common Customs Tariff.
- (2) Article 10(3) of Regulation (EC) No 1784/2003 lays down that, for the purposes of calculating the import duty referred to in paragraph 2 of that Article, representative cif import prices are to be established on a regular basis for the products in question.

- (3) Under Article 2(2) of Regulation (EC) No 1249/96, the price to be used for the calculation of the import duty on products of CN codes 1001 10 00, 1001 90 91, ex 1001 90 99 (high quality common wheat), 1002 00, 1005 10 90, 1005 90 00 and 1007 00 90 is the daily cif representative import price determined as specified in Article 4 of that Regulation.

- (4) Import duties should be fixed for the period from 1 March 2008, and should apply until new import duties are fixed and enter into force.

- (5) However, in accordance with Council Regulation (EC) No 1/2008 of 20 December 2007 temporarily suspending customs duties on imports of certain cereals for the 2007/08 marketing year ⁽³⁾, the application of certain duties set by this Regulation is suspended,

HAS ADOPTED THIS REGULATION:

Article 1

From 1 March 2008, the import duties in the cereals sector referred to in Article 10(2) of Regulation (EC) No 1784/2003 shall be those fixed in Annex I to this Regulation on the basis of the information contained in Annex II.

Article 2

This Regulation shall enter into force on 1 March 2008.

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

Done at Brussels, 29 February 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 270, 21.10.2003, p. 78. Regulation as last amended by Regulation (EC) No 735/2007 (OJ L 169, 29.6.2007, p. 6). Regulation (EC) No 1784/2003 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 July 2008.

⁽²⁾ OJ L 161, 29.6.1996, p. 125. Regulation as last amended by Regulation (EC) No 1816/2005 (OJ L 292, 8.11.2005, p. 5).

⁽³⁾ OJ L 1, 4.1.2008, p. 1.

ANNEX I

Import duties on the products referred to in Article 10(2) of Regulation (EC) No 1784/2003 applicable from 1 March 2008

CN code	Description	Import duties ⁽¹⁾ (EUR/t)
1001 10 00	Durum wheat, high quality	0,00 (*)
	medium quality	0,00 (*)
	low quality	0,00 (*)
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	High quality common wheat, other than for sowing	0,00 (*)
1002 00 00	Rye	0,00 (*)
1005 10 90	Maize seed other than hybrid	0,00
1005 90 00	Maize, other than seed ⁽²⁾	0,00 (*)
1007 00 90	Grain sorghum other than hybrids for sowing	0,00 (*)

⁽¹⁾ For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal the importer may benefit, under Article 2(4) of Regulation (EC) No 1249/96, from a reduction in the duty of:

- 3 EUR/t, where the port of unloading is on the Mediterranean Sea, or
- 2 EUR/t, where the port of unloading is in Denmark, Estonia, Ireland, Latvia, Lithuania, Poland, Finland, Sweden, the United Kingdom or the Atlantic coast of the Iberian peninsula.

⁽²⁾ The importer may benefit from a flatrate reduction of EUR 24 per tonne where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

(*) In accordance with Regulation (EC) No 1/2008, application of this duty is suspended.

ANNEX II

Factors for calculating the duties laid down in Annex I

15.2.2008-28.2.2008

1. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

(EUR/t)

	Common wheat (*)	Maize	Durum wheat, high quality	Durum wheat, medium quality (**)	Durum wheat, low quality (***)	Barley
Exchange	Minneapolis	Chicago	—	—	—	—
Quotation	463,59	141,24	—	—	—	—
Fob price USA	—	—	569,34	559,34	539,34	178,87
Gulf of Mexico premium	55,04	13,93	—	—	—	—
Great Lakes premium	—	—	—	—	—	—

(*) Premium of 14 EUR/t incorporated (Article 4(3) of Regulation (EC) No 1249/96).

(**) Discount of 10 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

(***) Discount of 30 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

2. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Freight costs: Gulf of Mexico–Rotterdam: 43,67 EUR/t

Freight costs: Great Lakes–Rotterdam: 36,72 EUR/t

COMMISSION REGULATION (EC) No 192/2008**of 29 February 2008****amending Regulation (EC) No 989/2007 registering certain names in the Register of protected designations of origin and protected geographical indications (Barèges-Gavarnie (PDO) — Hořické trubičky (PGI))**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ⁽¹⁾, and in particular the first subparagraph of Article 7(4) thereof,

Whereas:

- (1) An error was found in the publication of Commission Regulation (EC) No 989/2007 ⁽²⁾ regarding the class to which the product covered by the denomination 'Barèges-Gavarnie' belongs.

- (2) Regulation (EC) No 989/2007 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

In point 1 of the Annex to Regulation (EC) No 989/2007, the words 'Class 1.3 — Cheeses' shall be replaced by 'Class 1.1 — Fresh meat and offal'.

Article 2

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

It shall apply as from the date of entry into force of Regulation (EC) No 989/2007.

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

Done at Brussels, 29 February 2008.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 93, 31.3.2006, p. 12. Regulation as amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

⁽²⁾ OJ L 219, 24.8.2007, p. 7.

COMMISSION REGULATION (EC) No 193/2008**of 29 February 2008****establishing a prohibition of fishing for anglerfish in ICES zones VIIIc, IX and X; EC waters of
CECAF 34.1.1 by vessels flying the flag of France**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ⁽¹⁾, and in particular Article 26(4) thereof,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to common fisheries policy ⁽²⁾, and in particular Article 21(3) thereof,

Whereas:

- (1) Council Regulation (EC) No 40/2008 of 16 January 2008 fixing for 2008 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in Community waters and for Community vessels, in waters where catch limitations are required ⁽³⁾, lays down quotas for 2008.
- (2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2008.

- (3) It is therefore necessary to prohibit fishing for that stock and its retention on board, transhipment and landing,

HAS ADOPTED THIS REGULATION:

*Article 1***Quota exhaustion**

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2008 shall be deemed to be exhausted from the date set out in that Annex.

*Article 2***Prohibitions**

Fishing for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. It shall be prohibited to retain on board, tranship or land such stock caught by those vessels after that date.

*Article 3***Entry into force**

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

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

Done at Brussels, 29 February 2008.

For the Commission

Fokion FOTIADIS

Director-General for Fisheries and Maritime Affairs

⁽¹⁾ OJ L 358, 31.12.2002, p. 59. Regulation as last amended by Regulation (EC) No 865/2007 (OJ L 192, 24.7.2007, p. 1).

⁽²⁾ OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1967/2006 (OJ L 409, 30.12.2006, p. 11), as last corrected by OJ L 36, 8.2.2007, p. 6.

⁽³⁾ OJ L 19, 23.1.2008, p. 1.

ANNEX

No	01
Member State	France
Stock	ANF/8C3411
Species	Anglerfish (<i>Lophiidae</i>)
Zone	VIIIc, IX and X; EC waters of CECAF 34.1.1
Date	2.2.2008

II

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

DECISIONS

COUNCIL

COUNCIL DECISION

of 18 February 2008

on the tests of the second generation Schengen Information System (SIS II)

(2008/173/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union,

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

Having regard to the proposal from the Commission,

Whereas:

- (1) The development of the second generation Schengen Information System (SIS II) has been entrusted to the Commission pursuant to Council Regulation (EC) No 2424/2001 of 6 December 2001 on the development of the second generation Schengen Information System (SIS II) ⁽²⁾ and Decision 2001/886/JHA. The network requirements for SIS II development are established by Commission Decision 2007/170/EC of 16 March 2007 laying down the network requirements for the Schengen Information System II (first pillar) ⁽³⁾ and by Commission Decision 2007/171/EC of 16 March 2007 laying down the network requirements for the Schengen Information System II (third pillar) ⁽⁴⁾.

- (2) The second generation Schengen Information System (SIS II) was established by Regulation (EC) No 1987/2006 of the European Parliament and of the Council ⁽⁵⁾ and by Council Decision 2007/533/JHA ⁽⁶⁾ on the establishment, operation and use of the second generation Schengen Information System. This Decision is without prejudice to those texts, including their final provisions.

- (3) Those final provisions define the conditions that will allow the Council, acting by the unanimity of its Members representing the Governments of the Member States participating in SIS 1+, to fix the date of application of those texts. They provide, *inter alia*, that the Commission declares the successful completion of a comprehensive test of SIS II, as referred to in Article 55(3)(c) of Regulation (EC) No 1987/2006 and Article 71(3)(c) of Decision 2007/533/JHA, which shall be conducted by the Commission together with the Member States, and the preparatory bodies of the Council validate the proposed test result and confirm that the level of performance of SIS II is at least equivalent to that achieved with SIS 1+.

- (4) It is understood that this Decision should be complemented by the adoption in the future of the appropriate legislation to regulate, in detail, the organisation and coordination of a SIS II comprehensive test, which should be executed in full cooperation between the Member States and the Commission. The CS-SIS should remain the sole responsibility of the Commission.

- (5) It is necessary to conduct tests in order to assess whether SIS II can work in accordance with the technical and functional requirements as defined in the SIS II legal instruments.

⁽¹⁾ OJ L 328, 13.12.2001, p. 1. Decision as amended by Decision 2006/1007/JHA (OJ L 411, 30.12.2006, p. 78), corrected by OJ L 27, 2.2.2007, p. 43.

⁽²⁾ OJ L 328, 13.12.2001, p. 4. Regulation as amended by Regulation (EC) No 1988/2006 (OJ L 411, 30.12.2006, p. 1), corrected by OJ L 27, 2.2.2007, p. 3.

⁽³⁾ OJ L 79, 20.3.2007, p. 20.

⁽⁴⁾ OJ L 79, 20.3.2007, p. 29.

⁽⁵⁾ OJ L 381, 28.12.2006, p. 4.

⁽⁶⁾ OJ L 205, 7.8.2007, p. 63.

- (6) Tests should also assess non-functional requirements such as robustness, availability and performance.
- (7) It is necessary for the Commission to test that the Central SIS II can be connected to the national systems of the Member States, whereas Member States participating in SIS 1+ should make the necessary technical arrangements to process SIS II data and exchange supplementary information.
- (8) It is necessary to clarify further the tasks to be performed by the Commission and the Member States with regard to the completion of certain SIS II tests.
- (9) It is necessary to set out the requirements for the definition, development and application of the test specifications and how the tests should be validated.
- (10) SIS II can become operational only when all Member States fully participating in SIS 1+ have made the necessary arrangements to process SIS II data. Cases where a Member State considers that tests could not be successfully completed should therefore be documented.
- (11) The Committee assisting the Commission during the development of SIS II, and referred to in Article 6 of Decision 2001/886/JHA, has not delivered a favourable opinion on the draft measures of the Commission. The Commission therefore submitted to the Council a proposal relating to the measures to be taken and informed the European Parliament in accordance with Article 6(5) of Decision 2001/886/JHA.
- (12) The United Kingdom is taking part in this Decision, in accordance with Article 5 of the Protocol integrating the Schengen *acquis* into the framework of the European Union annexed to the Treaty on European Union and to the Treaty establishing the European Community, and Article 8(2) of Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* ⁽¹⁾.
- (13) Ireland is taking part in this Decision in accordance with Article 5 of the Protocol integrating the Schengen *acquis* into the framework of the European Union annexed to the Treaty on European Union and to the Treaty establishing the European Community, and Article 6(2) of

Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* ⁽²⁾.

- (14) As regards Iceland and Norway, this Decision constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* ⁽³⁾, which fall within the area referred to in Article 1, point G, of Council Decision 1999/437/EC ⁽⁴⁾ on certain arrangements for the application of that Agreement.
- (15) As regards Switzerland, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded between the European Union, the European Community and the Swiss Confederation concerning the association of the Swiss Confederation with the implementation, application and development of the Schengen *acquis* ⁽⁵⁾, which falls within the area referred to in Article 1, point G, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decisions 2008/149/JHA ⁽⁶⁾ and 2008/146/EC ⁽⁷⁾ on the conclusion of that Agreement on behalf of the European Union and on behalf of the European Community,

HAS DECIDED AS FOLLOWS:

Article 1

The specifications relevant to certain SIS II tests related to the Central SIS II, the communication infrastructure and the interactions between Central SIS II and the national systems (N.SIS II), in particular their scope and objectives, their requirements and their process shall be as set out in the Annex.

Article 2

This Decision shall take effect on the third day following its publication in the *Official Journal of the European Union*.

Done at Brussels, 18 February 2008.

For the Council
The President
D. RUPEL

⁽¹⁾ OJ L 131, 1.6.2000, p. 43.

⁽²⁾ OJ L 64, 7.3.2002, p. 20.

⁽³⁾ OJ L 176, 10.7.1999, p. 36.

⁽⁴⁾ OJ L 176, 10.7.1999, p. 31.

⁽⁵⁾ OJ L 53, 27.2.2008, p. 52.

⁽⁶⁾ OJ L 53, 27.2.2008, p. 50.

⁽⁷⁾ OJ L 53, 27.2.2008, p. 1.

ANNEX

1. SCOPE OF SIS II TESTS

Certain SIS II tests referred to in this Decision shall demonstrate that Central SIS II, the communication infrastructure and the interactions between Central SIS II and the national systems (N.SIS II) (except those of Bulgaria and Romania) ⁽¹⁾ work in accordance with the technical and functional requirements set out in the SIS II legal instruments.

These SIS II tests shall also demonstrate that Central SIS II, the communication infrastructure and the interactions between Central SIS II and the national systems (N.SIS II) can work in accordance with non-functional requirements such as robustness, availability and performance.

2. PROCESS DETAILED SCOPE AND ORGANISATION OF SIS II TESTS

The sequence of tests, their objective, scope and organisation shall be articulated as follows:

The first phase of tests shall address testing of the connectivity and resilience of the SIS II communication infrastructure.

The second phase of tests shall address testing of the Central SIS II without N.SIS II.

The third phase of tests shall address testing of the Central SIS II with some N.SIS II and testing of the compliance of each national system with the specifications described in the reference version of the Interface Control Document (ICD).

The Test Advisory Group ⁽²⁾ established by the SIS II Committee is competent to report on the results of the tests to the SIS II Committee. The Test Advisory Group shall identify, categorise and describe any issue it detects and propose options for solutions. The Commission services and the Member States' experts shall provide all necessary information for the Test Advisory Group to perform its task.

2.1. Test documentation

The Commission shall define the detailed specifications of the tests. The Commission shall make available to the Member States involved the draft and finalised test specifications and the provisions for the management and coordination of the tests within a schedule agreed with the Member States' experts.

2.2. Coordination of the tests

All tests set out in the test documentation shall be coordinated by the Commission. For doing so the Commission shall work in close cooperation with the Test Advisory Group.

2.3. Running the tests

The Commission shall execute the tests, together with the Member States involved on the basis of the test specifications and in accordance with the schedule agreed by the Commission together with Member States' experts, and demonstrate that the test results are as foreseen in the test specifications.

For the N.SIS II compliance tests, each Member State, with the support of the Commission, shall be responsible for running and ensuring the smooth performance of the tests within the agreed schedule.

2.4. Acceptance of the tests

The Test Advisory Group shall report on the results of certain SIS II tests to the SIS II Committee. The Test Advisory Group shall identify, categorise and describe any issue it detects and propose options for solutions. The Commission services and the Member States experts shall provide all necessary information for the Test Advisory Group to perform its task.

The Commission will decide on the successful completion of certain SIS II tests taking into account the views expressed by Member States experts within the framework of SIS II Committee.

Where the tests documentation divides the tests into separate phases the Commission shall inform Member States of the results of each phase before the start of the following phase.

⁽¹⁾ As regards other Member States not participating in SIS 1 + like Cyprus, their participation in the SIS II tests referred to in this Decision is without prejudice to any future Council Decision on the full application of the SIS II.

⁽²⁾ The Test Advisory Group created on 27 April 2007 according to Article 7 of the Rules of Procedure of the SIS II Committee, reports to the SIS II Committee. It reports after the completion of each test part to help preparing the acceptance of SIS II tests.

The acceptance of the N.SIS II compliance tests will be based on a report, prepared by an expert appointed by the Member States, containing a detailed analysis of the test results and conclusions as to the validation of the Member States' national systems.

If a Member State considers that tests could not be successfully completed, this should be noted in the report.

2.5. Tests of the communication infrastructure

The objective of this test exercise shall be to demonstrate that the communication infrastructure of SIS II up to the uniform national interface (NI-SIS) can work in accordance with the requirements laid down in Decisions 2007/170/EC and 2007/171/EC. The scope of this test exercise includes testing the connectivity and the resilience of the SIS II communication infrastructure between CS-SIS and each NI-SIS, between the CS-SIS and backup CS-SIS as well as the resilience of the Local National Interfaces (LNI) and, where applicable, the Back-up Local National Interfaces (BLNI).

2.6. Central SIS II and national compliance tests

The objective of the whole set of Central SIS II tests shall be to test that the Central SIS II meets the functional and non-functional specifications defined in the reference version of the ICD (Interface Control Document) and the DTS (Detailed Technical Specifications).

The objective of the N.SIS II Compliance test shall be to ensure the compatibility of each N.SIS II with the CS-SIS and to verify the compliance of the National Systems with the reference version of the Interface Control Document. The compliance tests for the N.SIS II may run in parallel with the tests of the Central SIS II.

After the successful completion of certain SIS II tests, the Commission shall inform Member States' experts within the framework of the SIS II Committee that the test results of the communication infrastructure and of the Central SIS II tests are as foreseen in the test specifications.

After the successful completion of certain SIS II tests, the Commission shall set up a migration environment for the Central SIS II. This environment shall be stable and suitable to be used for migration.

3. REFERENCE VERSIONS OF THE INTERFACE CONTROL DOCUMENT (ICD) AND DETAILED TECHNICAL SPECIFICATION (DTS) FOR TESTING

The Central SIS II and the national systems (N.SIS II) in each of the Member States shall be tested against the same specifications.

The DTS prepared by the Commission shall define the functional and non-functional specifications of the Central SIS II.

The ICD prepared by the Commission shall define the interface between the Central SIS II and the national systems. It shall contain the technical specifications of the system-to-system interactions in terms of data items and messages passed, protocols used as well as timing and sequencing of events.

Specifications, as provided in the ICD and DTS, shall be stable for a given period and the timing of the update of both systems shall be laid down in a release plan that shall define the reference version for a given test phase. Issues found during the test campaigns shall be reported, analysed and solved in accordance with a release management plan and associated change management plan. The release management plan and associated change management plan shall be made available by the Commission, taking into account the opinion of Member States' experts.

4. INTERIM AND FINAL REPORT ON THE RESULTS OF THE TEST PHASES

The Commission shall draw up, on a regular basis, reports on the status of the tests. The reports shall note which test phase is currently being dealt with and which Member States have completed, begun or not yet begun that phase. If any repercussions for the project timetable are noticeable, they and their cause should be recorded.

On conclusion of each test phase the Commission shall draw up a report on the results, any issue it detects and options for solutions. In cases where a Member State considers that tests could not be successfully completed it shall record this fact, stating the reasons, in a note for the minutes.

COMMISSION

COMMISSION DECISION

of 21 December 2005

concerning State aid proposed by Italy (Autonomous Province of Trento) in the transport sector

(notified under document number C(2005) 5315)

(Only the Italian version is authentic)

(Text with EEA relevance)

(2008/174/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to those provisions ⁽¹⁾,

Whereas:

1. PROCEEDINGS

- (1) By letter of 27 November 2001, recorded as received at the Secretariat-General on 3 December 2001, the Italian authorities notified the Commission, in accordance with Article 88(3) of the EC Treaty, of the special provisions for the transport sector adopted under Law No 6 of the Autonomous Province of Trento of 13 December 1999 (hereinafter Provincial Law No 6/99). The notification was registered by the Secretariat-General of the European Commission as N 833/01.
- (2) As the notification was incomplete, the Commission requested additional information in its letter D(02) 1665 of 1 February 2002, to which a reply was received by letter registered on 5 April 2002. A meeting was held between representatives of the Commission and of the Autonomous Province of Trento on 11 March 2002. The Commission sent the Italian authorities a letter requesting further information on 12 April 2002. A reply to this request was sent by letter dated 17 May 2002, recorded as received on 28 May 2002 as SG A/5459. A second meeting was held between representatives of the Commission and of the Autonomous Province of Trento on 30 May 2002.
- (3) On 24 July 2002, the Commission adopted a favourable decision ⁽²⁾ regarding most of the measures provided for in Provincial Law No 6/99 'Special provisions for the

transport sector' ⁽³⁾ and intended to encourage the transfer of road freight to alternative modes of transport. However, investigation proceedings were initiated in connection with one of the measures contained in the scheme, namely investment aid for railway wagons and new or reconditioned rolling stock, registered as C 52/02.

- (4) The decision of 24 July 2002 to initiate proceedings was published in the *Official Journal of the European Union* ⁽⁴⁾. The Commission called on interested parties to submit their comments.
- (5) Italy submitted its comments by letter dated 4 September 2002. The Commission received no comments from interested parties.
- (6) A new aid scheme aimed at promoting combined transport in the Autonomous Province of Trento was notified by the Italian authorities on 7 February 2003 under the title 'Granting of aid in support of combined transport'. This aid scheme was registered as N 64/03 and was approved by a Commission Decision of 1 October 2003 ⁽⁵⁾.
- (7) Further clarifications were sent by the Autonomous Province of Trento on 8 April 2005 and then by letter recorded as received on 13 June 2005 by the Permanent Representation.

2. DETAILED DESCRIPTION OF THE AID

2.1. Type of aid

- (8) The aid measure in respect of which the investigation proceedings were initiated concerned investment aid for railway wagons and new or reconditioned rolling stock; no objections were raised, however, regarding the remaining measures provided for in the general scheme aimed at encouraging the transfer of road freight to alternative modes of transport.

⁽¹⁾ OJ C 242, 8.10.2002, p. 8.

⁽²⁾ See footnote 1.

⁽³⁾ State aid N 833/01 — Italy (Autonomous Province of Trento) — Provincial Law No 6/99 'Special provisions for the transport sector'.

⁽⁴⁾ See footnote 1.

⁽⁵⁾ OJ C 284, 27.11.2003, p. 2.

- (9) The aim of the general scheme is to reduce the environmental impact of road haulage by encouraging the purchase of means of transport equipped with technology that reduces environmental pollution and exceeds compulsory environmental standards. The scheme concerns aid for small and medium-sized enterprises and consortia engaged in road haulage on behalf of third parties which carry out combined transport activities or perform rail and overland transport activities in any way connected with combined rail transport or the transport of goods or passengers.
- (10) The investigated measure provided for aid of up to 25 % for small and medium-sized enterprises operating in the Autonomous Province of Trento for the acquisition of railway wagons and new or reconditioned rolling stock (Article 3(2)(e) of Provincial Law No 6/99).

2.2. Grounds for initiating proceedings

- (11) The Commission's decision to initiate the procedure provided for in Article 88(2) of the Treaty and to request clarification from the Italian authorities arose from an initial examination of the notified scheme.
- (12) In particular, the Commission had doubts concerning the measure's compatibility with Article 4(2) and (5) of Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to small and medium-sized enterprises⁽⁶⁾ which would limit the gross aid intensity of investment in railway wagons to 15 % in the case of small enterprises and to 7,5 % in the case of medium-sized enterprises.
- (13) The Commission doubted whether the notified aid intensity (25 %) could be compatible with the maximum aid intensity allowed under Article 4(2) of Regulation (EC) No 70/2001. Non-compliance with the thresholds indicated in Regulation (EC) No 70/2001 was the only reason for initiating investigation proceedings.
- (14) The Commission received no comments from interested parties.

3. COMMENTS FROM ITALY

- (15) By letter of 4 September 2004, the Italian authorities, via their Permanent Representation, stated their intention to grant aid not exceeding 15 % to small enterprises and not exceeding 7,5 % to medium-sized enterprises in respect of the costs of acquisition of railway wagons and new or reconditioned rolling stock.
- (16) Their intention was that this aid should be combined with the financing of 25 % of the costs connected with the leasing, amortisation or hire of special ultra-low

railway wagons for accompanied combined transport services for a maximum of three years.

- (17) The undertakings benefiting from the subsidies would still be responsible for the part of the expenditure not covered by public aid. The Province of Trento would ask recipients to ensure that the tariffs that they charge are public and non-discriminatory, i.e. the same for all users and all sections of the route.
- (18) The competent authorities claimed that, given the lack of intermodal structures, the Province of Trento intended to finance all business initiatives to provide ultra-low railway wagons on a first-come first-served basis and until the relevant budget was exhausted. However, it reserved the right, should the budget prove insufficient, to publish public invitations to apply for aid, giving priority to those activities involving the highest daily frequency of road/rail transshipments onto wagons departing from transshipment points located in the Province.
- (19) It should be noted, however, that the latter measure was not included in the initial notification. Moreover, the Autonomous Province of Trento confirmed on 8 April 2005 that the measure had never been put in place and that there was no longer any intention to implement it.

4. ASSESSMENT OF THE MEASURE

4.1. Existence of aid within the meaning of Article 87(1) of the EC Treaty

- (20) Pursuant to Article 87(1) of the EC Treaty, and unless otherwise provided for in that Treaty, any aid granted by a Member State which distorts or threatens to distort competition is incompatible with the common market if it affects trade between Member States.
- (21) Under the proposed aid measure, the preselected beneficiaries (small and medium-sized enterprises operating in the Autonomous Province of Trento) would receive State contributions for costs arising from investment in railway wagons and rolling stock, while other enterprises, whether Italian or from other EU Member States, that are active in this field would not receive such contributions. The aid thus reinforces the competitive situation of the recipients vis-à-vis other operators engaged in intra-Community trade.
- (22) In view of the above, the Commission finds that the notified aid measure involves aid within the meaning of Article 87(1) and is hence, in principle, prohibited.

⁽⁶⁾ OJ L 10, 13.1.2001, p. 33.

4.2. Assessment of the compatibility of the aid measure

- (23) After investigation proceedings were initiated, the Italian authorities agreed to reduce the planned aid intensity of 25 % for the acquisition of railway wagons and new or reconditioned rolling stock to 15 % for small enterprises and 7,5 % for medium-sized enterprises. The aid measure concerns only aid to small and medium-sized enterprises.
- (24) The aid can be therefore be considered to be in line with Article 4(2) of Regulation (EC) No 70/2001.
- (25) In view of the above, the Commission can therefore now declare this aid to be compatible with the Treaty.

5. CONCLUSION

The Commission

HAS ADOPTED THE FOLLOWING DECISION:

Article 1

The State aid *proposed by Italy (Autonomous Province of Trento) in the transport sector* is compatible with the common market.

The aid may therefore be implemented.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 21 December 2005.

For the Commission

Jacques BARROT

Vice-President

DECISION No 1/2008 OF THE COMMUNITY/SWITZERLAND STATISTICAL COMMITTEE
of 14 February 2008
adopting its rules of procedure
(2008/175/EC)

THE COMMUNITY/SWITZERLAND STATISTICAL COMMITTEE,

Having regard to the Agreement between the European Community and the Swiss Confederation on cooperation in the field of statistics ⁽¹⁾, and in particular Article 3(3) thereof,

HAS DECIDED AS FOLLOWS:

Article 1

The rules of procedure of the Community/Switzerland Statistical Committee, as annexed to this Decision, are hereby adopted.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Luxembourg, 14 February 2008.

For the Joint Committee

The Head of the EC Delegation
Hervé CARRÉ

The Head of the Swiss Delegation
Adelheid BÜRGI-SCHMELZ

⁽¹⁾ OJ L 90, 28.3.2006, p. 2.

ANNEX

RULES OF PROCEDURE OF THE COMMUNITY/SWITZERLAND STATISTICAL COMMITTEE*Article 1***Chair**

1. The Chair of the Community/Switzerland Statistical Committee (hereinafter referred to as the Joint Committee) shall be held in turn for a period of one calendar year by a representative of the Commission of the European Communities (hereinafter referred to as EC Commission), on behalf of the European Community, and by a representative of the Swiss Confederation. It shall be held by the European Community during the year of entry into force of the Agreement between the European Community and the Swiss Confederation on cooperation in the field of statistics (hereinafter referred to as the Agreement).

2. The Head of Delegation of the party which holds the Chair or, where appropriate, his or her alternate, shall be Chair of the Joint Committee.

*Article 2***Delegations**

1. The Contracting Parties shall each appoint their Head of Delegation.

2. The Joint Committee may decide to admit other persons to its meetings as observers.

3. The Contracting Parties shall inform each other, no later than 15 working days before the meeting, of the composition of their delegation.

*Article 3***Secretariat**

1. A representative of the EC Commission and a representative of the Swiss Confederation shall jointly provide the Secretariat for the Joint Committee. The Secretaries shall be designated by their Head of Delegation and shall continue to perform their duties until a new Secretary is appointed. Each party shall send the name and address of its Secretary to the other party.

2. The Secretaries shall be responsible for communication between the delegations, including transmission of documents, and shall supervise the duties performed by the Secretariat.

3. The Secretariat of the Joint Committee shall be under the direction of the party which holds the Chair.

*Article 4***Meetings**

1. The Joint Committee shall meet as and when necessary. The Head of Delegation of either Contracting Party may request the convening of a meeting.

2. The Joint Committee and the Statistical Programme Committee (SPC) shall organise their tasks for the purposes of the Agreement in combined meetings, whenever necessary.

3. The Chair shall send the notification of the meeting, together with the draft agenda and the documents for the meeting, to the other Head of Delegation no later than 15 working days before the meeting.

4. The other Head of Delegation may ask the Chair to shorten the period indicated in paragraph 3 and in Article 2(3) in order to take account of the urgency of a particular matter.

*Article 5***Agenda**

1. The Chair shall draw up the provisional agenda for each meeting in agreement with the other Head of Delegation. Any item requested by any of the delegations shall be put on the provisional agenda, provided the item was requested 30 working days ahead of the scheduled meeting.
2. The Joint Committee may decide to include on the agenda an item which does not appear on the provisional agenda.
3. The agenda shall be adopted by the Joint Committee at the beginning of each meeting.

*Article 6***Subcommittees and working groups**

1. The Joint Committee may decide to establish subcommittees and working groups for specific tasks.
2. The composition and procedures of the subcommittees and working groups shall be agreed upon in accordance with the rules applicable to the Joint Committee.
3. The subcommittees and working groups shall report directly to the Joint Committee and work under its authority. They shall not be authorised to take decisions but may make recommendations.
4. The Joint Committee shall decide on amendment or termination of the mandate of the subcommittees and working groups.

*Article 7***Recommendations and decisions**

1. The recommendations and decisions of the Joint Committee within the meaning of Article 3(1) of the Agreement shall be adopted by mutual agreement between the two delegations.
2. The recommendations and decisions of the Joint Committee shall be entitled 'Recommendation' or 'Decision', followed by a serial number, the date of adoption and an indication of the subject matter.
3. Decisions shall be divided into articles. Each decision shall commence with a preamble and shall end with the words 'Done at', followed by the place where and date on which it was adopted by the Joint Committee. Decisions shall contain the date of their entry into force and shall be binding on the Contracting Parties.
4. The decisions and recommendations of the Joint Committee shall be drawn up in duplicate and signed for the Joint Committee by both Heads of Delegation.
5. Each party may decide to publish any recommendation or decision adopted by the Joint Committee.
6. The recommendations and decisions of the Joint Committee may be adopted by written procedure if the two Heads of Delegation so agree.

To this end, the Chair shall send the draft to the other Head of Delegation. The deadline laid down in the written procedure must be not less than 15 working days.

*Article 8***Minutes**

1. Draft minutes of each meeting of the Joint Committee shall be drawn up within 15 working days under the responsibility of the Chair.

2. As a general rule, for each item on the agenda the minutes shall indicate:
 - the documents submitted to the Joint Committee,
 - the statements which either Contracting Party has requested to enter,
 - the decisions taken, the statements agreed or the conclusions reached by the Joint Committee,
 - the recommendations made.
3. The draft minutes shall be submitted for the approval of both delegations by written procedure in accordance with Article 7(6). If this procedure is not completed, the minutes shall be adopted by the Joint Committee at its next meeting.
4. The approved minutes shall be drawn up in duplicate and signed by the Secretaries. An original copy shall be kept by each party.

Article 9

Confidentiality

1. Meetings of the Joint Committee shall not be public unless the Joint Committee decides otherwise.
2. Without prejudice to other applicable provisions, the deliberations of the Joint Committee and its working groups shall be covered by the obligation of professional secrecy, unless the Joint Committee decides otherwise.
3. Unless the delegations decide otherwise, the minutes shall constitute publicly accessible documents.

Article 10

Expenses

1. Each Contracting Party shall bear any expenses it incurs in relation to its participation in meetings of the Joint Committee and of the working groups.
2. The Joint Committee shall agree on the breakdown of expenses relating to any mission assigned to experts.

Article 11

Correspondence

All correspondence to or from the Chair of the Joint Committee shall be sent to the Secretariat of the Joint Committee. The Secretariat shall send a copy of all correspondence concerning the Agreement to the Heads of Delegation, to the Swiss Mission to the European Union and to the Delegation of the Commission to Switzerland.

COMMISSION DECISION

of 22 February 2008

amending Decision 97/107/EC authorising methods for grading pig carcasses in Belgium

(notified under document number C(2008) 678)

(Only the French and Dutch texts are authentic)

(2008/176/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty establishing the European Community,

Article 1

Decision 97/107/EC is amended as follows:

Having regard to Council Regulation (EEC) No 3220/84 of 13 November 1984 determining the Community scale for grading pig carcasses ⁽¹⁾, and in particular Article 5(2) thereof,

1. the following indents are added to the first paragraph of Article 1:

Whereas:

- the apparatus called “VCS 2000” and the assessment methods related thereto, details of which are given in Part 3 of the Annex,
- the apparatus called “Hennessy Grading Probe (HGP4)” and the assessment methods related thereto, details of which are given in Part 4 of the Annex,
- the apparatus called “Optiscan-TP” and the assessment methods related thereto, details of which are given in Part 5 of the Annex;

(1) Commission Decision 97/107/EC ⁽²⁾ authorises two methods (*Capteur Gras/Maigre* — *Sydel* (CGM) and *Giralda Choirometer PG 200*) for grading pig carcasses in Belgium.

2. the Annex is amended in accordance with the Annex to this Decision.

(2) Belgium has asked the Commission to authorise three new methods of grading pig carcasses and has presented the results of its dissection trials in the second part of the protocol provided for in Article 3(3) of Commission Regulation (EEC) No 2967/85 of 24 October 1985 laying down detailed rules for the application of the Community scale for grading pig carcasses ⁽³⁾.

Article 2

This Decision is addressed to the Kingdom of Belgium.

(3) Examination of this request has revealed that the conditions for authorising these grading methods are fulfilled.

Done at Brussels, 22 February 2008.

(4) Decision 97/107/EC should therefore be amended accordingly.

(5) The measures provided for in this Decision are in accordance with the opinion of the Management Committee for Pigeat,

For the Commission
Mariann FISCHER BOEL
Member of the Commission

⁽¹⁾ OJ L 301, 20.11.1984, p. 1. Regulation as last amended by Regulation (EC) No 3513/93 (OJ L 320, 22.12.1993, p. 5).

⁽²⁾ OJ L 39, 8.2.1997, p. 17. Decision as amended by Decision 97/734/EC (OJ L 294, 28.10.1997, p. 6).

⁽³⁾ OJ L 285, 25.10.1985, p. 39. Regulation as last amended by Regulation (EC) No 1197/2006 (OJ L 217, 8.8.2006, p. 6).

ANNEX

In the Annex to Decision 97/107/EC the following Parts 3, 4 and 5 are added:

PART 3

VCS 2000

1. Grading of pig carcasses is carried out by means of the apparatus known as "VCS 2000".
2. The apparatus VCS 2000 is a picture-processing system for automatically determining the trade values of pork-carcass-halves. The system is used online within the slaughtering production system where via a camera system the carcass halves are automatically filmed. The picture data is then processed in a computer by special picture processing software.
3. The lean meat content of the carcasses shall be calculated on the basis of 38 variables according to the following formula:

$$\hat{Y} = 54,078892 + 0,037085 * X_5 + 0,256113 * X_{15} + 0,021655 * X_{16} + 33,97699 * X_{59} - 0,149103 * X_{88} - 0,106705 * X_{90} - 0,0768985 * X_{91} - 0,079832 * X_{95} - 0,079042 * X_{96} - 0,084983 * X_{97} + 0,039831 * X_{107} - 0,681172 * X_{108} + 0,234541 * X_{109} - 0,059871 * X_{113} - 4,149651 * X_{120} - 36,8824 * X_{147} - 19,9219 * X_{149} - 7,512613 * X_{156} - 0,086669 * X_{168} - 0,545069 * X_{171} - 0,386719 * X_{173} - 0,025001 * X_{175} - 1,410422 * X_{186} - 0,32873 * X_{192} - 0,260074 * X_{193} - 0,08137 * X_{196} + 141,2392 * X_{198} - 141,236 * X_{199} - 12,7862 * X_{222} - 27,3973 * X_{227} - 289,576 * X_{228} + 425,3549 * X_{233} + 14,62961 * X_{234} - 0,97067 * X_{242} - 2,084821 * X_{243} - 3,11945 * X_{259} + 14,72706 * X_{270} - 0,949448 * X_{273}$$

Where

$\hat{Y}$ = the estimated percentage of lean meat in the carcasses

$X_5, X_{15} \dots X_{273}$ are the variables measured by VCS 2000.

4. Descriptions of the measurement points and the statistical method can be found in Part II of the Belgian protocol forwarded to the Commission in accordance with Article 3(3) of Regulation (EEC) No 2967/85.

This formula shall be valid for carcasses weighing between 60 and 130 kilograms.

PART 4

HENNESSY GRADING PROBE (HGP4)

1. Grading of pig carcasses is carried out by means of the apparatus termed "Hennessy Grading Probe (HGP4)".
2. The HGP4 apparatus shall be equipped with a probe of 5,95 millimetres diameter (and of 6,3 millimetres at the blade on top of the probe) containing a photodiode and photodetector and having an operating distance of between 0 and 120 millimetres. The results of the measurements shall be converted into estimated lean meat content by means of the HGP4 itself or a computer linked to it.
3. The lean meat content of carcasses shall be calculated according to the following formula:

$$\hat{Y} = 65,42464 - 1,06279 * X_1 + 0,17920 * X_2$$

where

$\hat{Y}$ = the estimated percentage of lean meat in the carcasses

X_1 = fat depth (including skin) in millimetres, measured 6 cm off the split line between the third and fourth last rib

X_2 = muscle depth in millimetres, measured 6 cm off the split line between the third and fourth last rib

This formula shall be valid for carcasses weighing between 60 and 130 kilograms.

PART 5

OPTISCAN-TP

1. Grading of pig carcasses is carried out by means of the apparatus termed "Optiscan-TP".
2. The Optiscan-TP apparatus shall be equipped with a digital imager taking an illuminated photo of the two measurement points on the carcasses. The images are the base for the calculation of fat and muscle thickness according to the two points method "Zwei-Punkte Messverfahren (ZP)". The results of the measurements shall be converted into estimated lean meat content by means of the Optiscan-TP apparatus itself. The photos are saved and later can be controlled. The integrated Bluetooth® interface permits easy data transfer.
3. The lean meat content of the carcasses shall be calculated according to the following formula:

$$\hat{Y} = 53,04153 - 0,68318 * X1 + 0,23131 * X2$$

where

$\hat{Y}$ = the estimated percentage of lean meat in the carcasses

$X1$ = smallest fat depth (including skin) over the *musculus gluteus medius* in millimetres

$X2$ = lumbar muscle depth in millimetres, measured as the shortest distance from the front (cranial) end of the *musculus gluteus medius* to the upper (dorsal) edge of the spinal canal

This formula shall be valid for carcasses weighing between 60 and 130 kilograms.'

COMMISSION DECISION

of 25 February 2008

amending Decision 96/550/EC authorising methods for grading pig carcasses in Finland

(notified under document number C(2008) 692)

(Only the Finnish and Swedish texts are authentic)

(2008/177/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3220/84 of 13 November 1984 determining the Community scale for grading pig carcasses ⁽¹⁾, and in particular Article 5(2) thereof,

Whereas:

(1) Commission Decision 96/550/EC ⁽²⁾ authorises two methods (Hennessy grading probe (HGP4), Intrascop/Optical probe) for grading pig carcasses in Finland.

(2) Finland has asked the Commission to authorise the update of one formula and the utilisation of one new method of grading pig carcasses, and has presented the results of its dissection trials in the second part of the protocol provided for in Article 3(3) of Commission Regulation (EEC) No 2967/85 of 24 October 1985 laying down detailed rules for the application of the Community scale for grading pig carcasses ⁽³⁾.

(3) Examination of this request has revealed that the conditions for authorising these grading methods are fulfilled.

(4) Decision 96/550/EC should therefore be amended accordingly.

(5) The measures provided for in this Decision are in accordance with the opinion of the Management Committee for Pigmeat,

HAS ADOPTED THIS DECISION:

Article 1

Decision 96/550/EC is amended as follows:

1. in the first paragraph of Article 1 the following indent is added:

‘— the apparatus called “AutoFom” and the assessment methods related thereto, details of which are given in Part 3 of the Annex’;

2. the Annex is amended in accordance with the Annex to this Decision.

Article 2

This Decision is addressed to the Republic of Finland.

Done at Brussels, 25 February 2008.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 301, 20.11.1984, p. 1. Regulation as last amended by Regulation (EC) No 3513/93 (OJ L 320, 22.12.1993, p. 5).

⁽²⁾ OJ L 236, 18.9.1996, p. 47. Decision as amended by Decision 2005/611/EC (OJ L 210, 12.8.2005, p. 44).

⁽³⁾ OJ L 285, 25.10.1985, p. 39. Regulation as last amended by Regulation (EC) No 1197/2006 (OJ L 217, 8.8.2006, p. 6).

ANNEX

The Annex to Decision 96/550/EC is hereby amended as follows:

1. in Part 1, Point 3 is replaced by the following:

‘3. The lean content of the carcass shall be calculated according to the following formula:

$$\hat{Y} = 66,485 - 0,511 \cdot X1 - 0,418 \cdot X2 + 0,099 \cdot X3$$

Where:

$\hat{Y}$ = the estimated percentage of lean meat in the carcass

$X1$ = the thickness of backfat (incl. rind) in millimetres measured at 8 cm off the midline of the carcass behind the last rib

$X2$ = the thickness of backfat (incl. rind) in millimetres measured at 6 cm off the midline of the carcass between the third and fourth last rib

$X3$ = the thickness of muscle in millimetres measured at the same time and the same place as $X2$

The formula shall be valid for carcasses weighing between 51 and 120 kilograms.’;

2. the following Part 3 is added:

‘PART 3

AUTOFOM

1. Grading of pig carcasses is carried out by means of the apparatus termed “Autofom” (Fully automatic ultrasonic carcass grading).
2. The apparatus shall be equipped with sixteen 2 MHz ultrasonic transducers (SFK Technology, K2KG), with an operating distance between transducers of 25 mm. The ultrasonic data shall comprise measurements of backfat thickness and muscle thickness. The results of the measurements shall be converted into estimates of the percentage of lean meat by using a computer.
3. The carcass’s lean meat percentage shall be calculated on the basis of 68 measurement points using the following formula:

$$\begin{aligned} \hat{Y} = & 76\,800 - 0,01167786 \cdot x_1 - 0,01317971 \cdot x_2 - 0,009175088 \cdot x_3 - 0,005996768 \cdot x_4 - 0,01173212 \\ & \cdot x_5 - 0,04896113 \cdot x_6 - 0,008025034 \cdot x_7 - 0,01613402 \cdot x_8 - 0,006821679 \cdot x_9 - 0,009693944 \cdot \\ & x_{10} - 0,01666247 \cdot x_{11} - 0,008599287 \cdot x_{12} - 0,01388630 \cdot x_{13} - 0,02382277 \cdot x_{14} - 0,009909672 \\ & \cdot x_{15} - 0,01052488 \cdot x_{16} - 0,01585248 \cdot x_{17} - 0,006577800 \cdot x_{19} - 0,01006999 \cdot x_{20} - 0,02106533 \\ & \cdot x_{43} - 0,01944423 \cdot x_{44} - 0,02164443 \cdot x_{46} - 0,02921022 \cdot x_{48} - 0,02278822 \cdot x_{49} - 0,02547334 \cdot \\ & x_{50} - 0,02160008 \cdot x_{51} - 0,01571447 \cdot x_{52} - 0,01747270 \cdot x_{53} - 0,02080481 \cdot x_{54} - 0,02177262 \cdot \\ & x_{55} - 0,02252957 \cdot x_{56} - 0,02000042 \cdot x_{57} - 0,01807100 \cdot x_{58} - 0,02179333 \cdot x_{59} - 0,02585314 \cdot \\ & x_{60} - 0,03213609 \cdot x_{61} - 0,03414441 \cdot x_{62} - 0,03224378 \cdot x_{63} - 0,02679668 \cdot x_{64} - 0,02288250 \cdot \\ & x_{65} - 0,01564255 \cdot x_{66} - 0,01840482 \cdot x_{67} - 0,02092576 \cdot x_{68} - 0,02055510 \cdot x_{69} - 0,02120507 \cdot \\ & x_{70} - 0,01979112 \cdot x_{71} - 0,01872976 \cdot x_{72} - 0,02209687 \cdot x_{73} - 0,02208294 \cdot x_{74} - 0,02225723 \cdot \\ & x_{75} - 0,02202462 \cdot x_{76} - 0,02235730 \cdot x_{77} - 0,02216374 \cdot x_{78} - 0,03553871 \cdot x_{79} - 0,03541295 \cdot \\ & x_{80} - 0,03623326 \cdot x_{81} - 0,03634462 \cdot x_{82} - 0,03638485 \cdot x_{83} - 0,03605378 \cdot x_{84} - 0,02140917 \cdot \\ & x_{85} - 0,02137969 \cdot x_{86} - 0,02150696 \cdot x_{87} - 0,02101590 \cdot x_{88} - 0,02077531 \cdot x_{89} - 0,02098994 \cdot \\ & x_{90} - 0,02476005 \cdot x_{91} - 0,02936467 \cdot x_{92} - 0,02118610 \cdot x_{93} \end{aligned}$$

where:

$\hat{Y}$ = the estimated lean meat content of the carcass,

$x_1, x_2 \dots x_{93}$ are the variables measured by Autofom.

4. Descriptions of the measurement points and the statistical method can be found in part II of the Finnish protocol forwarded to the Commission in accordance with Article 3(3) of Regulation (EEC) No 2967/85.

The formula shall be valid for carcasses weighing between 51 and 120 kilograms.’

III

(Acts adopted under the EU Treaty)

ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

COUNCIL DECISION 2008/178/CFSP

of 28 January 2008

concerning the conclusion of the Agreement between the European Union and the Republic of Cameroon on the status of the European Union-led forces in transit within the territory of the Republic of Cameroon

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 24 thereof,

Having regard to the recommendation from the Presidency,

Whereas:

- (1) On 25 September 2007, the United Nations Security Council adopted Resolution 1778 (2007) authorising, in particular, the European Union to deploy in Chad and the Central African Republic, for a period of one year from the date on which its initial operating capability is declared, an operation aimed at fulfilling the mandate laid down in that Resolution.
- (2) Resolution 1778 (2007) also urges all the Member States of the United Nations, particularly the States bordering Chad and the Central African Republic, to facilitate the delivery to Chad and the Central African Republic freely, without obstacles or delay of all personnel, equipment, provisions, supplies and other goods, intended for the European Union operation.
- (3) On 15 October 2007, the Council adopted Joint Action 2007/677/CFSP on the European Union military operation in the Republic of Chad and in the Central African Republic ⁽¹⁾ (EUFOR Tchad/RCA).
- (4) A significant part of EUFOR Tchad/RCA will transit the territory of the Republic of Cameroon.
- (5) Following authorisation by the Council on 18 September 2007, in accordance with Article 24 of the Treaty, the Presidency, assisted by the Secretary-General/High Representative (SG/HR), negotiated an Agreement between the European Union and the Republic of Cameroon on

the status of the European Union-led forces in transit within the territory of the Republic of Cameroon.

- (6) The Agreement should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Union and the Republic of Cameroon on the status of the European Union-led forces in transit within the territory of the Republic of Cameroon is hereby approved on behalf of the European Union.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person empowered to sign the Agreement in order to bind the European Union.

Article 3

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

Article 4

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.

AGREEMENT**between the European Union and the Republic of Cameroon on the status of the European Union-led Forces in transit within the territory of the Republic of Cameroon**

THE EUROPEAN UNION, hereinafter referred to as 'the EU',

of the one part, and

THE REPUBLIC OF CAMEROON, hereinafter referred to as 'the Transit State',

of the other part,

hereinafter referred to as 'the Parties',

TAKING INTO ACCOUNT:

- United Nations Security Council Resolution 1778 (2007) of 25 September 2007,
- 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 (EUFOR Tchad/RCA),
- the fact that this Agreement will not affect the Parties' rights and obligations under international agreements and other instruments establishing international courts and tribunals, including the Statute of the International Criminal Court,

HAVE AGREED AS FOLLOWS:

*Article 1***Scope and definitions**

1. The aim of this Agreement is to define the arrangements for the transit through the territory of the Republic of Cameroon of EUFOR personnel and material intended for Chad and the CAR.

2. This Agreement shall apply to the European Union-led Forces and to their personnel.

3. This Agreement shall apply only within the territory of the Transit State.

4. For the purpose of this Agreement:

- (a) 'European Union-led Forces' (EUFOR) shall mean EU military headquarters and national contingents contributing to the operation, their equipment and their means of transport;
- (b) 'operation' shall mean the preparation, establishment, execution and support of the military mission further to the mandate arising out of United Nations Security Council Resolution 1778 (2007) of 25 September 2007;
- (c) 'EU Force Commander' shall mean the Commander in the theatre of operations;

(d) 'EU military headquarters' shall mean the military headquarters and elements thereof, whatever their location, under the authority of EU military commanders exercising the military command or control of the operation;

(e) 'national contingents' shall mean units and elements belonging to the Member States of the EU and to other States participating in the operation;

(f) 'EUFOR personnel' shall mean the civilian and military personnel assigned to EUFOR as well as personnel deployed for the preparation of the operation and personnel on mission for a Sending State or an EU institution in the framework of the operation, present, except as otherwise provided in this Agreement, within the territory of the Transit State, with the exception of personnel employed locally and personnel employed by international commercial contractors;

(g) 'personnel employed locally' shall mean personnel who are nationals of or permanently resident in the Transit State;

(h) 'facilities' shall mean all premises, accommodation and land required for EUFOR and EUFOR personnel;

(i) 'Sending State' shall mean a State providing a national contingent for EUFOR.

*Article 2***General provisions**

1. EUFOR and EUFOR personnel shall respect the laws and regulations of the Transit State and shall refrain from any action or activity incompatible with the objectives of this Agreement.

2. EUFOR must regularly inform the Government of the Transit State of the number and identity of EUFOR personnel located within the Transit State's territory.

*Article 3***Identification**

1. EUFOR personnel must carry passports or military identity cards with them at all times.

2. EUFOR vehicles, aircraft, vessels and other means of transport shall carry distinctive EUFOR identification markings and/or registration plates, of which the relevant Transit State authorities shall be notified.

3. EUFOR shall have the right to display the flag of the EU and markings, such as military insignia, titles and official symbols, on its facilities, vehicles and other means of transport. The uniforms of EUFOR personnel shall carry a distinctive EUFOR emblem. National flags or insignia of the constituent national contingents taking part in the operation may be displayed on EUFOR facilities, vehicles and other means of transport and uniforms, as decided by the EU Force Commander.

*Article 4***Border crossing and movement within the Transit State's territory**

1. EUFOR personnel shall enter the Transit State's territory only on presentation of the documents provided for in Article 3(1) and, in the case of first entry, of an individual or collective movement order issued by EUFOR. They shall not be subject to visa regulations. They shall be exempt from emigration and immigration inspections and customs control on entering or leaving or when within the Transit State's territory.

2. EUFOR personnel shall be exempt from the Transit State's regulations on the registration and control of aliens, but shall not acquire any right to permanent residence or domicile within the Transit State's territory.

3. The list of EUFOR assets and means of transport entering the Transit State's territory in support of the operation shall be communicated to the Transit State by way of information. Such

assets and means of transport shall bear the distinctive EUFOR emblem to enable their rapid identification. The Transit State shall facilitate administrative and customs formalities for EUFOR. EUFOR shall be exempt from producing any other customs document and from undergoing any kind of inspection.

4. EUFOR personnel may drive motor vehicles, navigate vessels and operate aircraft within the Transit State's territory provided they have valid national, international or military driving licences, ship master's certificates or pilot's licences, as appropriate.

5. For the purpose of the operation, the Transit State shall grant EUFOR and EUFOR personnel freedom of movement and freedom to travel within its territory via the transit corridors defined in the arrangements laid down in Article 18, including its territorial sea and its air space. Freedom of movement within the territorial sea of the Transit State shall include stopping and anchoring under any circumstances.

6. For the purpose of the operation, EUFOR may use roads, bridges, ferries, airports and ports without the payment of duties, fees, taxes and similar charges. EUFOR shall not be exempt from weighing fees, road tolls or port data processing fees, the terms of payment for which shall be defined in the arrangements laid down in Article 18.

*Article 5***Privileges and immunities of EUFOR granted by the Transit State**

1. EUFOR's facilities shall be inviolable. The Transit State's agents shall not enter them without the consent of the EU Force Commander.

2. EUFOR's facilities, their furnishings and other assets therein as well as its means of transport shall be immune from search, requisition, attachment or execution.

3. EUFOR shall not harbour any persons sought by the Transit State's judicial authorities.

4. EUFOR, its property and its assets shall enjoy immunity from every form of legal process.

5. EUFOR's archives and documents shall be inviolable.

6. EUFOR's official correspondence shall be inviolable. 'Official correspondence' shall mean all correspondence relating to the operation and its functions.

7. In respect of purchased and imported goods, services provided and facilities used by EUFOR for the purposes of the operation, EUFOR, as well as its providers or contractors, insofar as the latter are not nationals of the Transit State, shall be exempt from all national, regional and communal dues, taxes and other charges of a similar nature.

8. The Transit State shall permit the entry of articles for the operation and grant them exemption from all custom duties, fees, taxes, except for the port data processing fees referred to in Article 4(6), and similar charges other than charges for storage, cartage and other services rendered.

Article 6

Privileges and immunities of EUFOR personnel granted by the Transit State

1. EUFOR personnel shall not be liable to any form of arrest or detention.

2. Papers, correspondence and property of EUFOR personnel shall enjoy inviolability, except in the event of measures of execution which are permitted pursuant to paragraph 6.

3. EUFOR personnel shall enjoy immunity from the criminal jurisdiction of the Transit State.

The immunity from criminal jurisdiction of EUFOR personnel may be waived by the Sending State or EU institution concerned, as the case may be. Such waiver must always be express.

4. EUFOR personnel shall enjoy immunity from the civil and administrative jurisdiction of the Transit State in respect of acts performed by them in the exercise of their official functions. If any civil proceeding is instituted against EUFOR personnel before any Transit State court, the EU Force Commander and the competent authority of the Sending State or EU institution shall be notified immediately. Prior to initiation of the proceeding before the court, the EU Force Commander and the competent authority of the Sending State or EU institution shall certify, after receiving the formal advisory opinion of the Transit State's competent authorities, whether the act in question was committed by EUFOR personnel in the exercise of their official functions.

If the act was committed in the exercise of their official functions, the proceeding shall not be initiated and the provisions of Article 15 shall apply. If the act was not committed in the exercise of official functions, the proceeding may continue. The certification by the EU Force Commander

and the competent authority of the Sending State or EU institution shall be binding upon the jurisdiction of the Transit State, which may not contest it.

The initiation of proceedings by EUFOR personnel shall preclude them from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

5. EUFOR personnel shall not be obliged to give evidence as witnesses.

6. No measures of execution may be taken in respect of EUFOR personnel, except where a civil proceeding not related to their official functions is instituted against them. Property of EUFOR personnel, which is certified by the EU Force Commander to be necessary for the fulfilment of their official functions, shall be free from seizure for the satisfaction of a judgment, decision or order. In civil proceedings EUFOR personnel shall not be subject to any restrictions on their personal liberty or to any other measures of constraint.

7. The immunity of EUFOR personnel from the jurisdiction in the Transit State shall not exempt them from the jurisdictions of the respective Sending States.

8. EUFOR personnel shall with respect to services rendered for EUFOR be exempt from social security provisions which may be in force in the Transit State.

9. EUFOR personnel shall be exempt from any form of taxation in the Transit State on the salary and emoluments paid to them by EUFOR or the Sending States, as well as on any income received from outside the Transit State.

10. The Transit State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on articles for the personal use of EUFOR personnel.

The personal baggage of EUFOR personnel shall be exempt from inspection, unless there are serious grounds for presuming that it contains articles that are not for the personal use of EUFOR personnel, or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the Transit State. Such inspection shall be conducted only in the presence of the concerned EUFOR personnel or of an authorised representative of EUFOR.

*Article 7***Personnel employed locally**

Personnel recruited locally shall not enjoy any privileges or immunities. However, the Transit State shall exercise its jurisdiction in such a manner as not to interfere unduly with the performance of the functions of the operation.

*Article 8***Criminal jurisdiction**

The competent authorities of a Sending State shall have the right to exercise on the territory of the Transit State, in cooperation with the competent authorities of the latter, all the criminal jurisdiction and disciplinary powers conferred on them by the law of the Sending State with regard to all EUFOR personnel subject to the relevant law of the Sending State.

*Article 9***Uniform and arms**

1. The wearing of uniform shall be subject to rules adopted by the EU Force Commander.
2. EUFOR military personnel may carry individual small-calibre arms and corresponding ammunition on condition that they are authorised to do so by their orders. The list of such arms and their holders shall be communicated to the Transit State's competent authorities.

*Article 10***Transit State support and contracting**

1. The Transit State agrees, if requested, to assist EUFOR in finding suitable facilities.
2. The Transit State shall provide, free of charge, any facilities of which it is the owner, insofar as such facilities are required for the conduct of EUFOR'S administrative and operational activities.
3. Within its means and capabilities, the Transit State shall assist in the preparation, establishment, and execution of and support for the operation. The security measures taken by the Transit State pursuant to the provisions of Article 13(1) shall be free of charge.
4. The law applicable to contracts concluded by EUFOR in the Transit State shall be the *lex fori*. The dispute settlement procedure referred to in Article 15(3), (4) and (5) shall be applicable to disputes arising from the application of such contracts.

5. The Transit State shall facilitate the implementation of contracts concluded by EUFOR with commercial entities for the purposes of the operation.

*Article 11***Change to facilities**

1. EUFOR shall be authorised to construct, alter or otherwise modify facilities as needed for its transit requirements and for the duration of the operation, in accordance with the procedures specified in the arrangements laid down in Article 18.
2. No compensation shall be requested from EUFOR by the Transit State for those constructions, alterations or modifications, except in the case of significant damage to the initial facilities.

*Article 12***Deceased EUFOR personnel**

1. The EU Force Commander shall have the right to take charge of and make suitable arrangements for the repatriation of any deceased EUFOR personnel, as well as that of their personal property.
2. No autopsy shall be performed on any deceased member of EUFOR without the agreement of the State concerned and the presence of a representative of EUFOR and/or the State concerned.
3. The Transit State and EUFOR shall cooperate to the fullest extent possible with a view to the early repatriation of deceased EUFOR personnel.

*Article 13***Security of EUFOR and military police**

1. The Transit State shall take all appropriate measures to ensure the safety and security of EUFOR and its personnel.
2. EUFOR shall be authorised to take the measures necessary to protect its facilities and convoys in close cooperation with the competent authorities of the Transit State.
3. National contingents may use criminal police personnel in order to conduct the investigations necessary for the exercise of the criminal jurisdiction powers referred to in Article 8.

*Article 14***Communications**

1. EUFOR may instal and operate radio sending and receiving stations, as well as satellite systems. It shall cooperate with the competent authorities of the Transit State with a view to avoiding conflicts in the use of appropriate frequencies. Access to the frequency spectrum shall be granted in accordance with the legislation in force in the Transit State.

2. EUFOR shall enjoy the right to unrestricted communication by radio (including satellite, mobile and hand-held radio), telephone, telegraph, facsimile and other means, as well as the right to instal the equipment necessary for the maintenance of such communications within and between EUFOR facilities.

3. Within its own facilities EUFOR may make the arrangements necessary for the conveyance of mail addressed to and from EUFOR and/or EUFOR personnel.

*Article 15***Claims for death, injury, damage and loss**

1. Claims for damage to or loss of civilian or government property, as well as claims for death of or injury to persons and for damage to or loss of EUFOR property which is related to EUFOR's transit necessities, shall be settled amicably.

2. Such claims shall be forwarded to EUFOR via the competent authorities of the Transit State, as far as claims brought by legal or natural persons from the Transit State are concerned, or to the competent authorities of the Transit State, as far as claims brought by EUFOR are concerned.

3. Where no amicable settlement can be found, the claim shall be submitted to a claims commission composed on an equal basis of representatives of EUFOR and representatives of the Transit State. Settlement of claims shall be reached by common agreement.

4. Where no settlement can be reached within the claims commission, the dispute shall be submitted to an arbitration tribunal, the decisions of which shall be binding.

5. The arbitration tribunal shall be composed of three arbitrators, one arbitrator being appointed by the Transit State, one

by EUFOR and the third jointly by the Transit State and EUFOR. Where one of the parties fails to appoint an arbitrator within two months or where no agreement can be found between the Transit State and EUFOR on the appointment of the third arbitrator, the arbitrator in question shall be appointed by the President of the Court of Justice of the European Communities.

6. An administrative arrangement shall be concluded between EUFOR and the administrative authorities of the Transit State in order to determine the terms of reference of the claims commission and the tribunal, the procedure applicable within these bodies and the conditions under which claims are to be lodged.

*Article 16***Liaison and disputes**

1. All issues arising in connection with the application of this Agreement shall be examined jointly by representatives of EUFOR and the Transit State's competent authorities.

2. Failing any prior settlement, disputes concerning the interpretation or application of this Agreement shall be settled exclusively by diplomatic means between the Transit State and EU representatives.

*Article 17***Other provisions**

1. Whenever this Agreement refers to the privileges, immunities and rights of EUFOR and of EUFOR personnel, the Government of the Transit State shall be responsible for their implementation and for compliance with them on the part of the appropriate Transit State local authorities.

2. Nothing in this Agreement is intended or may be construed to derogate from any rights that may attach to an EU Member State or to any other State contributing to EUFOR under other agreements.

*Article 18***Implementing arrangements**

For purposes of the application of this Agreement, operational, administrative and technical matters may be the subject of separate arrangements to be concluded between the EU Force Commander and the Transit State's administrative authorities.

Article 19

Entry into force and termination

1. This Agreement shall enter into force on the day on which it is signed and shall remain in force until the date of departure of the last EUFOR personnel, as notified to the Transit State's authorities by EUFOR.

2. Notwithstanding paragraph 1, the provisions laid down in Article 4(6), Article 5(1), (2), (4), (7) and (8), Article 6(1), (3), (4), (6), and (8) to (10), Article 10(2), Article 11, Article 13(1), (2) and (3) and Article 15 shall be deemed to have applied from

the date on which the first EUFOR personnel were deployed if that date was earlier than the date of entry into force of this Agreement.

3. This Agreement may be amended by written agreement between the Parties.

4. Termination of this Agreement shall not affect any rights or obligations arising out of the execution of this Agreement before such termination.

Done at Yaoundé on **06 FEB 2008**, in four originals in the French and English languages, both texts being equally authentic.

For the European Union

For the Republic of Cameroon



Georges SERRE
Ambassadeur de France
Au Cameroun



Henri EYEBE AYISSI

COUNCIL COMMON POSITION 2008/179/CFSP**of 29 February 2008****amending Common Position 2005/440/CFSP concerning restrictive measures against the Democratic Republic of the Congo**

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS COMMON POSITION:

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

Article 1

Article 8 of Common Position 2005/440/CFSP shall be replaced by the following:

Whereas:

'Article 8

This Common Position shall be reviewed, amended or repealed as appropriate, in light of determinations made by the United Nations Security Council.'

Article 2

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

Article 3

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

(1) Following the adoption by the United Nations Security Council on 18 April 2005 of Resolution 1596 (2005), the Council adopted on 13 June 2005 Common Position 2005/440/CFSP ⁽¹⁾ concerning restrictive measures against the Democratic Republic of the Congo (DRC).

(2) On 9 October 2007, the Council adopted Common Position 2007/654/CFSP ⁽²⁾ amending and extending until 15 February 2008 the restrictive measures against the DRC, thus implementing United Nations Security Council Resolution (UNSCR) 1771 (2007).

(3) On 15 February 2008, the United Nations Security Council adopted UNSCR 1799 (2008) extending the measures against the DRC until 31 March 2008.

Done at Brussels, 29 February 2008.

(4) Common Position 2005/440/CFSP should therefore also be extended,

For the Council
The President
M. COTMAN

⁽¹⁾ OJ L 152, 15.6.2005, p. 22.

⁽²⁾ OJ L 264, 10.10.2007, p. 11.