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⁽¹⁾ Text with EEA relevance

I

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

REGULATIONS

COMMISSION REGULATION (EC) No 288/2008**of 31 March 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 April 2008.

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

Done at Brussels, 31 March 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 31 March 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	64,0
	MA	52,4
	TN	125,1
	TR	90,3
	ZZ	83,0
0707 00 05	JO	178,8
	MA	69,9
	MK	99,4
	TR	115,4
	ZZ	115,9
0709 90 70	MA	60,4
	TR	105,2
	ZZ	82,8
0805 10 20	EG	47,1
	IL	57,8
	MA	59,1
	TN	60,3
	TR	68,1
	ZZ	58,5
0805 50 10	IL	117,7
	TR	132,9
	ZA	147,5
	ZZ	132,7
0808 10 80	AR	85,1
	BR	81,7
	CA	80,7
	CL	90,1
	CN	83,5
	MK	42,9
	US	110,5
	UY	63,4
	ZA	66,5
0808 20 50	ZZ	78,3
	AR	76,5
	CL	81,9
	CN	54,2
	ZA	87,4
	ZZ	75,0

⁽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 289/2008**of 31 March 2008****amending Regulation (EC) No 1266/2007 on implementing rules for Council Directive 2000/75/EC as regards the control, monitoring, surveillance and restrictions on movements of certain animals of susceptible species in relation to bluetongue****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/75/EC of 20 November 2000 laying down specific provisions for the control and eradication of bluetongue⁽¹⁾, and in particular Article 9(1)(c), Articles 11 and 12 and the third paragraph of Article 19 thereof,

Whereas:

(1) Commission Regulation (EC) No 1266/2007⁽²⁾ lays down rules for the control, monitoring, surveillance and restrictions on movements of animals, in relation to bluetongue, in and from the restricted zones. It also establishes the conditions for exemptions from the exit ban applicable to movements of susceptible animals, their semen, ova and embryos provided for in Directive 2000/75/EC.

(2) Where exemptions from the exit ban applicable to movements of animals of susceptible species, their semen, ova and embryos from the restricted zones are applied to such animals or products intended for intra-Community trade or for export to a third country, health certificates provided for in Council Directive 64/432/EEC⁽³⁾, Council Directive 91/68/EEC⁽⁴⁾, Council Directive 92/65/EEC⁽⁵⁾ and referred to in Commission Decision 93/444/EEC⁽⁶⁾ are to include a reference to Regulation (EC) No 1266/2007. On the basis of the experience gained, it is appropriate to provide for an additional wording to be added to all those health certificates in order to make more explicit the health conditions under which the animals, semen, ova and embryos are exempted from the exit ban.

(3) Council Directive 88/407/EEC of 14 June 1988 laying down the animal health requirements applicable to intra-Community trade in and imports of semen of domestic animals of the bovine species⁽⁷⁾, Council Directive 89/556/EEC of 25 September 1989 on animal health conditions governing intra-Community trade in and importation from third countries of embryos of domestic animals of the bovine species⁽⁸⁾, Commission Decision 95/388/EC of 19 September 1995 determining the specimen certificate for intra-Community trade in semen, ova and embryos of the ovine and caprine species⁽⁹⁾ and Decision 93/444/EEC provide that health certificates are to accompany the movements of semen, ova and embryos of bovine, ovine and caprine species.

(4) On the basis of the experience gained, where exemptions from the exit ban applicable to movements of semen, ova and embryos of animals of the susceptible species from the restricted zones are applied, those health certificates should also include a reference to Regulation (EC) No 1266/2007. An additional wording should therefore be added to those health certificates in order to make more explicit the health conditions under which the semen, ova and embryos are exempted from the exit ban.

(5) *In vivo* derived embryos and ova of bovine animals do not pose any significant risk as regards bluetongue. Therefore exemptions from the exit ban should be applicable to them provided that the donor animals do not show any clinical signs of bluetongue on the day of collection of the embryos and ova.

(6) For clarity reasons, certain changes as regards the naturally immunised animals referred in points 6 and 7 of Annex III and the provisions related to ova and embryos should be introduced in the text.

(7) Regulation (EC) No 1266/2007 should therefore be amended accordingly.

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

⁽¹⁾ OJ L 327, 22.12.2000, p. 74. Directive as last amended by Commission Decision 2007/729/EC (OJ L 294, 13.11.2007, p. 26).

⁽²⁾ OJ L 283, 27.10.2007, p. 37.

⁽³⁾ OJ L 121, 29.7.1964, p. 1977/64. Directive as last amended by Decision 2007/729/EC.

⁽⁴⁾ OJ L 46, 19.2.1991, p. 19. Directive as last amended by Directive 2006/104/EC (OJ L 363, 20.12.2006, p. 352).

⁽⁵⁾ OJ L 268, 14.9.1992, p. 54. Directive as last amended by Commission Decision 2007/265/EC (OJ L 114, 1.5.2007, p. 17).

⁽⁶⁾ OJ L 208, 19.8.1993, p. 34.

⁽⁷⁾ OJ L 194, 22.7.1988, p. 10. Directive as last amended by Commission Decision 2008/120/EC (OJ L 42, 16.2.2008, p. 63).

⁽⁸⁾ OJ L 302, 19.10.1989, p. 1. Directive as last amended by Commission Decision 2006/60/EC (OJ L 31, 3.2.2006, p. 24).

⁽⁹⁾ OJ L 234, 3.10.1995, p. 30. Decision as last amended by Decision 2005/43/EC (OJ L 20, 22.1.2005, p. 34).

HAS ADOPTED THIS REGULATION:

Article 1

Annex III to Regulation (EC) No 1266/2007 is amended in accordance with the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 31 March 2008.

For the Commission
Androulla VASSILIOU
Member of the Commission

ANNEX

Annex III to Regulation (EC) No 1266/2007 is replaced by the following:

‘ANNEX III

Conditions for exemption from the exit ban (referred to in Articles 7(2)(a) and 8(1)(a))**A. Animals**

The animals must have been protected against attacks by vector *Culicoides* during transportation to the place of destination.

In addition, at least one of the conditions set out in points 1 to 7 must be complied with:

1. The animals were kept until dispatch during the seasonally vector-free period defined in accordance with Annex V, in a bluetongue seasonally-free zone since birth or for at least 60 days prior to the date of movement and were subjected to an agent identification test according to the Manual of Diagnostic Tests and Vaccines for Terrestrial Animals of the World Organisation for Animal Health (OIE) (*) (“OIE Terrestrial Manual”), with negative results, carried out not earlier than seven days before the date of movement.

However, that agent identification test shall not be necessary for Member States or regions of a Member State where sufficient epidemiological data, obtained following the implementation of a monitoring programme for a period of not less than three years, substantiate the determination of the seasonally vector-free period defined in accordance with Annex V.

The Member States making use of that possibility shall inform the Commission and the other Member States in the framework of the Standing Committee on the Food Chain and Animal Health.

Where animals referred to in this point are intended for intra-Community trade or export to a third country, the following additional wording shall be added to the corresponding health certificates laid down in Directives 64/432/EEC, 91/68/EEC and 92/65/EEC, or referred to in Decision 93/444/EEC:

“Animal(s) were kept until dispatch in a bluetongue seasonally-free zone during the seasonally vector-free period that started on (insert date) since birth or for at least 60 days and, if appropriate (indicate as appropriate), were then subjected to an agent identification test according to the OIE Terrestrial Manual on samples taken within seven days prior to dispatch, with negative results, in conformity with Annex III.A(1) to Regulation (EC) No 1266/2007.”

(*) http://www.oie.int/eng/normes/en_mcode.htm?e1d10

2. The animals have been kept until dispatch protected against attacks by vectors for a period of at least 60 days prior to the date of dispatch.

Where animals referred to in this point are intended for intra-Community trade or export to a third country, the following additional wording shall be added to the corresponding health certificates laid down in Directives 64/432/EEC, 91/68/EEC and 92/65/EEC, or referred to in Decision 93/444/EEC:

“Animal(s) in conformity with Annex III.A(2) to Regulation (EC) No 1266/2007.”

3. The animals have been kept until dispatch in a bluetongue seasonally-free zone during the seasonally vector-free period, defined in accordance with Annex V, or have been protected against attacks by vectors for a period of at least 28 days and were subjected during that period to a serological test according to the OIE Terrestrial Manual to detect antibodies to the bluetongue virus group, with negative results, carried out at least 28 days following the date of the commencement of the period of protection against attacks by vectors or the seasonally vector-free period.

Where animals referred to in this point are intended for intra-Community trade or export to a third country, the following additional wording shall be added to the corresponding health certificates laid down in Directives 64/432/EEC, 91/68/EEC and 92/65/EEC, or referred to in Decision 93/444/EEC:

“Animal(s) in conformity with Annex III.A(3) to Regulation (EC) No 1266/2007.”

4. The animals have been kept until dispatch in a bluetongue seasonally-free zone during the seasonally vector-free period, defined in accordance with Annex V, or have been protected against attacks by vectors for a period of at least 14 days and were subjected during that period to an agent identification test according to the OIE Terrestrial Manual, with negative results, carried out at least 14 days following the date of the commencement of the period of protection against attacks by vectors or the seasonally vector-free period.

Where animals referred to in this point are intended for intra-Community trade or export to a third country, the following additional wording shall be added to the corresponding health certificates laid down in Directives 64/432/EEC, 91/68/EEC and 92/65/EEC, or referred to in Decision 93/444/EEC:

“Animal(s) in conformity with Annex III.A(4) to Regulation (EC) No 1266/2007.”

5. The animals originate from a herd vaccinated according to a vaccination programme adopted by the competent authority and the animals have been vaccinated against the serotype(s) present or likely to be present in an epidemiologically relevant geographical area of origin, the animals are still within the immunity period of time guaranteed in the specifications of the vaccine approved in the vaccination programme and the animals meet at least one of the following requirements:

- (a) they have been vaccinated more than 60 days before the date of movement;
- (b) they have been vaccinated with an inactivated vaccine before at least the number of days necessary for the onset of the immunity protection set in the specifications of the vaccine approved in the vaccination programme and were subjected to an agent identification test according to the OIE Terrestrial Manual, with negative results, carried out at least 14 days after the onset of the immunity protection set in the specifications of the vaccine approved in the vaccination programme;
- (c) they were previously vaccinated and they have been re-vaccinated with an inactivated vaccine within the immunity period of time guaranteed in the specifications of the vaccine approved in the vaccination programme;
- (d) they were kept during the seasonally vector-free period, defined in accordance with Annex V, in a bluetongue seasonally-free zone, since birth or for a period of at least 60 days before the date of vaccination and have been vaccinated with an inactivated vaccine before at least the number of days necessary for the onset of the immunity protection set in the specifications of the vaccine approved in the vaccination programme.

Where animals referred to in this point are intended for intra-Community trade or export to a third country, the following additional wording shall be added to the corresponding health certificates laid down in Directives 64/432/EEC, 91/68/EEC and 92/65/EEC, or referred to in Decision 93/444/EEC:

“Animal(s) vaccinated against bluetongue serotype/s (insert serotype/s) with
(insert name of the vaccine) with a inactivated/modified live vaccine (indicate, as appropriate) in conformity with Annex III.A(5) to Regulation (EC) No 1266/2007.”

6. The animals have never been vaccinated against bluetongue and were always kept in an epidemiologically relevant geographical area of origin where not more than one serotype was or is present or likely to be present and:
 - (a) they were subjected to a serological test according to the OIE Terrestrial Manual to detect antibodies against the bluetongue virus serotype, with positive results; the test must be carried out between 60 and 360 days before the date of movement; or

- (b) they were subjected to a serological test according to the OIE Terrestrial Manual to detect antibodies against the bluetongue virus serotype, with positive results; the test must be carried out at least 30 days before the date of the movement and the animals were subjected to an agent identification test according to the OIE Terrestrial Manual, with negative results, carried out not earlier than seven days before the date of the movement.

Where animals referred to in this point are intended for intra-Community trade or export to a third country, the following additional wording shall be added to the corresponding health certificates laid down in Directives 64/432/EEC, 91/68/EEC and 92/65/EEC, or referred to in Decision 93/444/EEC:

"Animal(s) subjected to a serological test according to the OIE Terrestrial Manual to detect antibodies against the bluetongue virus serotype (indicate serotype) in conformity with Annex III.A(6) to Regulation (EC) No 1266/2007."

7. The animals have never been vaccinated against bluetongue and were subjected to an adequate specific serological test according to the OIE Terrestrial Manual able to detect the specific antibodies against all the bluetongue virus serotypes present or likely to be present, with positive results to all serotypes present or likely to be present in the epidemiologically relevant geographical area of origin, and

- (a) the specific serotype serological test is carried out between 60 and 360 days before the date of movement; or

- (b) the specific serotype serological test is carried out at least 30 days before the date of the movement and the animals were subjected to an agent identification test according to the OIE Terrestrial Manual, with negative results, carried out not earlier than seven days before the date of movement.

Where animals referred to in this point are intended for intra-Community trade or export to a third country, the following additional wording shall be added to the corresponding health certificates laid down in Directives 64/432/EEC, 91/68/EEC and 92/65/EEC, or referred to in Decision 93/444/EEC:

"Animal(s) subjected to a specific serological test according to the OIE Terrestrial Manual to detect antibodies against all the bluetongue virus serotypes (indicate serotypes) present or likely to be present in conformity with Annex III.A(7) to Regulation (EC) No 1266/2007."

B. Semen of animals

Semen must have been obtained from donor animals which comply with at least one of the following conditions:

- (a) they have been kept outside a restricted zone for a period of at least 60 days before commencement of, and during, collection of the semen;
- (b) they have been protected against attacks by vectors for a period of at least 60 days before commencement of, and during, collection of the semen;
- (c) they were kept during the seasonally vector-free period in a bluetongue seasonally-free zone, defined in accordance with Annex V, for a period of at least 60 days before commencement of, and during, collection of the semen and were subjected to an agent identification test according to the OIE Terrestrial Manual, with negative results, carried out not earlier than seven days before the date of commencement of collection of the semen.

However, that agent identification test shall not be necessary in Member States or regions of a Member State where sufficient epidemiological data, obtained following the implementation of a monitoring programme during a period of not less than three years, substantiate the determination of the seasonally vector-free period, as defined in Annex V.

The Member States making use of that possibility shall inform the Commission and the Member States in the framework of the Standing Committee on the Food Chain and Animal Health;

- (d) they have been subjected to a serological test according to the OIE Terrestrial Manual to detect antibodies to the bluetongue virus group, with negative results, at least every 60 days during the collection period and between 21 and 60 days following the final collection;
- (e) they have been subjected, with negative results, to an agent identification test according to the OIE Terrestrial Manual carried out on blood samples collected:
 - (i) at commencement and final collection; and
 - (ii) during the period of semen collection:
 - at least every seven days, in the case of a virus isolation test,
 - at least every 28 days, in the case of a polymerase chain reaction test.

Where the semen referred to in this Section is intended for intra-Community trade or export to a third country, the following additional wording shall be added to the corresponding health certificates laid down in Council Directive 88/407/EEC (*) and Commission Decision 95/388/EC (**), or referred to in Decision 93/444/EEC:

“Semen obtained from donor animals which comply with (point (a), (b), (c), (d) or (e), indicate as appropriate) of Annex III.B to Regulation (EC) No 1266/2007”.

(*) OJ L 194, 22.7.1988, p. 10.

(**) OJ L 234, 3.10.1995, p. 30.

C. Ova and embryos of animals

1. *In vivo* derived embryos and ova of bovine animals must have been obtained from donor animals which do not show any clinical signs of bluetongue on the day of collection.
2. Embryos and ova of animals other than bovine animals and *in vitro* produced bovine embryos must have been obtained from donor animals which comply with at least one of the following conditions:
 - (a) they have been kept outside a restricted zone for at least 60 days before commencement of, and during, collection of the embryos/ova;
 - (b) they have been protected against attacks by vectors for at least 60 days before commencement of, and during, collection of the embryos/ova;
 - (c) they have been subjected to a serological test according to the OIE Terrestrial Manual to detect antibodies to the bluetongue virus group, between 21 and 60 days following collection of the embryos/ova, with negative results;
 - (d) they have been subjected to an agent identification test according to the OIE Terrestrial Manual on a blood sample taken on the day of collection of the embryos/ova, with negative results.
3. Where the ova and embryos referred to in points 1 and 2 are intended for intra-Community trade or export to a third country, the following additional wording shall be added to the corresponding health certificates laid down in Council Directive 89/556/EEC (***) and Decision 95/388/EC, or referred to in Decision 93/444/EEC:

“Embryos/ova obtained from donor animals which comply with (point 1; point 2(a), point 2(b), point 2(c) or point 2(d), indicate as appropriate) of Annex III.C to Regulation (EC) No 1266/2007”.

Point 2(a) of Annex B to Directive 89/556/EEC shall not apply to ova and embryos collected from donor animals kept in holdings subject to veterinary prohibition or quarantine measures pertaining to bluetongue.

(***) OJ L 302, 19.10.1989, p. 1.

COMMISSION REGULATION (EC) No 290/2008**of 31 March 2008****fixing the import duties in the cereals sector applicable from 1 April 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 April 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 April 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 April 2008.

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

Done at Brussels, 31 March 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 April 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

14.3.2008-28.3.2008

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	329,32	137,63	—	—	—	—
Fob price USA	—	—	374,25	364,25	344,25	172,08
Gulf of Mexico premium	66,33	12,45	—	—	—	—
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: 42,31 EUR/t

Freight costs: Great Lakes–Rotterdam: 35,74 EUR/t

DIRECTIVES

COMMISSION DIRECTIVE 2008/41/EC

of 31 March 2008

amending Council Directive 91/414/EEC to include chloridazon as active substance

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽¹⁾, and in particular Article 6(1) thereof,

Whereas:

(1) Commission Regulations (EC) No 451/2000 ⁽²⁾ and (EC) No 1490/2002 ⁽³⁾ lay down the detailed rules for the implementation of the third stage of the programme of work referred to in Article 8(2) of Directive 91/414/EEC and establish a list of active substances to be assessed, with a view to their possible inclusion in Annex I to Directive 91/414/EEC. That list includes chloridazon.

(2) For chloridazon the effects on human health and the environment have been assessed in accordance with the provisions laid down in Regulations (EC) No 451/2000 and (EC) No 1490/2002 for a range of uses proposed by the notifier. Moreover, those Regulations designate the rapporteur Member States which have to submit the relevant assessment reports and recommendations to the European Food Safety Authority (EFSA) in accordance with Article 10(1) of Regulation (EC) No 1490/2002. For chloridazon the rapporteur Member State was Germany and all relevant information was submitted on 16 March 2005.

(3) The assessment report has been peer reviewed by the Member States and the EFSA and presented to the Commission on 27 July 2007 in the format of the

EFSA Scientific Report for chloridazon ⁽⁴⁾. This report has been reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 4 December 2007 in the format of the Commission review report for chloridazon.

(4) It has appeared from the various examinations made that plant protection products containing chloridazon may be expected to satisfy, in general, the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC, in particular with regard to the uses which have been examined and detailed in the Commission review report. It is therefore appropriate to include chloridazon in Annex I, in order to ensure that in all Member States the authorisations of plant protection products containing this active substance can be granted in accordance with the provisions of that Directive.

(5) A reasonable period should be allowed to elapse before an active substance is included in Annex I in order to permit Member States and the interested parties to prepare themselves to meet the new requirements which will result from the inclusion.

(6) Without prejudice to the obligations defined by Directive 91/414/EEC as a consequence of including an active substance in Annex I, Member States should be allowed a period of six months after inclusion to review existing authorisations of plant protection products containing chloridazon to ensure that the requirements laid down by Directive 91/414/EEC, in particular in its Article 13 and the relevant conditions set out in Annex I, are satisfied. Member States should vary, replace or withdraw, as appropriate, existing authorisations, in accordance with the provisions of Directive 91/414/EEC. By derogation from the above deadline, a longer period should be provided for the submission and assessment of the complete Annex III dossier of each plant protection product for each intended use in accordance with the uniform principles laid down in Directive 91/414/EEC.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2008/40/EC (OJ L 87, 29.3.2008, p. 5).

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

⁽³⁾ OJ L 224, 21.8.2002, p. 23. Regulation as last amended by Regulation (EC) No 1095/2007 (OJ L 246, 21.9.2007, p. 19).

⁽⁴⁾ EFSA Scientific Report (2007) 108, 1-82, Conclusion regarding the peer review of the pesticide risk assessment of the active substance chloridazon (finalised 27 July 2007, version of 31 July 2007).

- (7) The experience gained from previous inclusions in Annex I to Directive 91/414/EEC of active substances assessed in the framework of Commission Regulation (EEC) No 3600/92 ⁽¹⁾ has shown that difficulties can arise in interpreting the duties of holders of existing authorisations in relation to access to data. In order to avoid further difficulties, it therefore appears necessary to clarify the duties of the Member States, especially the duty to verify that the holder of an authorisation demonstrates access to a dossier satisfying the requirements of Annex II to that Directive. However, this clarification does not impose any new obligations on Member States or holders of authorisations compared to the directives which have been adopted until now amending Annex I.
- (8) It is therefore appropriate to amend Directive 91/414/EEC accordingly.
- (9) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 91/414/EEC is amended as set out in the Annex to this Directive.

Article 2

Member States shall adopt and publish by 30 June 2009 at the latest the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 1 July 2009.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Article 3

1. Member States shall in accordance with Directive 91/414/EEC, where necessary, amend or withdraw existing authorisations for plant protection products containing chloridazon as an active substance by 30 June 2009.

By that date they shall in particular verify that the conditions in Annex I to that Directive relating to chloridazon are met, with the exception of those identified in part B of the entry concerning that active substance, and that the holder of the authorisation has, or has access to, a dossier satisfying the requirements of Annex II to that Directive in accordance with the conditions of Article 13 of that Directive.

2. By way of derogation from paragraph 1, for each authorised plant protection product containing chloridazon as either the only active substance or as one of several active substances all of which were listed in Annex I to Directive 91/414/EEC by 31 December 2008 at the latest, Member States shall re-evaluate the product in accordance with the uniform principles provided for in Annex VI to Directive 91/414/EEC, on the basis of a dossier satisfying the requirements of Annex III to that Directive and taking into account part B of the entry in Annex I to that Directive concerning chloridazon. On the basis of that evaluation, they shall determine whether the product satisfies the conditions set out in Article 4(1)(b), (c), (d) and (e) of Directive 91/414/EEC.

Following that determination Member States shall:

- (a) in the case of a product containing chloridazon as the only active substance, where necessary, amend or withdraw the authorisation by 31 December 2012 at the latest; or
- (b) in the case of a product containing chloridazon as one of several active substances, where necessary, amend or withdraw the authorisation by 31 December 2012 or by the date fixed for such an amendment or withdrawal in the respective Directive or Directives which added the relevant substance or substances to Annex I to Directive 91/414/EEC, whichever is the latest.

Article 4

This Directive shall enter into force on 1 January 2009.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 31 March 2008.

For the Commission

Androulla VASSILIOU

Member of the Commission

⁽¹⁾ OJ L 366, 15.12.1992, p. 10. Regulation as last amended by Regulation (EC) No 2266/2000 (OJ L 259, 13.10.2000, p. 27).

ANNEX

The following entry shall be added at the end of the table in Annex I to Directive 91/414/EEC:

No	Common name, identification numbers	IUPAC name	Purity ⁽¹⁾	Entry into force	Expiration of inclusion	Specific provisions
'191	Chloridazon CAS No 1698-60-8 CIPAC No 111	5-amino-4-chloro-2-phenylpyridazin-3(2H)-one	920 g/kg The manufacturing impurity 4-amino-5-chloro-isomer is considered to be of toxicological concern and a maximum level of 60 g/kg is established.	1 January 2009	31 December 2018	PART A Only uses as herbicide in application max. of 2,6 kg/ha only every third year on the same field may be authorised. PART B For the implementation of the uniform principles of Annex VI, the conclusions of the review report on chloridazon, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 4 December 2007 shall be taken into account. In this overall assessment Member States must pay particular attention to: — the operator safety and ensure that conditions of use prescribe the application of adequate personal protective equipment, — the protection of aquatic organisms, — the protection of the groundwater, when the active substance is applied in regions with vulnerable soil and/or climatic conditions. Conditions of authorisation should include risk mitigation measures and monitoring programmes should be initiated to verify potential groundwater contamination from metabolites B and B1 in vulnerable zones, where appropriate.'

⁽¹⁾ Further details on identity and specification of active substance are provided in the review report.

II

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

DECISIONS

COMMISSION

COMMISSION DECISION

of 25 September 2007

on measure C 45/06 (ex NN 62/A/06) implemented by France in connection with the construction by AREVA NP (formerly Framatome ANP) of a nuclear power station for Teollisuuden Voima Oy

(notified under document number C(2007) 4323)

(Only the French version is authentic)

(Text with EEA relevance)

(2008/281/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 ⁽¹⁾ pursuant to the provisions cited above and having regard to their comments,

Whereas:

1. PROCEDURE

- (1) By letter of 11 October 2004, registered as received by the Commission on 15 October 2004, Greenpeace submitted to the Commission a complaint concerning the granting by Compagnie française d'assurance pour le commerce extérieur (hereinafter Coface) of a guarantee in respect of the exportable French portion of the services provided by Framatome ANP to the Finnish company Teollisuuden Voima Oy (TVO). Framatome ANP has since been renamed AREVA NP ⁽²⁾.

- (2) The Commission registered the complaint under registry No CP 201/2004 on 29 October 2004.

- (3) By letter of 4 November 2004 (ref. D/57822), the Commission asked the French authorities for information on the guarantee. The French authorities provided the information by letter of 10 December 2004, registered as received by the Commission on 13 December 2004.

- (4) By letter of 14 December 2004, registered as received by the Commission on 16 December 2004, the European Renewable Energies Federation asbl (EREF) submitted to the Commission a complaint challenging the conformity with Community law of the arrangements for constructing, financing and operating TVO's new nuclear power station. It claims that, in addition to the Coface guarantee, the financing offered by Bayerische Landesbank (BLB) and by AB Svensk Exportkredit (SEK) also constitutes aid.

- (5) The Commission registered the State aid aspects of this complaint under registry No CP 238/2004 on 21 December 2004. To a large extent, it then examined the two complaints jointly since complaint CP 238/2004 covers the same ground as complaint CP 201/2004.

⁽¹⁾ OJ C 23, 1.2.2007, p. 11.

⁽²⁾ To facilitate understanding of the decision, the current name 'AREVA NP' will be used, even for the period preceding the change of name.

- (6) By letter of 15 February 2005 (ref. D/51174), the Commission asked the German authorities for information on the measures referred to in the complaints. The German authorities provided the information by letter of 16 March 2005, registered as received by the Commission on 17 March 2005.
- (7) By letter of 26 May 2005 (ref. D/54101), the Commission asked the French authorities for information on the measures referred to in the complaints. The French authorities provided the information by letter of 26 July 2005, registered as received by the Commission on 27 July 2005.
- (8) By letter of 7 June 2005 (ref. D/54366), the Commission asked the Finnish authorities for information on the measures referred to in the complaints. The Finnish authorities provided the information by letter of 8 July 2005, registered as received by the Commission on 11 July 2005.
- (9) By letter of 8 June 2005 (ref. D/54377), the Commission asked the Swedish authorities for information on the measures referred to in the complaints. The Swedish authorities provided the information by letter of 7 July 2005, registered as received by the Commission on 18 July 2005.
- (10) On 2 September 2005 a meeting took place between the Commission and EREF.
- (11) By letter of 18 November 2005, registered as received by the Commission on 22 November 2005, EREF provided the Commission with additional details regarding its complaint of 14 December 2004, including in particular details regarding the State aid referred to in complaint CP 238/2004.
- (12) By letter of 9 December 2005 (ref. D/59668), the Commission asked the Swedish authorities for additional information on the measures referred to in the complaints. The Swedish authorities provided the information by letter of 6 April 2006, registered as received by the Commission on 10 April 2006.
- (13) By letter of 13 January 2006 (ref. D/50295), the Commission asked the French authorities for additional information on the measures referred to in the complaints. The French authorities provided the information by e-mail of 20 February 2006, registered as received by the Commission on 21 February 2006 and supplemented by an e-mail of 10 March 2006, registered as received by the Commission on 13 March 2006.
- (14) The French authorities provided the Commission with additional information on the measures referred to in the complaints by an e-mail of 5 April 2006, registered as received by the Commission the same day.
- (15) By letter of 4 May 2006, registered as received by the Commission on 12 May 2006, Greenpeace provided the Commission with additional information on complaint CP 201/2004.
- (16) On 4 July 2006 a meeting took place between the Commission, the French authorities and representatives of a bank, AREVA NP and TVO at which the French authorities provided documents on the measures referred to in the complaints.
- (17) By letter of 18 July 2006, registered as received by the Commission on 25 July 2006, EREF provided further details regarding complaint CP 238/2004 and called on the Commission to take a decision in the matter.
- (18) On 7 September 2006 the Commission grouped together the two complaints under registry No NN 62/06. On 20 September 2006 it split the case into two ⁽³⁾ sub-cases, NN 62/A/06 and NN 62/B/06. Case NN 62/A/06 covers the aspects of the complaints that relate to the Coface guarantee, while Case NN 62/B/06 covers the aspects of complaint CP 238/2004 that relate to the credit facility involving BLB and the bilateral loan provided by SEK (complaint CP 201/2004 does not cover these aspects).
- (19) On 24 October 2006 the Commission took a decision in each of the two cases. In the first decision ⁽⁴⁾ it took the view that the measures covered by Case NN 62/B/06 did not constitute aid. It then informed France of its decision to initiate the procedure provided for in Article 88(2) of the EC Treaty in respect of the Coface guarantee, with Case NN 62/A/06 being renumbered C 45/2006. This measure is the subject matter of the present decision, which terminates formal investigation procedure C 45/2006.
- ⁽³⁾ This was necessary as some of the measures concerned France while others concerned Germany and Sweden. Some confidential information was provided, especially on the French part of the file, and could not be communicated to the other Member States. Moreover, the Commission was ready to take a definitive decision on the German and Swedish part of the file on completion of the preliminary investigation, whereas a formal investigation procedure had to be launched for the French part.
- ⁽⁴⁾ C(2006) 4963 final (OJ C 23, 1.2.2007, p. 5).

(20) By letter of 14 November 2006, registered as received by the Commission on 16 November 2006, the French authorities asked the Commission to extend the deadline for submitting their comments. By letter of 30 November 2006, the Commission granted an extension. The French authorities submitted their comments by letter of 22 December 2006, registered as received on 4 January 2007.

(21) The Commission decision to initiate the procedure was published in the *Official Journal of the European Union* ⁽⁵⁾ on 1 February 2007. The Commission called on interested parties to submit their comments on the measures in question. It received comments from 10 interested parties. It forwarded them to France by letter of 23 March 2007 (ref. D/51341), giving the latter the opportunity to comment. After requesting an extension of the deadline set, the French authorities submitted their comments by letter of 11 May 2007, registered as received on 14 May 2007.

2. DESCRIPTION

2.1. The Olkiluoto 3 project

(22) At present, Finland has four nuclear reactors. Two of them, owned by the company Fortum, are situated in Loviisa, while the other two, owned by TVO, are in Olkiluoto.

(23) TVO is a non-profit company which supplies electricity to its shareholders at cost price. Its capital is divided into several tranches, each corresponding to a power station or group of power stations. Possession of part of a tranche of TVO capital confers the right to buy an equivalent fraction of the production of the corresponding power station or stations at cost price.

(24) TVO's shareholders are essentially energy and industrial enterprises that are large consumers of electricity.

(25) TVO, which already owns two nuclear reactors, has a shareholding in a coal-fired power station and operates a wind farm, is currently having a third nuclear reactor built at the Olkiluoto site, to be known as 'Olkiluoto 3'.

(26) The entity responsible for constructing Olkiluoto 3 is a consortium comprising Siemens and AREVA NP, itself a subsidiary of AREVA and Siemens, which hold 66 % and 34 % respectively of the capital. The consortium was selected by TVO following an invitation to tender launched in September 2002. On 15 October 2003

TVO informed the AREVA NP/Siemens consortium that it was the preferred bidder. The construction contract was signed on 18 December 2003. According to the information received by the Commission, alongside the consortium selected, [...] (*) had participated in the invitation to tender.

(27) Olkiluoto 3 will be the first of a new generation of European pressurised-water reactors (EPRs), with a planned capacity of 1 600 MW. According to the initial planning, the reactor was to come on stream in 2009 but, since the construction work is behind schedule, it is planned to come on stream at the end of 2010/beginning of 2011.

2.2. Financing

(28) TVO is using several sources of financing for Olkiluoto 3, which will cost more than EUR 3 billion.

(29) Firstly, TVO's shareholders have agreed to increase TVO's capital (own funds) by an amount equivalent to some [15-30] % of the project cost by creating a specific tranche of shares for the new reactor. Secondly, a subordinated loan equivalent to [0-15] % of the total cost will be provided by the shareholders. In addition to this financing provided by the shareholders when the investment contract was signed in December 2003, TVO arranged a credit facility with a syndicate of international banks and a series of bilateral loans. Most of this debt financing was then refinanced by means of a loan guaranteed by Coface in March 2004, a new credit facility concluded in June 2005 and a number of new bilateral loans.

2.2.1. The credit facility

(30) The facility (credit facility) is for EUR 1,35 billion.

(31) The credit facility was granted to TVO by a banking syndicate in which BLB, BNP Paribas, JP Morgan, Nordea and Svenska Handelsbanken were the mandated lead arrangers. By letter of 11 November 2003, these five banks each undertook to provide, if necessary, up to EUR 500 million, representing EUR 2,5 billion in total. In the course of the syndication process, other banks participated in the credit facility. On 17 December 2003 the credit facility was signed by 12 banks participating on equal terms.

⁽⁵⁾ See footnote 1.

(*) Information covered by professional secrecy.

- (32) The credit facility comprises two tranches, with a respective maturity of five and seven years. It carries a EURIBOR-indexed variable interest rate. The five-year tranche offers a spread of [...] basis points (bps) above EURIBOR for the first three years, with a step-up of [...] bps for the years [...]. The seven-year tranche offers a spread of [...] bps for the first three years and then a step-up of [...] bps for the years [...] and [...] bps for the years [...]. The loan is not backed by any public guarantee.
- (33) The contract between TVO and the banks that was signed on 17 December 2003 was initially for EUR 1,95 billion. In March 2004 this amount was reduced to EUR 1,35 billion after TVO had been granted the Coface-guaranteed loan described in Section 2.2.2.
- (34) In June 2005, alongside other financing, TVO concluded a new EUR 1,6 billion credit facility on the back of more favourable market conditions, paying an average spread of only [...] bps above EURIBOR for this seven-year facility. Since it had met its initial Olkiluoto 3-related disbursements out of the other sources of financing described in this section, and in particular the shareholder funds, TVO in the end never had to call on the credit facility concluded in December 2003 and thus terminated it.
- (35) On 11 June 2004 the Commission gave a positive opinion in accordance with Article 43 of the Euratom Treaty in which it concluded that the industrial project in question contributed to improving the security and diversity of supply at both regional and European level and that all aspects of the investment were consistent with the objectives of the Euratom Treaty.
- 2.2.2. The loan guaranteed by Coface*
- (36) This is a EUR 570 million credit facility ('the guaranteed loan', the word 'loan' having been selected to avoid any confusion with the credit facility referred to in Section 2.2.1) and granted by the same mandated lead arrangers as those referred to in paragraph 31, excluding the bank [...].
- (37) The loan principal will be gradually drawn down by TVO over a five-year period, with the sums borrowed over time matching the payments to be made by TVO to AREVA NP. Repayment of the loan will be in the form of constant six-monthly repayments of the principal. It will begin six months after the last disbursement and will be spread over 12 years. The average duration of the loan as calculated by the French authorities is 8,92 years.
- (38) The interest rate payable to the banks is variable and indexed to EURIBOR. The loan offers the banks a spread of [...] bps above EURIBOR.
- (39) The loan is backed by a guarantee granted by Coface as part of its export credit insurance activities on behalf of the French State. The insurance has been taken out by the banks and the insured parties are the banks, with Coface insuring 95 % of the loan amount. For this insurance Coface charges a flat-rate premium of [2,5-3,5] % for each payment, the total premiums payable to Coface thus amounting to EUR [14,25-19,95] million. The premium is charged to the banks, which in turn charge it to TVO, in addition to the interest rate referred to in paragraph 38.
- (40) The French Export Credit and Guarantee Commission (CGCCE), which was responsible for deciding whether or not the guarantee should be provided, delivered a positive decision on 17 November 2003. Coface promised to provide a guarantee on 1 December 2003. The guaranteed loan was concluded on 25 March 2004.
- (41) France gave notification of the guarantee to the participants in the Arrangement on Officially Supported Export Credits concluded within the OECD (the OECD Arrangement) on 20 November 2003. It should be pointed out that the transaction in question was not challenged by any of the participants to the OECD Arrangement.
- 2.2.3. The bilateral loans*
- (42) In addition to the credit facility, when the investment decision was taken, TVO contracted a number of bilateral loans with various other financial bodies totalling EUR [...] million. One of the loans was contracted with SEK for an amount of EUR 100 million (see the decision in Case NN 62/B/06).

2.2.4. Synopsis of the financial package and the chronology of events

- (43) The following table gives the breakdown of the financing for the Olkiluoto 3 project as at 25 march 2004:

Table 1

Breakdown of the financing for the Olkiluoto 3 project (as at 25 March 2004)

Source of financing	amount (EUR)	Proportion of project cost
Increase in capital of TVO	[...] million	[15-30] %
Subordinated shareholder loan	[...] million	[0-15] %
Credit facility	1,35 billion	approx. 42 %
Loan guaranteed by Coface	570 million	approx. 18 %
Bilateral loans	[...] million	[15-30] %
Total	> 3 billion	100 %

- (44) The following table gives the chronology of events:

Table 2

Project schedule (main stages 2002-04)

Date	Event
Before September 2002	Selection by TVO of the nuclear reactor for the power station (procedure for obtaining the corresponding permits)
September 2002	Launch of the tender invitation (the criteria for assessing the bids set out in the tender documents do not include the provision of financing by the bidders)
March 2003	Receipt of the bids by TVO and start of the assessment procedure
May-June 2003	Alongside and independently of the assessment procedure, TVO asks the bidders to comment on the possibility of obtaining an export credit as an alternative source of financing
August-September 2003	TVO launches an invitation to tender for banks interested in providing a EUR 2.5 billion syndicated loan
15 October 2003	The AREVA NP/Siemens consortium is notified by TVO of its 'preferred bidder' status

Date	Event
11 November 2003	Commitment by five banks to provide up to EUR 2,5 billion
1 December 2003	Following the positive decision by the CGCCE of 17 November 2003, Coface issues the promise of a guarantee to AREVA NP in respect of a EUR 570 million export credit
17 December 2003	Signing of the EUR 1,95 billion syndicated credit facility (with no Coface guarantee) to cover total financing needs with the support of shareholders and the other bilateral loans
18 December 2003	Signing of the commercial contract between TVO and the AREVA NP/Siemens consortium for the construction of the nuclear power station
End December 2003-January 2004	TVO begins discussions with the banks on the terms and conditions of an export credit
4 February 2004	The terms and conditions of an export credit are agreed on by TVO and the banks (in particular, fixing of the bank spread)
25 March 2004	Signing of the EUR 570 million loan guaranteed by Coface and subsequent reduction of the syndicated credit facility to EUR 1,35 billion

3. GROUNDS FOR INITIATING THE PROCEDURE

- (45) In its decision of 24 October 2006, the Commission examined for the first time whether the measure constituted aid within the meaning of Article 87(1) of the EC Treaty. The decision ascertained in detail whether or not an advantage was conferred. The Commission noted that the insurance premium of [2,5-3,5]% charged by Coface could not be compared directly to a market rate since no insurer seemed to offer this type of financial product. However, as the public guarantee was for a loan, it seemed that the total cost of the guaranteed loan — defined as the sum of the interest paid and the guarantee premium — could be compared with that which would have had to be borne by the borrower if there had been no public guarantee. On the basis of a comparison of the total cost of the guaranteed loan with the cost of the credit facility described in Section 2.2.1, the latter being regarded as a market rate, the Commission came to the preliminary conclusion that the guaranteed loan did not seem to reduce the financial charges that the borrower would normally have had to bear. It would seem, therefore, that no advantage was conferred on TVO. The Commission would though point out that this preliminary conclusion is based on a certain number of assumptions. And so it was unable to rule out at that stage any possibility that the measure constituted aid and it decided to allow France and the interested parties to comment on the

methodology used and on the assumptions on which the Commission based its analysis of the existence of an advantage.

- (46) As for the compatibility of any aid, the Commission would comment that, if some particulars suggest compatibility on the basis of Article 87(3)(c) of the EC Treaty, others seem to point in the opposite direction. The compatibility of any aid cannot, therefore, be presumed *a priori*.
- (47) Since there can be no ruling out the possibility that the measure constituted aid and since, if this were the case, it was not certain that the measure would be compatible, the Commission decided to initiate the formal investigation procedure.

4. COMMENTS BY INTERESTED PARTIES

- (48) By letter of 2 January 2007, TVO sent its comments to the Commission. It stated that the decision to initiate the procedure contained a number of factual errors and suggested some corrections. It also took the view that some of the assessments made by the Commission were based solely on a certain number of hypothetical suppositions and were speculative in nature. As to the existence

of any advantage, TVO, referring back to the Commission's preliminary assessment, pointed out that the loan guaranteed by Coface was more expensive than the credit facility and the other sources of financing available at the time. It opted nevertheless for the guaranteed loan because of its longer period to maturity and because it reduced the amounts lent by the banks, thus making the amounts not lent available for future financing needs⁽⁶⁾. TVO therefore considered that the Commission should come to the conclusion that the guarantee did not constitute aid within the meaning of Article 87(1) of the EC Treaty.

(49) By letter of 1 March 2007, Greenpeace, which was the first to submit a complaint when the present procedure was initiated (see Section 1), set out its comments, recalling that export aids within the Community had always been prohibited so that, in its opinion, the Commission should take a negative decision on the measure in question, with the aid being recovered. The letter did not comment on the preliminary analysis in the decision initiating the procedure as to the existence or otherwise of an advantage.

(50) By letter also dated 1 March 2007, EREF, which was the second complainant at the time (see Section 1), set out its comments. In its view, it was clear that the granting of an export credit for intra-Community exports constituted unlawful State aid. EREF referred back to the arguments contained in its letter of 18 November 2005 and asked that that letter be included in the file relating to the present procedure.

(51) For EREF, Coface's involvement in the financing of the project gives a strong signal to private banks that they should participate too since, in its view, the Coface guarantee mitigates the risk for the banks involved in the financing and reduces the amount of own funds mobilised by the banks for the loans in question. By lowering the risks borne by the banks, the Coface guarantee would be an incentive for them to grant reduced-rate loans to TVO. The advantage conferred by the guarantee would, therefore, be greater. EREF considers that the structure of the project financing might collapse if Coface were to withdraw its guarantee. It asked the Commission to take a look at all the contractual relationships between the parties and at the negotiating process that led to these contracts being concluded.

⁽⁶⁾ The original text reads as follows: 'TVO selected the facility on the basis that it had slightly longer maturity profile and it saved some room from banks for future financing needs.'

(52) Apart from the general points summarised in paragraph 51, EREF's letter does not comment on the preliminary analysis in the decision to initiate the procedure as to the existence or otherwise of an advantage.

(53) In addition to the three letters mentioned in paragraphs 48, 49 and 50, the Commission received comments from six Member States — the Netherlands, Sweden, Finland, the Czech Republic, Austria and Germany — and from the Chairman of the Council Export Credits Group⁽⁷⁾. The Member States concerned do not comment on the specific features of the case but criticise the Commission for initiating the Article 88(2) procedure in respect of an export credit and for taking the view that such a measure may constitute incompatible State aid. They consider that export credits are governed by the OECD Arrangement, which has been incorporated into Community law. By subjecting an export credit to the state aid procedures laid down in Article 88 of the EC Treaty, the Commission is creating considerable legal uncertainty and may be weakening the position of European exporters vis-à-vis their foreign competitors.

5. COMMENTS BY FRANCE

(54) The French authorities begin by recalling the characteristics and main stages of the project, especially as regards financing and the invitation to tender.

(55) As for the assessment of the measure in question, the French authorities argue mainly that the measure cannot be classified as aid. They maintain in particular that it does not confer any advantage. According to them, the Coface guarantee was granted on market terms. They comment on the methodology applied by the Commission in its decision to initiate the procedure. They regard it as one commonly used by banks and note that it shows that the guarantee premium was granted at market rates. They go on to say that the methodology can be usefully supplemented and verified by applying a more complex method for valuing financial assets which they describe as a 'method for comparing credit values'. On the basis of this second method, the French authorities come to the conclusion that a bank would have attributed a higher value to the guaranteed loan than to the credit facility, that is to say, they would have regarded the former as being more remunerative. This amounts to saying that the credit guaranteed by Coface confers no advantage on any of the partners in the project in the form of lower financing costs. The French authorities also argue that the measure cannot be classified as State aid since it affects neither competition nor trade between Member States.

⁽⁷⁾ Germany, which is chairing the Group, has pointed out that the United Kingdom does not agree with all of the views expressed.

- (56) In the alternative, France argues that, if the measure were to constitute aid, it would be compatible with the common market. On the one hand, it would be compatible on the basis of Article 87(3)(c) of the EC Treaty since it pursues a legitimate objective and does not affect trade to an extent contrary to the common interest. On the other hand, it would be compatible on the basis of Article 87(3)(b) of the EC Treaty.
- (57) In the latter respect, France furthermore points to various obstacles to recovery, referring in particular to the principle of legitimate expectations. According to France, the Commission has traditionally taken no action with regard to medium- or long-term export credits. The measure is also compatible with the rules of the OECD Arrangement. On these points, France's analysis reflects the comments presented by the other Member States mentioned in paragraph 53.

6. ASSESSMENT OF THE MEASURE

- (58) In order to assess the measure implemented by France in March 2004, the Commission has first to establish whether it constitutes State aid within the meaning of Article 87(1) of the EC Treaty. In this connection, it points out that an export credit or a guarantee linked to such a credit may, especially where it relates to a transaction between Member States, constitute State aid within the meaning of Article 87(1) of the EC Treaty. The OECD Arrangement does not automatically rule out the possibility that such a measure may constitute State aid within the meaning of Article 87(1) ⁽⁸⁾.
- (59) In its decision initiating the procedure, the Commission states that, on the basis of an initial analysis, the measure does not seem to constitute aid, in particular because it does not seem to confer an advantage on the beneficiary. Accordingly, it should be ascertained whether there are any new elements that call the preliminary analysis into question.

6.1. Classification as State aid: existence of an advantage

6.1.1. Introduction

- (60) In its decision initiating the procedure, the Commission notes that the measure is a guarantee in respect of a loan provided by some banks to TVO and rules out the possibility that it confers an advantage on the banks. This assessment has not been challenged by the parties that presented their comments to the Commission under the present procedure. The Commission, in this decision, will therefore simply verify the existence or otherwise of an advantage for the borrower TVO and its supplier AREVA

NP. As regard the latter, the decision initiating the procedure states that it cannot be ruled out at this stage that France made the provision of the guarantee to TVO conditional on the contract being concluded with AREVA NP. If this were the case, France would be conferring an advantage on TVO provided that AREVA NP were selected as the supplier. AREVA NP would, therefore, also benefit from the measure. It follows that the existence of an advantage for TVO is a necessary prior condition for the existence of an advantage for AREVA NP. In the present decision, the Commission will therefore ascertain initially the existence or otherwise of an advantage for TVO.

- (61) The advantage that a borrower like TVO might obtain from a public guarantee in respect of a loan is a reduction in its financing costs. In order to establish whether or not a public guarantee confers an advantage on the borrower, there is a case therefore for determining which financial charges the borrower would have had to bear if it had resorted to the market in bank loans without any public intervention and for comparing this cost with the cost incurred after public intervention. It should also be ascertained whether some companies simply have no access to the capital market and can take this step only with the help of public intervention. In such a case, the advantage accruing from public intervention may be even greater. In such circumstances and given the fact that EREF doubts that TVO had access to the market in bank loans at the time, the Commission, before analysing whether there was any reduction in financial charges, will ascertain whether TVO had access to the capital market and whether such access was sufficient to finance the entire Olkiluoto 3 project.

6.1.2. Analysis of access to the market in bank loans

- (62) In Section 2 of this decision the Commission analysed the different stages of the Olkiluoto 3 project and its financing. It transpires that the guaranteed loan was formally provided in March 2004. However, Coface had undertaken to stand guarantor as early as 1 December 2003, a move that had been approved by the CGCCE on 17 November 2003. On 11 November 2003 five banks had formally undertaken to provide TVO with up to EUR 2,5 billion, this loan being sufficient to complete the financing of the project. The information provided by the French authorities demonstrates that, even before the intervention of the French Government, TVO had sufficient access to financial markets to be able to finance the entire project.
- (63) The Commission would also point out that TVO was classified as investment grade by a leading rating agency when setting up the different financing packages for the Olkiluoto 3 project. In the normal course of events, such a rating guarantees easy access to the market in bank loans and so TVO cannot be regarded as a firm in difficulty.

⁽⁸⁾ However, in some cases, the OECD Arrangement may be a significant element to be taken into account in the analysis of the compatibility of such a measure on the basis of Article 87(3) of the EC Treaty.

(64) Lastly, the Commission notes that the guaranteed loan (EUR 570 million) is small compared with the aggregate amount of capital raised (over EUR 3 billion). Consequently, even after the intervention of Coface, the bulk of the project is still being financed by the market. As regards the amount of the guaranteed loan, the Commission would comment that on 11 November 2003 five banks had agreed to provide up to EUR 2,5 billion, i.e. up to EUR 500 million each. The risk borne by the French State is thus comparable to that which private banks were prepared to bear. Accordingly, participation by the French State in the financing of the project did not diversify the sources of the finance or reduce the risks borne by the other banks any more than if another bank had participated in the financing of the project.

(65) On the basis of the information at its disposal, the Commission has come to the conclusion that TVO had sufficient access to financial markets prior to any public intervention. Contrary to what EREF states, the French Government did not play the role of lead investor and provided its guarantee at a time when the financing for the entire project had already been secured. What is more, if the French Government had acted as lead investor, its intervention was in respect of an amount that was small compared with all the funds needed to finance the project and therefore insufficient to have a knock-on effect on private investors. The Commission also comes to the conclusion here that the possibility — referred to by EREF — of the financing for the project collapsing if the Coface guarantee were withdrawn can reasonably be ruled out.

6.1.3. *Analysis of the existence of a reduction in financial charges for TVO*

(66) Since it has been established that, contrary to EREF's assertion, TVO had sufficient access to the capital market, it should be ascertained whether or not the level of the guarantee premium asked by the French Government led to a reduction in the financial charges that TVO would have had to bear in the absence of public intervention.

(67) In the decision initiating the procedure, the Commission stated that no insurer or financial institution currently offered the precise type of insurance as that offered by Coface in the present case, i.e. insurance against a payment default by TVO in the long term. The fact that the market does not at present offer this type of insurance is confirmed by the French authorities and has not been challenged by the complainants. This is not contradicted by the Commission communication to the Member States pursuant to Article 93(1) of the EC Treaty applying Articles 92 and 93 of the Treaty to short-term

export-credit insurance⁽⁹⁾, according to which, while there is a market for short-term export-credit insurance, this is not always the case for medium- and long-term insurance. Consequently, the price charged by the French authorities cannot be directly compared to a market price.

(68) The fact that there is no market for this type of insurance does not have any automatic consequences for the existence or otherwise of an advantage. Since the measure in question is a loan guarantee, TVO would, in the absence of public intervention, have had to obtain financing in the form of an unguaranteed loan. To establish the existence of an advantage, it should therefore be ascertained whether TVO benefited from a reduction in its financing costs by comparing the total cost of the guaranteed loan (the interest rate charged by the banks plus the amount of the guarantee premium) with the interest rate that would have been charged by private banks for a similar loan in the absence of a public guarantee.

(69) The Commission notes that, in addition to the guaranteed loan, TVO had recourse to bank financing in the form of a credit facility for the project. It should, therefore, be examined whether the rate charged by the banks for the credit facility is a reliable indicator of the rate that would be charged by private banks for a loan similar to the guaranteed loan if no public guarantee had been provided.

(70) EREF disputes the assertion that the interest rate for the credit facility is a sound estimate of the market rate that would have been charged by the banks in the absence of a public guarantee. Firstly, it takes the view that BLB's role regarding the credit facility constitutes aid and favourably influenced the conditions on which it was granted to TVO. The Commission notes that, in its decision in Case NN 62/B/06⁽¹⁰⁾, it ruled out the possibility that BLB's role might constitute aid. It therefore rejects the complainant's first assertion. Secondly, EREF considers that the Coface guarantee reduced the risk attaching to the credit facility and thus encouraged the banks to grant the latter on more favourable conditions than a loan not backed by a public guarantee. On this point, the Commission notes that EREF does not indicate the precise mechanism by which the Coface guarantee would reduce the risk attaching to the credit facility. It has analysed in detail the financing of the Olkiluoto 3 project. Although the Coface guarantee clearly reduces

⁽⁹⁾ OJ C 281, 17.9.1997, p. 4. Communication as last amended by the communication of the Commission to Member States amending the communication pursuant to Article 93(1) of the EC Treaty applying Article 92 and 93 of the Treaty to short-term export-credit insurance (OJ C 325, 22.12.2005, p. 22).

⁽¹⁰⁾ EREF brought before the Court of First Instance an appeal against Commission final decision C(2006) 4963 concerning Case NN 62/B/06. The Court registered the appeal under No T-94/07.

the risk attaching to the loan as regards the banks that provided it and therefore lowers the interest rate charged by them for the guaranteed loan, the Commission has not identified any mechanism or contract whereby the Coface guarantee would lower the risk attaching to the credit facility. It should be pointed out that the Coface guarantee in no way covers the credit facility. Accordingly, the Commission rejects the complainant's assertion that the Coface guarantee reduces the risk attaching to the credit facility.

- (71) The Commission has not identified any other factors that might suggest that the interest rate for the credit facility is not a valid indicator of the interest rate that private banks would charge for a loan similar to the guaranteed loan in the absence of a public guarantee. It notes that the guaranteed loan is not a subordinated loan, i.e. a loan the repayment of which would be conditional on the prior repayment of the credit facility. The guaranteed loan has the same ranking as the credit facility. The Commission also points out that the credit facility does not enjoy any preference or have any collateral that would distinguish it from the guaranteed loan ⁽¹¹⁾.

- (72) In view of the foregoing, the Commission concludes that the interest rate for the credit facility is a valid indicator of the interest rate that private banks would charge for a loan similar to the guaranteed loan in the absence of any guarantee.

- (73) The Commission has already compared the total cost of the guaranteed loan with the cost of the credit facility in paragraphs 59 and 63 of the decision initiating the procedure. The comparison is based on the average period to maturity of the guaranteed loan. The interest rate ⁽¹²⁾ that would be charged for such a period is calculated by linear extrapolation of the rate for the credit facility. This shows that the total cost (the interest rate charged by the banks plus the guarantee premium charged by Coface) of the guaranteed loan is not lower than the interest rate charged by the banks for the credit facility.

- (74) The Commission notes that the French authorities consider the method of comparison described in paragraphs 59 and 63 of the decision initiating the procedure to be valid even though the complaints have not commented on this and have not proposed any alternative method of comparison. Agreeing with the

Commission's analysis in this respect, TVO points out that the loan guaranteed by Coface was more expensive than the credit facility and the other sources of financing available at the time.

- (75) The Commission concludes that the guarantee has not led to any reduction in TVO's financial charges compared with those that it would have had to bear if it had turned to the banking market without the backing of a public guarantee.

- (76) The Commission would emphasise that neither in their comments on the initiation of the procedure nor in their previous comments had the complainants proposed a calculation method that would have made it possible to ascertain whether or not the level of the guarantee premium charged by France led to a reduction in TVO's financing costs.

6.2. Classification as State aid: conclusion

- (77) As the analysis described in Section 6.1 shows, the Commission has been unable to establish the existence of an advantage for TVO.

- (78) In points 69 and 70 of the decision initiating the procedure, the Commission stated that suppliers of nuclear power stations might have competed not only on the price asked for the construction of the power station itself but also on the financing conditions offered to TVO. It noted that, if this were so and suppliers competed on the 'overall price' including the financing, the guarantee might have allowed AREVA NP to propose to its customer TVO financing at a more advantageous rate and thus to propose a more attractive 'overall price' than the other suppliers of nuclear power stations. In such a case, the guarantee would have conferred an advantage on AREVA NP and would have constituted export aid.

- (79) The chronology of events described by the French authorities and summarised in Table 2 rules out the possibility that suppliers might have competed on an 'overall price' including the financing. Firstly, the AREVA NP/Siemens consortium was selected as the preferred bidder by TVO before the guarantee had been formally agreed and well before the precise level of the premium had been fixed. Secondly, the contract for the supply of the power station had been formally signed with the AREVA NP/Siemens consortium before the precise level of the guarantee premium has been formally fixed. These facts demonstrate that TVO chose AREVA NP/Siemens before knowing the precise cost of the guarantee and hence the cost of financing the project.

⁽¹¹⁾ The two loans are not backed by any particular security. Both provide for a negative pledge by TVO.

⁽¹²⁾ Since both the guaranteed loan and the credit facility are variable-rate loans, the comparison is based on the spread over EURIBOR and not on absolute interest rates, which are in any event unknown since they are determined in the future.

- (80) For the rest, even if this latter conclusion were to prove incorrect and if suppliers did indeed compete on an 'overall price', the Commission has already come to the conclusion in paragraph 75 of the present decision that the guaranteed loan was not a less expensive source of financing than the other sources available to TVO. Since the guarantee did not have the effect of reducing TVO's financing costs relative to the cost of other financing not covered by the guarantee that was available, it did not reduce the 'overall price' of the bid submitted by the AREVA NP/Siemens consortium and did not therefore make this bid more attractive.
- (81) In conclusion, the possibility that the measure may have conferred an advantage on AREVA NP should be ruled out.
- (82) Since the existence of an advantage, this being a key factor in classification as aid, could not be established either for TVO or for AREVA NP, the Commission concludes that the Coface guarantee for the EUR 570 million loan granted to TVO does not constitute State aid.

7. CONCLUSION

- (83) The Commission finds that the guarantee provided by France through the intermediary of Coface on 25 March 2004 does not constitute aid,

HAS ADOPTED THIS DECISION:

Article 1

The guarantee provided by France on 25 March 2004 in connection with the construction by AREVA NP of a nuclear power station for Teollisuuden Voima Oy does not constitute aid within the meaning of Article 87(1) of the Treaty.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels, 25 September 2007.

For the Commission

Neelie KROES

Member of the Commission

COMMISSION DECISION

of 17 March 2008

amending Decision 2007/76/EC implementing Regulation (EC) No 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws as regards mutual assistance

*(notified under document number C(2008) 987)***(Text with EEA relevance)**

(2008/282/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation) ⁽¹⁾, and in particular Article 7(3), Article 8(7), Article 9(4) and Article 12(6) thereof,

Whereas:

- (1) On 22 December 2006, the Commission adopted Decision 2007/76/EC implementing Regulation (EC) No 2006/2004 ⁽²⁾. That Decision lays down rules for the implementation of Regulation (EC) No 2006/2004 as regards mutual assistance between competent authorities and the conditions governing that assistance.
- (2) Decision 2007/76/EC should be amended to specify the information the authorities are obliged to supply and the time limit for the notification of the enforcement measures taken as well as their effect after a request for enforcement measures.
- (3) Decision 2007/76/EC should also be amended to specify the information to be supplied for the notification of enforcement measures or a request for mutual assistance following the notification of an alert.
- (4) It is also appropriate to lay down the main principles governing the coordination of market surveillance and enforcement activities to ensure effective enforcement throughout the Community.

- (5) The measures provided for in this Decision are in accordance with the opinion of the Committee set up by Article 19(1) of Regulation (EC) No 2006/2004,

HAS ADOPTED THIS DECISION:

Article 1

In Decision 2007/76/EC the following Article is inserted after Article 7:

*'Article 7a***Coordination of market surveillance and enforcement activities**

The principles governing the coordination of market surveillance and enforcement activities are laid down in Chapter 6 of the Annex.'

Article 2

The Annex to Decision 2007/76/EC is amended in accordance with the Annex to this Decision.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 17 March 2008.

For the Commission

Meglena KUNEVA

Member of the Commission

⁽¹⁾ OJ L 364, 9.12.2004, p. 1. Regulation as last amended by Directive 2007/65/EC (OJ L 332, 18.12.2007, p. 27).

⁽²⁾ OJ L 32, 6.2.2007, p. 192.

ANNEX

The Annex to Decision 2007/76/EC is amended as follows:

1. in point 1.1. (c), the following entries are added:

(viii) name of product or service,

(ix) COICOP code, [Classification of Individual Consumption According to Purpose (United Nations statistical methodology, <http://unstats.un.org/unsd/cr/registry/regcst.asp?Cl=5>)],

(x) Advertising and sales medium involved.;

2. after point 1.3.4., the following point is inserted:

‘1.3.5. When an enforcement measure is taken, the requested authority shall notify, pursuant to Article 8(6) of Regulation (EC) No 2006/2004, the measures taken, and the effect thereof on the intra-Community infringement to the Commission and to all the other competent authorities designated by Member States as being the authorities responsible for the enforcement of the legislation that is subject to the infringement.

It shall provide, with the enforcement measures taken and the effect thereof on the intra-Community infringement, the following information:

(a) the details of the requested and of the applicant competent authorities;

(b) the name of the seller or supplier;

(c) the name of the product or service;

(d) the classification code;

(e) the advertising or sales medium involved;

(f) the legal basis;

(g) the type of intra-Community infringement;

(h) the estimated number of consumers likely to be harmed and the estimated financial detriment.;

3. in point 2.1.5 the first sentence is replaced by the following:

‘2.1.5. The applicant authority shall request the Commission to remove the information from the database as soon as technically possible and, in any case, not later than seven days after the closure of the case, if following a request pursuant to Article 6 of the Regulation (EC) No 2006/2004.;

4. after point 2.1.5 the following point is inserted:

‘2.1.6. The requested authority shall notify the Commission and the other competent authorities concerned of the enforcement measures taken pursuant to Article 8(6) of Regulation (EC) No 2006/2004 as soon as this is technically possible and in any case not later than seven days after the measures were taken.;

5. the title of Chapter 3 shall be replaced by ‘Alerts’;

6. in Chapter 3, the number ‘3.1.’ is added at the beginning of the text;

7. in Chapter 3, the following points shall be inserted at the end of the existing text:

‘3.2. When a competent authority takes enforcement measures related to an alert, it shall, pursuant to Article 7(2) of Regulation (EC) No 2006/2004, notify these measures to the Commission and to all the other competent authorities designated by Member States as being the authorities responsible for the enforcement of the legislation that is subject to the infringement.

It shall provide, with the enforcement measures taken, the following information:

- (a) the details of the competent authority which has taken the measures;
- (b) the name of the seller or supplier;
- (c) the name of the product or service;
- (d) the classification code;
- (e) the advertising or sales medium involved;
- (f) the legal basis;
- (g) the type of intra-Community infringement;
- (h) the estimated number of consumers likely to be harmed and the estimated financial detriment.

- 3.3. When a competent authority receives a request for mutual assistance related to an alert, it shall notify the request, identifying the type of request, to the Commission and to all the other competent authorities designated by Member States as being the authorities responsible for the enforcement of the legislation that is subject to the infringement.

It shall provide with the request received, the following information:

- (a) the details of the competent authority requesting mutual assistance;
- (b) the name of the seller or supplier, if available;
- (c) the name of the product or service;
- (d) the classification code;
- (e) the advertising or sales medium involved;
- (f) the legal basis;
- (g) the type of intra-Community infringement;
- (h) the estimated number of consumers likely to be harmed and the estimated financial detriment.’;

8. after Chapter 5, the following Chapter is added:

‘6. CHAPTER 6 — COORDINATION OF MARKET SURVEILLANCE AND ENFORCEMENT ACTIVITIES

- 6.1. In order to fulfil the obligation pursuant to Article 9(2) of Regulation (EC) No 2006/2004, all the competent authorities concerned may decide that one of them will coordinate the enforcement action. The competent authorities, while taking into account the specific features of each case, shall normally designate as coordinating authority the authority where the trader has its headquarters or main centre of activities, or where the greater number of consumers affected are located.
- 6.2. The Commission shall facilitate the coordination if invited to do so.’
-