ISSN 1725-2555

Official Journal of the European Union

L 220

English edition

Legislation

Volume 51

15 August 2008

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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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II *Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory*

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[1] Text with EEA relevance

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Corrigenda

EN

I

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

REGULATIONS

COUNCIL REGULATION (EC) No 812/2008

of 11 August 2008

amending Regulation (EC) No 954/2006 imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes of iron or steel originating, inter alia, in Russia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1] (the basic Regulation), and in particular Articles 9 and 11(3) thereof,

Having regard to Council Regulation (EC) No 954/2006 of 27 June 2006 imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes, of iron or steel (SPT) originating, inter alia, in Russia [2],

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Existing measures

(1) Following an investigation (the original investigation), the Council, by Regulation (EC) No 954/2006, imposed a definitive anti-dumping duty on imports of certain seamless pipes and tubes of iron or steel (SPT) originating, inter alia, in Russia.

2. Special monitoring

(2) After the entry into force of Regulation (EC) No 954/2006 and having informed the Advisory Committee, the Commission monitored with special attention the evolution of SPT imports from all countries concerned by the measures. This monitoring showed that the exports of the Russian exporting producer group OAO TMK (OAO Volzhsky Pipe Plant, OAO Taganrog Metallurgical Works, OAO Sinarsky Pipe Plant, OAO Seversky Tube Works and their related companies) (hereinafter TMK, the company or the group) to the Community during the first six months after the imposition of measures had dropped dramatically. It also indicated that the level of duty as regards TMK should be reexamined. Indeed, the cost and price information provided by TMK in the monitoring questionnaire indicated that the group's dumping margin would be lower than the current 35,8 %.

3. Initiation of an interim review

(3) On the initiative of the Commission, a partial interim review of the Regulation above was initiated for TMK, on the basis of evidence that the Commission received from that exporter. The company claimed that the circumstances which had led to the establishment of the measure in force, had changed and that these changes were of a lasting nature. It is recalled that TMK did not cooperate fully in the original investigation and therefore its dumping margin was calculated on the basis of facts available, i.e. the normal value of another producer group in Russia which cooperated with the investigation and Eurostat data. According to TMK, it failed to cooperate during the original investigation mainly because of the significant internal changes which had already begun to take place within the group during the original investigation period. Due to these exceptional circumstances, which had an impact on the corporate governance of the group, as well as its accounting and auditing practices, TMK could not provide adequate evidence of its prices and costs during the original investigation. According to the company, the changes in its organisation since the original investigation have resulted in a simpler corporate structure, improved corporate governance and a switch to IFRS accounting, which would allow it to cooperate. It also provided prima facie evidence to show that a comparison of normal value based on its

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).
[2] OJ L 175, 29.6.2006, p. 4.

own domestic prices or costs and export prices to the Community would lead to a reduction of dumping well below the level of the current measure. Therefore it claimed that the continued imposition of the measure at the existing level, which was based on the level of dumping previously established, was no longer necessary to offset dumping.

(4) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of a partial interim review, the Commission decided on its own initiative to initiate a partial interim review in accordance with Article 11(3) of the basic Regulation, limited in scope to the level of dumping as far as the exporting producers/members of the TMK group are concerned. The Commission published a notice of initiation on 22 June 2007 in the *Official Journal of the European Union* [1] and commenced an investigation.

(5) The Commission officially advised TMK and its related companies, as well as the representatives of the exporting country, of the initiation of the interim review. Interested parties were given the opportunity to make their views known in writing and to request a hearing.

(6) The Commission also sent questionnaires to TMK and its related companies and received replies within the deadlines set for that purpose. The Commission sought and verified all the information it deemed necessary for the determination of dumping and carried out verification visits at the premises of the following companies:

— OAO Volzhsky Pipe Plant, Russia,

— OAO Taganrog Metallurgical Works, Russia,

— OAO Sinarsky Pipe Plant, Russia,

— OAO Seversky Tube Works, Russia,

— ZAO TMK Trade House, Russia,

— TMK Europe GmbH, Germany,

— TMK Global AG, Switzerland,

— TMK Italia s.r.l., Italy.

4. **Review investigation period**

(7) The investigation of dumping covered the period from 1 April 2006 to 31 March 2007 (the review investigation period or RIP).

[1] OJ C 138, 22.6.2007, p. 37.

B. **REVIEW INVESTIGATION**

1. **Product concerned**

(8) The product concerned by the current review is the same as that in the original investigation, i.e. certain seamless pipes and tubes of iron or steel, of circular cross-section, of an external diameter not exceeding 406,4 mm with a Carbon Equivalent Value (CEV) not exceeding 0,86 according to the International Institute of Welding (IIW) formula and chemical analysis [2] originating in Russia (the product concerned), currently classifiable within CN codes ex 7304 11 00, ex 7304 19 10, ex 7304 19 30, ex 7304 22 00, ex 7304 23 00, ex 7304 24 00, ex 7304 29 10, ex 7304 29 30, ex 7304 31 80, ex 7304 39 58, ex 7304 39 92, ex 7304 39 93, ex 7304 51 89, ex 7304 59 92 and ex 7304 59 93 [3].

2. **Like product**

(9) The product produced and sold on the Russian domestic market and that exported to the Community have the same basic physical, technical and chemical characteristics and uses and are therefore considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. **RESULTS OF THE INVESTIGATION**

1. **Normal value**

(10) Sales on the domestic market are made via the related company, ZAO TMK Trade House, which then resells the product concerned to independent customers in Russia.

(11) In accordance with Article 2(2) of the basic Regulation, it was first examined, with regard to the four cooperating exporting producers of the group, whether their domestic sales of the like product to independent customers were representative, i.e. whether the total volume of such sales was equal to or greater than 5 % of the total volume of the corresponding export sales to the Community. The total volume of domestic sales of the like product was found to be representative. The Commission's services subsequently identified those types of the like product sold on the domestic market that were identical to or directly comparable with the types exported to the Community.

[2] The CEV shall be determined in accordance with Technical Report, 1967, IIW doc. IX-535-67, published by the International Institute of Welding (IIW).

[3] As presently defined in Commission Regulation (EC) No 1214/2007 of 20 September 2007 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 286, 31.10.2007, p. 1). The product coverage is determined in combining the product description in Article 1(1) of Regulation (EC) No 954/2006 and the product description of the corresponding CN codes taken together.

(12) For each type sold by the exporting producers on their domestic market and found to be directly comparable with the type of the product concerned exported to the Community, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular type were considered sufficiently representative when the total domestic sales volume of that type during the IP represented 5 % or more of the total sales volume of the comparable type of the product concerned exported to the Community.

(13) Subsequently, it was examined whether each type of the product concerned sold domestically in representative quantities could be considered as being sold in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation, by establishing the proportion of profitable sales to independent customers on the domestic market of the product type in question.

(14) In cases where the sales volume of the relevant product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of that type and where the weighted average price of that type was equal to or above the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales made during the IP, irrespective of whether these sales were profitable or not. In cases where the volume of profitable sales of a product type represented 80 % or less of the total sales volume of that type or where the weighted average price of that type was below the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales of that type only, provided that these sales represented 10 % or more of the total sales volume of that type. In cases where the volume of profitable sales of any product type represented less than 10 % of the total sales volume, it was considered that this particular type was sold in insufficient quantities for the domestic price to provide an appropriate basis for the establishment of the normal value.

(15) Wherever domestic prices of a particular product type sold by an exporting producer could not be used in order to establish the normal value, another method had to be applied. In this regard, the Commission used constructed normal value. In accordance with Article 2(3) of the basic Regulation, normal value was constructed by adding to the exporting producer's manufacturing costs of the exported types, adjusted where necessary, a reasonable percentage for selling, general and administrative expenses (SG&A) and a reasonable margin of profit. Pursuant to Article 2(6) of the basic Regulation, the percentage for SG&A and profit margin were based on the average SG&A and profit margin of sales in the ordinary course of trade of the like product.

(16) With regard to manufacturing costs, and in particular energy costs, as far as gas is concerned, it was examined whether the gas prices paid by the exporting producers reasonably reflected the costs associated with the production and distribution of gas.

(17) It was found that the domestic gas price paid by the exporting producers was around one fourth of the export price of natural gas from Russia. In this regard, all available data indicates that domestic gas prices in Russia are regulated prices, which are far below market prices paid in unregulated markets for natural gas. Therefore, since gas costs were not reasonably reflected in the exporting producers' records as provided for in Article 2(5) of the basic Regulation, they had to be adjusted accordingly. In the absence of any sufficiently representative, undistorted gas prices relating to the Russian domestic market, it was considered appropriate to base the adjustment, in accordance with Article 2(5), on the basis of information from other representative markets. The adjusted price was based on the average price of Russian gas when sold for export at the German/Czech border (Waidhaus), adjusted for local distribution costs. Waidhaus, being the main hub for Russian gas sales to the EU, which is both the largest market for Russian gas and has prices reasonably reflecting costs, can be considered a representative market within the meaning of Article 2(5) of the basic Regulation.

(18) For those product types where the normal value was constructed, as described above, the construction was done on the basis of the manufacturing costs of the exported types after the adjustment for the gas cost.

2. **Export price**

(19) All export sales of TMK are made via related companies located either in the Community or in Switzerland. Thus the export price was established on the basis of Article 2(9) of the basic Regulation, i.e. using the resale prices actually paid or payable to the related company by the first independent buyer in the Community in the RIP, adjusted for all costs incurred between importation and resale and for profits.

(20) As for the export prices charged to customers in the Community by the related company in Switzerland, TMK Global AG, TMK claimed that it would be unwarranted to deduct from the export price the profit, SG&A and commissions or agency fees since TMK Global acts as a fully integrated export sales department outside the Community. According to TMK such deductions would only be warranted for companies located in the Community and forming a part of the group's importing network, as provided for in Article 2(9) of the basic Regulation.

(21) The above claim was accepted, as it was found that TMK Global's role after the organisational changes within the group had evolved into that of an export department responsible for exports outside the Community and also the export sales to the Community, albeit that these had dropped to low volumes prior and during the RIP. Indeed, TMK Global acts as a 'sales hub', which simplifies the purchasing and documentation processes for the front offices located directly in the key markets, i.e. TMK North America and TMK Middle East. It also performs other functions of an export department with regard to export sales to its key markets, as well as to the Community, such as management accounting and enforcement of goods tracking standards. In the past, these functions were performed by the local export departments of each mill, but they are now carried out by TMK Global for the sake of centralisation and to ensure consistency.

3. **Comparison**

(22) The comparison between the weighted normal value and the weighted export price was made on an ex-works basis and at the same level of trade. In order to ensure a fair comparison, account was taken, in accordance with Article 2(10) of the basic Regulation, of differences in factors which were demonstrated to affect prices and price comparability. On this basis, allowances for differences in physical characteristics, transport costs, insurance, handling charges, credit costs and import duties were made where applicable and justified.

4. **Dumping margin**

(23) As provided for under Article 2(11) of the basic Regulation, the weighted average normal value by type was compared with the weighted average export price of the corresponding type of the product concerned. This comparison showed the existence of dumping.

(24) TMK's dumping margin expressed as a percentage of the net, free-at-Community-frontier price, duty unpaid, was found to be 27,2 %.

D. **LASTING NATURE OF CHANGED CIRCUMSTANCES**

(25) In accordance with Article 11(3) of the basic Regulation, it was also examined whether the changed circumstances could reasonably be said to be of a lasting nature.

(26) In this respect it is recalled that TMK did not cooperate properly during the original investigation. Therefore its dumping margin, which forms the basis of the currently applicable duty of 35,8 %, was determined on the basis of facts available, in accordance with Article 18 of the basic Regulation. As for the facts available, the Commission used the normal value established for another, cooperating, Russian producer group and Eurostat data.

(27) The insufficient cooperation which led to the use of facts available was caused mainly by significant internal changes which had already begun to take place within the group during the original investigation period. Due to these exceptional circumstances, which had an impact on the corporate governance of the group as well as on its accounting and auditing practices, TMK could not provide adequate evidence of its prices and costs during the original investigation.

(28) In the current investigation TMK cooperated fully. Indeed, in contrast to the original investigation, when the group was still in a state of flux, the data provided in the questionnaire responses in the current investigation could be verified in a satisfactory manner. Hence, since the group provided reliable data with regard to the normal value and the export price, the dumping margin could be calculated based on its own data.

(29) Evidence obtained during the investigation has shown that the changes in TMK's corporate structure and accounting practices, which allowed the group to cooperate in the current investigation, are to be considered lasting as they refer to the long-term structure of the group.

(30) It is therefore considered that the circumstances that led to the initiation of this review are unlikely to change in the foreseeable future in a manner that would affect the findings of the current review. Therefore the changes are considered to be of a lasting nature.

E. **ANTI-DUMPING MEASURES**

(31) In the light of the results of the investigation, it is considered appropriate to amend the anti-dumping duty applicable to imports of the product concerned from TMK to 27,2 %. The amended anti-dumping duty should be set at the level of the dumping margin found, as it is lower than the injury margin established in the original investigation.

(32) Interested parties were informed of the essential facts and considerations on the basis of which it was intended to recommend an amendment of Regulation (EC) No 954/2006 and were given an opportunity to comment.

F. **UNDERTAKING**

(33) Following the disclosure of the essential facts and considerations on the basis of which it was intended to recommend amending the definitive anti-dumping duty applicable to imports of the product concerned from TMK, the group offered a price undertaking in accordance with Article 8(1) of the basic Regulation. The undertaking offered by TMK did not alter the Commission's initial conclusion that the product concerned is not suitable for an undertaking as set out in recitals 248 to 250 of Regulation (EC) No 954/2006. Indeed, the Commission considers that TMK's current undertaking offer does not address the technical difficulties relating to the product concerned as stated in recital 248 of the above mentioned Regulation to an extent that would make the offered price undertaking practicable,

HAS ADOPTED THIS REGULATION:

Article 1

The following is added to the table in Article 1(2) of Regulation (EC) No 954/2006:

Country	Company	Anti-dumping duty	TARIC additional code
'Russia	OAO Volzhsky Pipe Plant, OAO Taganrog Metallurgical Works, OAO Sinarsky Pipe Plant and OAO Seversky Tube Works	27,2 %	A859'

Article 2

This Regulation shall enter into force on the 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, 11 August 2008.

For the Council
The President
B. KOUCHNER

COUNCIL REGULATION (EC) No 813/2008

of 11 August 2008

amending Regulation (EC) No 74/2004 imposing a definitive countervailing duty on imports of cotton-type bedlinen originating in India

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community [1],

Having regard to Article 2 of Council Regulation (EC) No 74/2004 of 13 January 2004 imposing a definitive countervailing duty on imports of cotton-type bed linen originating in India [2],

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PREVIOUS PROCEDURE

(1) By Regulation (EC) No 74/2004 (the original Regulation), the Council imposed a definitive countervailing duty on imports into the Community of cotton-type bedlinen falling within CN codes ex 6302 21 00 (TARIC codes 6302 21 00 81, 6302 21 00 89), ex 6302 22 90 (TARIC code 6302 22 90 19), ex 6302 31 00 (TARIC code 6302 31 00 90) and ex 6302 32 90 (TARIC code 6302 32 90 19), originating in India. Given the large number of cooperating exporting producers of the product concerned in India, a sample of Indian exporting producers was selected in accordance with Article 27 of Regulation (EC) No 2026/97 (the basic Regulation) and individual duty rates ranging from 4,4 % to 10,4 % were imposed on the companies included in the sample, while other cooperating companies not included in the sample were attributed a duty rate of 7,6 %. A residual duty rate of 10,4 % was imposed on all other companies.

(2) Article 2 of the original Regulation stipulates that where any new exporting producer in India provides sufficient evidence to the Commission that it did not export to the Community the products described in Article 1(1) of that Regulation during the investigation period (1 October 2001 to 30 September 2002) (the first criterion), that it is not related to any of the exporters or producers in India which are subject to the anti-subsidy measures imposed by that Regulation (the second criterion) and that it has actually exported to the Community the products concerned after the investigation period on which the measures are based, or that it has entered into an irrevocable contractual obligation to export a significant quantity of the product concerned to the Community (the third criterion), then Article 1(3) of that Regulation may be amended by granting the new exporting producers the duty rate applicable to the cooperating companies not included in the sample, i.e. 7,6 %.

(3) The original Regulation has been amended three times, by Council Regulation (EC) No 2143/2004 [3], Council Regulation (EC) No 122/2006 [4] and Council Regulation (EC) No 1840/2006. All three Regulations have added to the Annex the names of companies exporting the product concerned, which met the criteria set out in the original Regulation.

B. NEW EXPORTER/PRODUCER REQUESTS

(4) Twenty Indian companies applied to be granted the same status as the companies cooperating in the original investigation not included in the sample (newcomer status) since the publication of the previous amending Regulation.

(5) The 20 applicants were:

Applicant company	City
K.K.P. Textiles Limited	Tamil Nadu
Kashmiri Lal Tarun Khanna PVT Ltd	Amritsar
Premier Polyweaves Private Limited	Coimbatore
Home Fashions International	Kerala
Y.J. Enterprises	Mumbai
KaLaM Designs	Ahmedabad
Himatsingka Linens	Bangalore
S.K.T. Textile Mills	Coimbatore

[1] OJ L 288, 21.10.1997, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).
[2] OJ L 12, 17.1.2004, p. 1. Regulation as last amended by Regulation (EC) No 1840/2006 (OJ L 355, 15.12.2006, p. 4).
[3] OJ L 370, 17.12.2004, p. 1.
[4] OJ L 22, 26.1.2006, p. 3.

Applicant company	City
Shetty Garments Private Ltd	Mumbai
TAVOY Workwear	Mumbai
Orient Craft Limited	Haryana
GHCL Limited	Gujarat
Indo Count Industries Limited	Mumbai
Vijayeswari Textiles Limited	Coimbatore
Nest Exim	Mumbai
Prakash Textiles	Coimbatore
Prakash Woven Private Limited	Coimbatore
Sotexpa Qualidis Textiles India Private Ltd	Coimbatore
BKS Textiles Pvt. Ltd	Coimbatore
JDA Textiles	Chennai

(6) Eleven companies did not reply to the questionnaire intended to verify whether they met the conditions set out in Article 2 of the original Regulation and their requests therefore had to be rejected.

(7) The remaining nine companies submitted complete replies to the questionnaire and were therefore considered for newcomer status.

(8) The evidence provided by two of the abovementioned Indian exporting/producers is considered sufficient to show that they fulfil the criteria set out in the original Regulation and therefore to grant them the rate of duty applicable to the cooperating companies not included in the sample (i.e. 7,6 %) and consequently to add them to the list of exporting producers in the Annex to the original Regulation as amended by Regulation (EC) No 2143/2004, Regulation (EC) No 122/2006 and Regulation (EC) No 1840/2006.

(9) The remaining seven companies had their applications for new exporting producer status rejected for the following reasons.

(10) Two companies failed to provide evidence that they had exported the product concerned to the Community after the investigation period or that they had irrevocable contractual obligations to export the product concerned in significant quantities to the Community. Thus they did not fulfil the third criterion.

(11) One company failed to provide the sales ledger for the period considered and was thus unable to show that it had not exported the product concerned during the investigation period. Another company was found to have exported the product concerned during the investigation period. These companies therefore did not fulfil the first criterion.

(12) One company sent the reply to the questionnaire after the deadline and crucial documents were missing from the application. One other company did not reply to a deficiency letter requesting more information. These two companies had thus not provided sufficient evidence to show that they fulfilled the criteria set out in the original Regulation.

(13) Finally, one company was found to be related to one that was named in the original Regulation and its application for newcomer status was therefore rejected as it failed the second criterion.

(14) Companies for which newcomer status was not granted were informed of the reasons for this decision and given an opportunity to make their views known in writing.

(15) All arguments and submissions made by interested parties were analysed and duly taken into account where warranted,

HAS ADOPTED THIS REGULATION:

Article 1

The following companies shall be added to the list of producers from India listed in the Annex to Regulation (EC) No 74/2004:

Company	City
Home Fashions International	Kerala
GHCL Ltd	Gujarat

Article 2

This Regulation shall enter into force on the 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, 11 August 2008.

For the Council
The President
B. KOUCHNER

COMMISSION REGULATION (EC) No 814/2008

of 14 August 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 Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ([1]),

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector ([2]), and in particular Article 138(1) thereof,

Whereas:

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 Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 15 August 2008.

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

Done at Brussels, 14 August 2008.

For the Commission

Jean-Luc DEMARTY

Director-General for Agriculture and Rural Development

([1]) OJ L 299, 16.11.2007, p. 1. Regulation as last amended by Commission Regulation (EC) No 510/2008 (OJ L 149, 7.6.2008, p. 61).

([2]) OJ L 350, 31.12.2007, p. 1. Regulation as last amended by Regulation (EC) No 590/2008 (OJ L 163, 24.6.2008, p. 24).

ANNEX

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	MK	28,3
	XS	27,8
	ZZ	28,1
0707 00 05	MK	27,4
	TR	72,3
	ZZ	49,9
0709 90 70	TR	92,6
	ZZ	92,6
0805 50 10	AR	69,5
	UY	59,6
	ZA	86,6
	ZZ	71,9
0806 10 10	CL	82,1
	EG	128,8
	MK	68,7
	TR	122,9
	ZZ	100,6
0808 10 80	AR	66,9
	BR	93,0
	CL	96,5
	CN	88,3
	NZ	100,2
	US	94,8
	ZA	81,5
	ZZ	88,7
0808 20 50	AR	126,0
	CL	83,0
	TR	148,5
	ZA	87,1
	ZZ	111,2
0809 30	TR	151,2
	ZZ	151,2
0809 40 05	IL	138,3
	MK	59,0
	TR	90,9
	ZZ	96,1

(1) Nomenclature of countries laid down 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 815/2008

of 14 August 2008

on a derogation from Regulation (EEC) No 2454/93 in respect of the definition of the concept of originating products used for the purposes of the scheme of generalised preferences to take account of the special situation of Cape Verde regarding exports of certain fisheries products to the Community

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code [1], and in particular Article 247 thereof,

Having regard to Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code [2], and in particular Article 76 thereof,

Whereas:

(1) By Council Regulation (EC) No 980/2005 of 27 June 2005 applying a scheme of generalised tariff preferences [3], the Community granted generalised tariff preferences to Cape Verde.

(2) Regulation (EEC) No 2454/93 establishes the definition of the concept of originating products to be used for the purposes of the scheme of generalised tariff preferences (GSP). Article 76 of that Regulation provides for derogations from that definition in favour of least-developed beneficiary countries benefiting from the GSP which submit an appropriate request to that effect to the Community.

(3) From 1 March 2005 Cape Verde benefited from Decision No 2/2005 of the ACP-EC Customs Cooperation Committee of 1 March 2005 derogating from the concept of 'originating products' to take account of the special situation of the ACP States regarding the production of preserved tuna and of tuna loins (HS heading ex 1604) [4].

(4) However, these arrangements ceased to apply after 31 December 2007 and Cape Verde has not yet concluded an Economic Partnership Agreement with the Community. Consequently, the only preferential trade arrangement available to Cape Verde since 1 January 2008 is the GSP.

(5) By letter dated 27 November 2007 Cape Verde submitted a request for a derogation from GSP rules of origin in accordance with Article 76 of Regulation (EEC) No 2454/93. By letter dated 27 February 2008, it submitted complementary information in support of this request.

(6) The derogation request concerns a total annual quantity of 1 561 tonnes of three species of prepared or preserved fish, two of which were not covered by the derogation granted by Decision No 2/2005: frigate tuna or frigate mackerel, mackerel and tuna.

(7) The derogation request has been considered by the Commission and has been found to be complete and duly substantiated.

(8) The derogation is required in order to ensure continuity of supply throughout the year and thus secure a substantial investment by a firm having already shown its commitment to supporting the development of the activity concerned in Cape Verde.

(9) This investment would not only have a direct impact on the Cape Verde fishing industry with regard to the species for which the derogation is requested, but also a substantial indirect, beneficial effect on the revitalisation of Cape Verde's fishing fleet generally. With more Cape Verde vessels being operational, the ability to supply originating fish would gradually increase.

(10) The derogation should be sufficiently long to ensure the investment and general predictability for operators, but it may not in any event go beyond 31 December 2010, when Cape Verde will no longer benefit from the special arrangement for least developed countries within GSP. After that the viability of the Cape Verde canning industry should be ensured within the framework of an Economic Partnership Agreement.

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[1] 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).
[2] OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 214/2007 (OJ L 62, 1.3.2007, p. 6).
[3] OJ L 169, 30.6.2005, p. 1. Regulation as last amended by Regulation (EC) No 55/2008 (OJ L 20, 24.1.2008, p. 1).
[4] OJ L 61, 8.3.2005, p. 48.

(11) Regulation (EEC) No 2454/93 lays down rules relating to the management of tariff quotas. In order to ensure efficient management carried out in close cooperation between the authorities of Cape Verde, the customs authorities of the Community and the Commission, those rules should apply *mutatis mutandis* to the quantities imported under the derogation granted by this Regulation.

(12) In order to allow more efficient monitoring of the operation of the derogation, the authorities of Cape Verde should communicate regularly to the Commission details of certificates of origin issued.

(13) In their request, the authorities of Cape Verde indicated that the firm concerned would probably not have the production capacity to use the whole amount of the quotas requested in the first year of operation after the investment was made. Consequently, while the requested quantities should be granted in full for the years 2009 and 2010, the quotas should be reduced pro rata for the period in which the derogation will apply in the year 2008.

(14) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

By way of derogation from Articles 67 to 97 of Regulation (EEC) No 2454/93, prepared or preserved mackerel, frigate tuna and frigate mackerel and tuna of CN codes ex 1604 15, ex 1604 19 and ex 1604 14 produced in Cape Verde from non-originating fish shall be regarded as originating in Cape Verde in accordance with the arrangements set out in Articles 2, 3 and 4.

Article 2

The derogation provided for in Article 1 shall apply to products transported directly from Cape Verde and imported into the Community during the period from 1 September 2008 until 31 December 2010, up to the annual quantities listed in the Annex against each product.

Article 3

The quantities set out in the Annex shall be managed in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93.

Article 4

1. The customs authorities of Cape Verde shall take the necessary steps to carry out quantitative checks on exports of the products referred to in Article 1.

2. The following shall be entered in box 4 of certificates of origin form A issued by the competent authorities of Cape Verde pursuant to this Regulation: 'Derogation — Regulation (EC) No 815/2008'.

3. The competent authorities of Cape Verde shall forward to the Commission every quarter a statement of the quantities in respect of which certificates of origin form A have been issued pursuant to this Regulation and the serial numbers of those certificates.

Article 5

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

It shall apply from 1 September 2008.

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

Done at Brussels, 14 August 2008.

For the Commission
László KOVÁCS
Member of the Commission

ANNEX

Order No	CN code	Description of goods	Period	Quantity (in tonnes)
09.1647	ex 1604 15 11 ex 1604 19 98	Mackerel (*Scomber Colias, Scomber Japonicus, Scomber Scombrus*) fillets, prepared or preserved	1.9.2008 to 31.12.2008	333
			1.1.2009 to 31.12.2009	1 000
			1.1.2010 to 31.12.2010	1 000
09.1648	ex 1604 19 98	Frigate tuna, Frigate mackerel (*Auxis thazard, Auxis Rochei*) fillets, prepared or preserved	1.9.2008 to 31.12.2008	116
			1.1.2009 to 31.12.2009	350
			1.1.2010 to 31.12.2010	350
09.1649	ex 1604 14 16 ex 1604 14 18	Yellowfin tunny, Skipjack tuna (*Tunnus Albacares, Katsuwonus Pelamis*) fillets, prepared or preserved	1.9.2008 to 31.12.2008	70
			1.1.2009 to 31.12.2009	211
			1.1.2010 to 31.12.2010	211

COMMISSION REGULATION (EC) No 816/2008

of 14 August 2008

amending the representative prices and additional duties for the import of certain products in the sugar sector fixed by Regulation (EC) No 1109/2007 for the 2007/08 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector [1],

Having regard to Commission Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector [2], and in particular of the Article 36,

Whereas:

(1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups for the 2007/08 marketing year are fixed by Commission Regulation (EC) No 1109/2007 [3]. These prices and duties have been last amended by Commission Regulation (EC) No 801/2008 [4].

(2) The data currently available to the Commission indicate that the said amounts should be changed in accordance with the rules and procedures laid down in Regulation (EC) No 951/2006,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties on imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Regulation (EC) No 1109/2007 for the 2007/08 marketing year are hereby amended as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 15 August 2008.

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

Done at Brussels, 14 August 2008.

For the Commission

Jean-Luc DEMARTY

Director-General for Agriculture and Rural Development

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[1] OJ L 58, 28.2.2006, p. 1. Regulation as last amended by Regulation (EC) No 1260/2007 (OJ L 283, 27.10.2007, p. 1). Regulation (EC) No 318/2006 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 October 2008.

[2] OJ L 178, 1.7.2006, p. 24. Regulation as last amended by Regulation (EC) No 514/2008 (OJ L 150, 10.6.2008, p. 7).

[3] OJ L 253, 28.9.2007, p. 5.

[4] OJ L 214, 9.8.2008, p. 48.

ANNEX

Amended representative prices and additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 95 applicable from 15 August 2008

(EUR)

CN code	Representative price per 100 kg of the product concerned	Additional duty per 100 kg of the product concerned
1701 11 10 (1)	24,91	3,84
1701 11 90 (1)	24,91	9,08
1701 12 10 (1)	24,91	3,68
1701 12 90 (1)	24,91	8,65
1701 91 00 (2)	25,56	12,51
1701 99 10 (2)	25,56	7,93
1701 99 90 (2)	25,56	7,93
1702 90 95 (3)	0,26	0,39

(1) Fixed for the standard quality defined in Annex I.III to Council Regulation (EC) No 318/2006 (OJ L 58, 28.2.2006, p. 1).
(2) Fixed for the standard quality defined in Annex I.II to Regulation (EC) No 318/2006.
(3) Fixed per 1 % sucrose content.

COMMISSION REGULATION (EC) No 817/2008

of 14 August 2008

fixing the import duties in the cereals sector applicable from 16 August 2008

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) [1],

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 in respect of import duties in the cereals sector [2], and in particular Article 2(1) thereof,

Whereas:

(1) Article 136(1) of Regulation (EC) No 1234/2007 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 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 136(2) of Regulation (EC) No 1234/2007 lays down that, for the purposes of calculating the import duty referred to in paragraph 1 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 16 August 2008 and should apply until new import duties are fixed and enter into force.

(5) However, in accordance with Commission Regulation (EC) No 608/2008 of 26 June 2008 temporarily suspending customs duties on imports of certain cereals for the 2008/2009 marketing year [3], the application of certain duties set by this Regulation is suspended,

HAS ADOPTED THIS REGULATION:

Article 1

From 16 August 2008, the import duties in the cereals sector referred to in Article 136(1) of Regulation (EC) No 1234/2007 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 16 August 2008.

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

Done at Brussels, 14 August 2008.

For the Commission

Jean-Luc DEMARTY

Director-General for Agriculture and Rural Development

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[1] OJ L 299, 16.11.2007, p. 1. Regulation as last amended by Commission Regulation (EC) No 510/2008 (OJ L 149, 7.6.2008, p 61).

[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 166, 27.6.2008, p. 19.

ANNEX I

Import duties on the products referred to in Article 136(1) of Regulation (EC) No 1234/2007 applicable from 16 August 2008

CN code	Description	Import duties [1] (EUR/t)
1001 10 00	Durum wheat, high quality	0,00 [2]
	medium quality	0,00 [2]
	low quality	0,00 [2]
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	High quality common wheat, other than for sowing	0,00 [2]
1002 00 00	Rye	0,59 [2]
1005 10 90	Maize seed other than hybrid	0,00
1005 90 00	Maize, other than seed [3]	0,00 [2]
1007 00 90	Grain sorghum other than hybrids for sowing	5,58 [2]

[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] In accordance with Regulation (EC) No 608/2008, application of this duty is suspended.

[3] 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.

ANNEX II

Factors for calculating the duties laid down in Annex I

31.7.2008-13.8.2008

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

(EUR/t)

	Common wheat (1)	Maize	Durum wheat, high quality	Durum wheat, medium quality (2)	Durum wheat, low quality (3)	Barley
Exchange	Minnéapolis	Chicago	—	—	—	—
Quotation	224,74	135,95	—	—	—	—
Fob price USA	—	—	296,57	286,57	266,57	116,20
Gulf of Mexico premium	—	11,96	—	—	—	—
Great Lakes premium	12,94	—	—	—	—	—

(1) Premium of 14 EUR/t incorporated (Article 4(3) of Regulation (EC) No 1249/96).
(2) Discount of 10 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).
(3) 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:	39,58 EUR/t
Freight costs: Great Lakes–Rotterdam:	40,23 EUR/t

II

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

DECISIONS

COUNCIL

COUNCIL DECISION

of 24 July 2008

amending Council Decision 2000/265/EC on the establishment of a financial regulation governing the budgetary aspects of the management by the Deputy Secretary-General of the Council, of contracts concluded in his name, on behalf of certain Member States, relating to the installation and the functioning of the communication infrastructure for the Schengen environment, 'Sisnet'

(2008/670/JHA)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to first sentence of the second subparagraph of Article 2(1) of the Protocol integrating the Schengen *acquis* into the framework of the European Union, annexed to the Treaty on European Union and to the Treaty establishing the European Community,

Whereas:

(1) The Deputy Secretary-General of the Council was authorised by Decision 1999/870/EC [1] and Decision 2007/149/EC [2] to act, in the context of the integration of the Schengen *acquis* within the European Union, as representative of certain Member States for the purposes of concluding contracts relating to the installation and the functioning of the communication infrastructure for the Schengen environment, 'SISNET', and to manage such contracts, pending its migration to a communication infrastructure under the responsibility of the European Union.

(2) The financial obligations arising under those contracts are borne by a specific budget, hereinafter 'the Sisnet budget', financing the communication infrastructure referred to in those Council Decisions.

(3) The Sisnet budget is governed by a specific Financial Regulation established by Council Decision 2000/265/EC [3], hereinafter referred to as the 'Sisnet Financial Regulation', which provides for different procedures from those of the Financial Regulation applicable to the general budget of the European Communities, as set out in Council Regulation (EC, Euratom) No 1605/2002 [4].

(4) It is appropriate, by analogy, to bring the Sisnet Financial Regulation into line with the Community Financial Regulation, whilst simplifying the internal procedures within the Council Secretariat, in particular by abolishing the role of the financial controller and where appropriate replacing his functions by those of the internal auditor established by Article 85 of Regulation (EC, Euratom) No 1605/2002.

(5) Current procedures should also be made smoother and more appropriate to actual practice, for instance by adapting deadlines in respect of calls for funds and payments, and updating some provisions in the current procedural or legislative frameworks.

(6) The Sisnet Financial Regulation was amended by Council Decision 2007/155/EC [5] and Council Decision 2008/319/EC in order to allow Switzerland to participate in the Sisnet budget. Switzerland should also be allowed to participate in possible future activities of the Advisory Committee.

[1] OJ L 337, 30.12.1999, p. 41.
[2] OJ L 66, 6.3.2007, p. 19.
[3] OJ L 85, 6.4.2000, p. 12. Decision as last amended by Decision 2008/319/EC (OJ L 109, 19.4.2008, p. 30).
[4] OJ L 248, 16.9.2002, p. 1. Regulation as last amended by Regulation (EC) No 1525/2007 (OJ L 343, 27.12.2007, p. 9).
[5] OJ L 68, 8.3.2007, p. 5.

(7) The proposed amendments have no financial impact on the Member States' contributions to the Sisnet budget,

HAS DECIDED AS FOLLOWS:

Article 1

Decision 2000/265/EC is hereby amended as follows:

1. Article 6(4) shall be replaced by the following:

'4. The expenditure of a financial year shall be entered in the accounts for that year on the basis of expenditure authorised no later than 31 December and for which the corresponding payments were made by the accounting officer before the following 15 January.';

2. Article 7 shall be amended as follows:

(a) in paragraph 2:

(i) the first subparagraph shall be replaced by the following:

'Notwithstanding paragraph 1, the Deputy Secretary-General of the Council may forward to the representatives of the States referred to in Article 25, meeting within the framework of the SIS/SIRENE Working Party (Mixed Committee), hereinafter referred to as the "SIS/SIRENE Working Party", before 31 January, duly substantiated requests to carry over to the next financial year appropriations not committed at 15 December when the appropriations provided for the headings concerned in the budget for the following financial year do not cover requirements.';

(ii) the fourth subparagraph shall be replaced by the following:

'The SIS/SIRENE Working Party shall act on such requests for carrying over by 1 March at the latest.';

(b) paragraph 4 shall be deleted;

3. Article 8(2) to (4) shall be replaced by the following:

'2. The Deputy Secretary-General shall forward the preliminary draft budget to the SIS/SIRENE Working Party before 15 October and attach an explanatory memorandum.

3. The SIS/SIRENE Working Party shall deliver its opinion on that preliminary draft.

4. The Deputy Secretary-General shall establish the draft budget and forward it by 15 November to the States referred to in Article 25.';

4. Article 10(2) shall be replaced by the following:

'2. An amending budget shall be submitted on an annual basis, in the three months following the closure of the accounts as laid down in Article 46(1), with the aim of entering the balance of the budget outturn from the previous financial year as revenue in the case of a positive balance or expenditure if the balance is negative.';

5. Article 12 shall be replaced by the following:

'Article 12

The budget shall be implemented in accordance with the principle that the authorising officer and the accounting officer are different individuals. The duties of authorising officer, accounting officer and internal auditor shall be mutually incompatible.';

6. Article 13(2) shall be replaced by the following:

'2. The authorising officer may decide on transfers between articles within each chapter. With the agreement of the SIS/SIRENE Working Party, he may decide on transfers between chapters within the same title. The SIS/SIRENE Working Party shall give its agreement under the same conditions as for adopting its opinion on the budget.';

7. Article 14 shall be deleted;

8. Article 16 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

'1. For the collection of any amount owing pursuant to Article 25, or of any debt due to the States concerned by a third party relating to the conclusion, installation and functioning of Sisnet, the issue of a recovery order by the authorising officer shall be required. Recovery orders shall be forwarded to the accounting officer.';

(b) paragraph 2 shall be deleted;

9. the last sentence of Article 18(1) as well as Articles 18(2), 20(2)(g), 20(4), (20)(5), and 22 shall be deleted;

10. Article 23 shall be replaced by the following:

'*Article 23*

The liability to disciplinary action of the authorising officer and accounting officer in the event of failure to comply with the provisions of this Financial Regulation shall be as laid down in the Staff Regulations of Officials of the European Communities.';

11. a Chapter shall be added as follows:

'CHAPTER III A

Internal auditor

Article 24a

An internal auditor shall verify the proper operation of the budgetary implementation systems and procedures set out in this Regulation. By analogy, the internal auditor shall benefit from all the powers, shall perform all the tasks, and shall be subject to all the rules provided for in Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (*), in particular in Part I, Title IV, Chapter 8 thereof.

(*) OJ L 248, 16.9.2002, p. 1. Regulation as last amended by Regulation (EC) No 1525/2007 (OJ L 343, 27.12.2007, p. 9).';

12. Article 28 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

'1. Until 31 December 2008, the States referred to in Article 25 shall be required to pay 25 % of their contribution by 15 February, 1 April, 1 July and 1 October at the latest.';

(b) the following paragraph shall be added:

'1a. From 1 January 2009, the States referred to in Article 25 shall be required to pay 70 % of their contribution by 1 April and 30 % by 1 October at the latest.';

13. Article 29(6)(h) shall be replaced by the following:

'(h) prohibit any contact between the Deputy Secretary-General and his staff, representatives of the Governments of the Member States referred to in Article 25, representatives of the Governments of Iceland, Norway and Switzerland and tenderers on matters related to that invitation to tender save, by way of special exception, under the following conditions:

before the closing date for the submission of tenders:

(i) at the instance of tenderers:

additional information solely for the purpose of clarifying the nature of the invitation to tender may be communicated to all tenderers;

(ii) at the instance of the Deputy Secretary-General:

if the Member States referred to in Article 25, or Iceland, Norway and Switzerland, or the General Secretariat of the Council notice an error, a lack of precision, an omission or any other type of clerical defect in the text of the invitation to tender, the General Secretariat may, in a manner identical to that applicable in respect of the original invitation to tender, inform the persons concerned accordingly;

(iii) after the tenders have been opened and at the instance of the Member States referred to in Article 25, Iceland, Norway or Switzerland, or the General Secretariat of the Council, if some clarification is required in connection with a tender, or if obvious clerical errors contained in the tender must be corrected, the General Secretariat may contact the tenderer.';

14. Article 31 shall be replaced by the following:

'*Article 31*

No discrimination shall be practised between nationals of Member States and of Iceland, Norway and Switzerland on grounds of nationality in respect of contracts entered into by the Deputy Secretary-General on behalf of the Member States referred to in Article 25.';

15. the second subparagraph of Article 34 shall be replaced by the following:

'The tenders shall be opened together by a committee appointed for this purpose by the Deputy Secretary-General. It shall be composed of three high-level officials from different directorates of the Council General Secretariat.';

16. the first subparagraph of Article 35 shall be replaced by the following:

'Every tender shall be assessed by the Member States referred to in Article 25, together with Iceland, Norway and Switzerland. A report, approved unanimously by these States, shall be presented by the competent official within the Council General Secretariat designated by the authorising officer or by an alternate, also designated by the authorising officer, to the Advisory Committee referred to in Article 36.';

17. Article 36 shall be replaced by the following:

'Article 36

Contracts to be concluded by the Deputy Secretary-General on behalf of the Member States referred to in Article 25 and by the appropriate representatives of Iceland, Norway and Switzerland after an invitation to tender has been issued shall first be submitted for the opinion of an Advisory Committee on procurements and contracts.';

18. the first subparagraph of Article 37 shall be replaced by the following:

'The Advisory Committee referred to in Article 36 shall include one representative from each Member State referred to in Article 25, together with one representative from each of Iceland, Norway and Switzerland. The Member States referred to in Article 25, together with Iceland, Norway and Switzerland, shall ensure that the representatives selected have adequate expertise in informatics and/or financial matters and/or legal matters. Representatives must not have participated in the assessment of the files to be submitted to the Advisory Committee. A representative of the internal auditor shall be present as observer.';

19. Article 39(e) shall be replaced by the following:

'(e) at the request of one of the Member States referred to in Article 25 or of Iceland, Norway or Switzerland, or of a member of the Advisory Committee, or of the Deputy Secretary-General, proposed contracts involving an amount below the thresholds referred to in point (a), where they consider that such contracts involve questions of principle or are of a special nature.';

20. Article 40 shall be replaced by the following:

'Article 40

The files submitted to the Advisory Committee for an opinion pursuant to Article 39(b) to (e), shall also be accompanied by a report approved unanimously by the Member States referred to in Article 25, as well as Iceland, Norway and Switzerland.';

21. Article 41 shall be replaced by the following:

'Article 41

The opinions of the Advisory Committee shall be signed by its chairman. In order to avoid delays in the process as a result of the intervention of the Advisory Committee, the Member States referred to in Article 25, as well as Iceland, Norway and Switzerland, may, if they deem it necessary, impose a reasonable deadline by which an opinion must be furnished. Opinions shall be communicated to the Deputy Secretary-General and to the Member States referred to in Article 25, as well as to Iceland, Norway and Switzerland. Following due consideration of that opinion, the Member States referred to in Article 25, as well as Iceland, Norway and Switzerland, shall take a final decision on the case by unanimity. Once that decision has been taken, the contract or contracts which form the subject of each case shall be concluded by the Deputy Secretary-General on behalf of the Member States referred to in Article 25 and by the appropriate representatives of Iceland, Norway and Switzerland.';

22. Article 43(6) shall be replaced by the following:

'6. Where a contract has not been performed or completion has been late, the Deputy Secretary-General shall ensure that the Member States referred to in Article 25, as well as Iceland, Norway and Switzerland, are adequately compensated in respect of all damages, interests and costs by the deduction of the amount from the deposit, whether this has been lodged directly by the supplier or contractor or by a third party.';

23. Article 46(1) shall be replaced by the following:

'1. The Deputy Secretary-General shall, within three months from the end of the budget implementation period, draw up a revenue and expenditure account and a balance sheet and transmit them to the SIS/SIRENE Working Party.';

24. Article 50(2) shall be replaced by the following:

'2. By derogation from Article 8, for the purposes of the budget referred to in paragraph 1, the Deputy Secretary-General of the Council shall forward the preliminary draft budget to the SIS/SIRENE Working Party as soon as possible after the adoption of this Financial Regulation. Following the delivery of the opinion of the SIS/SIRENE Working Party and the establishment of the draft budget, the Member States referred to in Article 25, meeting within the Council, shall adopt the budget without delay.'.

Article 2

1. This Decision shall take effect from the date of its adoption.

2. It shall be published in the *Official Journal of the European Union*.

Done at Brussels, 24 July 2008.

For the Council
The President
B. HORTEFEUX

COMMISSION

COMMISSION DECISION

of 5 August 2008

on the harmonised use of radio spectrum in the 5 875-5 905 MHz frequency band for safety-related applications of Intelligent Transport Systems (ITS)

(notified under document number C(2008) 4145)

(Text with EEA relevance)

(2008/671/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(3) thereof,

Whereas:

(1) The Council [2] and the European Parliament [3] have stressed the importance of increasing road safety in Europe. Intelligent Transport Systems (ITS) are central to an integrated approach in road safety [4] by adding information and communication technologies (ICT) to transport infrastructure and vehicles so as to avoid potentially dangerous traffic situations and reduce number of accidents.

(2) Effective and coherent use of radio spectrum is essential for the development of new wireless equipment in the Community [5].

(3) ITS include cooperative systems based on vehicle-to-vehicle, vehicle-to-infrastructure and infrastructure-to-vehicle communications for the real time transfer of information. Those systems potentially offer major improvements in transport system efficiency, in safety for all road users and in mobility comfort. To fulfil those objectives, communications between vehicles and road infrastructure must be reliable and fast.

(4) Given the mobility of vehicles and the need to ensure the achievement of the internal market and the increase in road safety throughout Europe, spectrum used by ITS cooperative systems should be made available in a harmonised way throughout the European Union.

(5) Pursuant to Article 4(2) of Decision No 676/2002/EC, on 5 July 2006 the Commission issued a mandate to the European Conference of Postal and Telecommunications Administrations (CEPT) to verify the spectrum requirements for safety-critical applications in the context of ITS and cooperative systems and to undertake technical compatibility studies between safety-critical ITS applications and potentially affected radio services in the frequency ranges under consideration. CEPT was also requested to develop optimal channel plans for the bands identified for ITS.

(6) The relevant results of the work carried out by CEPT constitute the technical basis for this Decision.

(7) CEPT concluded in its report of 21 December 2007 (CEPT Report 20) that the 5 GHz band, in particular the range 5 875-5 905 MHz, was appropriate for safety-related ITS applications, which improve road safety by increasing the information to the driver and the vehicle on the environment, other vehicles and other road users. Furthermore, ITS are compatible with all the services studied in that band, and with all other existing services studied below 5 850 MHz and above 5 925 MHz, as long as they comply with certain emission limits as defined in the CEPT Report. The selection of this band would also be in line with spectrum use in other regions of the world and thus foster global harmonisation. Moreover, ITS could not claim protection from fixed-satellite service (FSS) earth stations and unwanted emissions from ITS equipment need to be limited in order to protect FSS.

[1] OJ L 108, 24.4.2002, p. 1.
[2] Council Conclusions 15101/03 of 5.12.2003 and Verona 2 Conclusions of 26.10.2004.
[3] OJ C 244 E, 18.10.2007, p. 220.
[4] COM(2006) 314.
[5] Council Conclusions 15530/04 and 15533/04 of 3.12.2004.

(8) Harmonised standard EN 302 571 is being finalised by European Telecommunications Standard Institute (ETSI) in line with the CEPT compatibility studies in order to give presumption of conformity to Article 3(2) of Directive 1999/5/EC of the European Parliament and the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity [1], thus ensuring that compliant ITS equipment avoids causing harmful interference. ITS transmitters are expected to maximise the use of the spectrum and control their transmitted power to the minimum level to use the spectrum allocated to ITS effectively so as to avoid harmful interference.

(9) For the above reason, the standard foresees that a transmitter power control (TPC) is implemented with a range of at least 30 dB with regard to the maximum total transmit power of 33 dBm mean e.i.r.p. If some manufacturers chose not to use the techniques identified in this standard, any alternative methods would be required to provide at least an equivalent level of interference mitigation as that provided by the standard.

(10) Harmonisation under this Decision should not exclude the possibility for a Member State to apply, where justified, transitional periods or radio spectrum-sharing arrangements.

(11) It is expected that Member States will make the spectrum available for vehicle-to-vehicle ITS communications within the six-month period during which they are to designate the frequency band 5 875-5 905 MHz according to this Decision. However, for infrastructure-to-vehicle and vehicle-to-infrastructure ITS communications, it may prove difficult for some Member States to finalise an appropriate licensing framework or a coordination mechanism for roadside infrastructure installation of different ITS operators within this timeframe. Any delays in making the spectrum available beyond this period may impact negatively on the wide take-up of safety-related ITS applications in the European Union and should therefore be limited and duly justified.

(12) Considering the market developments and evolution of technologies, the scope and application of this Decision may need to be reviewed in the future, based in particular on information on such developments and evolution provided by the Member States.

[1] OJ L 91, 7.4.1999, p. 10. Directive as last amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

(13) 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 conditions for the availability and efficient use of the frequency band 5 875-5 905 MHz for safety related applications of Intelligent Transport Systems (ITS) in the Community.

Article 2

For the purposes of this Decision, the following definitions shall apply:

1. 'Intelligent Transport Systems' mean a range of systems and services, based on Information and Communications technologies, including processing, control, positioning, communication and electronics, that are applied to a road transportation system;

2. 'mean equivalent isotropically radiated power (e.i.r.p)' means e.i.r.p. during the transmission burst which corresponds to the highest power, if power control is implemented.

Article 3

1. Member States shall, not later than six months after entry into force of this Decision, designate the frequency band 5 875-5 905 MHz for Intelligent Transport Systems and, as soon as reasonably practicable following such designation, make that frequency band available on a non-exclusive basis.

Such designation shall be in compliance with the parameters set out in the Annex.

2. By way of derogation from paragraph 1, Member States may request transitional periods and/or radio spectrum-sharing arrangements, pursuant to Article 4(5) of the Radio Spectrum Decision.

Article 4

Member States shall keep the use of the 5 875-5 905 MHz band under scrutiny and report their findings to the Commission to allow for a review of this Decision if necessary.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 5 August 2008.

For the Commission
Viviane REDING
Member of the Commission

ANNEX

Technical parameters for safety related applications of Intelligent Transport Systems in the 5 875-5 905 MHz band

Parameter	Value
Maximum spectral power density (mean e.i.r.p.)	23 dBm/MHz
Maximum total transmit power (mean e.i.r.p.)	33 dBm
Channel access and occupation rules	Techniques to mitigate interference that provide at least equivalent performance to the techniques described in harmonised standards adopted under Directive 1999/5/EC must be used. These require a transmitter power control (TPC) range of at least 30 dB.

COMMISSION DECISION

of 11 August 2008

amending the Appendix to Annex VI to the Act of Accession of Bulgaria and Romania as regards certain milk processing establishments in Bulgaria

(notified under document number C(2008) 4269)

(Text with EEA relevance)

(2008/672/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Bulgaria and Romania, and in particular the first subparagraph of paragraph (f) of Section B of Chapter 4 of Annex VI thereto,

Whereas:

(1) Bulgaria has been granted transitional periods by the Act of Accession of Bulgaria and Romania for compliance by certain milk processing establishments with the requirements of Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin [1].

(2) The Appendix to Annex VI to the Act of Accession has been amended by Commission Decisions 2007/26/EC [2], 2007/689/EC [3], 2008/209/EC [4], 2008/331/EC [5] and 2008/547/EC [6]. Bulgaria has provided guarantees that five milk processing establishments have completed their upgrading process and are now in full compliance with Community legislation. Those establishments are allowed to receive and process non-compliant raw milk Therefore they should be included in the list of Chapter I of the Appendix to Annex VI.

(3) One milk processing establishment which is currently listed as compliant establishment will receive and process in two separate lines compliant and non-compliant raw milk. That establishment should therefore be added to the list of Chapter II. Another milk processing establishment currently listed in Chapter II will receive and process only compliant milk. That establishment should therefore be deleted from Chapter II of the Appendix to Annex VI.

(4) The Appendix to Annex VI to the Act of Accession of Bulgaria and Romania should therefore be amended accordingly.

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

HAS ADOPTED THIS DECISION:

Article 1

The Appendix to Annex VI to the Act of Accession of Bulgaria and Romania is amended in accordance with the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 11 August 2008.

For the Commission
Androulla VASSILIOU
Member of the Commission

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[1] OJ L 139, 30.4.2004, p. 55, as corrected by OJ L 226, 25.6.2004, p. 22. Regulation as last amended by Commission Regulation (EC) No 1243/2007 (OJ L 281, 25.10.2007, p. 8).
[2] OJ L 8, 13.1.2007, p. 35.
[3] OJ L 282, 26.10.2007, p. 60.
[4] OJ L 65, 8.3.2008, p. 18.
[5] OJ L 114, 26.4.2008, p. 97.
[6] OJ L 176, 4.7.2008, p. 11.

ANNEX

The Appendix to Annex VI to the Act of Accession of Bulgaria and Romania is amended as follows:

1. In Chapter I, the following entries are added:

'No	Veterinary No	Name of the establishment	Town/Street or Village/Region
2.	BG 2012022	"Bratya Zafirovi" OOD	gr. Sliven Promishlena zona Zapad
3.	0112014	ET "Veles-Kostadin Velev"	gr. Razlog ul. "Golak" 14
4.	1512003	"Mandra-1" OOD	s. Tranchovitsa obsht. Levski
5.	2312041	"Danim-D.Stoyanov" EOOD	gr. Elin Pelin m-st Mansarovo
6.	2712010	"Kamadzhiev-milk" EOOD	s. Kriva reka obsht. N. Kozlevo'

2. Chapter II is amended as follows:

(a) the following entry is deleted:

'6. BG 1612011	"Em Dzhey Deriz" EOOD	gr. Karlovo bul. "Osvobozhdenie" 69'

(b) the following entry is added:

'14. BG 1212001	"S i S - 7" EOOD	gr. Montana "Vrachansko shoes" 1'

COMMISSION DECISION

of 13 August 2008

amending Decision 2005/928/EC on the harmonisation of the 169,4-169,8125 MHz frequency band in the Community

(notified under document number C(2008) 4311)

(Text with EEA relevance)

(2008/673/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(3) thereof,

Whereas:

(1) Commission Decision 2005/928/EC [2] harmonises the 169,4-169,8125 MHz frequency band in the Community.

(2) The frequency plan contained in the Annex to Decision 2005/928/EC describes the channel raster which the different applications operating under the conditions set in this Decision should adhere to. Such a channel raster aims at enabling compatibility and facilitating coexistence of the applications allowed in these bands.

(3) The frequency plan imposes a channel raster of 12,5 kHz in the 169,4000-169,4750 MHz band and a channel raster of 50 kHz in the 169,4875-169,5875 MHz band.

(4) Following the adoption of Decision 2005/928/EC further investigations of the technical parameters defined in this Decision revealed that the channel raster arrangements in the bands 169,4000-169,4750 MHz and 169,4875-169,5875 MHz are considered unduly restrictive given the technological development. Allowing several channel raster options will increase the flexibility for the users to choose the optimal bandwidth up to 50 kHz in accordance with quality requirements of the specific applications.

(5) The European Conference of Postal and Telecommunications Administrations (CEPT) has confirmed that increasing the channel raster options in these bands can and should be allowed.

(6) Decision 2005/928/EC should therefore be amended accordingly. By amending this Decision channels up to 50 kHz will be possible in the 169,4000-169,4750 MHz and 169,4875-169,5875 MHz bands.

(7) The measures provided for in this Decision are in accordance with the opinion of the Radio Spectrum Committee,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2005/928/EC is amended as follows:

1. In the 4th row of the frequency plan in the Annex the channel raster (in kHz) figure '12,5' for channels 1a, 1b, 2a, 2b, 3a and 3b is replaced by 'up to 50 kHz'.

2. In the 4th row of the frequency plan in the Annex the channel raster (in kHz) figure '50' for channels 4b + 5 + 6a and 6b + 7 + 8a is replaced by 'up to 50 kHz'.

Article 2

Article 1 shall apply from 31 October 2008.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 13 August 2008.

For the Commission

Viviane REDING

Member of the Commission

[1] OJ L 108, 24.4.2002, p. 1.
[2] OJ L 344, 27.12.2005, p. 47.

COMMISSION DECISION

of 13 August 2008

amending Decision 2007/683/EC approving the plan for the eradication of classical swine fever in feral pigs in certain areas of Hungary

(notified under document number C(2008) 4321)

(Only the Hungarian text is authentic)

(2008/674/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2001/89/EC of 23 October 2001 on Community measures for the control of classical swine fever [1], and in particular Article 16(1) thereof,

Whereas:

(1) Commission Decision 2007/683/EC [2] approved a plan submitted by Hungary on 11 July 2007 for the eradication of classical swine fever in feral pigs in the areas of that Member State set out in the Annex to that Decision.

(2) Hungary has informed the Commission about the recent evolution of classical swine fever in feral pigs in that Member State. In the light of the epidemiological information available, the measures set out in the plan for the eradication of classical swine fever in feral pigs need to be extended to certain areas of the county of Heves and the county of Borsod-Abaúj-Zemplén.

(3) For the sake of transparency of Community legislation, the Annex to Decision 2007/683/EC should be replaced by the text in the Annex to this Decision.

(4) Decision 2007/683/EC should therefore be amended accordingly.

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

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 2007/683/EC is replaced by the text in the Annex to this Decision.

Article 2

This Decision is addressed to the Republic of Hungary.

Done at Brussels, 13 August 2008.

For the Commission

Androulla VASSILIOU

Member of the Commission

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[1] OJ L 316, 1.12.2001, p. 5. Directive as last amended by Commission Decision 2007/729/EC (OJ L 294, 13.11.2007, p. 26).

[2] OJ L 281, 25.10.2007, p. 27. Decision as amended by Decision 2008/159/EC (OJ L 51, 26.2.2008, p. 21).

ANNEX

'ANNEX

Areas where the plan for the eradication of classical swine fever in feral pigs is to be implemented

The territory of the county of Nógrád and the territory of the county of Pest located north and east of the Danube, south of the border with Slovakia, west of the border with the county of Nógrád and north of the motorway E71, the territory of the county of Heves located east of the border of the county of Nógrád, south and west of the border with the county of Borsod-Abaúj-Zemplén and north of the motorway E71, and the territory of the county of Borsod-Abaúj-Zemplén located south of the border with Slovakia, east of the border with the county of Heves, north and west of the motorway E71, south of the main road No 37 (the part between the motorway E71 and the main road No 26) and west of the main road No 26.'

III

(Acts adopted under the EU Treaty)

ACTS ADOPTED UNDER TITLE VI OF THE EU TREATY

COUNCIL FRAMEWORK DECISION 2008/675/JHA

of 24 July 2008

on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 31 and 34(2)(b) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament [1],

Whereas:

(1) The European Union has set itself the objective of maintaining and developing an area of freedom, security and justice. This objective requires that it be possible for information on convictions handed down in the Member States to be taken into account outside the convicting Member State, both in order to prevent new offences and in the course of new criminal proceedings.

(2) On 29 November 2000 the Council, in accordance with the conclusions of the Tampere European Council, adopted the programme of measures to implement the principle of mutual recognition of decisions in criminal matters [2], which provides for the 'adoption of one or more instruments establishing the principle that a court in one Member State must be able to take account of final criminal judgments rendered by the courts in other Member States for the purposes of assessing the offender's criminal record and establishing whether he has reoffended, and in order to determine the type of sentence applicable and the arrangements for enforcing it'.

(3) The purpose of this Framework Decision is to establish a minimum obligation for Member States to take into account convictions handed down in other Member States. Thus this Framework Decision should not prevent Member States from taking into account, in accordance with their law and when they have information available, for example, final decisions of administrative authorities whose decisions can be appealed against in the criminal courts establishing guilt of a criminal offence or an act punishable under national law by virtue of being an infringement of the rules of law.

(4) Some Member States attach effects to convictions handed down in other Member States, whereas others take account only of convictions handed down by their own courts.

(5) The principle that the Member States should attach to a conviction handed down in other Member States effects equivalent to those attached to a conviction handed down by their own courts in accordance with national law should be affirmed, whether those effects be regarded by national law as matters of fact or of procedural or substantive law. However, this Framework Decision does not seek to harmonise the consequences attached by the different national legislations to the existence of previous convictions, and the obligation to take into account previous convictions handed down in other Member States exists only to the extent that previous national convictions are taken into account under national law.

(6) In contrast to other instruments, this Framework Decision does not aim at the execution in one Member State of judicial decisions taken in other Member States, but rather aims at enabling consequences to be attached to a previous conviction handed down in one Member State in the course of new criminal proceedings in another Member State to the extent that such consequences are attached to previous national convictions under the law of that other Member State.

[1] Opinion of 27 September 2006 (not yet published in the Official Journal).
[2] OJ C 12, 15.1.2001, p. 10.

Therefore this Framework Decision contains no obligation to take into account such previous convictions, for example, in cases where the information obtained under applicable instruments is not sufficient, where a national conviction would not have been possible regarding the act for which the previous conviction had been imposed or where the previously imposed sanction is unknown to the national legal system.

(7) The effects of a conviction handed down in another Member State should be equivalent to the effects of a national decision at the pre-trial stage of criminal proceedings, at the trial stage and at the time of execution of the sentence.

(8) Where, in the course of criminal proceedings in a Member State, information is available on a previous conviction in another Member State, it should as far as possible be avoided that the person concerned is treated less favourably than if the previous conviction had been a national conviction.

(9) Article 3(5) should be interpreted, *inter alia*, in line with recital 8, in such a manner that if the national court in the new criminal proceedings, when taking into account a previously imposed sentence handed down in another Member State, is of the opinion that imposing a certain level of sentence within the limits of national law would be disproportionately harsh on the offender, considering his or her circumstances, and if the purpose of the punishment can be achieved by a lower sentence, it may reduce the level of sentence accordingly, if doing so would have been possible in purely domestic cases.

(10) This Framework Decision is to replace the provisions of Article 56 of the European Convention of 28 May 1970 on the International Validity of Criminal Judgments, concerning the taking into consideration of criminal judgments, as between the Member States parties to that Convention.

(11) This Framework Decision respects the principle of subsidiarity provided for by Article 2 of the Treaty on European Union and Article 5 of the Treaty establishing the European Community in so far as it aims to approximate the laws and regulations of the Member States, which cannot be done adequately by the Member States acting unilaterally and requires concerted action in the European Union. In accordance with the principle of proportionality, as set out in Article 5 of the Treaty establishing the European Community, this Framework Decision does not go beyond what is necessary in order to achieve that objective.

(12) This Framework Decision respects the fundamental rights and observes the principles recognised by Article 6 of the Treaty on European Union and reflected in the Charter of Fundamental Rights of the European Union.

(13) This Framework Decision respects the variety of domestic solutions and procedures required for taking into account a previous conviction handed down in another Member State. The exclusion of a possibility to review a previous conviction should not prevent a Member State from issuing a decision, if necessary, in order to attach the equivalent legal effects to such previous conviction. However, the procedures involved in issuing such a decision should not, in view of the time and procedures or formalities required, render it impossible to attach equivalent effects to a previous conviction handed down in another Member State.

(14) Interference with a judgment or its execution covers, *inter alia*, situations where, according to the national law of the second Member State, the sanction imposed in a previous judgment is to be absorbed by or included in another sanction, which is then to be effectively executed, to the extent that the first sentence has not already been executed or its execution has not been transferred to the second Member State,

HAS ADOPTED THIS FRAMEWORK DECISION:

Article 1

Subject matter

1. The purpose of this Framework Decision is to determine the conditions under which, in the course of criminal proceedings in a Member State against a person, previous convictions handed down against the same person for different facts in other Member States, are taken into account.

2. This Framework Decision shall not have the effect of amending the obligation to respect the fundamental rights and fundamental legal principles as enshrined in Article 6 of the Treaty.

Article 2

Definitions

For the purposes of this Framework Decision 'conviction' means any final decision of a criminal court establishing guilt of a criminal offence.

Article 3

Taking into account, in the course of new criminal proceedings, a conviction handed down in another Member State

1. Each Member State shall ensure that in the course of criminal proceedings against a person, previous convictions handed down against the same person for different facts in other Member States, in respect of which information has been obtained under applicable instruments on mutual legal assistance or on the exchange of information extracted from criminal records, are taken into account to the extent previous national convictions are taken into account, and that equivalent legal effects are attached to them as to previous national convictions, in accordance with national law.

2. Paragraph 1 shall apply at the pre-trial stage, at the trial stage itself and at the time of execution of the conviction, in particular with regard to the applicable rules of procedure, including those relating to provisional detention, the definition of the offence, the type and level of the sentence, and the rules governing the execution of the decision.

3. The taking into account of previous convictions handed down in other Member States, as provided for in paragraph 1, shall not have the effect of interfering with, revoking or reviewing previous convictions or any decision relating to their execution by the Member State conducting the new proceedings.

4. In accordance with paragraph 3, paragraph 1 shall not apply to the extent that, had the previous conviction been a national conviction of the Member State conducting the new proceedings, the taking into account of the previous conviction would, according to the national law of that Member State, have had the effect of interfering with, revoking or reviewing the previous conviction or any decision relating to its execution.

5. If the offence for which the new proceedings being conducted was committed before the previous conviction had been handed down or fully executed, paragraphs 1 and 2 shall not have the effect of requiring Member States to apply their national rules on imposing sentences, where the application of those rules to foreign convictions would limit the judge in imposing a sentence in the new proceedings. However, the Member States shall ensure that in such cases their courts can otherwise take into account previous convictions handed down in other Member States.

Article 4

Relation to other legal instruments

This Framework Decision shall replace Article 56 of the European Convention of 28 May 1970 on the International Validity of Criminal Judgments as between the Member States parties to that Convention, without prejudice to the application of that Article in relations between the Member States and third countries.

Article 5

Implementation

1. Member States shall take the necessary measures to comply with the provisions of this Framework Decision by 15 August 2010.

2. Member States shall communicate to the General Secretariat of the Council and to the Commission the text of the provisions transposing into their national law the obligations imposed on them under this Framework Decision.

3. On the basis of that information the Commission shall, by 15 August 2011, present a report to the European Parliament and the Council on the application of this Framework Decision, accompanied if necessary by legislative proposals.

Article 6

Entry into force

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

Done at Brussels, 24 July 2008.

For the Council
The President
B. HORTEFEUX

CORRIGENDA

Corrigendum to Council Regulation (EC) No 479/2008 of 29 April 2008 on the common organisation of the market in wine, amending Regulations (EC) No 1493/1999, (EC) No 1782/2003, (EC) No 1290/2005, (EC) No 3/2008 and repealing Regulations (EEC) No 2392/86 and (EC) No 1493/1999

(Official Journal of the European Union L 148 of 6 June 2008)

On page 40, Article 128(2):

for: '2. Regulation (EC) No 2392/86 and Chapters I and II of Title V, Title VI, Articles 24 and 80 …',

read: '2. Regulation (EEC) No 2392/86 and Chapters I and II of Title V, Title VI, Articles 18 and 70 …'.

Corrigendum to Council Regulation (EC) No 71/2008 of 20 December 2007 setting up the Clean Sky Joint Undertaking

(Official Journal of the European Union L 30 of 4 February 2008)

In the title of the Regulation, both on the cover and on page 1:

for: 'Council Regulation (EC) No 71/2007 of 20 December 2007 …',

read: 'Council Regulation (EC) No 71/2008 of 20 December 2007 …'.