

COMMISSION DECISION

of 16 May 2007

granting a derogation requested by France pursuant to Decision 2006/804/EC on harmonisation of the radio spectrum for radio frequency identification (RFID) devices operating in the ultra high frequency (UHF) band*(notified under document number C(2007) 2084)***(Only the French text is authentic)**

(2007/346/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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 (Radio Spectrum Decision) ⁽¹⁾, and in particular Article 4(5) thereof,

Having regard to Commission Decision 2006/804/EC of 23 November 2006 on harmonisation of the radio spectrum for radio frequency identification (RFID) devices operating in the ultra high frequency (UHF) band ⁽²⁾, and in particular Article 3(2) thereof,

Whereas:

(1) Considering that Decision 2006/804/EC would affect the 865,6-867,6 MHz frequency band, France has introduced a request for a transitional derogation to this Decision on the ground that this band is currently used exclusively and directly for equipment dedicated to public security and defence purposes which does not tolerate high levels of emissions within a certain geographical range.

(2) France has therefore requested the possibility to limit the emission levels in that band in certain zones below the levels defined by Decision 2006/804/EC.

(3) France has provided sufficient technical justification to its request, based in particular on compatibility studies from the *Agence Nationale des Fréquences* and of CEPT and taking into account factors of harmful interference between RFID and military equipment such as emission power, density and duty cycles.

(4) While the request seeks a minimum of protection for military equipment, it does not impose unnecessary restraints in terms of frequency band or geographical coverage. Only a very limited part of the territory of France would be concerned; it does not unduly prevent activities around urban areas and the areas involved would be rural and would not overlap with major towns. RFID would still be permitted in the designated areas, albeit with a reduced power level. Overall, the derogation would in effect not significantly impact on the deployment of RFID technology in France.

(5) The limitation should remain exceptional and be allowed for a limited period of time. France would report on the evolution of technology and usage by its military forces and on the implementation of the limitation after three years. The report would include any fact or measurement during the three year period.

(6) France has indicated that it would adopt new military equipment which would be compatible with the emission levels of Commission Decision 2006/804/EC as soon as new technology would be available; considering the time necessary for technology development, France has indicated that it may wish to apply for three year-renewals of this derogation, until 2020 at the latest. However, it remains that such derogation is exceptional and any extension thereof should be properly justified and necessary.

(7) The members of the Radio Spectrum Committee have indicated at the meeting of the Committee on 4 and 5 December 2006 that they do not object to this transitional derogation.

(8) The requested limitation would not unduly defer implementation of Decision 2006/804/EC or create undue differences in the competitive or regulatory situations between Member States. The request is justified and a transitional derogation would be appropriate to facilitate the full implementation of Decision 2006/804/EC,

⁽¹⁾ OJ L 108, 24.4.2002, p. 1.

⁽²⁾ OJ L 329, 25.11.2006, p. 64.

HAS ADOPTED THIS DECISION:

Article 1

The request by France by letter of 23 February 2007 (SG/CDC/2007/A/1821) to further limit the emission powers for the use of the 865,6-867,6 MHz frequency band for radio frequency identification devices (RFID) operating on the territory of France, as a derogation to Decision 2006/804/EC, is hereby approved, subject to the conditions laid down in this Decision.

Article 2

In the 865,6-867,6 MHz frequency band, the maximum power/field strength shall not be higher than 500 mW effective radiated power (e.r.p.) in the zones as defined in the Annex.

Article 3

France shall submit by 30 June 2010 a report on the implementation of this Decision.

Article 4

This Decision shall expire on 31 December 2010.

Article 5

This Decision is addressed to the French Republic.

Done at Brussels, 16 May 2007.

For the Commission

Viviane REDING

Member of the Commission

ANNEX

	Geographical coordinates	Department	Radius of zone with maximum power/field strength of 500 mW e.r.p.
Avon-les-Roches (camp Le Ruchard)	47° 12' 04" N — 000° 28' 48" E	37 — Indre-et-Loire	20 km
Beignon (camp de Coëtquidan)	47° 56' 56" N — 002° 09' 26" W	56 — Morbihan	15 km
Bitche	49° 03' 09" N — 007° 28' 43" E	57 — Moselle	20 km (only on French territory)
Caylus	44° 16' 42" N — 001° 44' 57" E	82 — Tarn-et-Garonne	20 km
La Cavalerie (camp du Larzac)	44° 00' 40" N — 003° 10' 16" E	12 — Aveyron	10 km
La Courtine	45° 42' 40" N — 002° 15' 18" E	23 — Creuse	20 km
Mailly-le-Camp	48° 39' 55" N — 004° 13' 04" E	10 — Aube	20 km
Montferrat (camp de Canjuers)	43° 38' 47" N — 006° 28' 05" E	83 — Var	10 km
Mourmelon	49° 07' 30" N — 004° 21' 59" E	51 — Marne	15 km
Sissonne	49° 34' 08" N — 003° 54' 57" E	02 — Aisne	20 km
Suippes	49° 07' 37" N — 004° 33' 05" E	51 — Marne	20 km
Valdahon Lyautey	47° 09' 24" N — 006° 19' 25" E	25 — Doubs	20 km