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### Legislation

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<sup>(1)</sup> Text with EEA relevance

## I

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

## REGULATIONS

**COMMISSION REGULATION (EC) No 322/2008****of 9 April 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 <sup>(1)</sup>, 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 10 April 2008.

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

Done at Brussels, 9 April 2008.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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<sup>(1)</sup> OJ L 350, 31.12.2007, p. 1.

## ANNEX

**to Commission Regulation of 9 April 2008 establishing the standard import values for determining the entry price of certain fruit and vegetables**

| (EUR/100 kg) |                                   |                       |
|--------------|-----------------------------------|-----------------------|
| CN code      | Third country code <sup>(1)</sup> | Standard import value |
| 0702 00 00   | JO                                | 74,4                  |
|              | MA                                | 52,8                  |
|              | TN                                | 115,9                 |
|              | TR                                | 101,4                 |
|              | ZZ                                | 86,1                  |
| 0707 00 05   | EG                                | 178,8                 |
|              | MA                                | 43,7                  |
|              | TR                                | 174,6                 |
|              | ZZ                                | 132,4                 |
| 0709 90 70   | MA                                | 88,0                  |
|              | TR                                | 122,2                 |
|              | ZZ                                | 105,1                 |
| 0805 10 20   | EG                                | 53,4                  |
|              | IL                                | 56,2                  |
|              | MA                                | 52,8                  |
|              | TN                                | 54,1                  |
|              | TR                                | 64,5                  |
|              | US                                | 51,9                  |
|              | ZZ                                | 55,5                  |
| 0805 50 10   | AR                                | 117,5                 |
|              | TR                                | 137,3                 |
|              | ZA                                | 125,5                 |
|              | ZZ                                | 126,8                 |
| 0808 10 80   | AR                                | 90,6                  |
|              | BR                                | 77,2                  |
|              | CA                                | 97,5                  |
|              | CL                                | 87,1                  |
|              | CN                                | 88,7                  |
|              | MK                                | 52,8                  |
|              | NZ                                | 123,0                 |
|              | US                                | 117,8                 |
|              | UY                                | 45,1                  |
|              | ZA                                | 72,0                  |
|              | ZZ                                | 85,2                  |
| 0808 20 50   | AR                                | 87,7                  |
|              | CL                                | 77,7                  |
|              | CN                                | 53,0                  |
|              | UY                                | 89,6                  |
|              | ZA                                | 98,7                  |
|              | ZZ                                | 81,3                  |

<sup>(1)</sup> 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 323/2008**  
**of 8 April 2008**  
**concerning the classification of certain goods in the Combined Nomenclature**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff<sup>(1)</sup>, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific Community provisions, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column 1 of the table set out in the Annex should be classified under the CN codes indicated in column 2, by virtue of the reasons set out in column 3 of that table.

- (4) It is appropriate to provide that binding tariff information which has been issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature but which is not in accordance with this Regulation can, for a period of three months, continue to be invoked by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code<sup>(2)</sup>.

- (5) The Customs Code Committee has not issued an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

*Article 1*

The goods described in column 1 of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN codes indicated in column 2 of that table.

*Article 2*

Binding tariff information issued by the customs authorities of Member States, which is not in accordance with this Regulation, can continue to be invoked for a period of three months under Article 12(6) of Regulation (EEC) No 2913/92.

*Article 3*

This Regulation shall enter into force on the 20th 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, 8 April 2008.

*For the Commission*

László KOVÁCS

*Member of the Commission*

<sup>(1)</sup> OJ L 256, 7.9.1987, p. 1. Regulation as last amended by Regulation (EC) No 580/2007 (OJ L 138, 30.5.2007, p. 1).

<sup>(2)</sup> OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

## ANNEX

| Description of the goods                                                                                                                                                                                                                                                                                       | Classification<br>(CN code) | Reasons                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1)                                                                                                                                                                                                                                                                                                            | (2)                         | (3)                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p>1. Spectacle-shaped supple plastic article containing a coloured liquid solution with the following composition (% by volume):</p> <p>— water 40</p> <p>— propylene glycol 60</p> <p>This product is designed to relieve headaches when applied to the face having first been cooled in a refrigerator.</p> | 3824 90 97                  | <p>Classification is determined by General Rules 1, 3(b) and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 3824, 3824 90 and 3824 90 97.</p> <p>The solution contained in the plastic envelope is used as a coolant and gives the product its essential character of a preparation of heading 3824.</p> <p>The article does not have a therapeutic or prophylactic effect, within the meaning of Chapter 30.</p> |
| <p>2. Envelope made of plastic sheets containing a mixture of water and oil for inserting in the cups of swimming suits or bras.</p>                                                                                                                                                                           | 3926 20 00                  | <p>Classification is determined by General Rules 1, 3(b) and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 3926 and 3926 20 00.</p> <p>As the article is designed for inserting in the cups of swimming suits or bras for woman, it is, within the meaning of heading 3926, considered to be a clothing accessory of subheading 3926 20 00.</p>                                                                  |
| <p>3. Fabric tissue article in the form of a belt, containing common wheat grains, that after being heated by microwave, is used to relieve lower back pain.</p>                                                                                                                                               | 1001 90 99                  | <p>Classification is determined by General Rules 1, 3(b) and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 1001, 1001 90 and 1001 90 99.</p> <p>The common wheat contained in the belt is used to transfer stored heat and gives the product its essential character of a cereal of heading 1001.</p> <p>The article does not have a therapeutic or prophylactic effect, within the meaning of Chapter 30.</p>   |

**COMMISSION REGULATION (EC) No 324/2008****of 9 April 2008****laying down revised procedures for conducting Commission inspections in the field of maritime security****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security <sup>(1)</sup>, and in particular Article 9(4) thereof,

Having regard to Directive 2005/65/EC of the European Parliament and of the Council of 26 October 2005 on enhancing port security <sup>(2)</sup>, and in particular Article 13(2) and (3) thereof,

Whereas:

(1) In order to monitor the application by Member States of Regulation (EC) No 725/2004 the Commission should conduct inspections starting six months after the entry into force of that Regulation. The organisation of inspections under the supervision of the Commission is necessary to verify the effectiveness of national quality control systems and maritime security measures, procedures and structures.

(2) In accordance with Article 13(3) of Directive 2005/65/EC, the Commission should monitor the implementation by Member States of the said Directive jointly with the inspections provided for in Regulation (EC) No 725/2004.

(3) The European Maritime Safety Agency established by Regulation (EC) No 1406/2002 of the European Parliament and of the Council <sup>(3)</sup> should provide the Commission with technical assistance in the performance of the latter's inspection tasks in respect of ships, relevant companies and Recognised Security Organisations.

(4) The Commission should co-ordinate the schedule and preparation of its inspections with the Member States. The Commission's inspection teams should be able to call upon qualified national inspectors, where available.

(5) Commission inspections should be carried out according to a set procedure, including a standard methodology.

(6) Sensitive information relating to inspections should be treated as classified information.

(7) Commission Regulation (EC) No 884/2005 of 10 June 2005 laying down procedures for conducting Commission inspections in the field of maritime security <sup>(4)</sup> should therefore be repealed.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Committee instituted by Article 11(1) of Regulation (EC) No 725/2004,

HAS ADOPTED THIS REGULATION:

## CHAPTER I

**SUBJECT MATTER AND DEFINITIONS***Article 1***Subject matter**

This Regulation lays down procedures for conducting Commission inspections to monitor the application of Regulation (EC) No 725/2004 at the level of each Member State and of individual port facilities and relevant companies.

This Regulation also lays down procedures for the monitoring by the Commission of the implementation of Directive 2005/65/EC jointly with the inspections at the level of Member States and port facilities in respect of ports as defined in Article 2(11) of this Regulation.

The inspections shall be conducted in a transparent, effective, harmonised and consistent manner.

<sup>(1)</sup> OJ L 129, 29.4.2004, p. 6.

<sup>(2)</sup> OJ L 310, 25.11.2005, p. 28.

<sup>(3)</sup> OJ L 208, 5.8.2002, p. 1. Regulation as last amended by Regulation (EC) No 2038/2006 (OJ L 394, 30.12.2006, p. 1).

<sup>(4)</sup> OJ L 148, 11.6.2005, p. 25.

*Article 2***Definitions**

For the purposes of this Regulation the following definitions shall apply:

1. 'Commission inspection' means an examination by Commission inspectors of Member States' national maritime security quality control systems, measures, procedures and structures, to determine compliance with Regulation (EC) No 725/2004 and implementation of Directive 2005/65/EC;
2. 'Commission inspector' means a person fulfilling the criteria set out in Article 7 employed by the Commission, or employed by the European Maritime Safety Agency or a national inspector, mandated by the Commission to participate in Commission inspections;
3. 'national inspector' means a person employed by a Member State as a maritime security inspector, and qualified according to the requirements of that Member State;
4. 'objective evidence' means quantitative or qualitative information, records or findings pertaining to security or to the existence and implementation of a requirement laid down in Regulation (EC) No 725/2004 or Directive 2005/65/EC, which are based on observation, measurement or test and which can be verified;
5. 'observation' means a finding made during a Commission inspection and substantiated by objective evidence;
6. 'non-conformity' means an observed situation where objective evidence indicates the non-fulfilment of a requirement laid down in Regulation (EC) No 725/2004 or Directive 2005/65/EC that requires corrective action;
7. 'major non-conformity' means an identifiable deviation that poses a serious threat to maritime security that requires immediate corrective action and includes the lack of effective and systematic implementation of a requirement laid down in Regulation (EC) No 725/2004 or Directive 2005/65/EC;
8. 'focal point' means the body designated by each Member State to serve as a contact point for the Commission and other Member States and to facilitate, follow up and inform on the application of the maritime security measures laid

down in Regulation (EC) No 725/2004 and the port security measures laid down in Directive 2005/65/EC;

9. 'relevant company' means an entity that has to appoint a Company Security Officer, Ship Security Officer or Port Facility Security Officer, or is responsible for the implementation of a Ship Security Plan or Port Facility Security Plan, or has been appointed by a Member State as a Recognised Security Organisation;
10. 'test' means a trial of maritime security measures, where intent to commit unlawful action is simulated for the purpose of testing efficiency in the implementation of existing security measures;
11. 'port' means the area within the boundaries defined by Member States under Article 2(3) of Directive 2005/65/EC and notified to the Commission under Article 12 thereof.

## CHAPTER II

**GENERAL REQUIREMENTS***Article 3***Co-operation of Member States**

Without prejudice to Commission responsibilities, Member States shall cooperate with the Commission in the accomplishment of its inspection tasks. The cooperation shall be effective during the preparatory, control and reporting phases.

*Article 4***Exercise of Commission powers**

1. Each Member State shall ensure that Commission inspectors are able to exercise their authority to inspect the maritime security activities of any competent authority under Regulation (EC) No 725/2004 or Directive 2005/65/EC and of any relevant company.
2. Each Member State shall ensure that, upon request, Commission inspectors have access to all relevant security related documentation and in particular:
  - (a) the national programme for the implementation of Regulation (EC) No 725/2004 referred to in Article 9(3) of that Regulation;

(b) data supplied by the focal point and monitoring reports referred to in Article 9(4) of Regulation (EC) No 725/2004;

(c) the outcome of Member States' monitoring of the implementation of port security plans.

3. Wherever Commission inspectors encounter difficulties in the execution of their duties, the Member States concerned shall by any means within their legal powers assist the Commission to accomplish in full its task.

#### Article 5

##### **Participation of national inspectors in Commission inspections**

1. Member States shall endeavour to make available to the Commission national inspectors able to participate in Commission inspections, including the related preparatory and reporting phases.

2. A national inspector shall not participate in Commission inspections in the Member State where he is employed.

3. Each Member State shall provide the Commission with a list of national inspectors on whom the Commission may call to participate in a Commission inspection.

That list shall be updated, at least by the end of June each year.

4. The Commission shall communicate to the Committee instituted by Article 11(1) of Regulation (EC) No 725/2004 (hereinafter the Committee) the lists referred to in the first subparagraph of paragraph 3 of this Article.

5. Where the Commission considers that the participation of a national inspector is necessary in a particular Commission inspection, it shall request information from Member States as to the availability of national inspectors for the conduct of that inspection. Such requests shall normally be made eight weeks in advance of the inspection.

6. The expenses arising from the participation of national inspectors in Commission inspections shall, in compliance with Community rules, be met by the Commission.

#### Article 6

##### **Technical assistance from the European Maritime Safety Agency in Commission inspections**

In providing the Commission with technical assistance pursuant to Article 2(b)(iv) of Regulation (EC) No 1406/2002, the European Maritime Safety Agency shall make technical experts available to participate in Commission inspections, including the related preparatory and reporting phases.

#### Article 7

##### **Qualification criteria and training for Commission inspectors**

1. Commission inspectors shall have appropriate qualifications, including sufficient theoretical and practical experience in maritime security. This shall normally include:

- (a) a good understanding of maritime security and how it is applied to the operations being examined;
- (b) a good working knowledge of security technologies and techniques;
- (c) a knowledge of inspection principles, procedures and techniques;
- (d) a working knowledge of the operations being examined.

2. In order to qualify for Commission inspections, Commission inspectors shall have successfully completed training to carry out such inspections.

In the case of national inspectors the training necessary for them to act as Commission inspectors shall:

- (a) be accredited by the Commission;
- (b) be initial and recurrent;
- (c) ensure a standard of performance adequate for the purposes of controlling whether security measures are implemented in accordance with Regulation (EC) No 725/2004 and Directive 2005/65/EC.

3. The Commission shall ensure that Commission inspectors fulfil the criteria set out in paragraphs 1 and 2.

## CHAPTER III

**PROCEDURES FOR THE CONDUCT OF COMMISSION INSPECTIONS***Article 8***Notice of inspections**

1. The Commission shall give at least six weeks notice of an inspection to the focal point of the Member State in whose territory it is to be conducted. In response to exceptional events, this period of notice may be reduced.

Member States shall take all necessary steps to ensure that notification of an inspection is kept confidential in order to ensure that the inspection process is not compromised.

2. The focal point shall be notified in advance of the intended scope of a Commission inspection.

Where a port facility is to be inspected, the focal point shall be informed in the notice whether:

- (a) the inspection is to include ships at that port facility, or elsewhere in the port, during the inspection; and
- (b) the inspection will include monitoring of the port under Article 13(2) of Directive 2005/65/EC.

For the purposes of point (b) 'monitoring' means verifying whether or not the provisions of Directive 2005/65/EC have been implemented by Member States and by the ports in their territory that have been notified to the Commission under Article 12 of Directive 2005/65/EC. In particular, monitoring means verifying that all provisions of Directive 2005/65/EC have been taken into account in the conduct of the port security assessments and the establishment of the port security plans and that the measures established thereunder are consistent with the provisions adopted under Regulation (EC) No 725/2004 for the port facilities located in the ports concerned.

3. The focal point shall:

- (a) inform the relevant competent authorities in the Member State of the inspection;
- (b) notify the Commission of those relevant competent authorities.

4. The focal point shall advise the Commission at least 24 hours in advance of the inspection, of the name of the flag State and the IMO number of ships expected to be at a port facility or port notified under the second subparagraph of paragraph 2 during the inspection.

5. Where the flag State is a Member State, the Commission shall, where practicable, inform the focal point of that Member State that the ship may be inspected when at the port facility.

6. Where the inspection of a port facility in a Member State is to include a ship of that Member State as flag State, the focal point shall liaise with the Commission to confirm whether or not the ship will be at the port facility during the inspection.

7. Where a ship previously identified to be inspected will not be berthed in the port during the inspection of the port facility, the Commission and the coordinator appointed under Article 9(3) shall agree an alternative ship to be inspected. This ship may be located at another port facility within the port. Paragraphs 5 and 8 of this Article shall still apply in these cases.

8. Commission inspections shall be carried out under the auspices of the Member State of the port facility exercising control and compliance measures under Regulation 9 of the special measures to enhance maritime security of the 1974 International Convention for the Safety of Life at Sea as amended (SOLAS Convention) when either:

- (a) the flag State of the ship is not a Member State; or
- (b) the ship was not included in the information provided pursuant to paragraph 4 of this Article.

9. When notice of an inspection is given to the focal point, a pre-inspection questionnaire may be communicated for completion by the relevant competent authority or authorities, together with a request for the documents referred to in Article 4(2).

The notice shall also specify the date by which the completed questionnaire and documents referred to in Article 4(2) shall be returned to the Commission.

*Article 9***Preparation of inspections**

1. Commission inspectors shall undertake preparatory activities in order to ensure efficiency, accuracy and consistency of inspections.

2. The Commission shall provide the focal point with the names of the Commission inspectors mandated to conduct the inspection, and other details as appropriate. Those names shall include the name of the Team Leader for the inspection, who shall be a Commission inspector employed by the Commission.

3. For each inspection the focal point shall ensure that a coordinator is designated to make the practical arrangements associated with the inspection activity to be undertaken. During the inspection, the team leader shall be the primary contact for the coordinator.

#### Article 10

##### Conduct of inspections

1. A standard methodology shall be used to monitor the application by Member States of the maritime security requirements laid down in Regulation (EC) No 725/2004.

2. Member States shall ensure that Commission inspectors are accompanied at all times during the inspection.

3. Where a ship at a port facility is to be inspected and the flag State of the ship is not the Member State of the port facility, the Member State of the port facility shall ensure that the Commission inspectors are accompanied by an officer of an authority referred to in Article 8(2) of Regulation (EC) No 725/2004 during the inspection of the ship.

4. Commission inspectors shall carry an identity card authorising them to carry out inspections on behalf of the Commission. The Member States shall ensure that Commission inspectors are able to obtain access to all areas required for inspection purposes.

5. A test shall only be performed after notification to and agreement with the focal point on its scope and purpose. The focal point shall undertake any necessary coordination with the competent authorities concerned.

6. Without prejudice to Article 11, the Commission inspectors shall, wherever appropriate and practicable, deliver an informal oral summary of their observations on the spot.

The relevant focal point shall be informed promptly of any major non-conformity with Regulation (EC) No 725/2004 or Directive 2005/65/EC identified by a Commission inspection, prior to completion of an inspection report in accordance with Article 11 of this Regulation.

However, in cases where a Commission inspector carrying out the inspection of a ship finds a major non-conformity requiring action under Article 16, the Team Leader shall inform the focal point of the Member State as port State immediately.

#### Article 11

##### Inspection report

1. Within six weeks of completion of an inspection, an inspection report shall be communicated by the Commission to the Member State. This inspection report may contain as appropriate the outcomes of the monitoring of the port undertaken in respect of Article 8(2)(b).

2. Where a ship has been inspected during the inspection of a port facility, the relevant parts of the inspection report shall also be sent to the Member State that is the flag State, if different from the Member State in which the inspection took place.

3. The Member State shall inform the inspected entities of the relevant observations of the inspection. However, the inspection report itself shall not be sent to the inspected entities.

4. The report shall detail the observations of the inspection, identifying any non-conformity or major non-conformity with Regulation (EC) No 725/2004 or Directive 2005/65/EC.

It may contain recommendations for corrective action.

5. When assessing the implementation of Regulation (EC) No 725/2004 and Directive 2005/65/EC, one of the following classifications shall apply to each of the observations of the report:

- (a) in conformity;
- (b) in conformity, but improvement desirable;
- (c) non-conformity;
- (d) major non-conformity;
- (e) not applicable;
- (f) not confirmed.

#### Article 12

##### Response from the Member State

1. Within three months of the date of dispatch of an inspection report, the Member State shall submit to the Commission in writing a response to the report which:

- (a) addresses the observations and recommendations; and
- (b) provides an action plan, specifying actions and deadlines, to remedy any identified deficiencies.

2. Where the inspection report does not identify any non-conformity or major non-conformity with Regulation (EC) No 725/2004 or Directive 2005/65/EC, no response shall be required.

#### Article 13

##### Action by the Commission

1. The Commission may take any of the following steps in the event of non-conformity or major non-conformity with Regulation (EC) No 725/2004 or Directive 2005/65/EC and following receipt of the response of the Member State:

- (a) submit comments to the Member State or request further explanation to clarify all or part of the response;
- (b) conduct a follow-up inspection or monitoring to check the implementation of corrective actions, the minimum notice for such follow-up being two weeks;
- (c) initiate an infringement procedure in respect of the Member State concerned.

2. Where a follow-up inspection of a ship is to be conducted, the Member State that is the flag State shall, where possible, inform the Commission of the ship's future ports of call, so the Commission can decide where and when to carry out the follow-up inspection.

#### CHAPTER IV

##### GENERAL AND FINAL PROVISIONS

#### Article 14

##### Sensitive information

Without prejudice to Article 13 of Regulation (EC) No 725/2004 and Article 16 of Directive 2005/65/EC, the Commission shall treat sensitive inspection-related materials as classified information.

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

Done at Brussels, 9 April 2008.

#### Article 15

##### Commission inspection programme

1. The Commission shall seek advice from the Committee on the priorities for the implementation of its inspection programme.
2. The Commission shall inform the Committee on a regular basis about the implementation of its inspection programme and about the results of the inspections.

#### Article 16

##### Informing Member States of major non-conformity

If an inspection discloses a major non-conformity with Regulation (EC) No 725/2004 or Directive 2005/65/EC which is deemed to have a significant impact on the overall level of maritime security in the Community, the Commission shall inform the other Member States immediately after communicating the inspection report to the Member State concerned.

Once a major non-conformity notified to the other Member States under this Article has been corrected to the satisfaction of the Commission, the Commission shall immediately inform the other Member States.

#### Article 17

##### Review

The Commission shall regularly review its system of inspections and in particular the effectiveness of that system.

#### Article 18

##### Repeal

Regulation (EC) 884/2005 is repealed.

#### Article 19

##### Entry into force

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

For the Commission  
Jacques BARROT  
Vice-President

## II

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

## DECISIONS

## COMMISSION

## COMMISSION DECISION

of 18 March 2008

**amending Decision 2004/452/EC laying down a list of bodies whose researchers may access confidential data for scientific purposes**

(notified under document number C(2008) 1005)

(Text with EEA relevance)

(2008/291/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

(2) Commission Decision 2004/452/EC <sup>(3)</sup> has laid down a list of bodies whose researchers may access confidential data for scientific purposes.

Having regard to the Treaty establishing the European Community,

(3) The Directorate for Research, Studies and Statistics (*Direction de l'Animation de la Recherche, des Études et des Statistiques* — DARES) in the Ministry of Labour, Labour Relations and Solidarity, Paris, France, the Research Foundation of State University of New York (RFSUNY), Albany, USA and the Finnish Centre for Pensions, (*Eläketurvakeskus* — ETK), Finland have to be regarded as bodies fulfilling the required conditions and should therefore be added to the list of agencies, organisations and institutions referred to in Article 3(1)(e) of Regulation (EC) No 831/2002.

Having regard to Council Regulation (EC) No 322/97 of 17 February 1997 on Community statistics <sup>(1)</sup>, and in particular Article 20(1) thereof,

Whereas:

(4) The measures provided for in this Decision are in accordance with the opinion of the Committee on Statistical Confidentiality,

(1) Commission Regulation (EC) No 831/2002 of 17 May 2002 implementing Council Regulation (EC) No 322/97 on Community Statistics, concerning access to confidential data for scientific purposes <sup>(2)</sup> establishes, for the purpose of enabling statistical conclusions to be drawn for scientific purposes, the conditions under which access to confidential data transmitted to the Community authority may be granted and the rules of cooperation between the Community and national authorities in order to facilitate such access.

HAS ADOPTED THIS DECISION:

*Article 1*

The Annex to Decision 2004/452/EC is replaced by the text set out in the Annex to this Decision.

<sup>(1)</sup> OJ L 52, 22.2.1997, p. 1. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

<sup>(2)</sup> OJ L 133, 18.5.2002, p. 7. Regulation as last amended by Regulation (EC) No 1000/2007 (OJ L 226, 30.8.2007, p. 7).

<sup>(3)</sup> OJ L 156, 30.4.2004, p. 1, as corrected by OJ L 202, 7.6.2004, p. 1. Decision as last amended by Decision 2008/52/EC (OJ L 13, 16.1.2008, p. 29).

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 18 March 2008.

*For the Commission*  
Joaquín ALMUNIA  
*Member of the Commission*

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ANNEX

'ANNEX

**BODIES WHOSE RESEARCHERS MAY ACCESS CONFIDENTIAL DATA FOR SCIENTIFIC PURPOSES**

European Central Bank

Spanish Central Bank

Italian Central Bank

University of Cornell (New York State, United States of America)

Department of Political Science, Baruch College, New York City University (New York State, United States of America)

German Central Bank

Employment Analysis Unit, Directorate General for Employment, social affairs and equal opportunities of the European Commission

University of Tel. Aviv (Israel)

World Bank

Center of Health and Wellbeing (CHW) of the Woodrow Wilson School of Public and International Affairs at Princeton University, New Jersey, United States of America

The University of Chicago (UofC), Illinois, United States of America

Organisation for Economic Cooperation and Development (OECD)

Family and Labour Studies Division of Statistics Canada, Ottawa, Ontario, Canada

Econometrics and Statistical Support to Antifraud (ESAF) Unit, Directorate General Joint Research Centre of the European Commission

Support to the European Research Area (SERA) Unit, Directorate General Joint Research Centre of the European Commission

Canada Research Chair of the School of Social Science in the Atkinson Faculty of Liberal and Professional Studies at York University, Ontario, Canada

University of Illinois at Chicago (UIC), Chicago, USA

Rady School of Management at the University of California, San Diego, USA

Directorate for Research, Studies and Statistics (*Direction de l'Animation de la Recherche, des Études et des Statistiques — DARES*) in the Ministry of Labour, Labour Relations and Solidarity, Paris, France

The Research Foundation of State University of New York (RFSUNY), Albany, USA

Finnish Centre for Pensions (*Eläketurvakeskus — ETK*), Finland'

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## COMMISSION DECISION

of 4 April 2008

**establishing that the Black Sea and the river systems connected to it do not constitute a natural habitat for European eel for the purposes of Council Regulation (EC) No 1100/2007**

*(notified under document number C(2008) 1217)*

**(Only the Bulgarian, Czech, German, Hungarian, Italian, Polish, Romanian, Slovak and Slovene texts are authentic)**

(2008/292/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1100/2007 of 18 September 2007 establishing measures for the recovery of the stock of European eel <sup>(1)</sup>, and in particular Article 1(2) thereof,

After consulting the Scientific, Technical and Economic Committee for Fisheries,

Whereas:

- (1) Regulation (EC) No 1100/2007 establishes a framework for the protection and sustainable use of the stock of European eel in Community waters and in coastal lagoons, in estuaries, and in rivers and communicating inland waters of Member States.
- (2) Member States are to identify and define the individual river basins lying within their national territory that constitute natural habitats for the European eel. For each eel river basin, Member States are to prepare an Eel Management Plan.
- (3) Since European eel are found in the Black Sea and in river systems connected to it in low numbers, it is not certain whether or not those waters constitute a natural habitat for that species.
- (4) Regulation (EC) No 1100/2007 empowers therefore the Commission to decide whether the Black Sea and the river systems connected to it constitute such a natural habitat requiring the implementation of recovery measures.

(5) The Scientific, Technical and Economic Committee for Fisheries has advised the Commission that the Black Sea and the river systems connected to it are at the extreme limit of the distribution of European eel and that, before stocking occurred, the natural presence of eel was sporadic. Prior to stocking the density of European eel in those waters was too low to support fisheries on any life stage of eel.

(6) It is unlikely that any significant number of eel stocked into the rivers connected to the Black Sea could reach maturity and successfully complete the spawning migration to the Sargasso Sea. Additionally, it is unlikely that any significant number of juvenile eel could recruit into the rivers connected to the Black Sea, attain maturity and escape to spawning grounds.

(7) Any potential benefit to the stock of European eel resulting from recovery measures in the Black Sea and the river systems connected to it would be negligible and thus disproportionately low compared to the administrative and financial burden that would be laid upon the Member States concerned.

(8) It should therefore be established that the Black Sea and the river systems connected to it do not constitute a natural habitat for European eel for the purposes of Regulation (EC) No 1100/2007.

(9) The measures provided for in this Decision are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS DECISION:

*Article 1*

The Black Sea and the river systems connected to it do not constitute a natural habitat for European eel for the purposes of Regulation (EC) No 1100/2007.

<sup>(1)</sup> OJ L 248, 22.9.2007, p. 17.

*Article 2*

This Decision is addressed to the Republic of Bulgaria, the Czech Republic, the Federal Republic of Germany, the Italian Republic, the Republic of Hungary, the Republic of Austria, the Republic of Poland, Romania, the Republic of Slovenia and the Slovak Republic.

Done at Brussels, 4 April 2008.

*For the Commission*

Joe BORG

*Member of the Commission*

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## COMMISSION DECISION

of 4 April 2008

amending Decision 2006/784/EC authorising methods for grading pig carcasses in France

(notified under document number C(2008) 1235)

(Only the French text is authentic)

(2008/293/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty establishing the European Community,

## Article 1

Decision 2006/784/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 <sup>(1)</sup>, and in particular Article 5(2) thereof,

1. The following points (f) and (g) are added to the first paragraph of Article 1:

Whereas:

(1) Commission Decision 2006/784/EC <sup>(2)</sup> authorises five methods (*Capteur Gras/Maigre — Sydel (CGM)*, *CSB Ultra-Meater*, *the manual method (ZP)*, *Autofom*, *UltraFom 300*) for grading pig carcasses in France.

‘(f) the *CSB Image-Meater* apparatus and the assessment methods related thereto, details of which are given in Part 6 of the Annex;

(2) France has asked the Commission to authorise two 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 <sup>(3)</sup>.

(g) the *VCS 2000* apparatus and the assessment methods related thereto, details of which are given in Part 7 of the Annex.’

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

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

(4) Decision 2006/784/EC should therefore be amended accordingly.

## Article 2

This Decision is addressed to the French Republic.

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

Done at Brussels, 4 April 2008.

For the Commission  
Mariann FISCHER BOEL  
Member of the Commission

<sup>(1)</sup> 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).

<sup>(2)</sup> OJ L 318, 17.11.2006, p. 27. Decision as amended by Decision 2007/510/EC (OJ L 187, 19.7.2007, p. 47).

<sup>(3)</sup> 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 2006/784/EC the following Parts 6 and 7 are added:

## PART 6

**CSB Image-Meater**

1. Grading of pig carcasses is carried out by means of the apparatus known as "CSB Image-Meater".
2. The CSB Image-Meater consists in particular in a video camera, a PC equipped with an image-analysis card, a screen, a printer, a command mechanism, a rate mechanism and interfaces. The 11 Image-Meater variables are all measured at the split line: the measured values are transformed into an estimation of the lean meat percentage by a central unit.
3. The lean meat content of carcasses shall be calculated according to the following formula:

$$\hat{Y} = 64,40 - 0,129 G - 0,187 MG - 0,068 VaG + 0,003 VbG - 0,368 EG + 0,036 V + 0,032 MV - 0,024 VaV + 0,034 VbV - 0,024 VcV + 0,022 VdV$$

where:

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

G = ZP fat depth: the minimal fat depth (including rind) over the muscle *gluteus medius* (in millimetres),

MG = averaged fat depth over the muscle *gluteus medius* (in millimetres),

VaG = averaged fat depth over the lumbar vertebra "a" (in millimetres),

VbG = averaged fat depth over the lumbar vertebra "b" (in millimetres),

EG = averaged fat depth of the external subcutaneous fat layer over the lumbar vertebrae "a" to "d" (in millimetres),

V = ZP muscle depth: the minimal muscle depth between the anterior extremity of the muscle *gluteus medius* and the dorsal part of the medullar canal (in millimetres),

MV = averaged muscle depth of the muscles lumbar and *gluteus medius* (in millimetres),

VaV = averaged muscle depth over the lumbar vertebra "a" (in millimetres),

VbV = averaged muscle depth over the lumbar vertebra "b" (in millimetres),

VcV = averaged muscle depth over the lumbar vertebra "c" (in millimetres),

VdV = averaged muscle depth over the lumbar vertebra "d" (in millimetres).

The formula shall be valid for carcasses weighing between 45 and 125 kg.

## PART 7

**VCS 2000**

1. Grading of pig carcasses is carried out by means of the apparatus known as "VCS 2000".
2. The VCS 2000 is based on digital video image analysis. The major components are three cameras, lamps, an image-analysis computer, a server PC and positioning units. At the first station one camera takes an image of the external side of the ham. At the second station two cameras take images on the split line. From the images, 40 variables are extracted. These variables are mainly depths, widths, lengths and areas. The measured values are transformed into an estimation of the lean meat percentage by a central unit.

3. The lean meat content of carcasses shall be calculated on the basis of 40 variables according to the following formula:

$$\hat{Y} = 122,458 + 0,05805 * X1 + 0,01449 * X2 - 0,02996 * X3 - 0,001585 * X4 - 39,297 * X5 - 47,553 * X6 + 38,877 * X7 - 0,1013 * X8 + 0,00004308 * X9 - 817,242 * X10 + 10,135 * X11 + 15,277 * X12 - 25,777 * X13 - 90,738 * X14 + 0,0005792 * X15 + 2,743 * X16 - 0,06866 * X17 + 3,511 * X18 - 0,1681 * X19 - 0,007867 * X20 - 0,1082 * X21 - 0,01290 * X22 + 0,02957 * X23 + 0,03856 * X24 - 0,003353 * X25 - 0,03378 * X26 - 0,01661 * X27 + 2,368 * X28 - 0,3133 * X29 - 0,01386 * X30 - 0,02100 * X31 - 0,01908 * X32 - 0,02442 * X33 + 0,06009 * X34 - 0,007792 * X35 - 2,598 * X36 - 7,632 * X37 - 0,004848 * X38 - 0,9099 * X39 - 20,514 * X40$$

where:

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

X1, X2, ... X40 are the variables measured by VCS 2000.

Descriptions of the variables and the statistical method can be found in Part II of the French 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 45 and 125 kg.'

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## COMMISSION DECISION

of 7 April 2008

**on harmonised conditions of spectrum use for the operation of mobile communication services on aircraft (MCA services) in the Community***(notified under document number C(2008) 1256)***(Text with EEA relevance)**

(2008/294/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

cation systems, operating in accordance with other standards and in other frequency bands.

Having regard to the Treaty establishing the European Community,

Having regard to Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (the Radio Spectrum Decision) <sup>(1)</sup>, and in particular Article 4(3) thereof,

Whereas:

(1) The i2010 — European Information Society strategic framework <sup>(2)</sup> — promotes an open and competitive digital economy in the European Union and emphasises ICT as a driver of inclusion and quality of life. Development of additional means of communicating could be beneficial for work productivity and for growth in the mobile telephony market.

(2) Airborne connectivity applications are, by nature, pan-European as they will be used mostly for cross-border flights within the Community and beyond. A coordinated approach to regulate mobile communication services on aircraft (MCA services) will support the objectives of the Single Market.

(3) Harmonisation of the rules on the use of radio spectrum across the Community will facilitate timely deployment and uptake of MCA services within the Community.

(4) Commercial operation of MCA services is currently considered only for GSM systems operating in the 1 710-1 785 MHz band for uplink (terminal transmit and base station receive) and the 1 805-1 880 MHz band for downlink (base station transmit and terminal receive), in accordance with ETSI standards EN 301 502 and EN 301 511. However, in the future it may be extended to other terrestrial public mobile communi-

(5) Pursuant to Article 4(2) of Decision No 676/2002/EC, the Commission has given a mandate <sup>(3)</sup> to the European Conference of Postal and Telecommunications Administrations (hereinafter the CEPT) to undertake all activities required to assess specific issues concerning technical compatibility between the operation of airborne GSM 1800 systems and a number of radio services potentially affected. This Decision is based on the technical studies undertaken by the CEPT under the EC mandate, as presented in CEPT Report 016 <sup>(4)</sup>.

(6) The MCA system considered in the CEPT report consists of a network control unit (NCU) and an aircraft base transceiver station (aircraft BTS). The system is designed to ensure that signals transmitted by ground-based mobile systems are not detectable within the aircraft cabin and that the user terminals on the aircraft only transmit at a minimum level. The technical parameters for the NCU and aircraft BTS were derived from theoretical models.

(7) Spectrum use by terrestrial mobile electronic communication networks is outside the scope of this Decision. They will be addressed, inter alia, by a Commission Decision on the harmonisation of the 900 MHz and 1 800 MHz frequency bands for terrestrial systems capable of providing pan-European electronic communication services.

(8) Authorisation terms and conditions for MCA services are also outside the scope of this Decision. Coordination of national authorisation conditions for MCA services is addressed by Commission Recommendation 2008/295/EC <sup>(5)</sup> pursuant to Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (the Framework Directive) <sup>(6)</sup>.

<sup>(3)</sup> Mandate to the CEPT on mobile communication services on board aircraft, 12.10.2006.

<sup>(4)</sup> Report from CEPT to the European Commission in response to the EC Mandate on mobile communication services on board aircraft (MCA), 30.3.2007.

<sup>(5)</sup> See page 24 of this Official Journal.

<sup>(6)</sup> OJ L 108, 24.4.2002, p. 33. Directive as amended by Regulation (EC) No 717/2007 (OJ L 171, 29.6.2007, p. 32).

<sup>(1)</sup> OJ L 108, 24.4.2002, p. 1.

<sup>(2)</sup> COM(2005) 229 final, 1.6.2005.

- (9) Equipment for MCA services covered by this Decision falls within the scope of Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity<sup>(1)</sup>. Presumption of conformity with the essential requirements of Directive 1999/5/EC for equipment used for MCA services in the European Union may be demonstrated by compliance with ETSI Harmonised Standard EN 302 480 or by using the other conformity assessment procedures set out in Directive 1999/5/EC.
- (10) Issues relating to air safety are of paramount importance and no provision in this Decision should be contrary to maintaining optimum air safety conditions.
- (11) MCA services may be provided only on condition that they fulfil air safety requirements via appropriate airworthiness certification and other relevant aeronautical provisions, together with electronic communication requirements. Airworthiness certificates valid for the whole Community are issued by the European Aviation Safety Agency (EASA) pursuant to Commission Regulation (EC) No 1702/2003 of 24 September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations<sup>(2)</sup>.
- (12) This Decision does not address spectrum issues relating to the communication links between the aircraft, the satellite space station and the ground which are also required to provide MCA services.
- (13) For the purpose of ensuring that the conditions specified in this Decision are still relevant and given the rapid changes in the radio spectrum environment, national administrations ought to monitor, where possible, use of the radio spectrum by equipment for MCA services, in order to keep this Decision under active review. Such review should take into account technological progress and verify that the initial assumptions concerning operation of MCA services are still relevant.
- (14) The measures provided for in this Decision are in accordance with the opinion of the Radio Spectrum Committee,

HAS ADOPTED THIS DECISION:

#### Article 1

The purpose of this Decision is to harmonise the technical conditions for the availability and efficient use of radio spectrum for mobile communication services on aircraft in the Community.

This Decision shall apply without prejudice to any other relevant Community provisions, in particular Regulation (EC) No 1702/2003 and Recommendation 2008/295/EC.

#### Article 2

For the purposes of this Decision:

1. 'mobile communication services on aircraft (MCA services)' means electronic communication services, as defined in Article 2(c) of Directive 2002/21/EC, provided by an undertaking to enable airline passengers to use public communication networks during flight without establishing direct connections with terrestrial mobile networks;
2. 'non-interference and non-protected basis' means that no harmful interference may be caused to any radiocommunication service and that no claim may be made for protection of these devices against harmful interference originating from radiocommunication services;
3. 'aircraft base transceiver station (aircraft BTS)' means one or more mobile communication stations located in the aircraft supporting the frequency bands and systems specified in Table 1 in the Annex;
4. 'network control unit (NCU)' means equipment to be located in the aircraft that ensures that signals transmitted by ground-based mobile electronic communication systems listed in Table 2 in the Annex are not detectable within the cabin by raising the noise floor inside the cabin in mobile communication receive bands.

#### Article 3

As early as possible, and no later than six months following the entry into force of this Decision, the Member States shall make the frequency bands listed in Table 1 in the Annex available for MCA services on a non-interference and non-protected basis, provided such services meet the conditions set out in the Annex.

<sup>(1)</sup> OJ L 91, 7.4.1999, p. 10. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

<sup>(2)</sup> OJ L 243, 27.9.2003, p. 6. Regulation as last amended by Regulation (EC) No 287/2008 (OJ L 87, 29.3.2008, p. 3).

*Article 4*

The Member States shall set the minimum height above ground for any transmission from an MCA system in operation in accordance with section 3 of the Annex.

Member States may impose greater minimum heights of MCA operation where justified by national topographical and ground network deployment conditions. This information, supported by appropriate justification, shall be notified to the Commission within four months of adoption of this Decision and shall be published in the *Official Journal of the European Union*.

*Article 5*

Member States shall keep use of spectrum by MCA services under scrutiny, in particular with regard to actual or potential harmful interference and to the continued relevance of all the

conditions specified in Article 3, and shall report their findings to the Commission to allow a timely review of this Decision if necessary.

*Article 6*

This Decision is addressed to the Member States.

Done at Brussels, 7 April 2008.

*For the Commission*

Viviane REDING

*Member of the Commission*

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## ANNEX

## 1. FREQUENCY BANDS AND SYSTEMS ALLOWED FOR MCA SERVICES

Table 1

| Type     | Frequency                                                | System                                                                                                                                 |
|----------|----------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| GSM 1800 | 1 710-1 785 MHz and 1 805-1 880 MHz (the 1 800 MHz band) | Complying with the GSM Standards published by ETSI, in particular EN 301 502, EN 301 511 and EN 302 480, or equivalent specifications. |

## 2. PREVENTION OF CONNECTION OF MOBILE TERMINALS TO GROUND NETWORKS

During the period when operation of MCA services is authorised on an aircraft, mobile terminals receiving within the frequency bands listed in Table 2 must be prevented from attempting to register with mobile networks on the ground.

Table 2

| Frequency band (MHz) | Systems on the ground |
|----------------------|-----------------------|
| 460-470              | CDMA2000, FLASH OFDM  |
| 921-960              | GSM, WCDMA            |
| 1 805-1 880          | GSM, WCDMA            |
| 2 110-2 170          | WCDMA                 |

## 3. TECHNICAL PARAMETERS

## 3.1. GSM 1800 MCA systems

(a) *Equivalent isotropic radiated power (e.i.r.p.), outside the aircraft, from the NCU/aircraft BTS*

The total e.i.r.p., outside the aircraft, from the NCU/aircraft BTS must not exceed:

Table 3

| Height above ground (m) | Maximum e.i.r.p. density produced by NCU/aircraft BTS outside the aircraft |             |                 |                 |
|-------------------------|----------------------------------------------------------------------------|-------------|-----------------|-----------------|
|                         | 460-470 MHz                                                                | 921-960 MHz | 1 805-1 880 MHz | 2 110-2 170 MHz |
|                         | dBm/1,25 MHz                                                               | dBm/200 kHz | dBm/200 kHz     | dBm/3,84 MHz    |
| 3 000                   | - 17,0                                                                     | - 19,0      | - 13,0          | 1,0             |
| 4 000                   | - 14,5                                                                     | - 16,5      | - 10,5          | 3,5             |
| 5 000                   | - 12,6                                                                     | - 14,5      | - 8,5           | 5,4             |
| 6 000                   | - 11,0                                                                     | - 12,9      | - 6,9           | 7,0             |
| 7 000                   | - 9,6                                                                      | - 11,6      | - 5,6           | 8,3             |
| 8 000                   | - 8,5                                                                      | - 10,5      | - 4,4           | 9,5             |

(b) *Equivalent isotropic radiated power (e.i.r.p.), outside the aircraft, from the onboard terminal*

The e.i.r.p., outside the aircraft, from the GSM mobile terminal transmitting at 0 dBm must not exceed:

Table 4

| Height above ground<br>(m) | Maximum e.i.r.p., outside the aircraft,<br>from the GSM mobile terminal in dBm/channel |
|----------------------------|----------------------------------------------------------------------------------------|
|                            | 1 800 MHz                                                                              |
| 3 000                      | – 3,3                                                                                  |
| 4 000                      | – 1,1                                                                                  |
| 5 000                      | 0,5                                                                                    |
| 6 000                      | 1,8                                                                                    |
| 7 000                      | 2,9                                                                                    |
| 8 000                      | 3,8                                                                                    |

(c) *Operational requirements*

- I. The minimum height above ground for any transmission from a GSM 1800 MCA system in operation must be 3 000 metres.
- II. The aircraft BTS, while in operation, must limit the transmit power of all GSM mobile terminals transmitting in the 1 800 MHz band to a nominal value of 0 dBm at all stages of communication, including initial access.

## RECOMMENDATIONS

## COMMISSION

## COMMISSION RECOMMENDATION

of 7 April 2008

**on authorisation of mobile communication services on aircraft (MCA services) in the European Community***(notified under document number C(2008) 1257)***(Text with EEA relevance)**

(2008/295/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) <sup>(1)</sup>, and in particular Article 19(1) thereof,

Whereas:

(1) The EU's information society policy and the i2010 initiative stress the benefits of ready access to information and communication resources in all areas of daily life. A coordinated approach to regulate mobile communication services on aircraft (MCA services) would help to secure these benefits and facilitate cross-border electronic communications services across the Community.

(2) When authorising MCA services, Member States must comply with the Framework Directive and with Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) <sup>(2)</sup>.

(3) Pursuant to the Framework Directive, national regulatory authorities in the Member States should contribute to the development of the internal market by, *inter alia*, removing remaining obstacles to the provision of electronic communications networks, associated facilities and services and electronic communications services at European level and by encouraging the establishment and development of trans-European networks and the interoperability of pan-European services, and end-to-end connectivity.

(4) Pursuant to the Authorisation Directive, the least onerous authorisation system possible should be used to allow the provision of electronic communications networks and services in order to stimulate the development of new electronic communications services and pan-European communication networks and services and to allow service providers and consumers to benefit from the economies of scale of the single market. Those aims can generally best be achieved by general authorisation of all electronic communications networks and services.

(5) The technical conditions necessary to reduce the risk of harmful interference with terrestrial mobile networks by MCA operation are dealt with separately in Commission Decision 2008/294/EC <sup>(3)</sup>.

(6) The technical basis for Decision 2008/294/EC is Report 016 of the European Conference of Postal and Telecommunications Administrations (CEPT), which was written in response to the EC mandate given to the CEPT on MCA of 12 October 2006.

<sup>(1)</sup> OJ L 108, 24.4.2002, p. 33. Directive as amended by Regulation (EC) No 717/2007 (OJ L 171, 29.6.2007, p. 32).

<sup>(2)</sup> OJ L 108, 24.4.2002, p. 21.

<sup>(3)</sup> See page 19 of this Official Journal.

- (7) ETSI Harmonised Standard EN 302 480 provides for presumption of conformity with the essential requirements of Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity<sup>(1)</sup> for equipment used for MCA services in the European Union.
- (8) Issues relating to air safety are of paramount importance and MCA services may be provided only on condition that they have fulfilled air safety requirements via appropriate airworthiness certification and other relevant aeronautical agreements, together with electronic communications requirements. Airworthiness certificates valid for the whole European Union are issued by the European Aviation Safety Agency (EASA).
- (9) Provided the technical conditions specified in Decision 2008/294/EC and in Harmonised Standard EN 302 480 or equivalent standards and relevant airworthiness certificates fulfil the relevant requirements, the risk of harmful interference will be negligible and therefore general authorisations should be considered for MCA services.
- (10) Responsibility for authorisation of MCA services should lie with the country of registration of the aircraft, in accordance with that country's authorisation system.
- (11) The availability and sharing of sufficient information should help to resolve possible cross-border interference issues caused by MCA services.
- (12) Member States are to provide some of the information required to the ERO Frequency Information System (EFIS) pursuant to Commission Decision 2007/344/EC of 16 May 2007 on harmonised availability of information regarding spectrum use within the Community<sup>(2)</sup>. Other relevant information may be obtained from operators of MCA services or from civil aviation administrations.
- (13) A dedicated register of relevant data for all MCA-bearing aircraft flying within the European Union, and also into and out of the European Union, could help to resolve interference by gathering all the information on a timely basis and in a common format. At first, and subject to periodic review, such a common register would be maintained by the relevant MCA operators and would be made available to the Commission and to the Member States.
- (14) The resolution of interference issues between Member States may also be helped by the provisions of the international ITU Radio Regulations treaty on notification and recording of frequency assignments and on reporting harmful interference.
- (15) The authorisation of MCA-bearing aircraft flying within the airspace of Member States but registered outside the European Union would be assisted by relevant information provided by industry in its dedicated MCA register and by the application of relevant provisions in the ITU Radio Regulations. A common approach on the mutual recognition of MCA authorisations with countries where non-EU aircraft is registered could be helpful.
- (16) Member States have already granted rights of use of frequencies to terrestrial mobile operators. Such authorisations do not cover MCA services and are generally limited to terrestrial mobile services.
- (17) For the purposes of this Recommendation, the aircraft cabin space is considered to be under the jurisdiction and control of the country of registration of the aircraft.
- (18) Use of MCA services may also have implications for public security. Appropriate measures may be taken nationally or pursuant to Regulation (EC) No 2320/2002 of the European Parliament and of the Council of 16 December 2002 establishing common rules in the field of civil aviation security<sup>(3)</sup> in order to ensure that mobile phones in aircraft are not used for illegal purposes.
- (19) The regulatory and technical elements of the common approach to authorisation of MCA services in the European Union should be kept under scrutiny to ensure that they remain satisfactory for the overall purpose of avoiding harmful interference, failing which appropriate remedial measures will be considered.
- (20) The measures provided for in this Recommendation are in accordance with the opinion of the Communications Committee,

<sup>(1)</sup> OJ L 91, 7.4.1999, p. 10. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

<sup>(2)</sup> OJ L 129, 17.5.2007, p. 67.

<sup>(3)</sup> OJ L 355, 30.12.2002, p. 1. Regulation as amended by Regulation (EC) No 849/2004 (OJ L 158, 30.4.2004, p. 1; corrected by OJ L 229, 29.6.2004, p. 3).

## HEREBY RECOMMENDS:

1. This Recommendation aims to coordinate national authorisation conditions and procedures relating to use of the radio spectrum for mobile communication services on aircraft (MCA services) in order to facilitate their introduction in the Community and to avoid harmful interference caused by MCA services on cross-border flights.

Human factor issues relating to use of MCA services and satellite communications between aircraft and space stations are outside the scope of this Recommendation.

National authorisation conditions and rules referred to in this Recommendation will apply without prejudice to legal obligations concerning air safety and public security.

2. 'Mobile communication services on aircraft (MCA services)' mean electronic communications services, as defined in Article 2(c) of the Framework Directive, provided by an undertaking to enable airline passengers to use public communication networks during flight without establishing direct connections with terrestrial mobile networks.
3. Not later than six months after adoption of this Recommendation, Member States should take all steps necessary to be able to authorise provision of MCA services in aircraft registered within their jurisdiction.

Member States should authorise MCA services in accordance with the principles set out in this Recommendation. No provision in this Recommendation should be contrary to maintaining optimum air safety conditions.

Member States should require no additional authorisation for operation of MCA services above their territory in aircraft registered in other Member States in compliance with the conditions agreed pursuant to point 4.

MCA services in aircraft registered outside the Community should also be exempted from authorisation in the Community, provided such services are in compliance with the conditions agreed pursuant to point 4 and registered in accordance with the relevant ITU rules.

4. Member States should not authorise MCA services unless they satisfy the technical conditions set out in Decision 2008/294/EC.

5. Member States should consider making provision of MCA services in aircraft registered within their jurisdiction subject to general authorisations.

Where use of spectrum for operation of MCA services is subject to individual rights, Member States should periodically reassess the need for such individual rights in the light of the experience acquired, with the objective of incorporating the conditions attached to such rights into a general authorisation.

In such cases, Member States should ensure that MCA services and terrestrial mobile electronic communications services in the same frequency bands are authorised on distinct bases.

6. Member States should inform the Commission and other Member States in a timely manner of the MCA services authorised to operate in aircraft registered within their jurisdiction and of the request for operation in their national airspace by MCA services in aircraft registered outside the European Union.

Where necessary, Member States should request operators of MCA services to supply data relevant for the purpose indicated in the previous paragraph.

7. Member States should cooperate actively, constructively and in a spirit of solidarity, using existing ITU procedures where appropriate, to manage any issues concerning harmful interference allegedly caused by operation of MCA services.

Member States should promptly bring issues concerning harmful interference allegedly caused by MCA services authorised in another Member State to the attention of the Member State responsible for authorisation of the MCA service concerned and should inform the Commission. Where appropriate, the Commission should inform the Communications Committee and the Radio Spectrum Committee of the above-mentioned issues in order to seek solutions to any difficulties.

Member States which have authorised MCA services which are suspected of interfering harmfully with services on the territory of another Member State should respond and promptly resolve any such interference.

8. Member States should keep use of spectrum by MCA services under scrutiny, in particular concerning actual or potential harmful interference, and should report their findings to the Commission to allow a timely review of this Recommendation if necessary.
9. This Recommendation is addressed to the Member States.

Done at Brussels, 7 April 2008.

*For the Commission*  
Viviane REDING  
*Member of the Commission*

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## CORRIGENDA

**Corrigendum to Commission Regulation (EC) No 283/2008 of 27 March 2008 replacing Annex I to Council Regulation (EC) No 673/2005 establishing additional customs duties on imports of certain products originating in the United States of America***(Official Journal of the European Union L 86 of 28 March 2008)*

On page 20, the Annex should be replaced by the following:

‘ANNEX

“ANNEX I

The products on which additional duties are to apply are identified by their eight-digit CN codes. The description of products classified under these codes can be found in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff <sup>(1)</sup> as amended by Regulation (EC) No 493/2005 <sup>(2)</sup>.

|            |            |
|------------|------------|
| 4820 10 90 | 6203 43 90 |
| 4820 50 00 | 0710 40 00 |
| 4820 90 00 | 9003 19 30 |
| 4820 30 00 | 8705 10 00 |
| 4820 10 50 | 6301 40 10 |
| 6204 63 11 | 6301 30 10 |
| 6204 69 18 | 6301 30 90 |
| 6204 63 90 | 6301 40 90 |
| 6104 63 00 | 4818 50 00 |
| 6203 43 11 | 9009 11 00 |
| 6103 43 00 | 9009 12 00 |
| 6204 63 18 | 8467 21 99 |
| 6203 43 19 | 4803 00 31 |
| 6204 69 90 | 4818 30 00 |

<sup>(1)</sup> OJ L 256, 7.9.1987, p. 1.

<sup>(2)</sup> OJ L 82, 31.3.2005, p. 1.”

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