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### Legislation

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#### Contents

#### I Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory

##### REGULATIONS

- ★ **Council Regulation (EC) No 1286/2008 of 16 December 2008 amending Regulation (EC) No 193/2007, imposing a definitive countervailing duty on imports of certain polyethylene terephthalate, originating in India and amending Regulation (EC) No 192/2007 imposing a definitive anti-dumping duty on imports of certain polyethylene terephthalate, originating in, *inter alia*, India** ..... 1
- Commission Regulation (EC) No 1287/2008 of 18 December 2008 establishing the standard import values for determining the entry price of certain fruit and vegetables ..... 13
- Commission Regulation (EC) No 1288/2008 of 18 December 2008 amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EC) No 945/2008 for the 2008/2009 marketing year ..... 15
- ★ **Commission Regulation (EC) No 1289/2008 of 12 December 2008 amending Commission Regulation (EC) No 809/2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards elements related to prospectuses and advertisements <sup>(1)</sup>** ..... 17
- ★ **Commission Regulation (EC) No 1290/2008 of 18 December 2008 concerning the authorisation of a preparation of *Lactobacillus rhamnosus* (CNCM-I-3698) and *Lactobacillus farciminis* (CNCM-I-3699) (Sorbiflore) as a feed additive <sup>(1)</sup>** ..... 20
- ★ **Commission Regulation (EC) No 1291/2008 of 18 December 2008 concerning the approval of control programmes for salmonella in certain third countries in accordance with Regulation (EC) No 2160/2003 of the European Parliament and of the Council and listing of avian influenza surveillance programmes in certain third countries and amending Annex I to Regulation (EC) No 798/2008 <sup>(1)</sup>** ..... 22

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

(Continued overleaf)

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# EN

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.

The titles of all other acts are printed in bold type and preceded by an asterisk.

★ Commission Regulation (EC) No 1292/2008 of 18 December 2008 concerning the authorisation of <i>Bacillus amyloliquefaciens</i> CECT 5940 (Ecobiol and Ecobiol plus) as a feed additive <sup>(1)</sup> .....	36
★ Commission Regulation (EC) No 1293/2008 of 18 December 2008 concerning the authorisation of a new use of <i>Saccharomyces cerevisiae</i> CNCM I-1077 (Levucell SC20 and Levucell SC10 ME) as a feed additive <sup>(1)</sup> .....	38
★ Commission Regulation (EC) No 1294/2008 of 18 December 2008 amending Regulation (EC) No 318/2007 laying down animal health conditions for imports of certain birds into the Community and the quarantine conditions thereof <sup>(1)</sup> .....	41
★ Commission Regulation (EC) No 1295/2008 of 18 December 2008 on the importation of hops from third countries (Codified version) .....	45
★ Commission Regulation (EC) No 1296/2008 of 18 December 2008 laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal (Codified version) .....	57

DIRECTIVES

★ Commission Directive 2008/123/EC of 18 December 2008 amending Council Directive 76/768/EEC, concerning cosmetic products, for the purpose of adapting Annexes II and VII thereto to technical progress <sup>(1)</sup> .....	71
★ Commission Directive 2008/124/EC of 18 December 2008 limiting the marketing of seed of certain species of fodder plants and oil and fibre plants to seed which has been officially certified as 'basic seed' or 'certified seed' (Codified version) <sup>(1)</sup> .....	73

DECISIONS ADOPTED JOINTLY BY THE EUROPEAN PARLIAMENT AND THE COUNCIL

★ Decision No 1297/2008/EC of the European Parliament and of the Council of 16 December 2008 on a Programme for the Modernisation of European Enterprise and Trade Statistics (MEETS) <sup>(1)</sup> .....	76
★ Decision No 1298/2008/EC of the European Parliament and of the Council of 16 December 2008 establishing the Erasmus Mundus 2009-2013 action programme for the enhancement of quality in higher education and the promotion of intercultural understanding through cooperation with third countries <sup>(1)</sup> .....	83



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

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

DECISIONS

**Commission**

2008/960/EC:

- ★ **Commission Decision of 8 December 2008 excluding from Community financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) and under the European Agricultural Guarantee Fund (EAGF) (notified under document number C(2008) 7820).....** 99

2008/961/EC:

- ★ **Commission Decision of 12 December 2008 on the use by third countries' issuers of securities of certain third country's national accounting standards and International Financial Reporting Standards to prepare their consolidated financial statements (notified under document number C(2008) 8218) <sup>(1)</sup>.....** 112

2008/962/EC:

- ★ **Commission Decision of 15 December 2008 amending Decisions 2001/405/EC, 2002/255/EC, 2002/371/EC, 2002/740/EC, 2002/741/EC, 2005/341/EC and 2005/343/EC in order to prolong the validity of the ecological criteria for the award of the Community eco-label to certain products (notified under document number C(2008) 8442) <sup>(1)</sup>.....** 115



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

## I

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

## REGULATIONS

**COUNCIL REGULATION (EC) No 1286/2008  
of 16 December 2008**

**amending Regulation (EC) No 193/2007, imposing a definitive countervailing duty on imports of certain polyethylene terephthalate, originating in India and amending Regulation (EC) No 192/2007 imposing a definitive anti-dumping duty on imports of certain polyethylene terephthalate, originating in, *inter alia*, 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<sup>(1)</sup> (the basic Regulation), and in particular Articles 15 and 19 thereof,

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

Whereas:

**A. PROCEDURE**

**I. PREVIOUS INVESTIGATION AND EXISTING MEASURES**

- (1) On 30 November 2000, by Regulation (EC) No 2603/2000<sup>(2)</sup>, the Council imposed definitive countervailing duties on imports of certain polyethylene terephthalate (PET) originating in, *inter alia*, India (the country concerned) (the original investigation).
- (2) Following an expiry review, the Council, by Regulation (EC) No 193/2007<sup>(3)</sup>, imposed a definitive countervailing duty on imports of certain polyethylene terephthalate, originating in India (the anti-subsidy Regu-

lation) for a further period of five years. The product concerned falls within the CN code 3907 60 20. The rate of the fixed duty ranges between 0 and 106,5 EUR/tonne for individually named exporters with a residual duty rate of 41,3 EUR/tonne imposed on imports from other exporters.

- (3) Furthermore, by Regulation (EC) 192/2007<sup>(4)</sup>, the Council imposed a definitive anti-dumping duty on the same product originating in India (the anti-dumping Regulation). Under this Regulation the rate of the fixed duty ranges between 88,9 and 200,9 EUR/tonne for individually named exporters with a residual duty rate of 181,7 EUR/tonne imposed on imports from other exporters.

- (4) In line with the principle that no product shall be subject to both anti-dumping and countervailing duties for the purpose of dealing with one and the same situation arising from dumping or from export subsidisation, the level of anti-dumping duties in the anti-dumping Regulation takes into account the amount of countervailing duty imposed by the anti-subsidy Regulation, in accordance with Article 14(1) of the basic Regulation.

**II. INITIATION OF A PARTIAL INTERIM REVIEW**

- (5) Following the imposition of the definitive countervailing duty the Government of India (GOI) submitted that the circumstances with regard to two subsidy schemes (the Duty Entitlement Passbook Scheme and the Income Tax Exemption under Section 80 HHC of the Income Tax Act) have changed and that these changes are of a lasting nature. Consequently, it was argued that the level of subsidisation was likely to have decreased and thus measures that had been established partly on these schemes should be revised.

<sup>(1)</sup> OJ L 288, 21.10.1997, p. 1.

<sup>(2)</sup> OJ L 301, 30.11.2000, p. 1.

<sup>(3)</sup> OJ L 59, 27.2.2007, p. 34.

<sup>(4)</sup> OJ L 59, 27.2.2007, p. 1.

- (6) The Commission examined the evidence submitted by the GOI and considered it sufficient to justify the initiation of a review in accordance with the provisions of Article 19 of the basic Regulation, limited to the level subsidisation imports of certain polyethylene terephthalate, originating in India. After consultation of the Advisory Committee, the Commission initiated, by a notice published in the *Official Journal of the European Union* <sup>(1)</sup> ('the Notice of Initiation'), an *ex officio* partial interim review of Regulation (EC) No 193/2007.
- (7) The purpose of the partial interim review investigation is to assess the need for the continuation, removal or amendment of the existing measures in respect of those companies which benefited from one or both the changed subsidy schemes, where sufficient evidence was provided in line with the relevant provisions of the Notice of Initiation. The partial interim review investigation would also assess the need, depending on the review findings, to revise the measures applicable to other companies that cooperated in the investigation that set the level of the existing measures and/or the residual measure applicable for all other companies.

### III. INVESTIGATION PERIOD

- (8) The investigation covered the period from 1 April 2006 to 31 March 2007 (the review investigation period or RIP).

### IV. PARTIES CONCERNED BY THE INVESTIGATION

- (9) The Commission officially informed the GOI and those Indian exporting producers who cooperated in the previous investigation, were mentioned under Regulation (EC) No 193/2007 as benefiting from any of the two allegedly changed subsidy schemes and that were listed in the Annex to the Notice of Initiation, as well as the Community producers, of the initiation of the partial interim review investigation. Interested parties had the opportunity to make their views known in writing and to request a hearing. The written and oral comments submitted by the parties were considered and, where appropriate, taken into account.
- (10) In view of the number of parties involved in this review, the use of sampling techniques for the investigation of subsidisation was envisaged in accordance with Article 27 of the basic Regulation.
- (11) Two exporting producers made themselves known and provided the information requested for sampling. Therefore, the use of sampling techniques was not considered necessary. One of the two exporting producers that had submitted a sampling form did however later notify the Commission that it did not intend to complete a full questionnaire and provide the data necessary for the purpose of the investigation.

- (12) The Commission therefore sent and obtained a reply to the questionnaire from only one producer which was eligible for this review, namely Pearl Engineering Polymers Ltd (the company). A questionnaire was also addressed to the GOI. Replies were received from both the company and the GOI.

- (13) The Commission sought and verified all information it deemed necessary for the determination of subsidisation. Verification visits were carried out at the premises of the following interested parties:

#### 1. Government of India

Ministry of Commerce, New Delhi.

#### 2. Exporting producers in India

Pearl Engineering Polymers Ltd, New Delhi.

### V. DISCLOSURE AND COMMENTS ON PROCEDURE

- (14) The GOI and the other interested parties were informed of the essential facts and considerations upon which it was intended to propose to amend the duty rate applicable to the sole cooperating Indian producer and to the non-cooperating exporting producer also mentioned in the Annex to the Notice of Initiation as well as the intention to maintain existing measures for all other companies which did not cooperate with this partial interim review. They were also given a reasonable time to comment. All submissions and comments were taken duly into consideration as set out below.

### B. PRODUCT CONCERNED

- (15) The product covered by this review is the same product as the one concerned by Regulation (EC) No 193/2007, i.e. PET with a viscosity number of 78 ml/g or higher, according to ISO Standard 1628-5, originating in the country concerned. It is currently classifiable within CN code 3907 60 20.

### C. SUBSIDIES

#### I. INTRODUCTION

- (16) On the basis of the information submitted by the GOI and the sole cooperating exporting producer and the replies to the Commission's questionnaire, the following schemes, which allegedly involve the granting of subsidies, were investigated:

- (a) Advance Authorisation Scheme (formerly known as Advance Licence Scheme) (AAS);

<sup>(1)</sup> OJ C 227, 27.9.2007, p. 16.

- (b) Duty Entitlement Passbook Scheme (DEPS);
- (c) Export Promotion Capital Goods Scheme (EPCGS);
- (d) Income Tax Exemption Scheme (ITES);
- (e) Focus Market Scheme (FMS);
- (f) Target Plus Scheme (TPS).
- (17) The schemes (a) (b) (c) (e) and (f) specified above are based on the Foreign Trade (Development and Regulation) Act 1992 (No 22 of 1992) which entered into force on 7 August 1992 (Foreign Trade Act). The Foreign Trade Act authorises the GOI to issue notifications regarding the export and import policy. These are summarised in 'Export and Import Policy' documents, which are issued by the Ministry of Commerce every five years and updated regularly. One Export and Import Policy document is relevant to the RIP of this case, i.e. the five-year plan relating to the period 1 September 2004 to 31 March 2009 (EXIM-policy 04-09). In addition, the GOI also sets out the procedures governing the EXIM-policy 04-09 in a 'Handbook of Procedures – 1 September 2004 to 31 March 2009, Volume I' (HOP I 04-09). The Handbook of Procedure is also updated on a regular basis.
- (18) The Income Tax Schemes specified above under (d) are based on the Income Tax Act of 1961, which is amended yearly by the Finance Act.
- (19) In accordance with Article 11(10) of the basic Regulation, the Commission invited the GOI for additional consultations with respect to both changed and unchanged schemes with the aim of clarifying the factual situation as regards the alleged schemes and arriving at a mutually agreed solution. Following these consultations, and in the absence of a mutually agreed solution in relation to these schemes, the Commission included all these schemes in the investigation of subsidisation.
- (20) One interested party, representing Community industry alleged that a number of other schemes and subsidies continued to be available to Indian exporters. However, no definite evidence has emerged from the information showing that these schemes were used by the cooperating exporting producer. Therefore these matters have not been pursued further for the purpose of this specific proceeding.

## II. SPECIFIC SCHEMES

### 1. Advance Authorisation Scheme (AAS)

#### (a) Legal basis

- (21) The detailed description of the scheme is contained in paragraphs 4.1.1 to 4.1.14 of the EXIM-policy 04-09 and chapters 4.1 to 4.30 of the HOP I 04-09. This scheme was called Advance Licence Scheme during the previous review investigation that led to the imposition by Regulation (EC) No 193/2007 of the definitive countervailing duty currently in force.

#### (b) Eligibility

- (22) The AAS consists of six sub-schemes, as described in more detail in recital 23. Those sub-schemes differ, *inter alia*, in the scope of eligibility. Manufacturer-exporters and merchant-exporters 'tied to' supporting manufacturers are eligible for the AAS physical exports and for the AAS for annual requirement. Manufacturer-exporters supplying the ultimate exporter are eligible for AAS for intermediate supplies. Main contractors which supply to the 'deemed export' categories mentioned in paragraph 8.2 of the EXIM-policy 04-09, such as suppliers of an export oriented unit (EOU), are eligible for AAS deemed export. Eventually, intermediate suppliers to manufacturer-exporters are eligible for 'deemed export' benefits under the sub-schemes Advance Release Order (ARO) and back-to-back inland letter of credit.

#### (c) Practical implementation

- (23) Advance authorisations can be issued for:
- (i) *physical exports*: this is the main sub-scheme. It allows for duty-free import of input materials for the production of a specific resultant export product. 'Physical' in this context means that the export product has to leave Indian territory. An import allowance and export obligation, including the type of export product are specified in the licence;
- (ii) *annual requirement*: such an authorisation is not linked to a specific export product, but to a wider product group (e.g. chemical and allied products). The licence holder can — up to a certain value threshold set by its past export performance — import duty free any input to be used in manufacturing any of the items falling under such a product group. It can choose to export any resultant product falling under the product group using such duty-exempt material;

- (iii) *intermediate supplies*: this sub-scheme covers cases where two manufacturers intend to produce a single export product and divide the production process. The manufacturer-exporter who produces the intermediate product can import duty-free input materials and can obtain for this purpose an AAS for intermediate supplies. The ultimate exporter finalises the production and is obliged to export the finished product;
- (iv) *deemed exports*: this sub-scheme allows a main contractor to import free of duty inputs which are required in manufacturing goods to be sold as 'deemed exports' to the categories of customers mentioned in paragraph 8.2(b) to (f), (g), (i) and (j) of the EXIM-policy 04-09. According to the GOI, deemed exports refer to those transactions in which the goods supplied do not leave the country. A number of categories of supply is regarded as deemed exports provided the goods are manufactured in India, e.g. supply of goods to an EOU or to a company situated in a special economic zone (SEZ);
- (v) *ARO*: the AAS holder intending to source the inputs from indigenous sources, in lieu of direct import, has the option to source them against AROs. In such cases the Advance Authorisations are validated as AROs and are endorsed to the indigenous supplier upon delivery of the items specified therein. The endorsement of the ARO entitles the indigenous supplier to the benefits of deemed exports as set out in paragraph 8.3 of the EXIM-policy 04-09 (i.e. AAS for intermediate supplies/deemed export, deemed export drawback and refund of terminal excise duty). The ARO mechanism refunds taxes and duties to the supplier instead of refunding the same to the ultimate exporter in the form of drawback/refund of duties. The refund of taxes/duties is available both for indigenous inputs as well as imported inputs;
- (vi) *back-to-back inland letter of credit*: this sub-scheme again covers indigenous supplies to an Advance Authorisation holder. The holder of an Advance Authorisation can approach a bank for opening an inland letter of credit in favour of an indigenous supplier. The authorisation will be invalidated by the bank for direct import only in respect of the value and volume of items being sourced indigenously instead of importation. The indigenous supplier will be entitled to deemed export benefits as set out in paragraph 8.3 of the EXIM-policy 04-09 (i.e. AAS for intermediate supplies/deemed export, deemed export drawback and refund of terminal excise duty).
- (24) It was established that during the RIP, the cooperating exporter only obtained concessions under two sub-schemes linked to the product concerned, i.e. (i) AAS physical exports and (iv) AAS for deemed exports. It is therefore not necessary to establish the countervailability of the remaining unused sub-schemes.
- (25) Following the imposition by Regulation (EC) No 193/2007 of the definitive countervailing duty currently in force, the GOI has modified the verification system applicable to AAS. In concrete terms, for verification purposes by the Indian authorities, an Advance Authorisation holder is legally obliged to maintain 'a true and proper account of consumption and utilisation of duty-free imported/domestically procured goods' in a specified format (Chapters 4.26, 4.30 and Appendix 23 HOP I 04-09), i.e. an actual consumption register. This register has to be verified by an external chartered accountant/cost and works accountant who issues a certificate stating that the prescribed registers and relevant records have been examined and the information furnished under Appendix 23 is true and correct in all respects. Nevertheless, the aforesaid provisions apply only to Advance Authorisations issued on or after 13 May 2005. For all Advance Authorisations or Advance Licences issued before that date, holders are requested to follow the previously applicable verification provisions, i.e. to keep a true and proper account of licence-wise consumption and utilisation of imported goods in the specified format of Appendix 18 (Chapter 4.30 and Appendix 18 HOP I 02-07).
- (26) With regard to the sub-schemes used during the RIP by the sole cooperating exporting producer, i.e. physical exports and deemed exports, both the import allowance and the export obligation are fixed in volume and value by the GOI and are documented on the Authorisation. In addition, at the time of import and of export, the corresponding transactions are to be documented by Government officials on the Authorisation. The volume of imports allowed under this scheme is determined by the GOI on the basis of standard input-output norms (SIONs). SIONs exist for most products, including the product concerned and are published in the HOP II 04-09.
- (27) In this respect it should be noted that the SIONs are regularly revised. Since the one cooperating exporter used licences issued at different times, this also meant that different SIONs were applied by this company under the RIP.
- (28) Imported input materials are not transferable and have to be used to produce the resulting export product. The export obligation must be fulfilled within a prescribed time frame after issuance of the licence (24 months with two possible extensions of six months each).

- (29) The review investigation established that while the cooperating exporting producer could establish the total consumption of raw materials there was no actual consumption register for the product concerned. Consumption was only presumed to be in line with the SIONs. It was therefore not possible to establish whether SION requirements, stipulated under specific authorisations/licences, with respect to duty-free input materials exceed the material needed to produce the reference quantity of the resulting export product.
- (30) Moreover, the review investigation established that raw materials were imported under three different authorisations/licences and different SION norms and then were mixed and physically incorporated in the production process of the same exported good. The fact that there are three different SIONs with different consumption norms for each of the raw materials further underlines the problem in establishing the actual consumption of the cooperating exporter. In this respect, it is clear that an actual consumption register is a basic requirement in order to allow for verification as to whether the duty-free input materials exceed the material needed to produce the reference quantity of the resulting export product.
- (31) The review investigation also established that the verification requirements stipulated by the Indian authorities were either not honoured or not yet tested in practice. For Advance Licences issued before 13 May 2005 the necessary actual consumption and stock registers (i.e. Appendix 18) were not sent to the relevant authorities and hence not controlled by GOI. For Advance Authorisations issued after 13 May 2005 the necessary actual consumption and stock registers are required but GOI had not yet verified the compliance of these registers with EXIM policy requirements. In particular, the registers were verified by external chartered accountants as required by the relevant Indian legislation mentioned under recital 25 but there were no records kept either by the company or by the chartered accountant on how this certification process took place. There was no audit plan or any other supporting material of the audit performed, no recorded information on the methodology used and the specific requirements needed for such scrupulous work that requires detailed technical knowledge on production processes, EXIM policy requirements and accounting procedures. Account taken of this situation, it is considered that the investigated exporter was not able to demonstrate that the relevant EXIM provisions were met.
- (d) *Disclosure comments*
- (32) The cooperating exporter challenged the findings above, in particular with respect to the conclusions as concerns the chartered accountant as detailed in recital 31. To this end it was claimed that there is no national or international legal provision that requires an audited company to maintain a record of how an audit was carried out. On the contrary, Indian law stipulates that the working papers are the property of the auditor. Under such circumstances and considering that no prior request to meet the chartered accountant had been made before the verification visit, the fact that the audited company was not in the possession of such supporting documents at the time of the visit should not be held against it. Furthermore, it was also claimed that the basic Regulation in any event would not authorise the Commission services to verify documents held outside the investigated company such as would be the case with an independent accountant. It was also argued that the actual consumption of the sole cooperating producer had been higher than the SION norms for every input and that there was no excess remission of duties.
- (33) In this respect it is recalled that the verification process performed by the chartered accountant and the issuing of the relevant certificate form part of the verification system introduced by the GOI in its EXIM policy. To this end the EXIM policy has introduced the chartered accountant as an actor in the implementation of the system and the Commission had to examine whether the aforesaid verification system was effectively applied. The fact that the company could not show that either itself nor the assigned chartered account hold any record on the checks performed in order to issue the EXIM policy stipulated certificate demonstrates that the company was not in a position to prove that the relevant EXIM policy provisions were met. As to the company's claim that there in any event was no excess remission of duties it is recalled that the actual situation found on the spot (i.e. mixture of inputs and produced products, use of different SION norms, lack of the by EXIM policy stipulated actual consumption registers) and pending the fulfilment of the necessary final verification steps by the GOI, showed that any calculation with respect to actual consumption and consequent excess remission of duties per authorisation/licence and SION norm was not feasible.
- (e) *Conclusion*
- (34) The exemption from import duties is a subsidy within the meaning of Article 2(1)(a)(ii) and Article 2(2) of the basic Regulation, i.e. a financial contribution of the GOI which conferred a benefit upon the investigated exporter.
- (35) In addition, AAS physical exports and AAS for deemed exports are clearly contingent in law upon export performance, and therefore deemed to be specific and countervailable under Article 3(4)(a) of the basic Regulation. Without an export commitment a company cannot obtain benefits under these schemes.

(36) None of the two sub-schemes used in the present case can be considered as permissible duty drawback systems or substitution drawback systems within the meaning of Article 2(1)(a)(ii) of the basic Regulation. They do not conform to the rules laid down in Annex I item (i), Annex II (definition and rules for drawback) and Annex III (definition and rules for substitution drawback) to the basic Regulation. The GOI did not effectively apply its verification system or procedure to confirm whether and in what amounts inputs were consumed in the production of the exported product (Annex II(II)(4) to the basic Regulation and, in the case of substitution drawback schemes, Annex III(II)(2) to the basic Regulation). The SIONs themselves cannot be considered a verification system of actual consumption, since duty-free input materials imported under authorisations/licences with different SION yields are mixed in the same production process for an exporting good. This type of process does not enable the GOI to verify with sufficient precision what amounts of inputs were consumed in the export production and under which SION benchmark they should be compared. Furthermore, an effective control done by the GOI based on a correctly kept actual consumption register either did not take place or has not yet been completed. In addition, the GOI did not carry out a further examination based on actual inputs involved, although this would normally need to be carried out in the absence of an effectively applied verification system (Annex II(II)(5) and Annex III(II)(3) to the basic Regulation). Moreover, it is recalled that the company in question did not have a consumption register that allowed for a verification of real consumption of raw material per product type. Therefore, even if an efficient control system had been put in place it would not have been possible for the GOI to ascertain what amounts inputs were consumed in the production of the exported product. Finally, the involvement of chartered accountants in the verification process has not led to the improvement of the verification system as no detailed rules exist on how chartered accountants should perform the entrusted tasks and the information presented during the investigation could not warrant the fulfilment of the aforesaid rules laid down under the basic Regulation.

(37) These two sub-schemes are therefore countervailable.

(f) *Calculation of the subsidy amount*

(38) In the absence of permitted duty drawback systems or substitution drawback systems, the countervailable benefit is the remission of total import duties normally due upon importation of inputs. In this respect, it is noted that the basic Regulation does not only provide for the countervailing of an 'excess' remission of duties. According to Article 2(1)(a)(ii) and Annex I(i) to the basic Regulation only an excess remission of duties can be countervailed, provided the conditions of Annexes II and III to the basic Regulation are met. However, these

conditions were not fulfilled in the present case. Thus, if an absence of an adequate monitoring process is established, the above exception for drawback schemes is not applicable and the normal rule of the countervailing of the amount of (revenue forgone) unpaid duties, rather than any purported excess remission, applies. As set out in Annexes II(II) and III(II) to the basic Regulation the burden is not upon the investigating authority to calculate such excess remission. To the contrary, according to Article 2(1)(a)(ii) of the basic Regulation it only has to establish sufficient evidence to refute the appropriateness of an alleged verification system.

(39) The subsidy amount for the exporter which used the AAS was calculated on the basis of import duties forgone (basic customs duty and special additional customs duty) on the material imported under the two sub-schemes used for the product concerned during the RIP (nominator). In accordance with Article 7(1)(a) of the basic Regulation, fees necessarily incurred to obtain the subsidy were deducted from the subsidy amount where justified claims were made. In accordance with Article 7(2) of the basic Regulation, this subsidy amount has been allocated over the export turnover generated by the product concerned during the RIP as appropriate denominator, because the subsidy is contingent upon export performance and was not granted by reference to the quantities manufactured, produced, exported or transported.

(40) The subsidy rate established in respect of this scheme during the RIP for the sole cooperating producer amounts to 12,8 %.

## 2. Duty Entitlement Passbook Scheme (DEPS)

### (a) *Legal basis*

(41) The detailed description of the DEPS is contained in paragraph 4.3 of the EXIM-policy 04-09 and in Chapter 4 of the HOP I 04-09.

(42) It was found that the cooperating exporting producer obtained no countervailable benefits under the DEPS. It was therefore not found necessary to further analyse this scheme in the scope of this investigation.

## 3. Export Promotion Capital Goods Scheme (EPCGS)

### (a) *Legal basis*

(43) The detailed description of the EPCGS is contained in Chapter 5 of the EXIM-policy 04-09 and in Chapter 5 of the HOP I 04-09.

*(b) Eligibility*

- (44) Manufacturer-exporters, merchant-exporters 'tied to' supporting manufacturers and service providers are eligible for this scheme.

*(c) Practical implementation*

- (45) Under the condition of an export obligation, a company is allowed to import capital goods (new and — since April 2003 — second-hand capital goods up to 10 years old) at a reduced rate of duty. To this end, the GOI issues, upon application and payment of a fee, an EPCGS licence. Since April 2000, the scheme provides for a reduced import duty rate of 5 % applicable to all capital goods imported under the scheme. Until 31 March 2000, an effective duty rate of 11 % (including a 10 % surcharge) and, in case of high value imports, a zero duty rate was applicable. In order to meet the export obligation, the imported capital goods must be used to produce a certain amount of export goods during a certain period.
- (46) The EPCGS licence holder can also source the capital goods indigenously. In such case, the indigenous manufacturer of capital goods may avail of the benefit for duty-free import of components required to manufacture such capital goods. Alternatively, the indigenous manufacturer can claim the benefit of deemed export in respect of supply of capital goods to an EPCGS licence holder.

*(d) Disclosure comments*

- (47) No comments with respect to EPCGS were submitted upon disclosure.

*(e) Conclusion on EPCG Scheme*

- (48) The EPCGS provides subsidies within the meaning of Article 2(1)(a)(ii) and Article 2(2) of the basic Regulation. The duty reduction constitutes a financial contribution by the GOI, since this concession decreases the GOI's duty revenue, which would be otherwise due. In addition, the duty reduction confers a benefit upon the exporter, because the duties saved upon importation improve its liquidity.
- (49) Furthermore, the EPCGS is contingent in law upon export performance, since such licences cannot be obtained without a commitment to export. Therefore, it is deemed to be specific and countervailable under Article 3(4)(a) of the basic Regulation.
- (50) Finally, this scheme can not be considered a permissible duty drawback system or substitution drawback system

within the meaning of Article 2(1)(a)(ii) of the basic Regulation. Capital goods are not covered by the scope of such permissible systems, as set out in Annex I(i) to the basic Regulation, because they are not consumed in the production of the exported products.

*(f) Calculation of the subsidy amount*

- (51) The one cooperating exporter had not purchased any capital goods in the IP. The company continued however to benefit from duty exemptions for capital goods purchased before the IP at the amount established in the original investigation. As established in the original investigation the subsidy amount obtained during the RIP was calculated, in accordance with Article 7(3) of the basic Regulation, on the basis of the unpaid customs duty on imported capital goods spread across a period which reflects the actual depreciation period of such capital goods of the exporting producer. In accordance with the established practice, the amount so calculated which is attributable to the RIP has been adjusted by adding interest during this period in order to reflect the full value of the benefit over time. Fees necessarily incurred to obtain the subsidy were deducted in accordance with Article 7(1)(a) of the basic Regulation from this sum to arrive at the subsidy amount as numerator. In accordance with Article 7(2) and 7(3) of the basic Regulation this subsidy amount has been allocated over the export turnover during the review investigation period as appropriate denominator, because the subsidy is contingent upon export performance and it was not granted by reference to the quantities manufactured, produced, exported or transported. The subsidy rate established with respect to the benefit obtained by the company during the RIP was 0,3 %.

**4. Income Tax Exemption Scheme (ITES)***(a) Legal basis*

Section 80HHC of the Income Tax Act 1961 (ITA)

- (52) Under this scheme exporters could avail the benefit of a partial income tax exemption on profits derived from export sales. The legal basis for this exemption was set by Section 80HHC of the ITA.
- (53) This provision was abolished for the assessment year 2005-2006 (i.e. for the financial year from 1 April 2004 to 31 March 2005) onwards and thus 80HHC of the ITA does not confer any benefits after 31 March 2004. The sole cooperating exporting producer did not avail of any benefits under this scheme during the RIP. Consequently, since the scheme has been withdrawn, it shall therefore not be countervailed, in accordance with Article 15(1) of the basic Regulation.

## 5. Focus Market Scheme (FMS)

### (a) Legal basis

- (54) The detailed description of the FMS is contained in Chapter 3.9 of the EXIM-policy 04-09 and in Chapter 3.20 of the HOP I 04-09. While the company reported this scheme, the investigation revealed that no benefit was received in the RIP. Since it was found that the cooperating exporting producer did not obtain any countervailable benefits under this scheme, it was not found necessary to further analyse it in the scope of this investigation.

## 6. Target Plus Scheme (TPS)

### (a) Legal basis

- (55) The detailed description of the TPS is contained in Chapter 3.7 of the EXIM-policy 04-09 and in Chapter 3.2 of the HOP I 04-09.

### (b) Eligibility

- (56) Any manufacturing exporter is eligible to apply for this scheme

### (c) Practical implementation

- (57) This scheme aims at giving a premium to companies that increase their export turnover growth. To this end the scheme allows eligible companies to avail of duty credit ranging between 5 % and 15 % of an amount based on the difference between the FOB values of exports made in two consecutive financial years.
- (58) Companies wishing to benefit from the scheme have to file an application to the Ministry of Commerce and industry. Once authorised, a licence indicating the amount of the duty credit is issued by the relevant authorities.
- (59) This scheme was discontinued in March 2006 and replaced over time by two new schemes, the Focus Market Scheme and the Focus Product Scheme. The right to apply for TPS licence did however continue until March 2007 and companies availing of the scheme may make use of the relevant duty credit entitlements until March 2009.

### (d) Disclosure comments

- (60) The cooperating producer considered that there was no benefit accrued to the company in the RIP of this scheme and considering that the scheme was withdrawn in 2006 it should not be countervailed. However, as detailed above, the investigation revealed that a benefit was conferred on the company in the RIP and furthermore,

while the scheme indeed has been abandoned, companies may continue to benefit from it until 2009.

### (e) Conclusion on Target Plus Scheme

- (61) The TPS provides subsidies within the meaning of Article 2(1)(a) (ii) and Article 2(2) of the basic Regulation. A TPS duty credit is a financial contribution by the GOI, since the credit will eventually be used to offset import duties, thus decreasing the GOI's duty revenue which would be otherwise due. In addition, the TPS duty credit confers a benefit upon the exporter, because it improves its liquidity.
- (62) Furthermore, the TPS is contingent in law upon export performance, and therefore deemed to be specific and countervailable under Article 3(4)(a) of the basic Regulation.
- (63) This scheme cannot be considered a permissible duty drawback system or substitution drawback system within the meaning of Article 2(1)(a)(ii) of the basic Regulation. It does not conform to the strict rules laid down in Annex I item (i), Annex II (definition and rules for drawback) and Annex III (definition and rules for substitution drawback) to the basic Regulation. An exporter is under no obligation to actually consume the goods imported free of duty in the production process and the amount of credit is not calculated in relation to actual inputs used. There is no system or procedure in place to confirm which inputs are consumed in the production process of the exported product or whether an excess payment of import duties occurred within the meaning of item (i) of Annex I and Annexes II and III to the basic Regulation. An exporter is eligible for the TPS benefits regardless of whether it imports any inputs at all. In order to obtain the benefit, it is sufficient for an exporter to simply increase its export turnover without demonstrating that any input material was imported. Thus, even exporters which procure all of their inputs locally and do not import any goods which can be used as inputs are still entitled to benefit from the TPS.
- (f) Calculation of the subsidy amount
- (64) The amount of countervailable subsidies was calculated in terms of the benefit conferred on the recipient, which is found to exist during the RIP as booked by the cooperating exporting producer on an accrual basis as income at the stage of export transaction. In accordance with Article 7(2) and 7(3) of the basic Regulation this subsidy amount (numerator) has been allocated over the export turnover during the RIP as appropriate denominator, because the subsidy is contingent upon export performance and it was not granted by reference to the quantities manufactured, produced, exported or transported.

(65) The subsidy rate established with regard to this scheme during the RIP for the sole cooperating exporting producer amounts to 0,7 %.

exporting producer cooperating with the present partial interim review.

### III. AMOUNT OF COUNTERAVAILABLE SUBSIDIES

(66) It is recalled that of the subsidy margin, established in the original investigation was found to be 5,8 % for the sole

(67) During the present partial interim review the amount of countervailing subsidies, expressed *ad valorem*, was found to be 13,8 %, as listed hereunder:

Company \ Scheme	ALS	DEPS	EPCGS	ITIRAD	FMS	TPS	Total
	%	%	%	%	%	%	%
Pearl Engineering Polymers Ltd	12,8	0	0,3	0	0	0,7	13,8

(68) Account taken of the above it is concluded that the level of subsidisation with regard to the sole cooperating exporting producer has increased.

neering and Reliance Industries mentioned under Article 1(2) of Regulation (EC) No 193/2007 remain unchanged.

## D. COUNTERVAILING MEASURES AND ANTI-DUMPING MEASURES

### I. COUNTERVAILING MEASURES

(69) In line with the provisions of Article 19 of the basic Regulation and the grounds of this partial interim review stated under point 3 of the Notice of Initiation, it is established that the margin of subsidisation with regard to the sole cooperating producer has increased from 5,8 % to 13,8 % and, therefore, the rate of countervailing duty, imposed to this exporting producer by Regulation (EC) No 193/2007 has to be amended accordingly.

(72) Conversely, as concerns the companies that cooperated neither in this review nor in the original investigation, these must be considered to continue to avail of benefits under the investigated subsidisation schemes at least the same rate as that established for the sole cooperator. In order to avoid granting a bonus for non-cooperation it is considered appropriate to establish level of subsidisation applicable to 'all other companies' as the highest rate set for any company cooperating in the original investigation i.e. 13,8 %.

(70) The second company that was concerned with the present partial interim review Reliance Industries Ltd, had the highest subsidy margin in the original investigation but did not cooperate in this review. Since this company did not cooperate an assessment had to be based on best facts available in accordance with Article 28 of the basic Regulation. In this respect and in view of the findings as concern the one cooperating exporter, it is also likely that this non-cooperating exporting producer will continue to avail of benefits under the investigated subsidisation schemes at least the same rate as that established for the cooperator. It must thus be concluded that the level of subsidisation with regard to the one non-cooperating exporting producer concerned by the review has also increased to 13,8 % and, therefore, the rate of countervailing duty, imposed on this exporting producer by Regulation (EC) No 193/2007, has to be amended accordingly.

(73) The amended countervailing duty rates should be established at the level of the new rates of subsidisation found during the present review, as the injury margins calculated in the original anti-subsidy investigation remain higher.

(71) With regard to companies that cooperated in the original investigation but that were not identified as concerned by the investigation in the Annex to the Notice of Initiation, there was no indication that the countervailing and dumping duty rates applicable to such companies need to be recalculated. Consequently, the individual rates of the duty applicable to all other parties except Pearl Engi-

(74) The individual company countervailing duty rates specified in this Regulation reflect the situation found during the partial interim review. Thus, they are solely applicable to imports of the product concerned produced by these companies. Imports of the product concerned manufactured by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.

(75) In order to avoid that fluctuations in the PET prices caused by variations in the crude oil prices result in higher duties being collected it is recalled that the measures in place have been set in the form of a specific duty per tonne. The amount set results from the application of the countervailing duty rate to the CIF export prices that were used for the calculation of the injury elimination level in the original investigation. The same method has been used for the purpose of establishing the amended specific duty levels in the context of this review.

(76) The margins and duty rates applicable should therefore be calculated as indicated in the table below.

	Countervailing duty rate	Proposed countervailing duty rate (EUR/tonne)
Reliance Industries Ltd	13,8 %	69,4
Pearl Engineering Polymers Ltd	13,8 %	74,6
Senpet Ltd	4,43 %	22,0
Futura Polyesters Ltd	0 %	0,0
South Asian Petrochem Ltd	13,9 %	106,5
All other companies	13,8 %	69,4

(77) Any claim requesting the application of these individual countervailing duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission <sup>(1)</sup> forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for instance, that name change or that change in the production and sales entities. If appropriate, and after consultation of the Advisory Committee, the Regulation will be amended accordingly by updating the list of companies benefiting from individual duty rates.

## II. ANTI-DUMPING MEASURES

(78) The amendment of the countervailing duty rate will have an impact on the definitive anti-dumping duty imposed on producers in India, by Regulation (EC) No 192/2007.

(79) In the original anti-dumping investigation, the anti-dumping duty was adjusted in order to avoid any double-counting of the effects of benefits from export subsidies. In this regard, Article 14(1) of the Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community <sup>(2)</sup> and Article 24(1) of the basic anti-subsidy Regulation provide that no product shall be subject to both anti-dumping and countervailing measures for the purpose of dealing with one and the same situation arising from dumping or export subsidisation. It was found in the original anti-subsidy investigation as well as in the present partial interim review that certain of the subsidy schemes investigated, which were found to be countervailable, constituted export subsidies within the meaning of Article 3(4)(a) of the basic anti-subsidy Regulation. As such, these subsidies affected the export price of the Indian exporting producers, thus leading to an increased margin of dumping. In other words, the definitive dumping margins established in the original anti-dumping investigation were partly due to the existence of export subsidies.

(80) Consequently, the definitive anti-dumping duty rates for the exporting producers concerned must now be adjusted to take account of the revised level of benefit received from export subsidies in the RIP in the present partial interim review to reflect the actual dumping margin remaining after the imposition of the adjusted definitive countervailing duty offsetting the effect of the export subsidies.

(81) In other words, the new subsidy levels will have to be taken into account for the purpose of adjusting the dumping margins, previously established.

(82) The margins and duty rates applicable to the companies concerned should therefore be calculated as indicated in the table below.

	Countervailing duty rate (resulting from export subsidies)	Injury elimination level	Anti-dumping duty rate	Proposed anti-dumping duty (EUR/tonne)
Reliance Industries Ltd	13,8 %	44,3 %	30,5 %	153,6
Pearl Engineering Polymers Ltd	13,8 %	33,6 %	16,2 %	87,5
Senpet Ltd	4,43 %	44,3 %	39,9 %	200,9
Futura Polyesters Ltd	0 %	44,3 %	14,7 %	161,2
South Asian Petrochem Ltd	13,9 %	44,3 %	11,6 %	88,9
All other companies	13,8 %	44,3 %	30,5 %	153,6

<sup>(1)</sup> European Commission, Directorate-General for Trade, Directorate H, N-105, B-1049 Brussels.

<sup>(2)</sup> OJ L 56, 6.3.1996, p. 1.

- (83) In order to ensure proper enforcement of the countervailing and anti-dumping duties, the residual duty level should not only apply to non-cooperating exporters but also apply to those companies which did not have any exports during the RIP. However, the latter companies are invited, if they fulfil the requirements of Article 20 of the basic Regulation, to present a request for a review pursuant to that Article in order to have their situation examined individually,

HAS ADOPTED THIS REGULATION:

*Article 1*

Paragraph 2 of Article 1 of Regulation (EC) No 193/2007 shall be replaced by the following:

'2. Except as provided for in Article 2, the rate of the countervailing duty applicable to the net, free-at-Community-frontier price, before duty for products manufactured by the companies listed below shall be as follows:

Country	Company	Countervailing duty (EUR/tonne)	TARIC additional code
India	Reliance Industries Ltd	69,4	A181
India	Pearl Engineering Polymers Ltd	74,6	A182
India	Senpet Ltd	22,0	A183
India	Futura Polyesters Ltd	0,0	A184
India	South Asian Petrochem Ltd	106,5	A585
India	All other companies	69,4	A999'

*Article 2*

Paragraph 2 of Article 1 of Regulation (EC) No 192/2007 shall be replaced by the following:

'2. Except as provided for in Article 2, the rate of the anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty for products manufactured by the companies listed below shall be as follows:

Country	Company	Anti-dumping duty (EUR/tonne)	TARIC additional code
India	Reliance Industries Ltd	153,6	A181
India	Pearl Engineering Polymers Ltd	87,5	A182
India	Senpet Ltd	200,9	A183
India	Futura Polyesters Ltd	161,2	A184
India	South Asian Petrochem Ltd	88,9	A585

Country	Company	Anti-dumping duty (EUR/tonne)	TARIC additional code
India	All other companies	153,6	A999
Indonesia	P.T. Mitsubishi Chemical Indonesia	187,7	A191
Indonesia	P.T. Indorama Synthetics Tbk	92,1	A192
Indonesia	P.T. Polypet Karyapersada	178,9	A193
Indonesia	All other companies	187,7	A999
Malaysia	Hualon Corp. (M) Sdn. Bhd.	36,0	A186
Malaysia	MpI Polyester Industries Sdn. Bhd.	160,1	A185
Malaysia	All other companies	160,1	A999
Republic of Korea	SK Chemicals Group: SK Chemicals Co. Ltd	0	A196
	Huvis Corp.	0	A196
Republic of Korea	KP Chemical Group: Honam Petrochemicals Corp.	0	A195
	KP Chemical Corp.	0	A195
Republic of Korea	All other companies	148,3	A999
Taiwan	Far Eastern Textile Ltd	36,3	A808
Taiwan	Shinkong Synthetic Fibers Corp.	67,0	A809
Taiwan	All other companies	143,4	A999
Thailand	Thai Shinkong Industry Corp. Ltd	83,2	A190
Thailand	Indo Pet (Thailand) Ltd	83,2	A468
Thailand	All other companies	83,2	A999'

*Article 3*

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, 16 December 2008.

*For the Council*  
*The President*  
R. BACHELOT-NARQUIN

**COMMISSION REGULATION (EC) No 1287/2008****of 18 December 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) <sup>(1)</sup>,

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 <sup>(2)</sup>, 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 19 December 2008.

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

Done at Brussels, 18 December 2008.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 350, 31.12.2007, p. 1.

## ANNEX

## Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	CR	110,3
	MA	82,5
	TR	72,9
	ZZ	88,6
0707 00 05	JO	167,2
	MA	66,0
	TR	124,5
	ZZ	119,2
0709 90 70	MA	111,8
	TR	82,6
	ZZ	97,2
0805 10 20	AR	17,0
	BR	44,6
	CL	52,1
	EG	51,1
	MA	76,3
	TR	68,4
	UY	30,6
	ZA	42,4
	ZW	25,4
ZZ	45,3	
0805 20 10	MA	76,3
	TR	64,0
	ZZ	70,2
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	50,3
	IL	74,7
	TR	52,1
	ZZ	59,0
0805 50 10	MA	64,0
	TR	57,5
	ZZ	60,8
0808 10 80	CA	82,7
	CN	83,1
	MK	37,6
	US	101,1
	ZA	118,0
	ZZ	84,5
0808 20 50	CN	82,8
	TR	42,4
	US	117,7
	ZZ	81,0

<sup>(1)</sup> 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 1288/2008****of 18 December 2008****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EC) No 945/2008 for the 2008/2009 marketing year**

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) <sup>(1)</sup>,

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 <sup>(2)</sup>, and in particular Article 36(2), second subparagraph, second sentence thereof,

Whereas:

(1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups

for the 2008/2009 marketing year are fixed by Commission Regulation (EC) No 945/2008 <sup>(3)</sup>. These prices and duties have been last amended by Commission Regulation (EC) No 1212/2008 <sup>(4)</sup>.

(2) The data currently available to the Commission indicate that those amounts should be amended 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 applicable to imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Regulation (EC) No 945/2008 for the 2008/2009, marketing year, are hereby amended as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 19 December 2008.

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

Done at Brussels, 18 December 2008.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 178, 1.7.2006, p. 24.

<sup>(3)</sup> OJ L 258, 26.9.2008, p. 56.

<sup>(4)</sup> OJ L 328, 6.12.2008, p. 7.

## ANNEX

**Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 19 December 2008**

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 11 10 <sup>(1)</sup>	21,68	5,46
1701 11 90 <sup>(1)</sup>	21,68	10,77
1701 12 10 <sup>(1)</sup>	21,68	5,27
1701 12 90 <sup>(1)</sup>	21,68	10,26
1701 91 00 <sup>(2)</sup>	23,03	14,29
1701 99 10 <sup>(2)</sup>	23,03	9,20
1701 99 90 <sup>(2)</sup>	23,03	9,20
1702 90 95 <sup>(3)</sup>	0,23	0,41

<sup>(1)</sup> For the standard quality defined in point III of Annex IV to Regulation (EC) No 1234/2007.

<sup>(2)</sup> For the standard quality defined in point II of Annex IV to Regulation (EC) No 1234/2007.

<sup>(3)</sup> Per 1 % sucrose content.

**COMMISSION REGULATION (EC) No 1289/2008****of 12 December 2008****amending Commission Regulation (EC) No 809/2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards elements related to prospectuses and advertisements****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC<sup>(1)</sup>, and in particular Article 7(1) thereof,

Whereas:

- (1) Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards<sup>(2)</sup> requires companies governed by the law of a Member State, whose securities are admitted to trading on a regulated market in any Member State, to prepare their consolidated accounts in accordance with International Accounting Standards, now commonly referred to as International Financial Reporting Standards, adopted pursuant to Regulation (EC) No 1606/2002 (hereinafter referred to as adopted IFRS), for each financial year starting on or after 1 January 2005.
- (2) Commission Regulation (EC) No 809/2004 of 29 April 2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements<sup>(3)</sup> requires third country issuers to prepare the historical financial information in prospectuses for offer of securities to the public or the admission of securities to trading on a regulated market in accordance with adopted IFRS or with the national accounting standards of a third country equivalent to these standards.
- (3) In order to assess the equivalence of the Generally Accepted Accounting Principles (GAAP) of a third country with adopted IFRS, Commission Regulation

(EC) No 1569/2007 of 21 December 2007 establishing a mechanism for the determination of equivalence of accounting standards applied by third country issuers of securities pursuant to Directives 2003/71/EC and 2004/109/EC of the European Parliament and of the Council<sup>(4)</sup> provides for the definition of equivalence and establishes a mechanism for the determination of equivalence of GAAP of a third country. Regulation (EC) No 1569/2007 also requires that the Commission decision permit Community issuers to use IFRS adopted pursuant to Regulation (EC) No 1606/2002 in the third country concerned.

- (4) Financial statements drawn up in accordance with IFRS as issued by the International Accounting Standards Board (IASB) provide users of these statements with a sufficient level of information to enable them to make an informed assessment of the assets and liabilities, financial position, profit and losses and prospects of an issuer. Therefore, it is appropriate to allow third country issuers to use IFRS as issued by the IASB within the Community.
- (5) In December 2007 the Commission consulted the Committee of European Securities Regulators (CESR) with regard to the technical assessment of the equivalence of the Generally Accepted Accounting Principles (GAAP) of the United States, China and Japan. In March 2008 the Commission extended the consultation with regard to the GAAPs of South Korea, Canada and India.
- (6) In its advice delivered in March, May 2008 and in October 2008 respectively, CESR recommended finding US GAAP and Japanese GAAP equivalent to IFRS for use within the Community. Furthermore, CESR recommended the acceptance of financial statements using GAAPs of China, Canada, South Korea and India within the Community on a temporary basis, until no longer than 31 December 2011.
- (7) In 2006 the United States' Financial Accounting Standards Board and the IASB concluded a Memorandum of Understanding which reaffirmed their objective of convergence between US GAAP and IFRS and outlined the work programme for this purpose. As a result of this

<sup>(1)</sup> OJ L 345, 31.12.2003, p. 64.

<sup>(2)</sup> OJ L 243, 11.9.2002, p. 1.

<sup>(3)</sup> OJ L 149, 30.4.2004, p. 1.

<sup>(4)</sup> OJ L 340, 22.12.2007, p. 66.

work programme many major differences between US GAAP and IFRS have been resolved. In addition, following the dialogue between the Commission and the US Securities and Exchange Commission, reconciliation for Community issuers which prepare their financial statements in accordance with IFRS as issued by the IASB is no longer required. Therefore, it is appropriate to consider US GAAP equivalent to adopted IFRS from 1 January 2009.

- (8) In August 2007 the Accounting Standards Board of Japan and the IASB announced their agreement to accelerate the convergence by eliminating major differences between Japanese GAAP and IFRS by 2008 and the remaining differences before the end of 2011. The Japanese authorities do not require any reconciliation for Community issuers which prepare their financial statements according to IFRS. Therefore, it is appropriate to consider Japanese GAAP equivalent to adopted IFRS from 1 January 2009.
- (9) According to Article 4 of Regulation (EC) No 1569/2007 third country issuers may be permitted to use other third country GAAPs which are converging or committed to adopt IFRS or which have reached a mutual recognition agreement with the Community before 31 December 2008 for a transitional period ending no later than 31 December 2011.
- (10) In China, the Accounting Standards for Business Enterprises are substantially converged with IFRS and cover nearly all topics under current IFRS. However, since the Accounting Standards for Business Enterprises are applied only from 2007, there is need for further evidence of their proper application.
- (11) The Accounting Standards Board of Canada made a public commitment in January 2006 to adopt IFRS by 31 December 2011 and is taking effective measures to secure timely and complete transition to IFRS by that date.
- (12) The Korean Financial Supervisory Commission and the Korean Accounting Institute made a public commitment in March 2007 to adopt IFRS by 31 December 2011 and are taking effective measures to secure timely and complete transition to IFRS by that date.
- (13) The Indian Government and the Indian Institute of Chartered Accountants made a public commitment in July 2007 to adopt IFRS by 31 December 2011 and are taking effective measures to secure the timely and complete transition to IFRS by that date.
- (14) Whilst no final decision on the equivalence of accounting standards converging to IFRS should be taken until an assessment of the implementation of those accounting

standards by companies and auditors has been carried out, it is important to support the efforts of those countries which have undertaken to converge their accounting standards to IFRS and also of those countries which have undertaken to adopt IFRS. Accordingly, it is appropriate to allow third country issuers to prepare their annual and half-yearly financial statements in accordance with the GAAPs of China, Canada, South Korea or India in the Community for the transitional period of no more than three years. Consequently, Regulation (EC) No 809/2004 should be amended accordingly to reflect the changes concerning the use of GAAPs of the United States, Japan, China, Canada, South Korea and India to prepare the historical financial information by third country issuers and to delete some of its outdated provisions.

- (15) The Commission should continue to monitor, with the technical assistance of CESR, the development of those third country GAAPs in relation to adopted IFRS.
- (16) Countries should be encouraged to adopt IFRS. The EU may determine that the national standards which have been determined to be equivalent may no longer be used in preparing information required under the Directive 2004/109/EC or Regulation (EC) No 809/2004 implementing Directive 2003/71/EC when those respective countries have adopted IFRS as their sole accounting standard.
- (17) The measures provided for in this Regulation are in accordance with the opinion of the European Securities Committee,

HAS ADOPTED THIS REGULATION:

#### Article 1

Article 35 of Regulation (EC) No 809/2004 is amended as follows:

1. Paragraphs 5 and 5a are replaced by the following:

‘5. From 1 January 2009, third country issuers shall present their historical financial information in accordance either with one of the following accounting standards:

- (a) International Financial Reporting Standards adopted pursuant to Regulation (EC) No 1606/2002;
- (b) International Financial Reporting Standards provided that the notes to the audited financial statements that form part of the historical financial information contain an explicit and unreserved statement that these financial statements comply with International Financial Reporting Standards in accordance with IAS 1 *Presentation of Financial Statements*;

(c) Generally Accepted Accounting Principles of Japan;

(d) Generally Accepted Accounting Principles of the United States of America.

5a. Third country issuers are not subject to a requirement, under Annex I, item 20.1; Annex IV, item 13.1; Annex VII, item 8.2; Annex X, item 20.1 or Annex XI, item 11.1, to restate historical financial information, included in a prospectus and relevant for the financial years prior to financial years starting on or after 1 January 2012, or to a requirement under Annex VII, item 8.2.bis; Annex IX, item 11.1; or Annex X, item 20.1.bis, to provide a narrative description of the differences between International Financial Reporting Standards adopted pursuant to Regulation (EC) No 1606/2002 and the accounting principles in accordance with which such information is drawn up relating to the financial years prior to financial years starting on or after 1 January 2012, provided that the historical financial information is prepared in accordance with the Generally Accepted Accounting Principles of the People's Republic of China, Canada, the Republic of Korea or the Republic of India.;

2. Paragraphs 5b to 5e are deleted.

#### Article 2

The Commission shall continue to monitor, with the technical assistance of the CESR, the efforts made by third countries towards a changeover to IFRS and pursue an active dialogue with authorities during the convergence process. The Commission shall submit a report on progress made in this regard to the European Parliament and the European Securities Committee (ESC) during 2009. The Commission shall also report expeditiously to Council and the European Parliament if situations arise where EU issuers in the future are required to reconcile their financial statements to the national GAAP of the foreign jurisdiction concerned.

#### Article 3

The dates announced publicly by third countries in relation to a changeover to IFRS shall serve as reference dates for the abolition of equivalence recognition for those third countries

#### Article 4

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

It shall apply from 1 January 2009.

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

Done at Brussels, 12 December 2008.

*For the Commission*

Charlie McCREEVY

*Member of the Commission*

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## COMMISSION REGULATION (EC) No 1290/2008

of 18 December 2008

concerning the authorisation of a preparation of *Lactobacillus rhamnosus* (CNCM-I-3698) and *Lactobacillus farciminis* (CNCM-I-3699) (Sorbiflore) as a feed additive

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition<sup>(1)</sup>, and in particular Article 9(2) thereof,

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such authorisation.
- (2) In accordance with Article 7 of Regulation (EC) No 1831/2003, an application was submitted for the authorisation of the preparation set out in the Annex. That application was accompanied by the particulars and documents required under Article 7(3) of that Regulation.
- (3) The application concerns a new authorisation of a preparation of *Lactobacillus rhamnosus* (CNCM-I-3698) and *Lactobacillus farciminis* (CNCM-I-3699) (Sorbiflore), as a feed additive for piglets, to be classified in the additive category 'zootechnical additives'.
- (4) From the Opinion of the European Food Safety Authority (the Authority) of 15 July 2008<sup>(2)</sup> it results that, based on the data provided by the manufacturer, a preparation of *Lactobacillus rhamnosus* (CNCM-I-3698) and *Lactobacillus farciminis* (CNCM-I-3699) (Sorbiflore) does not have an

adverse effect on animal health, human health or the environment and it is efficacious in improving the weight gain. The Authority further concluded that that preparation may be a potential respiratory sensitiser. The Authority does not consider that there is a need for specific requirements of post-market monitoring. It also verified the report on the method of analysis of the feed additive in feed submitted by the Community Reference Laboratory set up by Regulation (EC) No 1831/2003.

- (5) The assessment of that preparation shows that the conditions for authorisation, provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of that preparation should be authorised, as specified in the Annex to this Regulation.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

*Article 1*

The preparation specified in the Annex, belonging to the additive category 'zootechnical additives' and to the functional group 'other zootechnical additives', is authorised as an additive in animal nutrition subject to the conditions laid down in that Annex.

*Article 2*

This Regulation shall enter into force on the 20th 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, 18 December 2008.

For the Commission

Androulla VASSILIOU

Member of the Commission

<sup>(1)</sup> OJ L 268, 18.10.2003, p. 29.

<sup>(2)</sup> Scientific Opinion of the Panel on Additives and Products or Substances used in Animal Feed (Feedap) on a request from the European Commission on the safety and efficacy of the product Sorbiflore, a preparation of *Lactobacillus rhamnosus* and *Lactobacillus farciminis*, as feed additive for piglets. The EFSA Journal (2008) 771, pp. 1-13.

## ANNEX

Identification number of the additive	Name of the holder of authorisation	Additive (Trade name)	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content		Maximum content	Other provisions	End of period of authorisation
						FU/kg of complete feedstuff with a moisture content of 12 %				
<b>Category of zootechnical additives. Functional group: other zootechnical additives (improving weight gain)</b>										
*4d2	Sorbial SAS	<i>Lactobacillus rhamnosus</i> CNCM-I-3698 and <i>Lactobacillus farciminis</i> CNCM-I-3699 (Sorbiflore)	Additive composition: Preparation of <i>Lactobacillus rhamnosus</i> CNCM-I-3698 and <i>Lactobacillus farciminis</i> CNCM-I-3699 with a minimum concentration of $1 \times 10^8$ FU <sup>(1)</sup> /g (ratio 1:1) Characterisation of the active substance: Microbial biomass and milk fermentation medium of <i>Lactobacillus rhamnosus</i> CNCM-I-3698 and <i>Lactobacillus farciminis</i> CNCM-I-3699 Analytical method <sup>(2)</sup> : Direct epifluorescent filtration technique (DEFT) using an appropriate dye to stain metabolically active cells as fluorescent units (FU)	Piglets	—	$5 \times 10^8$	$9 \times 10^8$		1. In the directions for use of the additive and premixtures, indicate the storage temperature, storage life, and stability to pelleting. 2. Recommended dose per kilogram of complete feedstuff: 5 g. 3. For safety: breathing protection, glasses and gloves shall be used during handling.	8.1.2019

(1) FU: fluorescent units.

(2) Details of the analytical methods are available at the following address of the Community Reference Laboratory: [www.irmm.jrc.be/crl-feed-additives](http://www.irmm.jrc.be/crl-feed-additives)

## COMMISSION REGULATION (EC) No 1291/2008

of 18 December 2008

concerning the approval of control programmes for salmonella in certain third countries in accordance with Regulation (EC) No 2160/2003 of the European Parliament and of the Council and listing of avian influenza surveillance programmes in certain third countries and amending Annex I to Regulation (EC) No 798/2008

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/539/EEC of 15 October 1990 on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs<sup>(1)</sup>, and in particular Article 21(1), Article 22(3), Article 23, Article 24(2) and Articles 26 and 27a thereof,

Having regard to Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption<sup>(2)</sup>, and in particular Article 8(4) and Article 9(2)(b) thereof,

Having regard to Regulation (EC) No 2160/2003 of the European Parliament and of the Council of 17 November 2003 on the control of *Salmonella* and other specified food-borne zoonotic agents<sup>(3)</sup>, and in particular Article 10(2) thereof,

Whereas:

(1) Commission Regulation (EC) No 798/2008 of 8 August 2008 laying down a list of third countries, territories, zones or compartments from which poultry and poultry products may be imported into and transit through the Community and the veterinary certification requirements<sup>(4)</sup> provides that the commodities covered by that Regulation are only to be imported into and transit through the Community from the third countries, territories, zones or compartments listed in the table in Part 1 of Annex I thereto. It also lays down the veterinary certification requirements for such commodities and models of the veterinary certificates to accompany them are set out in Part 2 of that Annex. Regulation (EC) No 798/2008 applies from 1 January 2009.

(2) Article 10 of Regulation (EC) No 798/2008 provides that where an avian influenza surveillance programme is required in the certificate, commodities are only to be imported into the Community from those third countries, territories, zones or compartments which have had such a programme in place for a period for at least six months and the programme meets that requirement referred to in that Article and is indicated in column 7 of the table in Part 1 of Annex I to that Regulation.

(3) Brazil, Canada, Chile, Croatia, South Africa, Switzerland and the United States of America have submitted their avian influenza surveillance programmes to the Commission for evaluation. The Commission has examined those programmes and they meet the requirements referred to in Article 10 of Regulation (EC) No 798/2008. Accordingly, those programmes should be indicated in column 7 of the table in Part 1 of Annex I to that Regulation.

(4) Regulation (EC) No 2160/2003 lays down rules for the control of *Salmonella* and other zoonotic agents in different poultry populations in the Community. It provides for Community targets for the reduction of the prevalence of all *Salmonella* serotypes with public health significance in different poultry populations. As from the dates mentioned in Annex I, column 5 of that Regulation, admission to or retention on the list of third countries provided for in Community legislation, for the relevant species or category, from which Member States are authorised to import those animals or hatching eggs covered by this Regulation shall be subject to submission to the Commission by the third country concerned of a control programme. Such programme should be equivalent to those submitted by the Member States and subject to approval by the Commission.

(5) Croatia has submitted to the Commission its control programmes for *Salmonella* in breeding poultry of *Gallus gallus*, hatching eggs thereof, laying hens of *Gallus gallus*, table eggs thereof and day-old chicks of *Gallus gallus* intended for breeding or laying. Those programmes provide guarantees equivalent to the guarantees provided for in Regulation (EC) No 2160/2003. They should therefore be approved.

<sup>(1)</sup> OJ L 303, 31.10.1990, p. 6.

<sup>(2)</sup> OJ L 18, 23.1.2003, p. 11.

<sup>(3)</sup> OJ L 325, 12.12.2003, p. 1.

<sup>(4)</sup> OJ L 226, 23.8.2008, p. 1.

- (6) Commission Decision 2007/843/EC <sup>(1)</sup> approved control programmes submitted by the United States of America, Israel, Canada and Tunisia as regards *Salmonella* in flocks of breeding hens. The United States of America has now submitted to the Commission its additional control programme for *Salmonella* in respect of day-old chicks of *Gallus gallus*, intended for laying or fattening. That programme provides guarantees equivalent to the guarantees provided for in Regulation (EC) No 2160/2003. It should therefore be approved. Israel clarified that its *Salmonella* control programme only applies to the broiler meat production chain.
- (7) Within the framework of the Agreement between the European Community and the Swiss Confederation on trade in agricultural products <sup>(2)</sup>, Switzerland has sent to the Commission its control programmes for *Salmonella* in breeding poultry of *Gallus gallus*, hatching eggs thereof, laying hens of *Gallus gallus*, table eggs thereof, day-old chicks of *Gallus gallus* intended for breeding or laying and broilers. Those programmes provide similar guarantees to the guarantees provided for in Regulation (EC) No 2160/2003. For clarity reasons, this should be reflected accordingly in column 9 of the table in Part 1 of Annex I to Regulation (EC) No 798/2008.
- (8) Certain other third countries currently listed in Part 1 of Annex I to Regulation (EC) No 798/2008 have not yet submitted any control programme for *Salmonella* to the Commission, or the programmes already submitted do not provide guarantees equivalent to those provided for in Regulation (EC) No 2160/2003. Since the requirements concerning breeding and productive poultry of *Gallus gallus*, eggs thereof and, day-old chicks of *Gallus gallus*, provided for in Regulation (EC) No 2160/2003, are to apply from 1 January 2009 within the Community, imports of such poultry and eggs should therefore no longer be authorised from those third countries after that date. The list of third countries, territories, zones or compartments set out in Part 1 of Annex I to Regulation (EC) No 798/2008 should therefore be amended accordingly.
- (9) In order to provide guarantees equivalent to those provided for in Regulation (EC) No 2160/2003, third countries, from which Member States are authorised to import slaughter poultry of *Gallus gallus*, should certify that the control programme for *Salmonella* has been applied to the flock of origin and that that flock has been tested for the presence of *Salmonella* serotypes of public health significance.
- (10) Commission Regulation (EC) No 1177/2006 of 1 August 2006 implementing Regulation (EC) No 2160/2003 of

the European Parliament and of the Council as regards requirements for the use of specific control methods in the framework of the national control programmes for the control of salmonella in poultry <sup>(3)</sup> lays down certain rules for the use of antimicrobials and vaccines in the framework of the national control programmes.

- (11) Third countries from which Member States are authorised to import slaughter poultry of *Gallus gallus* should certify that the specific requirements for the use of antimicrobials and vaccines provided for in Regulation (EC) No 1177/2006 are applied. If antimicrobials have been used for other purposes than the control of *Salmonella*, since such use may influence the testing for *Salmonella* at import, it should also be indicated in the veterinary certificate. The model veterinary certificate for the import of slaughter poultry and poultry for restocking game supplies other than ratites as set out in Part 2 of Annex I to Regulation (EC) No 798/2008 should therefore be amended accordingly.
- (12) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

#### Article 1

The control programmes submitted by Croatia to the Commission on 11 March 2008 in accordance with Article 10(1) of Regulation (EC) No 2160/2003 are approved as regards *Salmonella* in breeding poultry of *Gallus gallus*, hatching eggs thereof, laying hens of *Gallus gallus*, table eggs thereof and day-old chicks of *Gallus gallus* intended for breeding or laying.

#### Article 2

The control programme submitted by the United States of America to the Commission on 6 June 2006 in accordance with Article 10(1) of Regulation (EC) No 2160/2003 is approved as regards *Salmonella* in day-old chicks of *Gallus gallus* intended for laying or fattening.

#### Article 3

The control programmes sent by Switzerland to the Commission on 6 October 2008 provide similar guarantees to those provided for in Article 10(1) of Regulation (EC) No 2160/2003 as regards *Salmonella* in breeding poultry of *Gallus gallus*, hatching eggs thereof, laying hens of *Gallus gallus*, table eggs thereof, day-old chicks of *Gallus gallus* intended for breeding or laying and broilers.

<sup>(1)</sup> OJ L 332, 18.12.2007, p. 81.

<sup>(2)</sup> OJ L 114, 30.4.2002, p. 132.

<sup>(3)</sup> OJ L 212, 2.8.2006, p. 3.

*Article 4*

Annex I to Regulation (EC) No 798/2008 is amended in accordance with the Annex to this Regulation.

*Article 5*

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

It shall apply from 1 January 2009.

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

Done at Brussels, 18 December 2008.

*For the Commission*  
Androulla VASSILIOU  
*Member of the Commission*

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## ANNEX

Annex I to Regulation (EC) No 798/2008 is amended as follows:

(1) Part 1 is replaced by the following:

## PART 1

## List of third countries, territories, zones or compartments

ISO code and name of third country or territory	Code of third country, territory, zone or compartment	Description of third country, territory, zone or compartment	Veterinary certificate		Specific conditions	Specific conditions		Avian influenza surveillance status	Avian influenza vaccination status	Salmonella control status
			Model(s)	Additional guarantees		Closing date (1)	Opening date (2)			
1	2	3	4	5	6	6A	6B	7	8	9
AL — Albania	AL-0	Whole country	EP, E							S4
AR — Argentina	AR-0	Whole country	SPF							
			POU, RAT, EP, E					A		S4
			WGM	VIII						
AU — Australia	AU-0	Whole country	SPF							
			EP, E							S4
			BPP, DOC, HEP, SRP							S0
			BPR	I						
			DOR	II						
			HER	III						
			POU	VI						
			RAT	VII						
BR — Brazil	BR-0	Whole country	SPF							
	BR-1	States of: Rio Grande do Sul, Santa Catarina, Paraná, São Paulo and Mato Grosso do Sul	RAT, BPR, DOR, HER, SRA					A		
	BR-2	States of: Mato Grosso, Paraná, Rio Grande do Sul, Santa Catarina and São Paulo	BPP, DOC, HEP, SRP							S0



1	2	3	4	5	6	6A	6B	7	8	9
GL — Greenland	GL-0	Whole country	SPF EP, WGM							
HK — Hong Kong	HK-0	The whole territory of the Hong Kong Special Administrative Region	EP					A		S2
HR — Croatia	HR-0	Whole country	SPF BPR, BPP, DOR, DOC, HEP, HER, SRA, SRP EP, E, POU, RAT, WGM							
IL — Israel	IL-0	Whole country	SPF BPR, BPP, DOR, DOC, HEP, HER, SRP WGM EP, E, POU, RAT	VIII				A		S1 S4
IN — India	IN-0	Whole country	EP							
IS — Iceland	IS-0	Whole country	SPF EP, E							S4
KR — Republic of Korea	KR-0	Whole country	EP, E							S4
ME — Montenegro	ME-0	Whole country	EP							
MG — Madagascar	MG-0	Whole country	SPF EP, E, WGM							S4
MY — Malaysia	MY-0	—	—							
	MY-1	Western Peninsular	EP E		P2	6.2.2004				S4
MK — former Yugoslav Republic of Macedonia <sup>(4)</sup>	MK-0 <sup>(4)</sup>	Whole country	EP							
MX — Mexico	MX-0	Whole country	SPF EP							

1	2	3	4	5	6	6A	6B	7	8	9
NA — Namibia	NA-0	Whole country	SPF							
			BPR	I						
			DOR	II						
			HER	III						
			RAT, EP, E	VII					S4	
NC — New Caledonia	NC-0	Whole country	EP							
NZ — New Zealand	NZ-0	Whole country	SPF							
			BPR, BPP, DOC, DOR, HEP, HER, SRA, SRP							S0
			WGM	VIII						S4
			EP, E, POU, RAT							
PM — Saint Pierre and Miquelon	PM-0	Whole territory	SPF							
RS — Serbia <sup>(2)</sup>	RS-0 <sup>(2)</sup>	Whole country	EP							
RU — Russian Federation	RU-0	Whole country	EP							
SG — Singapore	SG-0	Whole country	EP							
TH — Thailand	TH-0	Whole country	SPF, EP							
			WGM	VIII	P2	23.1.2004				
			E, POU, RAT		P2	23.1.2004			S4	
			SPF							
TN — Tunisia	TN-0	Whole country	DOR, BPR, BPP, HER							S1
			WGM	VIII						
			EP, E, POU, RAT						S4	
			SPF							
			E, EP							
TR — Turkey	TR-0	Whole country	SPF							
			E, EP							

1	2	3	4	5	6	6A	6B	7	8	9		
US — United States	US-0	Whole country	SPF									
			BPR, BPP, DOC, DOR, HEP, HER, SRA, SRP					A			S3	
			WGM	VIII								
			EP, E, POU, RAT									S4
UY — Uruguay	UY-0	Whole country	SPF									
			EP, E, RAT								S4	
ZA — South Africa	ZA-0	Whole country	SPF									
			EP, E								S4	
			BPR	I					A			
			DOR	II								
			HER	III								
			RAT	VII								
ZW — Zimbabwe	ZW-0	Whole country	RAT	VII								
			EP, E								S4	

(<sup>1</sup>) Commodities, including those transported on the high seas, produced before this date may be imported into the Community during a period of 90 days from this date.

(<sup>2</sup>) Only commodities produced after this date may be imported into the Community.

(<sup>3</sup>) In accordance with the agreement between the European Community and the Swiss Confederation on trade in agricultural products (OJ L 114, 30.4.2002, p. 132).

(<sup>4</sup>) The former Yugoslav Republic of Macedonia; provisional code that does not prejudice in any way the definitive nomenclature for this country, which will be agreed following the conclusion of negotiations currently taking place on this subject in the United Nations.

(<sup>5</sup>) Not including Kosovo, as defined by United Nations Security Council Resolution 1244 of 10 June 1999.

(2) Part 2 is amended as follows:

- (a) in the Section on 'Additional guarantees (AG)', point IV is deleted;
- (b) the Section on 'Salmonella control programme' is replaced by the following:

*'Salmonella control programme:*

- "S0" Prohibition to export into the Community breeding or productive poultry (BPP) of *Gallus gallus*, day-old chicks (DOC) of *Gallus gallus*, slaughter poultry and poultry for restocking (SRP) of *Gallus gallus* and hatching eggs (HEP) of *Gallus gallus* because a relevant *Salmonella* control programme in accordance with Regulation (EC) No 2160/2003 has not been submitted to the Commission or approved by it.
  - "S1" Prohibition to export into the Community breeding or productive poultry (BPP) of *Gallus gallus*, day-old chicks (DOC) of *Gallus gallus* and slaughter poultry and poultry for restocking (SRP) of *Gallus gallus* for other purposes than breeding, because a relevant *Salmonella* control programme in accordance with Regulation (EC) No 2160/2003 has not been submitted to the Commission or approved by it.
  - "S2" Prohibition to export into the Community breeding or productive poultry (BPP) of *Gallus gallus*, day-old chicks (DOC) of *Gallus gallus* and slaughter poultry and poultry for restocking (SRP) of *Gallus gallus* for other purposes than breeding or laying, because a relevant *Salmonella* control programme in accordance with Regulation (EC) No 2160/2003 has not been submitted to the Commission or approved by it.
  - "S3" Prohibition to export into the Community breeding or productive poultry (BPP) of *Gallus gallus* and slaughter poultry and poultry for restocking (SRP) of *Gallus gallus* for other purposes than breeding, because a relevant *Salmonella* control programme in accordance with Regulation (EC) No 2160/2003 has not been submitted to the Commission or approved by it.
  - "S4" Prohibition to export into the Community eggs (E) of *Gallus gallus* others than eggs classed B in accordance with Regulation (EC) No 557/2007 because a relevant *Salmonella* control programme in accordance with Regulation (EC) No 2160/2003 has not been submitted to the Commission or approved by it.'
- (c) the model veterinary certificate for slaughter poultry and poultry for restocking game supplies other than ratites (SRP) is replaced by the following:

**'Model veterinary certificate for slaughter poultry and poultry for restocking game supplies other than ratites (SRP)**

**COUNTRY**

**Veterinary certificate to EU**

<b>Part I: Details of dispatched consignment</b>	I.1. Consignor Name		I.2. Certificate reference number		I.2.a.		
	Address		I.3. Central Competent Authority				
	Tel. No		I.4. Local Competent Authority				
	I.5. Consignee Name			I.6.			
	Address						
	Postal code						
	Tel. No						
	I.7. Country of origin		ISO code	I.8. Region of origin		Code	I.9. Country of destination
							I.10.
	I.11. Place of origin			I.12.			
Name		Approval number					
Address							
Name		Approval number					
Address							
Name		Approval number					
Address							
I.13. Place of loading			I.14. Date of departure		time of departure		
Address		Approval number					
I.15. Means of transport			I.16. Entry BIP in EU				
Aeroplane <input type="checkbox"/>		Ship <input type="checkbox"/>	Railway wagon <input type="checkbox"/>				
Road vehicle <input type="checkbox"/>		Other <input type="checkbox"/>					
Identification:			I.17. No.(s) of CITES				
Documentary references:							
I.18. Description of commodity				I.19. Commodity code (HS code)			
				I.20. Quantity			
I.21.				I.22. Number of packages			
I.23. Identification of container/Seal number				I.24.			
I.25. Commodities certified for							
Slaughter <input type="checkbox"/>		Game restocking <input type="checkbox"/>					
I.26.			I.27. For import or admission into EU <input type="checkbox"/>				
I.28. Identification of the commodities							
Species		(Scientific name)			Quantity		

COUNTRY		SRP (slaughter poultry and poultry for restocking game supplies other than ratites)	
II.	Health information	II.a. Certificate reference number	II.b.
Part II: Certification	<b>II.1 Animal health attestation</b>		
	I, the undersigned official veterinarian, hereby certify that the poultry <sup>(1)</sup> described in this certificate:		
	II.1.1 meet the provisions of Directive 90/539/EEC;		
	II.1.2 has remained on:		
	<sup>(2)</sup> <sup>(3)</sup> either [the territory of code .....;]		
	<sup>(3)</sup> <sup>(4)</sup> or [compartment(s) .....;]		
	for at least six weeks or since hatching if less than six weeks old prior to import to the Community. Where it was imported into the country, territory, zone or compartment of origin, this took place in accordance with veterinary conditions at least as strict as the relevant requirements of Directive 90/539/EEC and any subsidiary Decisions;		
	II.1.3 come from:		
	<sup>(2)</sup> <sup>(3)</sup> either [the territory of code .....;]		
	<sup>(3)</sup> <sup>(4)</sup> or [compartment(s) .....;]		
	(a) which, at the date of issue of this certificate, was free from Newcastle disease as defined in Regulation (EC) No 798/2008;		
	(b) where a surveillance programme for avian influenza according to Regulation (EC) No 798/2008 is carried out;		
	II.1.4 come from:		
	<sup>(2)</sup> <sup>(3)</sup> either [the territory of code .....;]		
	<sup>(3)</sup> <sup>(4)</sup> or [compartment(s) .....;]		
<sup>(3)</sup> either [II.1.4.1 which, at the date of issue of this certificate was free from highly pathogenic and low pathogenic avian influenza as defined in Regulation (EC) No 798/2008;]			
<sup>(3)</sup> or [II.1.4.1 which, at the date of issue of this certificate was free from highly pathogenic avian influenza as defined in Regulation (EC) No 798/2008, and			
<sup>(3)</sup> either [(a) the poultry come from an establishment in which within the 21 days prior to import to the Community avian influenza surveillance has been carried out with negative results;]			
<sup>(3)</sup> or [(a) during the past 21 days prior to import to the Community the poultry have been kept separately from other poultry and a virus detection test with negative testing results for avian influenza has been carried out on a random sample of cloacal and tracheal/or oropharyngeal swabs taken from at least 60 poultry in the consignment or from all poultry if less than 60 are present in the consignment;]			
(b) the poultry come from an establishment:			
— around which within a 1 km radius low pathogenic avian influenza has not been present within the last 30 days on any establishment;			
— where there has been no epidemiological link to an establishment where avian influenza has been detected within the last 30 days;]			
II.1.5 come from a flock where vaccination against avian influenza has not been carried out;			
II.1.6 have been kept since hatching or for at least the previous 30 days on the establishment(s) of origin;			
(a) which is (are) not subject to any animal health restriction;			
(b) within a 10 km radius of which, including, where appropriate, the territory of a neighbouring country, there has been no outbreak of highly pathogenic avian influenza or Newcastle disease for at least the previous 30 days;			
II.1.7 come from flocks which:			
(a) have been examined at the date of issue of this certificate and showed no clinical signs of or grounds for suspecting any disease;			
<sup>(3)</sup> either [(b) have not been vaccinated against Newcastle disease;]			

**SRP (slaughter poultry and poultry for restocking game supplies other than ratites)**

**COUNTRY**

II. Health information	II.a. Certificate reference number	II.b.
<p>(<sup>3</sup>) <i>or</i> [(b) have been vaccinated against Newcastle disease using:</p> <p>.....</p> <p>(name and type (live or inactivated) of Newcastle disease virus strain used in vaccine(s))</p> <p>at the age of ..... weeks;]</p> <p>(<sup>5</sup>) [(c) have been vaccinated using officially approved vaccines on</p> <p>..... against ..... (repeat as necessary);]</p>		
<p>II.1.8 during the period mentioned in II.1.6 has had no contact with poultry not meeting the requirements laid down in this certificate or with wild birds.</p>		
<p>II.2. <b>Public health additional guarantees</b></p> <p>(<sup>6</sup>) [The Salmonella control programme referred to in Article 10 of Regulation (EC) No 2160/2003 and the specific requirements for the use of antimicrobials and vaccines in Regulation (EC) No 1177/2006, have been applied to the flock of origin and the flock has been tested for Salmonella serotypes of public health significance.</p> <p>Date of last sampling of the flock from which the testing result is known: .....</p> <p>Result of all testing in the flock:</p> <p>(<sup>3</sup>)(<sup>7</sup>) <i>either</i> [positive;]</p> <p>(<sup>3</sup>)(<sup>7</sup>) <i>or</i> [negative;]</p> <p>For reasons other than the Salmonella control programme, within the last three weeks prior to import:</p> <p>(<sup>3</sup>) <i>either</i> antimicrobials were not administered to the slaughter poultry;]</p> <p>(<sup>3</sup>)(<sup>8</sup>) <i>or</i> [the following antimicrobials were administered to the slaughter poultry: .....;]</p>		
<p>II.3. <b>Additional guarantees</b></p> <p>I, the undersigned official veterinarian, further certify that:</p> <p>(<sup>9</sup>)[II.3.1 where the consignment is intended for a Member State the status of which has been established in accordance with Article 12(2) of Directive 90/539/EEC, the poultry described in this certificate come from flocks which:</p> <p>(<sup>3</sup>) <i>either</i> [have not been vaccinated against Newcastle disease and underwent serological examination for the presence of Newcastle disease antibodies in the 14 days preceding consignment and tested negative;]</p> <p>(<sup>3</sup>) <i>or</i> [have been vaccinated against Newcastle disease but not with a live vaccine in the 30 days preceding consignment and underwent a virus isolation test for Newcastle disease in the 14 days preceding consignment on a random sample of cloacal swabs or faeces samples from at least 60 birds and tested negative;]</p> <p>(<sup>5</sup>)II.3.2 [the following additional guarantees, laid down by the Member State of destination in accordance with Articles 13 and/or 14 of Directive 90/539/EEC, are provided:</p> <p>.....</p> <p>(<sup>9</sup>)[II.3.3 if the Member State of destination is Finland or Sweden, the poultry:</p> <p>(<sup>3</sup>) <i>either</i> [underwent a microbiological test by sampling on the establishment of origin and tested negative in accordance with Council Decision 95/410/EC;]</p> <p>(<sup>3</sup>) <i>or</i> [come from an establishment subject to a programme recognised by the European Commission as equivalent to the national programme of Finland or Sweden, as appropriate;]</p>		

<b>COUNTRY</b>		<b>SRP (slaughter poultry and poultry for restocking game supplies other than ratites)</b>	
II.	Health information	II.a. Certificate reference number	II.b.
<p><b>II.4. Additional health requirements</b></p> <p>(<sup>10</sup>) [although the use of vaccines against Newcastle disease which do not fulfil the specific requirements of Annex VI (II) to Regulation (EC) No 798/2008 is not prohibited in:</p> <p>(<sup>2</sup>)(<sup>3</sup>) <i>either</i> [the territory of code .....;]</p> <p>(<sup>3</sup>)(<sup>4</sup>) <i>or</i> [compartment(s) ..... ;]</p> <p>the poultry described in this certificate:</p> <p>(a) has not been vaccinated for at least the previous 12 months with such vaccines;</p> <p>(b) come from a flock which underwent a virus isolation test for Newcastle disease, carried out in an official laboratory not earlier than 14 days preceding consignment on a random sample of cloacal swabs from at least 60 birds in each flock concerned and in which no avian paramyxoviruses with an Intracerebral Pathogenicity Index (ICPI) of more than 0,4 were found;</p> <p>(c) during the last 60 days before consignment, has not been in contact with poultry that does not fulfil the conditions in (a) and (b);</p> <p>(d) has been kept in isolation under official surveillance on the establishment of origin in the 14-day period mentioned in (b).]</p> <p><b>(<sup>11</sup>)II.5. Animal transport attestation</b></p> <p>I, the undersigned official veterinarian, further certify that the poultry are transported in crates or cages which:</p> <p>(a) contain only poultry of the same species, category and type coming from the same establishment;</p> <p>(b) are closed in accordance with the instructions of the competent authority to avoid any possibility of substitution of the contents;</p> <p>(c) in addition to the vehicles in which they are transported, are designed to:</p> <p style="padding-left: 20px;">(i) prevent any excrement escaping and reduce to a minimum any loss of feathers during transport;</p> <p style="padding-left: 20px;">(ii) allow visual inspection of the poultry;</p> <p style="padding-left: 20px;">(iii) allow cleansing and disinfecting;</p> <p>(d) in addition to the vehicles in which they are transported, have been cleansed and disinfected before loading in accordance with the instructions of the competent authority.</p>			
<b>Notes</b>			
<b>Part I:</b>			
— Box I.8: provide the code for the zone or name of the compartment of origin, if necessary, as defined under code of column 2 of Part 1 of Annex I to Regulation (EC) No 798/2008.			
— Box I.15: Indicate the registration number(s) of railway wagons and lorries, the names of ships and, if known, the flight numbers of aircraft. In the case of transport in containers or boxes, the total number of these and their registration and where there is a serial number of the seal it has to be indicated in box I.23.			
— Box I.19: use the appropriate Harmonised System (HS) code of the World Customs Organisation: 01.05 or 01.06.39.			

**SRP (slaughter poultry and poultry for restocking  
game supplies other than ratites)**

**COUNTRY**

II. Health information	II.a. Certificate reference number	II.b.
<p><b>Part II:</b></p> <p>(<sup>1</sup>) Poultry as defined in Regulation (EC) No 798/2008 with the exception of ratites.</p> <p>(<sup>2</sup>) Code of the territory as it appears in column 2 of Part 1 of Annex I to Regulation (EC) No 798/2008.</p> <p>(<sup>3</sup>) Keep as appropriate.</p> <p>(<sup>4</sup>) Insert the name of compartment(s).</p> <p>(<sup>5</sup>) Complete if appropriate.</p> <p>(<sup>6</sup>) This guarantee applies only for poultry belonging to the species of <i>Gallus gallus</i>.</p> <p>(<sup>7</sup>) If any of the results were positive for the following serotypes during the life of the flock of origin indicate as positive: <i>Salmonella Enteritidis</i>, <i>Salmonella</i> Typhimurium.</p> <p>(<sup>8</sup>) Complete if appropriate: indicate the name and active substance of antimicrobials used.</p> <p>(<sup>9</sup>) To delete if consignment is not intended for Finland and Sweden.</p> <p>(<sup>10</sup>) This guarantee is required only for poultry coming from countries, territories, zones or compartments where Article 13(1) of Regulation (EC) No 798/2008 applies.</p> <p>(<sup>11</sup>) Please note that according to Council Regulation (EC) No 1/2005 animals will be checked by Member States' competent authorities to check if they are fit to continue the journey after entry into the Community. In the case the requirements are not fulfilled, the animals need to be unloaded and further measures taken.</p> <p>This certificate is valid for 10 days.</p>		
<p>Official veterinarian</p> <p>Name (in capital letters):</p> <p>Date:</p> <p>Stamp:</p> <p>Qualification and title:</p> <p>Signature:'</p>		

**COMMISSION REGULATION (EC) No 1292/2008**  
**of 18 December 2008**  
**concerning the authorisation of *Bacillus amyloliquefaciens* CECT 5940 (Ecobiol and Ecobiol plus) as a**  
**feed additive**

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition<sup>(1)</sup>, and in particular Article 9(2) thereof,

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such authorisation.
- (2) In accordance with Article 7 of Regulation (EC) No 1831/2003, an application was submitted for the authorisation of the preparation set out in the Annex. That application was accompanied by the particulars and documents required under Article 7(3) of that Regulation.
- (3) The application concerns the authorisation of a preparation of *Bacillus amyloliquefaciens* CECT 5940 (Ecobiol and Ecobiol plus), as a feed additive for chickens for fattening, to be classified in the additive category 'zootechnical additives'.
- (4) From the Opinion of the European Food Safety Authority (the Authority) of 16 July 2008<sup>(2)</sup> it results that, on the basis of the data provided by the manufacturer, *Bacillus amyloliquefaciens* CECT 5940 (Ecobiol and Ecobiol plus) does not have an adverse effect on animal health, human health or the environment and that it is efficacious in stabilising the gut flora. The Authority further concluded

that *Bacillus amyloliquefaciens* CECT 5940 (Ecobiol and Ecobiol plus) does not present any other risk which would, in accordance with Article 5(2) of Regulation (EC) No 1831/2003, exclude authorisation. According to that opinion, the use of the preparation does not have an adverse effect on chicken for fattening. The Authority does not consider that there is a need for specific requirements of post market monitoring. It also verified the report on the method of analysis of the feed additive in feed submitted by the Community Reference Laboratory set up by Regulation (EC) No 1831/2003.

- (5) The assessment of that preparation shows that the conditions for authorisation, provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of that preparation should be authorised, as specified in the Annex to this Regulation.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

*Article 1*

The preparation specified in the Annex, belonging to the additive category 'zootechnical additives' and to the functional group 'gut flora stabilisers', is authorised as an additive in animal nutrition subject to the conditions laid down in that Annex.

*Article 2*

This Regulation shall enter into force on the 20th 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, 18 December 2008.

*For the Commission*  
Androulla VASSILOU  
*Member of the Commission*

<sup>(1)</sup> OJ L 268, 18.10.2003, p. 29.

<sup>(2)</sup> Scientific Opinion of the Panel on Additives and Products or Substances used in Animal Feed (FEEDAP) on a request from the European Commission on the safety and efficacy of Ecobiol® (*Bacillus amyloliquefaciens*) as feed additives for chickens for fattening. The EFSA Journal (2008) 773, pp. 1-13.

## ANNEX

Identification number of the additive	Name of the holder of authorisation	Additive (Trade name)	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						CFU/kg of complete feedstuff with a moisture content of 12 %			
Category of zootechnical additives: Functional group: gut flora stabilisers									
4b1822	NOREL SA	<i>Bacillus amylo-loliquefaciens</i> CECT 5940 (Ecobiol and Ecobiol plus)	<p>Additive composition:</p> <p>Ecobiol: Preparation of <i>Bacillus amylo-loliquefaciens</i> CECT 5940 containing a minimum concentration of <math>1 \times 10^9</math> CFU/g</p> <p>Ecobiol plus: Preparation of <i>Bacillus amylo-loliquefaciens</i> CECT 5940 containing a minimum concentration of <math>1 \times 10^{10}</math> CFU/g</p> <p>Characterisation of the active substance:</p> <p>Spores of <i>Bacillus amylo-loliquefaciens</i> CECT 5940</p> <p>Analytical method (1): Enumeration: spread plate method using tryptone soya agar following a heat treatment.</p> <p>Identification: pulsed-field gel electrophoresis (PFGE).</p>	Chickens for fattening	—	$1 \times 10^9$	$1 \times 10^9$	<p>1. In the directions for use of the additive and premixtures, indicate the storage temperature, storage life, and stability to pelleting.</p> <p>2. For safety: it is recommended to use safety masks during mixing.</p> <p>3. The simultaneous use with coccidiostats is not permitted.</p>	8.1.2019

(1) Details of the analytical methods are available at the following address of the Community Reference Laboratory: [www.irmm.jrc.be/crl-feed-additives](http://www.irmm.jrc.be/crl-feed-additives)

## COMMISSION REGULATION (EC) No 1293/2008

of 18 December 2008

concerning the authorisation of a new use of *Saccharomyces cerevisiae* CNCM I-1077 (Levucell SC20 and Levucell SC10 ME) as a feed additive

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition<sup>(1)</sup>, and in particular Article 9(2) thereof,

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such authorisation.
- (2) In accordance with Article 7 of Regulation (EC) No 1831/2003, an application was submitted for the authorisation of the preparation set out in the Annex. That application was accompanied by the particulars and documents required under Article 7(3) of that Regulation.
- (3) The application concerns the authorisation of a new use of the preparation of *Saccharomyces cerevisiae* CNCM I-1077 (Levucell SC20, Levucell SC10 ME), as a feed additive for lambs, to be classified in the additive category 'zootechnical additives'.
- (4) The use of *Saccharomyces cerevisiae* CNCM I-1077 was authorised without a time limit for dairy cows and cattle for fattening by Commission Regulation (EC) No 1200/2005<sup>(2)</sup> and, until 22 March 2017, for dairy goats and dairy sheep by Commission Regulation (EC) No 226/2007<sup>(3)</sup>.

- (5) New data were submitted in support of an application for authorisation for lambs. The European Food Safety Authority (the Authority) concluded in its opinion of 16 July 2008<sup>(4)</sup> that *Saccharomyces cerevisiae* CNCM I-1077 (Levucell SC20/Levucell SC10 ME) does not have an adverse effect on animal health, human health or the environment. It further concluded that *Saccharomyces cerevisiae* CNCM I-1077 (Levucell SC20/Levucell SC10 ME) does not present any other risk which would, in accordance with Article 5(2) of Regulation (EC) No 1831/2003, exclude authorisation. According to that opinion, the use of that preparation is safe for lambs. That opinion also states that that preparation can produce a beneficial effect on final weight and average daily gain. The Authority does not consider that there is a need for specific requirements of post market monitoring. It also verified the report on the method of analysis of the feed additive in feed submitted by the Community Reference Laboratory set up by Regulation (EC) No 1831/2003.

- (6) The assessment of that preparation shows that the conditions for authorisation, provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of that preparation should be authorised, as specified in the Annex to this Regulation.

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

HAS ADOPTED THIS REGULATION:

## Article 1

The preparation specified in the Annex, belonging to the additive category 'zootechnical additives' and to the functional group 'gut flora stabilisers', is authorised as an additive in animal nutrition subject to the conditions laid down in that Annex.

<sup>(1)</sup> OJ L 268, 18.10.2003, p. 29.

<sup>(2)</sup> OJ L 195, 27.7.2005, p. 6.

<sup>(3)</sup> OJ L 64, 2.3.2007, p. 26.

<sup>(4)</sup> Scientific Opinion of the Panel on Additives and Products or Substances used in Animal Feed (FEEDAP) on a request from the European Commission on the safety and efficacy of Levucell SC20/Levucell SC10ME, a preparation of *Saccharomyces cerevisiae*, as feed additive for lambs for fattening. The EFSA Journal (2008) 772, 1-11.

*Article 2*

This Regulation shall enter into force on the 20th 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, 18 December 2008.

*For the Commission*  
Androulla VASSILIOU  
*Member of the Commission*

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## ANNEX

Identification number of the additive	Name of the holder of authorisation	Additive (trade name)	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content		Maximum content	Other provisions	End of period of authorisation
						CFU/kg of complete feedstuff with a moisture content of 12 %	CFU/kg of complete feedstuff with a moisture content of 12 %			
<b>Category of zootechnical additives. Functional group: gut flora stabilisers</b>										
4b1711	LALLEMAND SAS	<i>Saccharomyces cerevisiae</i> CNCM I-1077 (Levucell SC20, Levucell SC10 ME)	<p>Additive composition: Solid form: Preparation of <i>Saccharomyces cerevisiae</i> CNCM I-1077 of viable dried cells with a guaranteed minimal concentration of <math>2 \times 10^{10}</math> CFU/g.</p> <p>Coated form: Preparation of <i>Saccharomyces cerevisiae</i> CNCM I-1077 of viable dried cells with a guaranteed minimal concentration of <math>1 \times 10^{10}</math> CFU/g</p> <p>Characterisation of the active substance: <i>Saccharomyces cerevisiae</i> CNCM I-1077: 80 % of viable dried cells and 14 % of not viable cells.</p> <p>Analytical method (1): Pour plate method and molecular identification (PCR).</p>	Lambs	—	$3,0 \times 10^9$	$7,3 \times 10^9$	<p>1. In the directions for use of the additive and premixtures, indicate the storage temperature, storage life, and stability to pelleting.</p> <p>2. In complementary feedings, do not exceed 50 °C with Levucell SC20 and 80 °C with Levucell SC10ME.</p> <p>3. Coated form, only for inclusion through a pelleted feed.</p> <p>4. Recommended dose: <math>7,3 \times 10^9</math> CFU/kg of complete feedstuff.</p> <p>5. If the product is handled or mixed in confined atmosphere, it is recommended to use safety glasses and masks for mixing if the mixers are not equipped with exhaust systems.</p>	8.1.2019	

(1) Details of the analytical methods are available at the following address of the Community Reference Laboratory: [www.irmm.jrc.be/crl-feed-additives](http://www.irmm.jrc.be/crl-feed-additives)

## COMMISSION REGULATION (EC) No 1294/2008

of 18 December 2008

## amending Regulation (EC) No 318/2007 laying down animal health conditions for imports of certain birds into the Community and the quarantine conditions thereof

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC <sup>(1)</sup>, and in particular the second subparagraph of Article 10(3) and the first subparagraph of Article 10(4) thereof,

Having regard to Council Directive 92/65/EEC of 13 July 1992 laying down animal health requirements governing trade and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A(I) to Directive 90/425/EEC <sup>(2)</sup>, and in particular the fourth indent of Article 18(1),

Whereas:

- (1) Commission Regulation (EC) No 318/2007 <sup>(3)</sup> lays down the animal health conditions for imports of certain birds other than poultry into the Community and the quarantine conditions applicable to such birds after import.
- (2) Annex V to that Regulation sets out a list of quarantine facilities and centres approved by the competent

authorities of the Member States for import of certain birds other than poultry.

- (3) France, Germany and the United Kingdom have reviewed their approved quarantine facilities and centres and have sent an updated list of those quarantine facilities and centres to the Commission. The list of approved quarantine facilities and centres set out in Annex V to Regulation (EC) No 318/2007 should therefore be amended accordingly.
- (4) Regulation (EC) No 318/2007 should therefore be amended accordingly.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annex V to Regulation (EC) No 318/2007 is replaced by the text in the Annex to this Regulation.

*Article 2*

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

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

Done at Brussels, 18 December 2008.

*For the Commission*  
Androulla VASSILIOU  
Member of the Commission

<sup>(1)</sup> OJ L 268, 24.9.1991, p. 56.

<sup>(2)</sup> OJ L 268, 14.9.1992, p. 54.

<sup>(3)</sup> OJ L 84, 24.3.2007, p. 7.

## ANNEX

## 'ANNEX V

**List of approved facilities and centres as referred to in Article 6(1)**

ISO Code country	Name country	Approval number quarantine facility or centre
AT	AUSTRIA	AT OP Q1
AT	AUSTRIA	AT-KO-Q1
AT	AUSTRIA	AT-3-KO-Q2
AT	AUSTRIA	AT-3-ME-Q1
AT	AUSTRIA	AT-3-HO-Q-1
AT	AUSTRIA	AT3-KR-Q1
AT	AUSTRIA	AT-4-KI-Q1
AT	AUSTRIA	AT-4-VB-Q1
AT	AUSTRIA	AT 6 10 Q 1
AT	AUSTRIA	AT 6 04 Q 1
BE	BELGIUM	BE VQ 1003
BE	BELGIUM	BE VQ 1010
BE	BELGIUM	BE VQ 1011
BE	BELGIUM	BE VQ 1012
BE	BELGIUM	BE VQ 1013
BE	BELGIUM	BE VQ 1016
BE	BELGIUM	BE VQ 1017
BE	BELGIUM	BE VQ 3001
BE	BELGIUM	BE VQ 3008
BE	BELGIUM	BE VQ 3014
BE	BELGIUM	BE VQ 3015
BE	BELGIUM	BE VQ 4009
BE	BELGIUM	BE VQ 4017
BE	BELGIUM	BE VQ 7015
CZ	CZECH REPUBLIC	21750016
CZ	CZECH REPUBLIC	21750027
CZ	CZECH REPUBLIC	21750050
CZ	CZECH REPUBLIC	61750009
DE	GERMANY	BB-1
DE	GERMANY	BW-1
DE	GERMANY	BY-1
DE	GERMANY	BY-2
DE	GERMANY	BY-3
DE	GERMANY	BY-4
DE	GERMANY	HE-2
DE	GERMANY	NI-1
DE	GERMANY	NI-2
DE	GERMANY	NI-3

ISO Code country	Name country	Approval number quarantine facility or centre
DE	GERMANY	NW-1
DE	GERMANY	NW-2
DE	GERMANY	NW-3
DE	GERMANY	NW-4
DE	GERMANY	NW-5
DE	GERMANY	NW-6
DE	GERMANY	NW-7
DE	GERMANY	NW-8
DE	GERMANY	NW-9
DE	GERMANY	RP-1
DE	GERMANY	SN-1
DE	GERMANY	SN-2
DE	GERMANY	TH-1
DE	GERMANY	TH-2
ES	SPAIN	ES/01/02/05
ES	SPAIN	ES/05/02/12
ES	SPAIN	ES/05/03/13
ES	SPAIN	ES/09/02/10
ES	SPAIN	ES/17/02/07
ES	SPAIN	ES/04/03/11
ES	SPAIN	ES/04/03/14
ES	SPAIN	ES/09/03/15
ES	SPAIN	ES/09/06/18
ES	SPAIN	ES/10/07/20
FR	FRANCE	38.193.01
FR	FRANCE	32.162.004
GR	GREECE	GR.1
GR	GREECE	GR.2
IE	IRELAND	IRL-HBQ-1-2003 Unit A
IT	ITALY	003AL707
IT	ITALY	305/B/743
IT	ITALY	132BG603
IT	ITALY	170BG601
IT	ITALY	068CR003
IT	ITALY	006FR601
IT	ITALY	054LCO22
IT	ITALY	I – 19/ME/01
IT	ITALY	119RM013
IT	ITALY	006TS139
IT	ITALY	133VA023
IT	ITALY	015RM168
MT	MALTA	BQ 001
NL	NETHERLANDS	NL-13000

ISO Code country	Name country	Approval number quarantine facility or centre
NL	NETHERLANDS	NL-13001
NL	NETHERLANDS	NL-13002
NL	NETHERLANDS	NL-13003
NL	NETHERLANDS	NL-13004
NL	NETHERLANDS	NL-13005
NL	NETHERLANDS	NL-13006
NL	NETHERLANDS	NL-13007
NL	NETHERLANDS	NL-13008
NL	NETHERLANDS	NL-13009
NL	NETHERLANDS	NL-13010
PL	POLAND	14084501
PT	PORTUGAL	05 01 CQA
PT	PORTUGAL	01 02 CQA
PT	PORTUGAL	03 01 CQAR
PT	PORTUGAL	05 07 CQAA
UK	UNITED KINGDOM	21/07/01
UK	UNITED KINGDOM	21/07/02
UK	UNITED KINGDOM	01/08/01
UK	UNITED KINGDOM	21/08/01
UK	UNITED KINGDOM	24/08/01'

**COMMISSION REGULATION (EC) No 1295/2008**  
**of 18 December 2008**  
**on the importation of hops from third countries**  
**(Codified version)**

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) <sup>(1)</sup>, and in particular Article 192(2) and Article 195(2), in conjunction with Article 4, thereof,

Whereas:

(1) Commission Regulation (EEC) No 3076/78 of 21 December 1978 on the importation of hops from non-Member countries <sup>(2)</sup> and Commission Regulation (EEC) No 3077/78 of 21 December 1978 on the equivalence with Community certificates of attestations accompanying hops imported from non-Member countries <sup>(3)</sup> has been substantially amended several times <sup>(4)</sup>. In the interests of clarity and rationality the said Regulations should be codified.

(2) Article 158(1) of Regulation (EC) No 1234/2007 provides that hops and hop products from third countries may be imported only if their quality standards are at least equivalent to those adopted for like products harvested within the Community or their derivatives. Article 158(2) provides, however, that these products should be considered as being of those standards if they are accompanied by an attestation issued by the authorities of the country of origin and recognised as equivalent to the certificate required for the marketing of hops and hop products of Community origin.

(3) Commission Regulation (EC) No 1850/2006 of 14 December 2006 laying down detailed rules for the certification of hops and hop products <sup>(5)</sup> lays down very strict marketing requirements for hop products, and mixtures in particular. There is at the moment no effective method of checking at frontiers that these requirements are met. The only possible substitute for such a check is an undertaking on the part of the exporting countries to comply with the Community's

marketing requirements for these products. It is therefore necessary to require that such products be accompanied by an attestation as specified in Article 158(2) of Regulation (EC) No 1234/2007.

(4) In order to ensure that Community rules on the certification of hops are respected, Member States should carry out checks to verify whether imported hops conform to the minimum marketing requirements laid down by Regulation (EC) No 1850/2006.

(5) Certain third countries have undertaken to comply with the requirements prescribed for the marketing of hops and hop products and have authorised certain agencies to issue attestations of equivalence. These attestations should therefore be recognised as equivalent to Community certificates and the products covered by them admitted to free circulation.

(6) It is the responsibility of the organisations concerned in those third countries to keep up to date the information contained in Annex I and to maintain close cooperation with the Commission by communicating to it the information concerned.

(7) In order to facilitate control by the competent authorities of the Member States, it is essential to prescribe the form and, where necessary, the content of the attestation and the rules for its utilisation.

(8) In order to take account of trade practices, the competent authorities must be empowered, if a consignment is resold or split up, to have prepared under their supervision an extract from the attestation in respect of each new consignment resulting from the splitting up.

(9) By analogy with the Community's certification system, certain products should be exempt by virtue of their utilisation from the presentation of the attestations provided for in this Regulation.

(10) The measures laid down in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 367, 28.12.1978, p. 17.

<sup>(3)</sup> OJ L 367, 28.12.1978, p. 28.

<sup>(4)</sup> See Annex V.

<sup>(5)</sup> OJ L 355, 15.12.2006, p. 72.

HAS ADOPTED THIS REGULATION:

#### Article 1

1. Entry into free circulation in the Community of the products from third countries referred to in point (f) of Article 1 of Regulation (EC) No 1234/2007 shall be conditional upon proof being furnished that the requirements specified in Article 158(1) of that Regulation have been met.

2. The proof referred to in Article 1(1) of this Regulation shall be furnished by production of the attestation provided for in Article 158(2) of Regulation (EC) No 1234/2007, hereinafter referred to as an 'attestation of equivalence'.

#### Article 2

For the purposes of this Regulation, 'consignment' means a quantity of a product having the same characteristics and sent by the same consignor at the same time to the same consignee.

#### Article 3

Attestations accompanying hops and hop products imported from third countries issued by an agency authorised by the third country of origin and appearing in Annex I shall be recognised as attestations of equivalence.

Annex I shall be revised on the basis of information communicated by the third countries concerned.

#### Article 4

1. The attestation of equivalence shall be made out for each consignment and shall consist of an original and two copies to be drawn up on a form corresponding to the model set out in Annex II and in accordance with the rules set out in Annex IV.

2. An attestation of equivalence shall be valid only if it is duly completed and authenticated by one of the agencies referred to in Annex I.

3. A duly authenticated attestation of equivalence is one which shows the place and date of issue and which has been signed and bears the stamp of the issuing agency.

#### Article 5

1. Each unit of packaging covered by an attestation of equivalence shall bear the following particulars in one of the official languages of the Community:

- (a) the description of the product;
- (b) the variety or varieties;
- (c) the country of origin;

(d) the marks and numbers indicated in section 9 of the attestation of equivalence or the extract.

2. The particulars provided for in paragraph 1 shall appear in legible, indelible characters of uniform size on the outside of the package.

#### Article 6

1. Where, before its entry into free circulation, a consignment covered by an attestation of equivalence is split up and redispached an attestation extract shall be drawn up in respect of each new consignment resulting from such splitting.

The attestation shall be replaced by the necessary number of attestation extracts.

Each extract shall be drawn up by the party concerned in one original and two copies on a form corresponding to the model given in Annex III and in accordance with the rules set out in Annex IV.

2. The customs authorities shall endorse accordingly the original and the two copies of the attestation of equivalence, and shall countersign the original and the two copies of each extract.

They shall retain the original of the attestation of equivalence, send the two copies to the competent authority as referred to in Article 21 of Regulation (EC) No 1850/2006 and return the original and the two copies of each extract to the person concerned.

#### Article 7

On completion of customs formalities required for release for free circulation in the Community of the product to which the attestation of equivalence or the extract relates, the original and the two copies shall be submitted to the customs authorities who shall countersign them, retaining the original. One copy shall be forwarded by the customs authorities to the competent authority, as referred to in Article 21 of Regulation (EC) No 1850/2006, of the Member State where the product enters into free circulation. The second copy shall be returned to the importer, who must keep it for at least three years.

#### Article 8

If the consignment is resold or split up after it has been released for free circulation, the product must be accompanied by an invoice or other commercial document drawn up by the vendor, giving the reference number of the attestation of equivalence or of the extract, together with the name of the authority which issued them.

The following information from the attestation of equivalence or, as the case may be, the extract shall also be included on the invoice or commercial document:

- (a) for hop cones:
- (i) the description of the product;
  - (ii) the gross weight;
  - (iii) the place of production;
  - (iv) the year of harvest;
  - (v) the variety;
  - (vi) the country of origin;
  - (vii) the markings and identification numbers given in Section 9 of the attestation;
- (b) for products manufactured from hops, in addition to the particulars listed under point (a): the place and date of processing.

#### Article 9

1. The Member States shall regularly carry out checks on a random basis to verify whether hops which are imported pursuant to Article 158 of Regulation (EC) No 1234/2007 comply with the minimum marketing requirements set out in Annex I to Regulation (EC) No 1850/2006.

2. The Member States shall report to the Commission, every year by 30 June, the frequency, type and result of the checks which were carried out over the year preceding that date. The checks shall cover at least 5% of the number of hop consignments expected to be imported from a third country into the Member State in question during the year.

3. If the competent authorities of the Member States find that the samples examined do not satisfy the minimum marketing requirements referred to in paragraph 1, the corresponding consignments may not be marketed in the Community.

4. If a Member State discovers that the characteristics of a product do not conform to the details listed on the attestation of equivalence accompanying the product it shall notify the Commission thereof.

In accordance with the procedure provided for in Article 195(2) of Regulation (EC) No 1234/2007, a decision may be taken to withdraw the agency having issued the attestation of equivalence for such products from the list in Annex I.

#### Article 10

By way of derogation from this Regulation, neither the production of the attestation referred to in Article 1(2) nor compliance with the provisions of Article 5 shall be required for the release for free circulation of the following hops and hop products where the weight per individual package does not exceed 1 kg in the case of hop cones and hop powder and 300 g in the case of hop extracts:

- (a) small packages for sale to private individuals for their own use;
- (b) for scientific and technical experiments;
- (c) for fairs covered by the special customs arrangements for fairs.

The description, weight and final utilisation of the product must appear on the packaging.

#### Article 11

Regulations (EEC) No 3076/78 and (EEC) No 3077/78 are repealed.

References to the repealed Regulations shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex VI.

#### Article 12

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

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

Done at Brussels, 18 December 2008

For the Commission  
The President  
José Manuel BARROSO

## ANNEX I

## AGENCIES AUTHORISED TO ISSUE ATTESTATIONS IN RESPECT OF

Hop cones CN code: ex 1210

Hop powders CN code: ex 1210

Saps and extracts of hops CN code: 1302 13 00

Country of origin	Agencies authorised	Address	Code	Telephone	Fax	E-mail (optional)
Australia	Quarantine Services Department of Primary Industries & Water	Macquarie Wharf No 1 Hunter Street, Hobart Tasmania 7000	(61-3)	6233 3352	6234 6785	
Canada	Plant Protection Division, Animal and Plant Health Directorate, Food Production and Inspection Branch, Agriculture and Agri-food Canada	Floor 2, West Wing 59, Camelot Drive Napean, Ontario, K1A 0Y9	(1-613)	952 8000	991 5612	
China	Tianjin Airport Entry-Exit Inspection and Quarantine Bureau of the People's Republic of China	No. 33 Youyi Road, Hexi District, Tianjin 300201	(86-22)	2813 4078	28 13 40 78	ctqj2002@163.com
	Tianjin Economic and Technical Develop- ment Zone Entry-Exit Inspection and Quarantine Bureau of the People's Republic of China	No. 8, Zhaofaxincun 2nd Avenue, TEDA Tianjin 300457	(86-22)	662 98343	662 98245	zhujw@tjciq.gov.cn
	Inner Mongolia Entry-Exit Inspection and Quarantine Bureau of the People's Republic of China	No. 12 Erdos Street, Saihan District, Huhhot City Inner Mongolia 010020	(86-471)	434 1943	434 2163	zhaoxb@nmciq.gov.cn
	Xinjiang Entry-Exit Inspection and Quar- antine Bureau of the People's Republic of China	No. 116 North Nanhua Road, Urumqi City Xinjiang 830063	(86-991)	464 0057	464 0050	xjciq_jw@xjciq.gov.cn
New Zealand	Ministry of Agriculture and Fisheries	PO Box 2526 Wellington	(64-4)	472 0367	474 424 472-9071	
	Gawthorn Institute	Private Bag Nelson	(64-3)	548 2319	546 9464	
Serbia	Naucni Institut za Ratarstvo/Zavod za Hmelj sirak I lekovito bilje	21470 Backi Petrovac	(38-21)	780 365	621 212	berenji@eunet.yu

Country of origin	Agencies authorised	Address	Code	Telephone	Fax	E-mail (optional)
South Africa	CSIR Food Science and Technology	PO Box 395 0001 Pretoria	(27-12)	841 3172	841 3594	
Switzerland	Labor Veritas	Engimattstrasse 11 Postfach 353 CH-8027 Zürich	(41-44)	283 2930	201 4249	admin@laborveritas.ch
Ukraine	Productional-Technical Centre (PTZ) Ukrhmel	Hlebnaja 27 262028 Zhtiomie	(380)	37 2111	36 7331	
United States	Washington Department of Agriculture State Chemical and Hop Lab	21 N. 1st Ave. Suite 106 Yakima, WA 98902	(1-509)	225 7626	454 7699	
	Idaho Department of Agriculture Division of Plant Industries Hop Inspection Lab	2270 Old Penitentiary Road P.O. Box 790 Boise, ID 83701	(1-208)	332 8620	334 2283	
	Oregon Department of Agriculture Commodity Inspection Division	635 Capital Street NE Salem, OR 97310-2532	(1-503)	986 4620	986 4737	
	California Department of Food and Agriculture (CDFA-CAC) Division of Inspection Services Analytical Chemistry Laboratory	3292 Meadowview Road Sacramento, CA 95832	(1-916)	445 0029 or 262 1434	262 1572	
	USDA, GIPSA, FGIS	1100 NW Naito Parkway Portland, OR 97209-2818	(1-503)	326 7887	326 7896	
	USDA, GIPSA, TSD, Tech Service Division, Technical Testing Laboratory	10383 Nth Ambassador Drive Kansas City, MO 64153-1394	(1-816)	891 0401	891 0478	
Zimbabwe	Standards Association of Zimbabwe (SAZ)	Northend Close, Northridge Park Borrowdale, P.O. Box 2259 Hatware	(263-4)	88 2017, 88 2021, 88 5511	88 2020	info@saz.org.zw saz.org.zw

## ANNEX II

## ATTESTATION OF EQUIVALENCE

1. Consignor (full name and address)	2. No	<b>ORIGINAL</b>	
<b>ATTESTATION OF EQUIVALENCE FOR THE IMPORTATION OF HOPS AND HOP PRODUCTS INTO THE EUROPEAN COMMUNITY</b>			
3. Consignee (full name and address)	Виж превода на гърба — Véase traducción al dorso — Viz překlad na druhé straně — Oversættelse se bagsiden — Übersetzung siehe Rückseite — Vaata tõlget pöördel — Δείτε μετάφραση στην πίσω σελίδα — Voir traduction au verso — Vedi traduzione a tergo — skatīt tulkojumu nākamajā lappusē — Žr. vertimą kitame puslapyje — a fordítást lásd a tülso oldalon — Ara t-traduzzjoni mnizzla fuq wara — Zie vertaling aan ommezijde — Zob. tłumaczenie na odwrocie — Ver tradução no verso — A se vedea traducerea pe verso — Pozri preklad na druhej strane — Glej prevod na hrbtni strani — Katso kääntöpuolella oleva käännös — För översättning se baksidan		
<b>IMPORTANT NOTES</b>  A. This attestation and the two copies must be submitted to the customs authorities in the Community when the products are released for free circulation or when the consignment is split up before it is released for free circulation.  B. When the consignment is split up, the customs authorities, after endorsing the attestation and the two copies, shall retain the original and forward the two copies to the authorities responsible for hops in the Member State concerned.  C. When the products are released for free circulation, after endorsing the attestations and the two copies, the customs authorities should retain the original, return one copy to the declarant and forward the other copies to the authorities responsible for hops in the Member State concerned.	4. Country of Origin		
	5. Place of production of hops	6. Harvesting year	
	7. Place of processing	8. Date of processing	
9. Marks, numbers, number and kind of packages — description of products — variety		10. Gross weight (kg)	
<b>11. ATTESTATION BY ISSUING AUTHORITY</b> I the undersigned certify that the products described above comply with the rules on hops and hop products applicable in the European Community.			
12. Issuing authority (full name and address)	At ....., on ..... ..... (Signature) ..... (Stamp)		
<b>13. RESERVED FOR THE CUSTOMS AUTHORITIES IN THE COMMUNITY</b>  The products described above have been released for free circulation <sup>(1)</sup> This attestation has been replaced by ..... extracts <sup>(1)</sup>  At ....., on ..... ..... (Signature) ..... (Stamp)			

(1) Delete as appropriate.

## ANNEX III

## EXTRACT OF ATTESTATION

1. Consignor (name and full address)	2. No	<b>ORIGINAL</b>	
3. Consignee (name and full address)	<b>EXTRACT FROM AN ATTESTATION OF EQUIVALENCE FOR THE IMPORTATION OF HOPS AND HOP PRODUCTS INTO THE EUROPEAN COMMUNITY</b>		
	<p>Виж превода на гърба — Véase traducción al dorso — Viz překlad na druhé straně — Oversættelse se bagsiden — Übersetzung siehe Rückseite — Vaata tõlget pöördel — Δείτε μετάφραση στην πίσω σελίδα — Voir traduction au verso — Vedi traduzione a tergo — skatīt tulkojumu nākamajā lappusē — Žr. vertimą kitame puslapyje — a fordítást lásd a tulsó oldalon — Ara t-traduzzjoni mnizzla fuq wara — Zie vertaling aan ommezijde — Zob. tłumaczenie na odwrocie — Ver tradução no verso — A se vedea traducerea pe verso — Pozri preklad na druhej strane — Glej prevod na hrbtni strani — Katso kääntöpuolella oleva käännös — För översättning se baksidan</p>		
	<p><b>IMPORTANT NOTES</b></p> <p>A. This extract and the two copies must be submitted to the customs authorities in the Community when the products are released for free circulation.</p> <p>B. After endorsing the documents, the customs authorities in the Community shall retain the original, return one copy to the declarant and forward the other copy to the authorities responsible for hops in the Member State concerned.</p>		
9. Marks, numbers, number and kind of packages — description of products — variety	4. Country of origin		
	5. Place of production of hops	6. Harvesting year	
	7. Place of processing	8. Date of processing	
	10. Gross weight (kg)		
<p><b>11. DECLARATION BY THE CONSIGNOR</b></p> <p>I the undersigned declare that the products above were covered by the attestation of equivalence issued on ..... (date), reference No ..... by the following issuing authority ..... (name and full address)</p> <p>At ....., on .....</p> <p style="text-align: right;">..... (Signature)</p>			
<p><b>12. ENDORSEMENT BY THE CUSTOMS AUTHORITIES</b></p> <p>Declaration certified as correct. The information on this extract corresponds to that given relevant attestation of equivalence.</p>			
13. Customs office (full name and address)	<p>At ....., on .....</p> <p style="text-align: center;">..... (Signature) (Stamp)</p>		
<p><b>14. RESERVED FOR THE CUSTOMS AUTHORITIES IN THE MEMBER STATE WHERE THE PRODUCTS ARE RELEASED FOR FREE CIRCULATION</b></p> <p>The products described above have been released for free circulation</p> <p>At ....., on .....</p> <p style="text-align: center;">..... (Signature) (Stamp)</p>			

## ANNEX IV

**RULES GOVERNING THE FORMS REFERRED TO IN ARTICLES 4 AND 6**

## I. PAPER

The paper to be used is a white paper weighing at least 40 g/m<sup>2</sup>.

## II. SIZE

The size is: 210 × 297 mm.

## III. LANGUAGES

- A. The attestation of equivalence must be printed in one of the official languages of the Community; it can also be printed in the official language or one of the official languages of the issuing country.
- B. The extract of the attestation of equivalence must be printed in one of the official languages of the Community designated by the competent authorities of the issuing Member State

## IV. COMPLETION OF THE FORMS

- A. The forms shall be completed by typewriter or by hand; in the latter case, they shall be completed legibly in ink and in printed characters.
- B. Each form is individualised by a number given by the issuing authority, this number being the same for the original and its two copies.
- C. In the case of the attestation of equivalence and its extracts:
  - 1. Section 5 shall not be completed for hop products made from blends of hops;
  - 2. Sections 7 and 8 shall be completed for all products made from hops;
  - 3. the description of the products (Section 9) shall be one of the following:
    - (a) 'unprepared hops': i.e. hops which have only undergone preliminary drying and packaging,
    - (b) 'prepared hops': i.e. hops which have undergone final drying and packaging,
    - (c) 'hop powder' (which shall include hop pellets and enriched hop powder),
    - (d) 'isomerised hop extract': i.e. an extract in which the alpha acids have been almost totally isomerised,
    - (e) 'extract of hops': i.e. other extracts than isomerised extract of hops,
    - (f) 'mixed hop products': i.e. a mixture of the products referred to in points (c), (d) and (e) above, excluding hops;
  - 4. the description 'unprepared hops' or 'prepared hops' shall be followed by the word 'seedless' if the seed content is less than 2% of the weight of the hops, and by the word 'seeded' in other cases;
  - 5. in cases where products made from hops are obtained from hops of different varieties and/or different places of production, these different varieties and/or places of production shall be stated in Section 9, followed by the percentage by weight of each variety from each production area making up the blend.

## ANNEX V

**Repealed Regulations with list of their successive amendments**

Commission Regulation (EEC) No 3076/78 (OJ L 367, 28.12.1978, p. 17)	
Commission Regulation (EEC) No 1465/79 (OJ L 177, 14.7.1979, p. 35)	Article 2 only concerning the references to Article 3 of Regulation (EEC) No 3076/78
Commission Regulation (EEC) No 4060/88 (OJ L 356, 24.12.1988, p. 42)	Article 1 only
Commission Regulation (EEC) No 2264/91 (OJ L 208, 30.7.1991, p. 20)	
Commission Regulation (EEC) No 2940/92 (OJ L 294, 10.10.1992, p. 8)	
Commission Regulation (EEC) No 717/93 (OJ L 74, 27.3.1993, p. 45)	
Commission Regulation (EEC) No 2918/93 (OJ L 264, 23.10.1993, p. 37)	
Commission Regulation (EEC) No 3077/78 (OJ L 367, 28.12.1978, p. 28)	
Commission Regulation (EEC) No 673/79 (OJ L 85, 5.4.1979, p. 25)	
Commission Regulation (EEC) No 1105/79 (OJ L 138, 6.6.1979, p. 9)	
Commission Regulation (EEC) No 1466/79 (OJ L 177, 14.7.1979, p. 37)	
Commission Regulation (EEC) No 3042/79 (OJ L 343, 31.12.1979, p. 5)	
Commission Regulation (EEC) No 3093/81 (OJ L 310, 30.10.1981, p. 17)	
Commission Regulation (EEC) No 541/85 (OJ L 62, 1.3.1985, p. 57)	
Commission Regulation (EEC) No 3261/85 (OJ L 311, 22.11.1985, p. 20)	
Commission Regulation (EEC) No 3589/85 (OJ L 343, 20.12.1985, p. 19)	Article 1(2)
Commission Regulation (EEC) No 1835/87 (OJ L 174, 1.7.1987, p. 14)	
Commission Regulation (EEC) No 3975/88 (OJ L 351, 21.12.1988, p. 23)	
Commission Regulation (EEC) No 4060/88 (OJ L 356, 24.12.1988, p. 42)	Article 2 only
Commission Regulation (EEC) No 2835/90 (OJ L 268, 29.9.1990, p. 88)	
Commission Regulation (EEC) No 2238/91 (OJ L 204, 27.7.1991, p. 13)	
Commission Regulation (EEC) No 2915/93 (OJ L 264, 23.10.1993, p. 29)	
Commission Regulation (EC) No 812/94 (OJ L 94, 13.4.1994, p. 4)	

Commission Regulation (EC) No 1757/94  
(OJ L 183, 19.7.1994, p. 11)

Commission Regulation (EC) No 201/95  
(OJ L 24, 1.2.1995, p. 121)

Commission Regulation (EC) No 972/95  
(OJ L 97, 29.4.1995, p. 62)

Commission Regulation (EC) No 2132/95  
(OJ L 214, 8.9.1995, p. 7)

Commission Regulation (EC) No 539/98  
(OJ L 70, 10.3.1998, p. 3)

Commission Regulation (EC) No 81/2005  
(OJ L 16, 20.1.2005, p. 52)

Commission Regulation (EC) No 495/2007  
(OJ L 117, 5.5.2007, p. 6)

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## ANNEX VI

## Correlation Table

Regulation (EEC) No 3076/78	Regulation (EEC) No 3077/78	This Regulation
Article 1(1) and (2)		Article 1(1) and (2)
Article 1(3)	Article 1, first sentence	Article 2
	Article 1, second sentence	Article 3, first paragraph
Article 2		Article 3, second paragraph
Article 3(1), introductory sentence		Article 4
Article 3(1), first to fourth indents		Article 5(1), introductory sentence
Article 3(2)		Article 5(1), points (a) to (d)
Article 4		Article 5(2)
Article 5(1), first sentence		—
Article 5(1), second sentence		Article 6(1), first subparagraph
Article 5(1), third sentence		Article 6(1), second subparagraph
Article 5(2), first sentence		Article 6(1), third subparagraph
Article 5(2), second sentence		Article 6(2), first sentence
Article 6		Article 6(2), second sentence
Article 7, first paragraph, except last five words		Article 7
Article 7, last five words of first paragraph and point 1		Article 8, first paragraph
Article 7, point 1(a), introductory words		Article 8, second paragraph, introductory words
Article 7, point 1(a), first indent		Article 8, second paragraph point (a), introductory words
Article 7, point 1(a), second indent		Article 8, second paragraph, point (a)(i)
Article 7, point 1(a), third indent		Article 8, second paragraph, point (a)(ii)
Article 7, point 1(a), fourth indent		Article 8, second paragraph, point (a)(iii)
Article 7, point 1(a), fifth indent		Article 8, second paragraph, point (a)(iv)
Article 7, point 1(a), sixth indent		Article 8, second paragraph, point (a)(v)
Article 7, point 1(a), seventh indent		Article 8, second paragraph, point (a)(vi)
Article 7, point 1(b)		Article 8, second paragraph, point (a)(vii)
Article 7(2)		Article 8, second paragraph, point (b)
Article 7a, first paragraph, first sentence		—
Article 7a, first paragraph, second sentence		Article 9(1)
Article 7a, second paragraph		Article 9(2)
Article 7a, third paragraph, first sentence		Article 9(3)
		Article 9(4), first subparagraph

Regulation (EEC) No 3076/78	Regulation (EEC) No 3077/78	This Regulation
Article 7a, third paragraph, second sentence		Article 9(4), second subparagraph
Article 8		Article 10
Article 9		—
Article 10		—
—	—	Article 11
—	—	Article 12
	Annex	Annex I
Annex I		Annex II
Annex II		Annex III
Annex III		—
Annex IV		Annex IV
—	—	Annex V
—	—	Annex VI

## COMMISSION REGULATION (EC) No 1296/2008

of 18 December 2008

## laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal

(Codified version)

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) <sup>(1)</sup>, and in particular Article 144(1) in conjunction with Article 4 thereof,

Whereas:

(1) Commission Regulation (EC) No 1839/95 of 26 July 1995 on laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal <sup>(2)</sup> has been substantially amended several times <sup>(3)</sup>. In the interests of clarity and rationality the said Regulation should be codified.

(2) Under the agreements concluded during the Uruguay Round of multilateral trade negotiations, the Community has undertaken, as from the 1995/96 marketing year, to open reduced-tariff quotas for imports into Portugal of 500 000 tonnes of maize and into Spain of two million tonnes of maize and 300 000 tonnes of sorghum respectively. In the case of the quota for imports into Spain, the quantities of certain grain substitutes imported into Spain are to be deducted in proportion to the total quantities imported. In the case of the quota opened for imports of maize into Portugal, the import duty actually paid should not exceed EUR 50 per tonne.

(3) In order to ensure the sound management of these quotas, provision should be made for similar methods for booking imports of maize and sorghum effected in Spain and in Portugal.

(4) In order to attain this objective and to guarantee effective monitoring by the Commission of the arrangements and of the Community's international obligations, it is appropriate to determine with precision the imports to be booked pursuant to these quotas and to provide for Spain and Portugal to communicate to the Commission, each month, all imports of the products concerned actually carried out, specifying the calculation method applied.

(5) The period laid down for the import of import quotas of maize into Portugal and of maize and sorghum into Spain and for the taking account of any imports of substitute products must be based on the calendar year.

(6) The quantity of maize to be imported into Portugal and of maize and sorghum to be imported into Spain in a given year, reduced by the quantities of certain grain substitutes imported into Spain during that same year, does not allow, at the end of the year, the balance of maize and sorghum which remains to be imported in the year concerned to be determined. Consequently, the period during which imports may be booked against a year must be extended, in cases of necessity, to the month of May of the following year.

(7) It is in the interest of Community operators to ensure an adequate supply of the products concerned on the Community market at stable prices whilst avoiding unnecessary and excessive risks or even market disruptions in the form of severe price fluctuations. The Commission, taking account of the evolving international markets, the supply conditions in Spain and Portugal, and the Community's international commitments, should decide whether a reduction to the applicable import duties fixed in accordance with Commission Regulation (EC) No 1249/96 of 28 June 1996 on rules of application (cereal sector import duties) for Council Regulation (EEC) No 1766/92 <sup>(4)</sup> are required to ensure that the import quotas for the products concerned are fully used.

(8) In order to ensure that these quotas are applied, provision should be made for direct purchase on the world market or application of an import duty reduction system established pursuant to Regulation (EC) No 1249/96.

<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 177, 28.7.1995, p. 4.

<sup>(3)</sup> See Annex V.

<sup>(4)</sup> OJ L 161, 29.6.1996, p. 125.

- (9) The combination of the advantages provided for under the arrangements established by Council Regulation (EC) No 1528/2007 <sup>(1)</sup>, applicable to imports into the Community of sorghum and maize originating in certain States which are part of the the African, Caribbean and Pacific Group of States ('ACP States') and under this Regulation is liable to create disturbances on the Spanish and Portuguese markets in cereals. That difficulty can be overcome by setting a special reduction of the levy on maize and sorghum imported under this Regulation.
- (10) In the case of direct purchase on the world market, and with a view to enabling the operation to be carried out under optimum conditions and in particular at the lowest purchase and transport costs, an invitation to tender should be organised for the supply and delivery to warehouses designated by the paying agency or intervention agency concerned. Provision should be made for tenders to be lodged for individual lots in line with storage capacities available in certain areas of the Member State concerned and published in the notice of invitation to tender.
- (11) Detailed rules should be adopted on the organisation of the invitations to tender for the import duty reduction and for direct purchase on the world market, and conditions should be defined for submitting tenders and lodging and releasing securities guaranteeing compliance with the successful tenderer's obligations.
- (12) With a view to sound economic and financial management of the purchasing operations in question and in particular to avoid disproportionate and excessive risks for operators in view of foreseeable prices on the Spanish and Portuguese markets, provision should be made for importing onto the market, subject to a reduced duty, cereals which do not meet the quality requirements laid down in the invitation to tender. In that case, however, the duty reduction may not be greater than the last amount fixed for the reduction in question.
- (13) Provision should be made to cover the operations arising from this Regulation according to the mechanisms laid down by Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy <sup>(2)</sup>.
- (14) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

CHAPTER I  
GENERAL PROVISIONS

Article 1

1. Quotas for imports from third countries, for release for free circulation in Spain, of a maximum quantity each year of two million tonnes of maize and 300 000 tonnes of sorghum shall be opened on 1 January of each year. Imports under those quotas shall be effected as provided for in this Regulation.
2. On 1 January each year an import quota shall be opened for a maximum of 500 000 tonnes of maize for release into free circulation in Portugal. Imports under this quota shall be made on an annual basis under the conditions laid down in this Regulation.
3. In the event of technical difficulties duly noted by the Commission a period of importation exceeding that time limit may be laid down in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007.
4. The reduction in the import duty on flint maize provided for in Article 2(5) of Regulation (EC) No 1249/96 shall not apply under the quotas provided for in paragraphs 1 and 2 of this Article.

Article 2

1. The quantities for import into Spain referred to in Article 1(1) shall be reduced in each year in proportion to any quantities of residues of starch manufacture from maize falling within CN codes 2303 10 19 and 2309 90 20, brewing and distilling dregs and waste falling within CN code 2303 30 00 and citrus pulp residues falling within CN code ex 2308 00 40 imported into Spain from third countries during the year concerned.
2. The Commission shall book for the quotas referred to in Article 1(1) and (2):
  - (a) the quantities of maize (CN code 1005 90 00) and sorghum (CN code 1007 00 90) imported into Spain and the quantities of maize (CN code 1005 90 00) imported into Portugal during each calendar year and, where necessary, until the end of May of the following year;
  - (b) the quantities of residues of starch manufacture from maize, brewing and distilling dregs and waste and residues of citrus pulp, referred to in paragraph 1 of this Article, imported into Spain during each calendar year.

<sup>(1)</sup> OJ L 348, 31.12.2007, p. 1.

<sup>(2)</sup> OJ L 209, 11.8.2005, p. 1.

Where quantities are booked in respect of the months following the reference calendar year in accordance with point (a) of the first subparagraph, these quantities may no longer be booked in respect of the following calendar year.

3. For the purposes of booking quantities as provided for in paragraph 2, imports of maize into Spain and Portugal carried out under the following acts shall not be taken into account:

- (a) Council Regulation (EC) No 2007/2000 <sup>(1)</sup>;
- (b) Council and Commission Decision 2005/40/EC, Euratom <sup>(2)</sup>;
- (c) Council Decision 2006/580/EC <sup>(3)</sup>;
- (d) Commission Regulation (EC) No 969/2006 <sup>(4)</sup>.

#### Article 3

The competent authorities of Spain and of Portugal shall notify the Commission, by electronic means, not later than the fifteenth day of each month, of the quantities of the products referred to in Article 2(2) imported in the course of the penultimate month, on the basis of the model in Annex I.

#### Article 4

1. The quantities of maize and sorghum referred to in Article 1(1) shall be allocated to processing or use in Spain.
2. The quantities of maize referred to in Article 1(2) shall be allocated to processing or use in Portugal.

#### Article 5

Imports shall be effected, as part of the quotas referred to in Article 1(1) and (2) and within the quantitative limits set out in Article 1(1) and (2), to Spain and Portugal by applying an import duty reduction system as provided for in Article 6, or by direct purchase on the world market.

### CHAPTER II

#### IMPORTATION WITH IMPORT DUTY REDUCTION

#### Article 6

1. Without prejudice to Article 15, for imports of maize and sorghum into Spain and imports of maize into Portugal, within the quantitative limits set in Article 1(1) and (2), a reduction may be applied to the import duty fixed in accordance with Regulation (EC) No 1249/96.

2. The Commission, taking account of the existing market conditions, shall decide whether the reduction provided for in

paragraph 1 shall be applied, so as to ensure that the import quotas are fully used.

3. If the Commission decides to apply the reduction referred to in paragraph 1, the amount of the reduction shall be fixed on a flat-rate basis or by tendering procedure, at a level enabling, firstly, disturbance of the Spanish and Portuguese markets as a result of imports into those Member States to be avoided and, secondly, the quantities referred to in Article 1(1) and (2) to be actually imported.

4. The amount of the flat-rate reduction and, if the reduction is fixed in accordance with the tendering procedure referred to in Article 8(1), the amount of the latter reduction, shall be fixed in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007.

In the case of imports into Portugal, the amount of the reduction referred to in paragraph 3 shall be fixed in such a way that the duty actually paid does not exceed EUR 50 per tonne.

The reduction may be differentiated for imports of maize and/or sorghum under Regulation (EC) No 1528/2007.

5. The import duty reduction provided for in paragraph 1 shall be applied on importation into Spain of maize falling within CN code 1005 90 00 and sorghum falling within CN code 1007 00 90 and on importation into Portugal of maize falling within CN code 1005 90 00, covered by licences issued by the Spanish and Portuguese competent authorities as provided for in this Regulation and with the consent of the Commission. These licences shall be valid only in the Member State in which they are issued.

#### Article 7

1. A tendering procedure may be organised for the reduction in the import duty. In such cases, interested parties shall reply to the invitation to tender either by lodging a written tender in exchange for an acknowledgement of receipt with the competent body specified in the invitation to tender or by forwarding that tender to the latter by registered letter, telex, fax or telegram.

2. Tenders must give:

(a) the reference of the invitation to tender;

(b) the tenderer's name and exact addresses, together with the telex or telefax number;

<sup>(1)</sup> OJ L 240, 23.9.2000, p. 1.

<sup>(2)</sup> OJ L 26, 28.1.2005, p. 1.

<sup>(3)</sup> OJ L 239, 1.9.2006, p. 1.

<sup>(4)</sup> OJ L 176, 30.6.2006, p. 44.

- (c) the nature and quantity of the product to be imported;
- (d) the amount per tonne of the import duty reduction proposed in euros;
- (e) the country of origin of the cereals to be imported.

3. Tenders must be accompanied:

- (a) by evidence that the tenderer has lodged a security of EUR 20 per tonne; and
- (b) by a written undertaking by the tenderer that, within two days of receipt of notification of the award of contract, he will lodge with the competent body concerned an application for an import licence for the quantity awarded, and that he will import from the country of origin specified in the tender.

4. Tenders must specify only one country of origin; they may not exceed the maximum quantity available for each tendering deadline.

5. Tenders not submitted in accordance with paragraphs 1 to 4 or containing conditions other than those laid down in the invitation to tender shall not be considered.

6. Tenders may not be withdrawn.

7. Tenders must be forwarded to the Commission by the competent body not later than two hours after the deadline for the lodging of tenders as specified in the invitation to tender. They must be forwarded in the form shown in Annex II.

Where no tenders are submitted, the Member State concerned shall inform the Commission within the same time limit.

#### Article 8

1. On the basis of the tenders lodged and forwarded under a tendering procedure for the import duty reduction the Commission shall decide, in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007:

- (a) to fix a maximum import duty reduction; or
- (b) not to pursue the tendering procedure.

Where it is decided to fix a maximum import duty reduction, any tender(s) for an amount equal to or less than the maximum reduction shall be accepted. However, where the maximum

reduction fixed under the tendering procedure for a given week leads to the acceptance of quantities exceeding the quantities remaining for importation, the tenderer having lodged the tender corresponding to the accepted maximum reduction shall be awarded a quantity equal to the difference between the quantities applied for in the other accepted tenders and the quantity available. Where the maximum reduction fixed corresponds to several tenders, the quantity to be awarded shall be shared between the tenderers in proportion to the respective quantities for which they have tendered.

2. The competent authorities of Spain or Portugal shall notify all tenderers in writing of the outcome of their tenders as soon as the Commission has taken the decision referred to in paragraph 1.

#### Article 9

1. Licence applications shall be submitted on forms printed and/or drawn up in accordance with Article 17 of Commission Regulation (EC) No 376/2008 <sup>(1)</sup>. Where a flat-rate reduction is adopted by the Commission, applications shall be lodged on the first two working days of each week. Where the duty reduction is awarded under a tendering procedure, applications shall be lodged, for the awarded quantity, within two days of receipt of the notice of award showing the reduction proposed in the tender.

2. Section 24 of licence applications and licences shall contain one of the entries listed in Annex III.

3. Where a flat-rate reduction is applied, licence applications shall be taken into consideration only where evidence is provided that a security of EUR 20 per tonne has been lodged in favour of the competent body concerned.

#### Article 10

1. Licence applications shall be accompanied by a written undertaking from the applicant to lodge, by the date of issue of the licence at the latest, a performance guarantee of an amount per tonne equal to the flat-rate duty reduction granted or to that of the reduction proposed in the tender.

2. The level of security provided for in Article 12(a) of Commission Regulation (EC) No 1342/2003 <sup>(2)</sup> shall apply to import licences issued under this Regulation.

3. Where a flat-rate reduction is adopted by the Commission, the rate of reduction and import duty rate applied shall be those in force on the day on which the certificate of release for free circulation is accepted by the customs office.

<sup>(1)</sup> OJ L 114, 26.4.2008, p. 3.

<sup>(2)</sup> OJ L 189, 29.7.2003, p. 12.

4. Where the reduction is fixed under a tendering procedure, the rate of duty applied shall be that in force on the day on which the certificate of release for free circulation is accepted by the customs office. In addition, the amount of the reduction granted shall be shown in section 24 of the licence.

However, in the case of imports effected after the end of the month in which the import licence is issued, if the month in which the licence is issued is between October and May inclusive the amount of the reduction granted shall be increased by an amount equal to the difference between the intervention price in force in the month in which the licence was issued plus 55 % and the price in force in the month in which the certificate of release for free circulation is accepted plus the same percentage. In the case of licences issued prior to 1 October and used from that date, the amount of the reduction granted shall be reduced by an amount calculated in the same way.

5. Applications shall be valid only if:

(a) they do not exceed the maximum quantity available for each deadline for lodging applications; and

(b) they are accompanied by evidence that the applicant's business activity includes international cereals trading in the importing Member State. For the purpose of this Article, the provision of such evidence shall consist in presentation to the competent body of either a copy of a certificate of payment of value added tax in the Member State concerned or a copy of either a customs clearance certificate issued by the Member State concerned in respect of an import or export licence or an invoice relating to intra-Community trade in the applicant's name for an operation conducted in any of the three preceding years.

6. The customs authorities of the Member State of importation shall take representative samples from each imported consignment in accordance with the Annex to Commission Directive 76/371/EEC <sup>(1)</sup>, in order to determine the vitreous grain content using the method and criteria set out in Article 6(2) of Regulation (EC) No 1249/96.

#### Article 11

1. Where a flat-rate reduction is adopted by the Commission, licences shall be issued, within the quantities available, no later than the Friday following the last day for submission as specified in Article 9(1). If the Friday is not a working day, they shall be issued on the first working day thereafter.

Should the applications made in respect of a week be for quantities exceeding those for maize and sorghum still available for import into Spain and maize into Portugal, the quantities for

which licences are issued shall be the quantities indicated in the applications, reduced by a uniform percentage.

2. Where a duty reduction is fixed under a tendering procedure, licences shall be issued, on condition that the tenderer has lodged an application for an import licence as referred to in Article 7(3)(b) before the specified deadline, for the quantities awarded not later than the third working day following the final date for submitting licence applications as set out in Article 9(1).

3. The competent authorities shall notify the Commission of the quantities for which licences have been issued each week no later than the third working day of the following week.

4. Notwithstanding Article 22(1) of Regulation (EC) No 376/2008 import licences shall, for the purpose of determining their period of validity, be deemed to have been issued on the day of expiry of the deadline for lodging tenders or applications.

#### Article 12

1. The period of validity of licences shall be:

(a) the period specified in Article 6 of Regulation (EC) No 1342/2003 in cases where a flat-rate reduction has been adopted by the Commission;

(b) the period specified in the Regulation opening the invitation to tender, in the case of licences issued under a tendering procedure for the duty reduction.

2. In Section 8 of the import licence, a cross must be marked against the word 'yes'. Notwithstanding Article 7(4) of Regulation (EC) No 376/2008, the quantity released for free circulation shall not exceed the quantity specified in Sections 17 and 18 of the import licence, but may be less than that quantity by up to 5 %. The figure '0' must be entered in Section 19 of the licence.

3. Notwithstanding Article 8 of Regulation (EC) No 376/2008, the rights arising from import licences under this Regulation shall not be transferable.

#### Article 13

1. Without prejudice to the surveillance measures adopted pursuant to Article 14, the security referred to in Article 7(3)(a) shall be released:

(a) forthwith, where the tender is not accepted;

(b) where the tender submitted for the tendering procedure is accepted, on the issue of the import licence. However, where the undertaking referred to in Article 7(3)(b) is not fulfilled, the security shall be forfeit.

<sup>(1)</sup> OJ L 102, 15.4.1976, p. 1.

2. Without prejudice to the surveillance measures adopted pursuant to Article 14, the security referred to in Article 9(3) shall be released:

- (a) forthwith, in respect of quantities for which no licence has been issued;
- (b) on the issue of the import licence, in respect of quantities for which a licence has been issued.

3. Without prejudice to the surveillance measures adopted pursuant to Article 14, the security referred to in Article 10(1) shall be released where the tenderer provides proof:

- (a) for maize for which the analysis carried out in accordance with Article 10(6) shows a vitreous grain content of more than 60 %, that the imported product has been processed in the Member State of release for free circulation into any product other than those falling within CN codes 1904 10 10, 1103 13 or 1104 23. That proof shall be provided in the form of a T5 control copy drawn up by the customs clearance office, in accordance with Commission Regulation (EEC) No 2454/93 <sup>(1)</sup>, before departure of the goods for processing;
- (b) for maize for which the analysis carried out in accordance with Article 10(6) shows a vitreous grain content equal or lower than 60 % and for sorghum, that the imported product has been processed or used in the Member State of release for free circulation. That proof may be provided in the form of a sales invoice to a processor or consumer with headquarters in the Member State of release for free circulation;
- (c) that the product could not be imported, processed or used for reasons of *force majeure*;
- (d) that the imported product has become unsuitable for any use whatsoever.

For quantities in respect of which the abovementioned evidence is not produced within 18 months of the date of acceptance of the declaration of release for free circulation, the security shall be forfeit as duty.

For the purposes of this Article, the processing or utilisation of the imported product shall be considered to have been effected if 95 % of the quantity released for free circulation has been processed or used.

4. Securities shall be subject to the provisions of Article 34 of Regulation (EC) No 376/2008, except for the provision on the two month time limit referred to in paragraph 4 of that Article.

#### Article 14

1. Maize and sorghum released for free circulation with a reduced duty shall remain under the customs surveillance or under administrative control of equivalent effect until such time as it is used or processed.

2. The Member State concerned shall, if need be, take all necessary measures to ensure that the surveillance referred to in paragraph 1 is carried out. These measures shall include requiring importers to submit to any check considered necessary by the competent authorities and to keep specific records enabling the authorities to make such checks.

3. The Member State concerned shall immediately notify the Commission of the measures adopted pursuant to paragraph 2.

### CHAPTER III

#### DIRECT PURCHASE ON THE WORLD MARKET

#### Article 15

1. With a view to effecting the imports referred to in Article 1, it may be decided, in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007, that the Spanish or Portuguese paying or intervention agency (both hereinafter referred to as 'intervention agency') shall purchase on the world market quantities of maize and/or sorghum to be determined, and shall place in the Member State concerned under customs warehousing procedure as provided for in Articles 98 to 113 of Council Regulation (EEC) No 2913/92 <sup>(2)</sup> and by the provisions of Regulation (EEC) No 2454/93 laying down provisions for the implementation of Regulation (EEC) No 2913/92.

2. Quantities purchased pursuant to paragraph 1 shall be put up for sale on the domestic market of the Member State concerned, in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007, on terms enabling market disturbance to be avoided and in accordance with Article 14 of this Regulation.

When the goods are put up for sale on the domestic market, the buyer shall lodge with the intervention agency of the Member State concerned on payment of the goods a security of EUR 15 per tonne. The security shall be released when the evidence referred to in Article 13(3) is produced. For the purposes of the release of the security, the provisions of the second and third subparagraphs of Article 13(3) and those of Article 13(4) shall apply.

<sup>(1)</sup> OJ L 253, 11.10.1993, p. 1.

<sup>(2)</sup> OJ L 302, 19.10.1992, p. 1.

3. When the goods are placed in free circulation, an import duty shall be charged, equal to the average of the duties fixed pursuant to Regulation (EC) No 1249/96 for the cereals concerned during the month preceding the date of acceptance of the declaration of release for free circulation, minus an amount equal to 55 % of the intervention price for the same month.

Entry into free circulation shall be effected by the intervention agency of the Member State concerned.

When the purchasers of the goods make payment to the intervention agency, the selling prices, minus the duty referred to in the first subparagraph, shall correspond to amounts collected within the meaning of Article 5(2)(f) of Commission Regulation (EC) No 884/2006 <sup>(1)</sup>.

4. The purchasing operation provided for in paragraph 1 shall rank as intervention for the purpose of stabilising the agricultural markets within the meaning of Article 3(1)(b) of Regulation (EC) No 1290/2005.

5. Payments by the intervention agency for purchases as provided for in paragraph 1 shall be borne by the Community as they arise and shall be considered as interventions within the meaning of Article 3(1)(b) of Regulation (EC) No 1290/2005. The intervention agency of the Member State concerned shall record the value of the goods purchased at a price of 'zero' in the account referred to in Article 5 of Regulation (EC) No 884/2006.

#### Article 16

1. The Spanish or Portuguese intervention agency shall arrange for the product to be bought on the world market by the award of a supply contract under a tendering procedure. The supply shall consist in the purchase of the product on the world market and the delivery, not unloaded, to warehouses designated by the abovementioned intervention agency for placing under the customs warehousing procedure provided for in Articles 98 to 113 of Regulation (EEC) No 2913/92.

The decision to purchase on the world market referred to in Article 15(1) shall specify in particular the quantity and quality of cereals to be imported, the dates of opening and closing of the tendering procedure and the final date for delivery of the goods.

2. A notice of invitation to tender drawn up in accordance with Annex IV shall be published in the 'C' series of the *Official*

*Journal of the European Union*. The invitation shall relate to one or more lots. 'Lot' shall be understood as meaning the quantities to be delivered as specified in the invitation.

3. The intervention agency of the Member State concerned shall adopt, as required, additional measures for implementing the purchasing operations on the world market in question.

The intervention agency shall notify the Commission immediately of such measures and shall inform operators thereof.

#### Article 17

1. Interested parties shall reply to the invitation to tender either by lodging a written tender in exchange for an acknowledgment of receipt with the intervention agency indicated in the notice of invitation to tender, or by forwarding the same to the latter by registered letter, telex, telefax or telegram.

Tenders must reach the intervention agency before 12 noon (Brussels time) on the day on which the deadline for the submission of tenders indicated in the notice of invitation to tender expires.

2. Tenders may only be submitted in respect of whole lots. They shall give:

- (a) the reference of the invitation to tender;
- (b) the tenderer's name and exact address, together with the telex or telefax number;
- (c) details of the lot concerned;
- (d) the tender price proposed, per tonne of product, in euros;
- (e) the country of origin of the cereals to be imported;
- (f) separately, the cif price, per tonne of product, in euros, corresponding to the tender.

3. Tenders must be accompanied by evidence that the security referred to in Article 18(1) has been lodged before expiry of the deadline for the submission of tenders.

4. Tenders not submitted in accordance with the provisions of this Article or containing conditions other than those laid down in the invitation to tender shall not be considered.

5. Tenders may not be withdrawn.

<sup>(1)</sup> OJ L 171, 23.6.2006, p. 35.

*Article 18*

1. Tenders submitted shall be considered only where there is evidence that a security of EUR 20 per tonne has been lodged.
2. Securities shall be lodged in accordance with the criteria laid down in the invitation to tender referred to in Article 16(2) by the Member State concerned, in accordance with Commission Regulation (EEC) No 2220/85 <sup>(1)</sup>.
3. Securities shall be released immediately in the following cases:
  - (a) where the tender is not accepted;
  - (b) where the tenderer provides evidence that the supply contract has been performed in accordance with the conditions laid down in Article 16 for the accepted tender;
  - (c) where the tenderer provides evidence that the goods could not be imported for reasons of *force majeure*.

*Article 19*

Tenders shall be opened and read in public. This shall be done by the intervention agency immediately after the expiry of the deadline for the submission of tenders.

*Article 20*

1. Without prejudice to the application of paragraphs 2 and 3, the decision to award the contract to the tenderer submitting the most favourable tender shall be notified in writing to all the tenderers not later than the second working day following the day on which the tenders are opened and read.
2. Where the tender judged most favourable is submitted simultaneously by more than one tenderer, the intervention agency shall draw lots to decide which tenderer is to be selected.

3. If the tenders submitted seem not to reflect the conditions normally applying on the markets, the intervention agency may decide to make no award. Invitations to tender shall be renewed within one week until all the lots are awarded.

*Article 21*

1. At the time of supply the intervention agency shall check the quantity and quality of the goods.

Subject to the application of the price reductions provided for in the notice of invitation to tender, the goods shall be rejected if the quality is below the minimum quality laid down. However the goods may be imported with a reduced duty, obtained by applying a flat-rate reduction in accordance with Chapter II.

2. Where, pursuant to paragraph 1, delivery does not take place, the security referred to in Article 18 shall be forfeit without prejudice to any other financial consequences for breach of the supply contract.

## CHAPTER IV

**FINAL PROVISIONS***Article 22*

Regulation (EC) No 1839/95 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex VI

*Article 23*

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

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

Done at Brussels, 18 December 2008.

*For the Commission*  
*The President*  
José Manuel BARROSO

<sup>(1)</sup> OJ L 205, 3.8.1985, p. 5.

## ANNEX I

**Imports of maize (CN code 1005 90 00), sorghum (CN code 1007 00 90) and substitute products (CN codes 2303 10 19, 2303 20 00, 2309 90 20 and ex 2308 00 40)**

(form to be sent to the following address: agri-cl@ec.europa.eu)

Releases for free circulation during [month/year]

Member State: [COUNTRY/Competent national authority]

Regulation	CN Code	Country of origin	Quantity (tonnes)	Applicable customs duty

## ANNEX II

**Weekly tendering procedure for the reduction in the duty on imports of ... from third countries**

(Regulation (EC) No 1296/2008)

(Closing date for the submission of tenders (date/time))

1	2	3	4	5
Reference number of tenderer	Quantity (in tonnes)	Aggregate quantity (in tonnes)	Amount of the import duty reduction	Origin of the cereal
1				
2				
3				
4				
etc.				

## ANNEX III

## Entries referred to in Article 9(2)

- *in Bulgarian:* Намаляване ставката на митото: лицензия, валидна единствено в Испания (Регламент (ЕО) № 1296/2008)  
Намаляване ставката на митото: лицензия, валидна единствено в Португалия (Регламент (ЕО) № 1296/2008)
- *in Spanish:* Reducción del derecho: certificado válido únicamente en España [Reglamento (CE) nº 1296/2008]  
Reducción del derecho: certificado válido únicamente en Portugal [Reglamento (CE) nº 1296/2008]
- *in Czech:* Snížení cla: licence platná pouze ve Španělsku (nařízení (ES) č. 1296/2008)  
Snížení cla: licence platná pouze v Portugalsku (nařízení (ES) č. 1296/2008)
- *in Danish:* Nedsættelse af tolden: licensen er kun gyldig i Spanien (Forordning (EF) nr. 1296/2008)  
Nedsættelse af tolden: licensen er kun gyldig i Portugal (Forordning (EF) nr. 1296/2008)
- *in German:* Ermäßigter Zoll: Lizenz nur in Spanien gültig (Verordnung (EG) Nr. 1296/2008)  
Ermäßigter Zoll: Lizenz nur in Portugal gültig (Verordnung (EG) Nr. 1296/2008)
- *in Estonian:* Tollimaksu vähendamise: litsents kehtib ainult Hispaanias (määrus (EÜ) nr 1296/2008)  
Tollimaksu vähendamise: litsents kehtib ainult Portugalis (määrus (EÜ) nr 1296/2008)
- *in Greek:* Μείωση του δασμού: πιστοποιητικό που ισχύει μόνο στην Ισπανία [κανονισμός (ΕΚ) αριθ. 1296/2008]  
Μείωση του δασμού: πιστοποιητικό που ισχύει μόνο στην Πορτογαλία [κανονισμός (ΕΚ) αριθ. 1296/2008]
- *in English:* Duty reduction: licence valid only in Spain (Regulation (EC) No 1296/2008)  
Duty reduction: licence valid only in Portugal (Regulation (EC) No 1296/2008)
- *in French:* Abattement du droit: certificat valable uniquement en Espagne [règlement (CE) nº 1296/2008]  
Abattement du droit: certificat valable uniquement au Portugal [règlement (CE) nº 1296/2008]
- *in Italian:* Riduzione del dazio: titolo valido unicamente in Spagna [regolamento (CE) n. 1296/2008]  
Riduzione del dazio: titolo valido unicamente in Portogallo [regolamento (CE) n. 1296/2008]
- *in Latvian:* Muitas samazinājums: licence ir derīga tikai Spānijā (Regula (EK) Nr. 1296/2008)  
Muitas samazinājums: licence ir derīga tikai Portugālē (Regula (EK) Nr. 1296/2008)
- *in Lithuanian:* Muito sumažinimas: licencija galioja tik Ispanijoje (Reglamentas (EB) Nr. 1296/2008)  
Muito sumažinimas: licencija galioja tik Portugalijoje (Reglamentas (EB) Nr. 1296/2008)
- *in Hungarian:* Vámcsökkentés: az engedély kizárólag Spanyolországban érvényes (1296/2008/EK rendelet)  
Vámcsökkentés: az engedély kizárólag Portugáliában érvényes (1296/2008/EK rendelet)
- *in Maltese:* Tnaqqis tad-dazju: licenzja valida biss fi Spanja (Regolament (KE) Nru 1296/2008)  
Tnaqqis tad-dazju: licenzja valida biss fil-Portugall (Regolament (KE) Nru 1296/2008)
- *in Dutch:* Korting op het invoerrecht: certificaat uitsluitend geldig in Spanje (Verordening (EG) nr. 1296/2008)  
Korting op het invoerrecht: certificaat uitsluitend geldig in Portugal (Verordening (EG) nr. 1296/2008)

- *in Polish:* Obniżenie stawki celnej: pozwolenie ważne wyłącznie w Hiszpanii (rozporządzenie (WE) nr 1296/2008)  
Obniżenie stawki celnej: pozwolenie ważne wyłącznie w Portugalii (rozporządzenie (WE) nr 1296/2008)
- *in Portuguese:* Redução do direito: certificado válido apenas em Espanha [Regulamento (CE) n.º 1296/2008]  
Redução do direito: certificado válido apenas em Portugal [Regulamento (CE) n.º 1296/2008]
- *in Romanian:* Reducere de taxă vamală: licență valabilă doar în Spania [Regulamentul (CE) nr. 1296/2008]  
Reducere de taxă vamală: licență valabilă doar în Portugalia [Regulamentul (CE) nr. 1296/2008]
- *in Slovak:* Zníženie cla: licencia platná iba v Španielsku [Nariadenie (ES) č. 1296/2008]  
Zníženie cla: licencia platná iba v Portugalsku [Nariadenie (ES) č. 1296/2008]
- *in Slovenian:* Znižanje dajatve: dovoljenje veljavno samo v Španiji (Uredba (ES) št. 1296/2008)  
Znižanje dajatve: dovoljenje veljavno samo v Portugalski (Uredba (ES) št. 1296/2008)
- *in Finnish:* Tullinalennus: todistus voimassa ainoastaan Espanjassa (Asetus (EY) N:o 1296/2008)  
Tullinalennus: todistus voimassa ainoastaan Portugalissa (Asetus (EY) N:o 1296/2008)
- *in Swedish:* Nedsättning av tull: intyg endast gällande i Spanien (Förordning (EG) nr 1296/2008)  
Nedsättning av tull: intyg endast gällande i Portugal (Förordning (EG) nr 1296/2008)
-



## ANNEX VI

## Correlation Table

Regulation (EC) No 1839/95	This Regulation
Article 1(1) and (2)	Article 1(1) and (2)
Article 1(2a)	—
Article 1(3) and (4)	Article 1(3) and (4)
Article 2(1)	Article 2(1)
Article 2(2), first paragraph, introductory phrase and point (a), introductory phrase	Article 2(2), first paragraph, introductory phrase
Article 2(2), first paragraph, point (a)(i)	Article 2(2), first paragraph, point (a)
Article 2(2), first paragraph, point (a)(ii)	Article 2(2), first paragraph, point (b)
Article 2(2), first paragraph, point (b)	—
Article 2(2), second paragraph	Article 2(2), second paragraph
Article 2(3)	Article 2(3)
Article 2a	Article 3
Article 3	Article 4
Article 4	Article 5
Article 5(1)	Article 6(1)
Article 5(1a)	Article 6(2)
Article 5(2)	Article 6(3)
Article 5(3) first, second and third subparagraphs	Article 6(4) first, second and third subparagraphs
Article 5(3), fourth subparagraph	—
Article 5(4)	Article 6(5)
Article 6(1)	Article 7(1)
Article 6(2), introductory phrase	Article 7(2), introductory phrase
Article 6(2), first indent	Article 7(2)(a)
Article 6(2), second indent	Article 7(2)(b)
Article 6(2), third indent	Article 7(2)(c)
Article 6(2), fourth indent	Article 7(2)(d)
Article 6(2), fifth indent	Article 7(2)(e)
Article 6(3) to (7)	Article 7(3) to (7)
Article 7(1), first subparagraph, introductory phrase	Article 8(1), first subparagraph, introductory phrase
Article 7(1), first subparagraph, first indent	Article 8(1), first subparagraph, point (a)
Article 7(1), first subparagraph, second indent	Article 8(1), first subparagraph, point (b)
Article 7(1), second subparagraph	Article 8(1), second subparagraph
Article 7(2)	Article 8(2)
Article 8	Article 9
Article 9(1) to (4)	Article 10(1) to (4)
Article 9(5), introductory phrase	Article 10(5), introductory phrase
Article 9(5), first indent	Article 10(5)(a)
Article 9(5), second indent	Article 10(5)(b)
Article 9(6)	Article 10(6)
Article 10	Article 11
Article 11(1), introductory phrase	Article 12(1), introductory phrase
Article 11(1), first indent	Article 12(1)(a)

Regulation (EC) No 1839/95	This Regulation
Article 11(1), second indent	Article 12(1)(b)
Article 11(2) and (3)	Article 12(2) and (3)
Article 12(1) and (2)	Article 13(1) and (2)
Article 12(3), first subparagraph, introductory phrase	Article 13(3), first subparagraph, introductory phrase
Article 12(3), first subparagraph, first indent	Article 13(3), first subparagraph, point (a)
Article 12(3), first subparagraph, second indent	Article 13(3), first subparagraph, point (b)
Article 12(3), first subparagraph, third indent	Article 13(3), first subparagraph, point (c)
Article 12(3), first subparagraph, fourth indent	Article 13(3), first subparagraph, point (d)
Article 12(3), second and third subparagraphs	Article 13(3), second and third subparagraphs
Article 12(4)	Article 13(4)
Article 13	Article 14
Article 14	Article 15
Article 15	Article 16
Article 16(1)	Article 17(1)
Article 16(2), introductory phrase	Article 17(2), introductory phrase
Article 16(2), first indent	Article 17(2)(a)
Article 16(2), second indent	Article 17(2)(b)
Article 16(2), third indent	Article 17(2)(c)
Article 16(2), fourth indent	Article 17(2)(d)
Article 16(2), fifth indent	Article 17(2)(e)
Article 16(2), sixth indent	Article 17(2)(f)
Article 16(3), (4) and (5)	Article 17(3), (4) and (5)
Article 17	Article 18
Article 18	Article 19
Article 19	Article 20
Article 20	Article 21
Article 21	—
—	Article 22
Article 22	Article 23
Annex I	Annex II
Annex I a	Annex III
Annex II	Annex IV
Annex III	Annex I
—	Annex V
—	Annex VI

## DIRECTIVES

## COMMISSION DIRECTIVE 2008/123/EC

of 18 December 2008

**amending Council Directive 76/768/EEC, concerning cosmetic products, for the purpose of adapting Annexes II and VII thereto to technical progress**

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 76/768/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to cosmetic products <sup>(1)</sup>, and in particular Article 8(2) thereof,

After consulting the Scientific Committee on Consumer Products,

Whereas:

- (1) The Scientific Committee on Consumer Products (SCCP) concluded in its opinion of 20 June 2006 that 'Although 4-aminobenzoic acid (PABA) is presently permitted and used as a sunscreen, it became apparent in the process of evaluation of the dossier that much of the information did not conform to current standards and guidelines'. In order to carry out a proper risk assessment of 4-aminobenzoic acid the SCCP required a new dossier with additional safety data conform to modern standards and SCCP guidelines to be submitted by the cosmetics industry before 1 July 2007.
- (2) The cosmetics industry did not submit any additional safety data as requested by the SCCP in its opinion of 20 June 2006.
- (3) Without a proper risk assessment 4-aminobenzoic acid can not be considered safe for use as a UV-filter in cosmetics and should therefore be deleted from Annex VII and listed in Annex II to Directive 76/768/EEC.
- (4) Regarding Diethylamino Hydroxybenzoyl Hexyl Benzoate (INCI), the SCCP concluded in its opinion of 15 April 2008 that the use of this substance at a maximum

concentration of 10 % in cosmetic products, including sunscreen products, does not pose a risk to the consumer. In order to extend the scope of the allowed use of this substance column 'c' of entry 28 should be amended in Annex VII to Directive 76/768/EEC.

- (5) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Cosmetic Products,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

Annexes II and VII to Directive 76/768/EEC are amended in accordance with the Annex to this Directive.

*Article 2*

1. Member States shall adopt and publish, by 8 July 2009 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply the provisions set out in point 3 of the Annex to this Directive from 8 July 2009.

They shall apply the provisions set out in points 1 and 2 of the Annex to this Directive from 8 October 2009.

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

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

<sup>(1)</sup> OJ L 262, 27.9.1976, p. 169.

*Article 3*

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

*Article 4*

This Directive is addressed to the Member States.

Done at Brussels, 18 December 2008.

*For the Commission*  
Günter VERHEUGEN  
*Vice-President*

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*ANNEX*

Directive 76/768/EEC is amended as follows:

1. In Annex II, entry 167 'Esters of 4-aminobenzoic acid, with the free amino group, with the exception of that given in Annex VII, Part 2' is replaced by '4-aminobenzoic acid and its esters, with the free amino group'.
  2. In Annex VII, entry 1 is deleted.
  3. In Annex VII, in entry 28 the words 'in sunscreen products' are deleted from column 'c'.
-

## COMMISSION DIRECTIVE 2008/124/EC

of 18 December 2008

**limiting the marketing of seed of certain species of fodder plants and oil and fibre plants to seed which has been officially certified as 'basic seed' or 'certified seed'**

(Codified version)

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed<sup>(1)</sup>, and in particular Article 3(3) thereof,

Having regard to Council Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants<sup>(2)</sup>, and in particular Article 3(3) thereof,

Whereas:

- (1) Commission Directive 86/109/EEC of 27 February 1986 limiting the marketing of seed of certain species of fodder plants and oil and fibre plants to seed which has been officially certified as 'basic seed' or 'certified seed'<sup>(3)</sup> has been substantially amended several times<sup>(4)</sup>. In the interests of clarity and rationality the said Directive should be codified, together with Commission Directive 75/502/EEC of 25 July 1975 limiting the marketing of seed of smooth-stalk meadow grass (*Poa pratensis* L.) to seed which has been officially certified as 'basic seed' or 'certified seed'<sup>(5)</sup>, by assembling them in a single text.
- (2) Directive 66/401/EEC allows the marketing of basic seed, certified seed and commercial seed of certain species of fodder plants.
- (3) Directive 2002/57/EC allows the marketing of basic seed, certified seed of all kinds and commercial seed of certain species of oil and fibre plants.
- (4) Both Directives authorise the Commission to prohibit the marketing of seed unless it has been officially certified as 'basic seed' or 'certified seed'.
- (5) Member States are in a position to produce sufficient basic seed and certified seed to satisfy within the Community the demand for seed of some of the species referred to above with seed of those categories.

(6) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry.

(7) This Directive should be without prejudice to the obligations of the Member States relating to the time limits for transposition into national law of the Directives set out in Annex I, Part B,

HAS ADOPTED THIS DIRECTIVE:

## Article 1

1. Member States shall provide that it shall not be permitted to place on the market seed of:

— <i>Poa pratensis</i> L.	smooth-stalk meadowgrass
— <i>Vicia faba</i> L. (partim)	field bean
— <i>Papaver somniferum</i> L.	opium poppy
— <i>Agrostis gigantea</i> Roth	redtop
— <i>Agrostis stolonifera</i> L.	creeping bent grass
— <i>Phleum bertolonii</i> DC	timothy
— <i>Poa palustris</i> L.	swamp meadowgrass
— <i>Poa trivialis</i> L.	rough-stalked meadowgrass
— <i>Lupinus albus</i> L.	white lupin
— <i>Brassica juncea</i> (L.) Czernj. et Cosson	brown mustard
— <i>Agrostis capillaris</i> L.	brown top
— <i>Lotus corniculatus</i> L.	birdsfoot trefoil
— <i>Medicago lupulina</i> L.	black medick
— <i>Trifolium hybridum</i> L.	alsike clover
— <i>Alopecurus pratensis</i> L.	meadow foxtail
— <i>Arrhenatherum elatius</i> (L.) Beauv. ex J. S. et K. B. Presl	tall oatgrass
— <i>Bromus catharticus</i> Vahl	rescu grass
— <i>Bromus sitchensis</i> Trin.	Alaska brome-grass
— <i>Lupinus luteus</i> L.	yellow lupin

<sup>(1)</sup> OJ L 125, 11.7.1966, p. 2298/66.

<sup>(2)</sup> OJ L 193, 20.7.2002, p. 74.

<sup>(3)</sup> OJ L 93, 8.4.1986, p. 21.

<sup>(4)</sup> See Annex I, Part A.

<sup>(5)</sup> OJ L 228, 29.8.1975, p. 26.

— <i>Lupinus angustifolius</i> L.	blue lupin	unless it has been officially certified as 'basic seed', 'certified seed, first generation' or 'certified seed, second generation'.
— <i>Poa nemoralis</i> L.	wood meadowgrass	
— <i>Trisetum flavescens</i> (L.) Beauv.	golden oatgrass	<i>Article 2</i>
— <i>Phacelia tanacetifolia</i> Benth.	California bluebell	Directive 75/502/EEC and Directive 86/109/EEC, as amended by the Directives listed in Annex I, Part A, are repealed, without prejudice to the obligations of the Member States relating to the time limits for transposition into national law of the Directives set out in Annex I, Part B.
— <i>Sinapis alba</i> L.	white mustard	
— <i>Agrostis canina</i> L.	velvet bent	
— <i>Festuca ovina</i> L.	sheep's fescue	
— <i>Trifolium alexandrinum</i> L.	Egyptian clover	References to the repealed Directives shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex II.
— <i>Trifolium incarnatum</i> L.	crimson clover	
— <i>Trifolium resupinatum</i> L.	Persian clover	<i>Article 3</i>
— <i>Vicia sativa</i> L.	common vetch	This Directive shall enter into force on the 20th day following its publication in the <i>Official Journal of the European Union</i> .
— <i>Vicia villosa</i> Roth	hairy vetch	

unless it has been officially certified as 'basic seed' or 'certified seed'.

*Article 4*

This Directive is addressed to the Member States.

2. Member States shall provide that it shall not be permitted to place on the market seed of:

Done at Brussels, 18 December 2008.

— <i>Glycine max</i> (L.) Merr.	soya bean
— <i>Linum usitatissimum</i> L.	linseed

For the Commission  
The President  
José Manuel BARROSO

## ANNEX I

## PART A

**Repealed Directives with list of the successive amendments**

(referred to in Article 2)

Commission Directive 75/502/EEC	(OJ L 228, 29.8.1975, p. 26)
Commission Directive 86/109/EEC	(OJ L 93, 8.4.1986, p. 21)
Commission Directive 89/424/EEC	(OJ L 196, 12.7.1989, p. 50)
Commission Directive 91/376/EEC	(OJ L 203, 26.7.1991, p. 108)

## PART B

**List of time limits for transposition into national law**

(referred to in Article 2)

Directive	Time limit for transposition
75/502/EEC	1 July 1976
86/109/EEC	1 July 1987 (Article 1) 1 July 1989 (Article 2) 1 July 1990 (Article 2a) 1 July 1991 (Articles 3 and 3a)
89/424/EEC	1 July 1990
91/376/EEC	1 July 1991

## ANNEX II

**Correlation table**

Directive 75/502/EEC	Directive 86/109/EEC	This Directive
Article 1	Article 1(1) Article 1(2) Article 2 Article 2a Article 3 Article 3a(1) Article 3a(2) to (6)	Article 1(1) Article 1(2) Article 1(1) Article 1(1) Article 1(1) Article 1(1) —
Article 2	Article 4	—
—	—	Article 2
—	—	Article 3
Article 3	Article 5	Article 4
—	—	Annex I
—	—	Annex II

DECISIONS ADOPTED JOINTLY BY THE EUROPEAN PARLIAMENT AND THE  
COUNCIL

**DECISION No 1297/2008/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 16 December 2008**  
**on a Programme for the Modernisation of European Enterprise and Trade Statistics (MEETS)**  
**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE  
EUROPEAN UNION,

Having regard to the Treaty establishing the European  
Community, and in particular Article 285 thereof,

Having regard to the proposal from the Commission,

Acting in accordance with the procedure laid down in  
Article 251 of the Treaty <sup>(1)</sup>,

Whereas:

- (1) The Commission made a commitment in its Communications of 16 March 2005 on Better Regulation for Growth and Jobs in the European Union and of 24 January 2007 on an Action Programme for Reducing Administrative Burdens in the European Union to ensure a better policy on regulation and to cut unnecessary red tape and over-regulation.
- (2) On 14 November 2006, the Commission published a Communication on reduction of the response burden, simplification and priority-setting in the field of Community statistics, which sets out a strategic approach to continuing the reduction of the statistical burden on enterprises.
- (3) During the last 15 years, a large number of statistical regulations aiming to describe activities of enterprises and containing data provision obligations for enterprises have emerged to meet the statistical information needs of the Community. An overhaul is needed to ensure, *inter alia*, the consistency of the scope of, and the concepts and definitions in, those statistical regulations. Insofar as possible, simplification and priority-setting should be a feature of all those regulations.
- (4) Enterprise and trade statistics are faced with a major challenge in the coming years. To underpin Community policy initiatives, they have to be capable of reflecting phenomena in the changing Community

economy such as globalisation, emerging trends in entrepreneurship, the information society, trade in services, innovation, shifting trade patterns, and competitiveness in the light of the renewed Lisbon strategy.

- (5) A key element driving the need for enterprise and trade statistics is the renewed Lisbon strategy, the objectives of which are to foster the competitiveness of the European economy and achieve high and sustainable growth.
- (6) The deepening of European integration in a number of economic areas, including the European Monetary Union and the European customs system, creates new statistical needs related to the role of the euro in international transactions and leads to the necessity of adjusting the statistical system. Enterprise and trade statistics should meet those needs appropriately and provide, in a timely manner, high-quality statistical information on the structural changes in the European economy and its business sector.
- (7) Enterprise and trade statistics comprise several areas to which improvements should be made, such as structural business statistics, short-term statistics, Prodcom statistics, statistics on information and communication technology, and statistics on trade in goods between Member States (Intrastat).
- (8) The authorities responsible for enterprise and trade statistics should re-engineer the methods for the production of statistics so that the burden on enterprises can be reduced and all available sources and new technologies can be used in a fully effective way.
- (9) The need for new types of indicators may arise as a result of efforts to modernise the statistical production system. New types of indicators providing the information required could be obtained by linking together existing types of business statistics without the need to increase the reporting burden on enterprises. New sources and electronic access are likely to make data collection less burdensome and, at the same time, provide more information. The potential of business statistics should be exploited in a more efficient way and the quality of statistical information should increase.

<sup>(1)</sup> Opinion of the European Parliament of 9 July 2008 (not yet published in the Official Journal) and Council Decision of 18 November 2008.

- (10) National statistical institutes should be closely involved in the modernisation of the statistical production system in order to avoid cost duplication and red tape.
- (11) The simplification of the Intrastat system is part of the efforts to reduce statistical requirements and minimise the burden on enterprises. The recent decision to reduce the coverage ratio will contribute to that goal in the short term. In the longer term, other means of simplification should be investigated, including the single-flow system. The possible implementation of those means of simplification in the long term depends on feasibility studies and other actions to be carried out in accordance with this Decision. The quality of the statistics as well as the significant costs involved in any transition should, however, be taken into account.
- (12) An ex-ante evaluation has been performed in accordance with the principle of sound financial management, in order to focus the programme established by this Decision on the need for effectiveness in achieving the objectives and in order to incorporate budgetary constraints from the design phase of the programme onwards.
- (13) This Decision establishes, for the entire duration of the programme, a financial envelope which constitutes the prime reference, within the meaning of point 37 of the Inter-institutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management<sup>(1)</sup>, for the budgetary authority during the annual budgetary procedure.
- (14) Since the objective of this Decision, namely to establish a programme for the modernisation of European enterprise and trade statistics, cannot be sufficiently achieved by the Member States because uncoordinated modernisation would lead to duplication of efforts, repetition of mistakes and higher costs, and can therefore, by reason of the scale of the statistics involved, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve that objective.
- (15) The Statistical Programme Committee, established by Council Decision 89/382/EEC, Euratom<sup>(2)</sup>, has been consulted in accordance with Article 3 of that Decision.
- (16) Council Regulation (EC) No 322/97 of 17 February 1997 on Community Statistics<sup>(3)</sup> provides a reference framework for the provisions of this Decision.
- (17) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>(4)</sup>,

HAVE DECIDED AS FOLLOWS:

#### Article 1

##### Establishment of the Programme

1. This Decision establishes a programme for the modernisation of European enterprise and trade statistics (hereinafter referred to as the 'MEETS Programme').
2. The MEETS Programme shall start on 1 January 2009 and shall end on 31 December 2013.

#### Article 2

##### Scope and general objectives

1. The measures provided for by the MEETS Programme relate to the production and dissemination of enterprise and trade statistics within the Community.
2. The general objectives of the MEETS Programme are as follows:
  - (a) to review priorities and develop target sets of indicators for new areas (objective 1);
  - (b) to achieve a streamlined framework for business-related statistics (objective 2);
  - (c) to support the implementation of a more efficient way of producing enterprise and trade statistics (objective 3); and
  - (d) to modernise the data collection system on trade in goods between Member States (hereinafter referred to as Intrastat) (objective 4).

<sup>(1)</sup> OJ C 139, 14.6.2006, p. 1.  
<sup>(2)</sup> OJ L 181, 28.6.1989, p. 47.

<sup>(3)</sup> OJ L 52, 22.2.1997, p. 1.  
<sup>(4)</sup> OJ L 184, 17.7.1999, p. 23.

*Article 3***Actions**

To achieve the objectives referred to in Article 2(2), a set of actions shall be implemented, as follows:

- (a) to review priorities and develop target sets of indicators for new areas (objective 1):

Action 1.1: identifying areas of lesser importance;

Action 1.2: developing new areas;

- (b) to achieve a streamlined framework for business-related statistics (objective 2):

Action 2.1: integrating concepts and methods within the legal framework;

Action 2.2: developing statistics on enterprise groups;

Action 2.3: conducting Community surveys to minimise the burden on enterprises;

- (c) to support the implementation of a more efficient way of producing enterprise and trade statistics (objective 3):

Action 3.1: making better use of data that already exist in the statistical system including the possibility of estimates;

Action 3.2: making better use of data that already exist in the economy;

Action 3.3: developing tools for the more efficient extraction, transmission and treatment of data;

- (d) to modernise Intrastat (objective 4):

Action 4.1: harmonising methods to improve quality under a simplified Intrastat;

Action 4.2: making better use of administrative data;

Action 4.3: improving and facilitating data exchange within Intrastat.

The actions referred to in this Article are specified in the Annex and shall be further detailed in the annual work programmes provided for in Article 4.

*Article 4***Annual work programmes**

Annual work programmes, with the priorities for the actions under each objective referred to in Article 2(2) and the budgetary allocations under this Decision, shall be adopted in accordance with the procedure referred to in Article 5(2).

*Article 5***Committee**

1. The Commission shall be assisted by the Statistical Programme Committee.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at three months.

*Article 6***Evaluation**

1. The Commission shall, in cooperation with the Member States, regularly evaluate the activities carried out under the MEETS Programme in order to assess whether the objectives referred to in Article 2(2) have been attained and to provide guidelines for improving the effectiveness of future actions.

2. By 31 December 2010, and thereafter on an annual basis until 2013, the Commission shall submit to the European Parliament and the Council a report on the implementation of the MEETS Programme.

By 31 July 2014, the Commission shall submit to the European Parliament and the Council a final report on the implementation of the MEETS Programme. That report shall assess, in the light of the expenditure incurred by the Community, the benefits of the actions accruing to the Community, the Member States and providers and users of statistical information, to identify areas for potential improvement.

*Article 7***Financing**

1. The financial envelope for the implementation of the MEETS Programme for the period 2009-2013 is set at EUR 42 500 000.

2. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial framework.

*Article 8***Entry into force**

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

Done at Strasbourg, 16 December 2008.

*For the European Parliament*  
*The President*  
H.-G. PÖTTERING

*For the Council*  
*The President*  
B. LE MAIRE

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## ANNEX

**BREAKDOWN OF THE ACTIONS LISTED IN ARTICLE 3**

Objective 1: To review priorities and develop target sets of indicators for new areas

Action 1.1: Identifying areas of lesser importance

- In a changing world, statistical needs will be reviewed periodically, not only as new statistical needs emerge, but as other needs become less important and even obsolete. Regular reviews of priorities will therefore be conducted in close cooperation with Member States in order to identify areas and characteristics which have lost priority and consequently can be deleted from the legal requirements. Such reviews will aim to simplify statistical requirements and reduce the response burden. The Commission may arrange for external studies to be conducted in this regard.

Action 1.2: Developing new areas

- In a changing economic environment, it is important to define priority areas for statistics, such as trade in services, globalisation and entrepreneurship, and to agree at Community level on a target set of indicators for each of the priority areas. Such indicators need to be harmonised with international statistics as far as possible.
- The statistics have to be compiled in an efficient way and need to be comparable. European statistics will therefore be modernised in strict accordance with the principle of coherence and comparability of data for the periods concerned. Work will therefore be carried out within the European Statistical System to achieve harmonised definitions of newly identified characteristics and indicators.
- After agreeing target sets of indicators and harmonised definitions thereof, further work will be needed in order to develop and test ways of producing statistics in the priority areas.
- In order to contribute to the development of new areas and the target sets of indicators, the Commission will launch studies, organise seminars and provide financial support to develop methods and ways to collect new statistics.

Objective 2: To achieve a streamlined framework for business-related statistics

Action 2.1: Integrating concepts and methods within the legal framework

- European statistics are compiled in accordance with Community legislation, which has developed over the years. An overhaul of that legislation is needed in order to ensure consistency. The Commission may therefore arrange for external studies to be conducted, aimed at reviewing the existing legal acts in order to provide a harmonised legal framework for the different areas of enterprise and trade statistics.
- There are cross-cutting issues in statistics. For example, several statistical areas report on employment and may describe the same phenomenon from different perspectives. The Commission will therefore arrange for external studies to be conducted aimed at achieving harmonisation of the methodologies used across the relevant statistical areas. Financial support will be provided for Member States' projects in this regard.
- It is important to guarantee consistency between areas of enterprise and trade statistics. Consistency may refer to the relationship between trade in goods statistics and balance of payments statistics, but also to that between structural business statistics and trade statistics. The Commission will arrange for external studies to be conducted and financial support will be provided for Member States' projects in this regard.

Action 2.2: Developing statistics on enterprise groups

- The Commission has launched an initiative to establish a Community register of multinational enterprise groups. Such a register is a crucial basis for the production of harmonised statistics relating to the globalisation of the economy. The activities under this action will focus on completion of the register. The Commission will arrange for external studies to be conducted in this regard.

- Creating such a register is not sufficient, so financial support will be provided to support actions in the Member States to develop more efficient data collection methods for enterprise groups and illustrate their importance for international trade.
- As regards exploiting the Community register of multinational enterprise groups, European statistics will have to take a new perspective, so it will become important to set up specific Community surveys on enterprise groups. The Commission will arrange for external studies to be conducted and financial support will be provided for Member States' projects in this regard.

Action 2.3: Conducting Community surveys to minimise the burden on enterprises

- To highlight new and emerging needs of Community statistics, specific Community surveys may be conducted on an ad-hoc basis. Such surveys will be set up by means of external studies, arranged by the Commission, and financial support to Member States.
- In order to exploit the potential savings of Community sampling schemes in regular statistics, the Commission will arrange for external studies to be conducted to identify areas where Community aggregates would be sufficient and to develop new methods for data collection in those areas. Financial support will also be provided to enable Member States to adjust their data collection systems. There is no standard Community sampling scheme, however, and therefore sampling schemes will be adapted to the circumstances.

Objective 3: To support the implementation of a more efficient way of producing enterprise and trade statistics

Action 3.1: Making better use of data that already exist in the statistical system, including the possibility of estimates

- The ultimate aim of this action is to create fully integrated data sets for enterprise and trade statistics at micro level: a 'data warehouse' approach to statistics. To achieve that aim, Member States will be financially supported in order to link data or micro-data sets from different areas of enterprise and trade statistics, such as trade and business registers, and to link structural business statistics to research and development statistics and information society statistics.
- Methodological studies will be carried out on new work processes to improve the use made of ongoing data collections, e.g. with a view to assessing the impact of information and communication technology (ICT) on business outcome by linking data from different sources.
- The more efficient way of data collection aims at reducing the burden on enterprises. It must be ensured that statistical offices make the most efficient use of collected information. Financial support will therefore be provided for methodological studies to be conducted for the optimal allocation of sample sizes and their combined use with other sources and related estimation methods. Such financial support may also be provided for quality studies in cases where some enterprises (e.g. small and medium-sized enterprises) are excluded from statistical surveys, and for the development of appropriate, harmonised estimation methods.

Action 3.2: Making better use of data that already exist in the economy

- Statistical information is sometimes collected twice: first for administrative purposes, such as taxes, and then for statistical purposes, in surveys. Such a double burden will be avoided to the largest extent possible. The MEETS programme will therefore provide financial support to projects on the use of administrative data for statistical purposes, including company accounts, by helping Member States to change over from statistical surveys to the use of administrative data while ensuring high data quality.
- Within enterprises it makes sense to promote the integration of accounting systems and statistical reporting, so that data can be delivered for statistics in a simplified manner. The Commission will arrange for external studies to be conducted and financial support will be provided to Member States' projects in this regard.

Action 3.3: Developing tools for the more efficient extraction, transmission and treatment of data

- New ICT offers opportunities for simplified reporting. This may be achieved by using company accounts and other financial reports drawn up according to international accounting standards, and appropriate technical standards for such reports, including eXtensible Business Reporting Language (XBRL). Measures will be taken to give financial support for actions that facilitate data transfer from enterprises to the national statistical authorities.
- A more efficient use of ICT tools will be supported to facilitate the exchange of information between the Commission and Member States. In addition there needs to be further development of tools for validation, error detection, correction, analysis and editorial work. Financial support will be provided for Member States' projects in this regard.
- Taking into consideration the ongoing developments in the simplification of customs formalities on export and import, financial support will be provided for actions aimed at facilitating the exchange, processing and dissemination of high-quality and detailed trade statistics.

Objective 4: To modernise Intrastat

Action 4.1: Harmonising methods to improve quality under a simplified Intrastat

- Financial support will be provided for actions in Member States aimed at developing tools and methods for improving data quality and the data collection system.
- Financial support will be provided for actions in Member States that are aimed at reducing asymmetries by avoiding misclassifications and harmonising the estimation and collection and processing systems, the rules for the handling of confidential data, the thresholds and the methods for adjustment.

Action 4.2: Making better use of administrative data

- The re-use of administrative data being reported by enterprises for other purposes (in particular Value Added Tax reports and accounting) will be encouraged. Financial support will be provided for actions in this regard, including for the development of ICT tools and procedures.

Action 4.3: Improving and facilitating data exchange within Intrastat

- The further development of tools and methods for data exchange within a centralised system is vital. Tools for validation, error detection, correction, analysis and editorial work in the field of intra-Community trade statistics need to be developed. Financial support will be provided for actions that focus on the legal and technical aspects of data exchange between Member States.
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**DECISION No 1298/2008/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of 16 December 2008**

**establishing the Erasmus Mundus 2009-2013 action programme for the enhancement of quality in higher education and the promotion of intercultural understanding through cooperation with third countries**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 149(4) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(2)</sup>,

Whereas:

- (1) Decision No 2317/2003/EC of the European Parliament and of the Council <sup>(3)</sup> established a programme for the enhancement of quality in higher education and the promotion of intercultural understanding through cooperation with third countries (Erasmus Mundus) (2004-2008).
- (2) Council Regulation (EC) No 1085/2006 <sup>(4)</sup> established an Instrument for Pre-Accession Assistance (IPA), Regulation (EC) No 1638/2006 of the European Parliament and of the Council <sup>(5)</sup> established a European Neighbourhood and Partnership Instrument, Regulation (EC) No 1905/2006 of the European Parliament and of the Council <sup>(6)</sup> established a financing instrument for development cooperation, Council Regulation (EC) No 1934/2006 <sup>(7)</sup> established a financing instrument for cooperation with industrialised and other high-income countries and territories and the Partnership Agreement

between the members of the African, Caribbean and Pacific Group of States and the European Community and its Member States, signed in Cotonou on 23 June 2000 <sup>(8)</sup> (the ACP-EC Partnership Agreement) and the Internal Agreement establishing the financing of Community aid under the multiannual financial framework for the period 2008 to 2013 in accordance with the ACP-EC Partnership Agreement and the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the EC Treaty applies <sup>(9)</sup> (Internal ACP-EC Agreement), govern the European Development Fund.

- (3) The new Erasmus Mundus programme is consistent with the objectives of excellence set out in the programme for 2004 to 2008. It helps attract the best students from third countries due to the quality of the studies on offer, the quality of the reception arrangements and a scholarship scheme that can compete with any in the world.
- (4) During the course of negotiating the external assistance instruments and the Interinstitutional Agreement on budgetary discipline and sound financial management <sup>(10)</sup>, the European Parliament, the Council and the Commission reached a number of understandings on democratic scrutiny and coherence of external action, which are set out in Declaration 4 to the Interinstitutional Agreement.
- (5) The Bologna Declaration, signed by the Ministers for Education of 29 European countries on 19 June 1999, established an intergovernmental process aimed at creating a 'European Higher Education Area' by 2010, a process which is actively supported at Community level. At their meeting in London on 17 and 18 May 2007, the 45 Ministers of Higher Education of the countries participating in the Bologna process adopted the strategy 'The European Higher Education Area in a Global Setting' and, in this context, identified as priorities for 2009 improved information about the European Higher Education Area and improved recognition of higher education qualifications with other parts of the world.
- (6) The extraordinary European Council meeting in Lisbon on 23 and 24 March 2000 set a strategic goal for the European Union to become the most competitive and dynamic knowledge-based economy in the world and

<sup>(1)</sup> OJ C 204, 9.8.2008, p. 85.

<sup>(2)</sup> Opinion of the European Parliament of 21 October 2008 (not yet published in the Official Journal) and Decision of the Council of 16 December 2008.

<sup>(3)</sup> OJ L 345, 31.12.2003, p. 1.

<sup>(4)</sup> OJ L 210, 31.7.2006, p. 82.

<sup>(5)</sup> OJ L 310, 9.11.2006, p. 1.

<sup>(6)</sup> OJ L 378, 27.12.2006, p. 41.

<sup>(7)</sup> OJ L 405, 30.12.2006, p. 41.

<sup>(8)</sup> OJ L 317, 15.12.2000, p. 3.

<sup>(9)</sup> OJ L 247, 9.9.2006, p. 32.

<sup>(10)</sup> OJ C 139, 14.6.2006, p. 1.

invited the Education, Youth and Culture Council to undertake a general reflection on the concrete future objectives of education systems, focusing on common concerns and priorities while respecting national diversity. On 12 February 2001, the Council adopted a report on the concrete future objectives of education and training systems. On 14 June 2002, it subsequently adopted a detailed work programme on the follow-up of those objectives, requiring support at Community level. The European Council meeting in Barcelona on 15 and 16 March 2002 set the objective of making the European Union's education and training systems a world quality reference by 2010.

- (7) The Commission Communications of 20 April 2005 and 10 May 2006 entitled 'Mobilising the Brainpower of Europe: enabling universities to make their full contribution to the Lisbon Strategy' and 'Delivering on the Modernisation Agenda for Universities: education, research and innovation', the Council Resolution of 23 November 2007 on modernising universities for Europe's competitiveness in a global knowledge economy and Regulation (EC) No 294/2008 of the European Parliament and of the Council of 11 March 2008 establishing the European Institute of Innovation and Technology<sup>(1)</sup> underline the need for European higher education institutions to overcome their fragmentation and join forces in a quest for increased quality in teaching and research as well as for a better response to the changing needs of the labour market. The European Council meeting in Brussels on 15 and 16 June 2006 endorsed the need to modernise European higher education.
- (8) The interim evaluation report of the existing Erasmus Mundus programme and the open public consultation on the future of the programme underlined the relevance of the objectives and actions of the current programme and expressed a wish for continuity, with certain adaptations such as extending the programme to the doctoral level, integrating higher education institutions located in third countries and the needs of those countries more strongly and providing more funds to European participants.
- (9) Enhancing the quality of European higher education, promoting understanding between peoples as well as contributing to the sustainable development of higher education in third countries whilst avoiding the brain-drain and favouring vulnerable groups are the objectives of a higher education cooperation programme aimed at third countries. The most effective means of achieving those aims in a programme of excellence are highly integrated study programmes at postgraduate level and, as regards Erasmus Mundus Partnerships (Action 2), partnerships with third countries at all levels of study, scho-

larships for the most talented students and projects to enhance the worldwide attractiveness of European higher education. More precisely, the objectives of excellence should be pursued through Erasmus Mundus Joint Programmes (Action 1) and Action 2, while the development objectives should be covered exclusively by Action 2. In its evaluation of the programme, the Commission should pay particular attention to its potential brain-drain effects.

- (10) In order to ensure that the beneficiaries of the programme enjoy a high quality welcome and stay, the Member States should endeavour to make their visa processes as straightforward as possible. The Commission should ensure that all the relevant websites of, and contact details in, the Member States are listed on the Erasmus Mundus website.
- (11) There is a need to step up the fight against exclusion in all its forms, including racism, xenophobia and all forms of discrimination, and to step up Community efforts to promote dialogue and understanding between cultures world-wide. Given the social dimension of higher education as well as the ideals of democracy and respect for human rights, including questions of equality between men and women, that it encourages, mobility in this area allows individuals to experience new cultural and social environments and facilitates their understanding of other cultures. The pursuit of those objectives respects the rights and observes the principles reflected in the Charter of Fundamental Rights of the European Union<sup>(2)</sup>, in particular Article 21(1) thereof.
- (12) Promoting the teaching and learning of languages and linguistic diversity should be a priority of Community action in the field of higher education. The teaching and learning of languages are of special relevance in relation to third countries and to the European students who go to those countries.
- (13) In the period 2004 to 2008, country-specific scholarships funded through the Commission's external cooperation instruments complemented the Erasmus Mundus scholarships in order to extend the number of beneficiary students coming from specific third countries, such as China, India, the Western Balkan countries or the ACP countries, to study in Europe. Similar opportunities could be envisaged for the period 2009 to 2013 in accordance with the political priorities, rules and procedures of the relevant external cooperation instruments and in line with the programme's objectives of academic excellence established by this Decision and taking into account a geographical representation of beneficiaries that is as balanced as possible.

<sup>(1)</sup> OJ L 97, 9.4.2008, p. 1.

<sup>(2)</sup> OJ C 303, 14.12.2007, p. 1.

- (14) In all its activities, the Community must aim to eliminate inequalities, and promote equality, between men and women, as provided for in Article 3(2) of the Treaty.
- (15) There is a need to widen access for those from disadvantaged groups and to address actively the special learning needs of people with disabilities in the implementation of all parts of the programme, including through the use of higher grants to reflect the additional costs of disabled participants.
- (16) In accordance with Article 149 of the Treaty, this Decision does not prejudice the national legal frameworks and procedures relating, in particular, to the setting up and recognition of higher education institutions.
- (17) In order to give the programme more publicity within the European Union and beyond its borders, to achieve its objectives to a greater extent and disseminate the results of the programme, there is a need for an integrated public information policy to provide citizens with timely and complete information on each of the actions and opportunities offered by the programme, as well as clarification of the procedures to be followed. The information policy, which should primarily be conveyed through the participating higher education institutions, is of particular importance, principally in countries with low levels of participation in the programme.
- (18) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities <sup>(1)</sup> and Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 <sup>(2)</sup> which safeguard the Community's financial interests, should be applied taking into account the principles of simplicity and consistency in the choice of budgetary instruments in line with the programme's objectives of academic excellence and the required proportionality between the amount of resources and the administrative burden related to their use.
- (19) This Decision lays down, for the entire duration of the programme, a financial envelope constituting the prime reference, within the meaning of point 37 of the Inter-institutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management <sup>(3)</sup>, for the budgetary authority during the annual budgetary procedure.
- (20) In line with the programme's objectives of academic excellence, the measures necessary for the implementation of Action 1 and the promotion of European higher education (Action 3) should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(4)</sup>. The measures necessary for the implementation of Action 2 should be adopted in accordance with Regulation (EC) No 1085/2006, Regulation (EC) No 1638/2006, Regulation (EC) No 1905/2006, Regulation (EC) No 1934/2006, the ACP-EC Partnership Agreement and the Internal ACP-EC Agreement.
- (21) Since the objectives of this Decision cannot be sufficiently achieved by the Member States because of the need for multilateral partnerships, multilateral mobility and exchanges of information between the Community and third countries, and can therefore, by reason of the nature of the actions and measures necessary, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve those objectives,

HAVE DECIDED AS FOLLOWS:

#### *Article 1*

#### **Establishment of the programme**

1. This Decision establishes the Erasmus Mundus programme (hereinafter 'the programme') for the promotion of quality in European higher education and intercultural understanding through cooperation with third countries on the one hand and for the development of third countries in the field of higher education on the other. The programme should be implemented in line with objectives of academic excellence while taking into account a geographical representation of beneficiaries that is as balanced as possible.

<sup>(1)</sup> OJ L 248, 16.9.2002, p. 1.

<sup>(2)</sup> OJ L 357, 31.12.2002, p. 1.

<sup>(3)</sup> OJ C 139, 14.6.2006, p. 1.

<sup>(4)</sup> OJ L 184, 17.7.1999, p. 23.

2. The programme shall be implemented over a period starting on 1 January 2009 and ending on 31 December 2013. However, preparatory measures, including decisions by the Commission in accordance with Article 7, may be implemented as from the entry into force of this Decision.

3. The programme shall support and supplement action taken by and in the Member States while fully respecting their responsibility for the content of education and the organisation of education and training systems, and their cultural and linguistic diversity.

#### Article 2

#### Definitions

For the purpose of this Decision:

1. 'higher education' means all types of courses of study, or sets of courses of study, training or training for research at the post-secondary level which are recognised by the relevant national authority as belonging to the higher education system;
2. 'higher education institution' means any institution providing higher education and recognised by the relevant national authority as belonging to the higher education system;
3. 'student in first cycle' means a person enrolled in a first cycle programme of higher education who will obtain after completion of the programme a first higher education degree;
4. 'masters student' (student in second cycle) means a person enrolled in a second cycle programme of higher education who has already obtained a first higher education degree or has an equivalent level of learning recognised in accordance with national law and practices;
5. 'doctoral candidate' (candidate in third cycle) means an early-stage researcher at the beginning of his/her research career, starting at the date of obtaining the degree which would formally entitle him/her to embark on a doctorate;
6. 'post-doctoral researcher' means an experienced researcher who is in possession of a doctorate or who has at least three years of full-time equivalent research experience, including the period of research training at a research centre established in accordance with national law and practice, after obtaining the degree which formally entitled him/her to embark on a doctorate offered by a higher education institution;
7. 'academic' means a person with outstanding academic and/or professional experience who lectures or conducts research in a higher education institution or a research centre established in accordance with national law and practice;
8. 'higher education staff' means persons who, through their duties, are involved directly in the educational process related to higher education;
9. 'European country' means a country which is a Member State or which participates in the programme according to Article 9. 'European' referring to an individual means a person who is a national or a resident of any European country. 'European' referring to an institution means an institution which is located in any European country;
10. 'third country' means a country which is not a European country. 'Third-country' referring to an individual means a person who is neither a national nor a resident of any European country. 'Third-country' referring to an institution means an institution which is not located in any European country. The countries participating in the action programme in the field of lifelong learning established by Decision No 1720/2006/EC of the European Parliament and of the Council <sup>(1)</sup> are not considered to be third countries for the purpose of implementing Action 2;
11. 'masters programme' (second cycle) means a second cycle programme of higher education that follows a first degree or an equivalent level of learning leading to masters level offered by a higher education institution;
12. 'doctoral programme' (third cycle) means a research-related programme of higher education study that follows a higher education degree and leads to a doctoral degree offered by a higher education institution or, in those Member States where this is in accordance with national law and practice, by a research centre;
13. 'mobility' means moving physically to another country, in order to undertake study, work experience, research, other learning or teaching or research activity or related administrative activity, supported wherever possible by preparatory training in the host language;

<sup>(1)</sup> OJ L 327, 24.11.2006, p. 45.

14. 'double or multiple degree' means two or more national diplomas issued by two or more higher education institutions and recognised officially in the countries where the degree-awarding institutions are located;
15. 'joint degree' means a single diploma issued by at least two of the higher education institutions offering an integrated programme and recognised officially in the countries where the degree-awarding institutions are located;
16. 'enterprise' means any undertaking engaged in economic activity in the public and private sector, whatever its size, legal status or the economic sector in which it operate, including the social economy.

#### Article 3

##### Aims and specific objectives of the programme

1. The aims of the programme are to promote European higher education, to help improve and enhance the career prospects of students and to promote intercultural understanding through cooperation with third countries, in accordance with EU external policy objectives in order to contribute to the sustainable development of third countries in the field of higher education.
2. The specific objectives of the programme are:
- (a) to promote structured cooperation between higher education institutions and to promote an offer of high quality in higher education with a distinct European added value, attractive both within the European Union and beyond its borders, with a view to creating centres of excellence;
- (b) to contribute to the mutual enrichment of societies by developing the qualifications of men and women so that they possess appropriate skills, particularly as regards the labour market, and are open-minded and internationally experienced, through promoting mobility both for the most talented students and academics from third countries to obtain qualifications and/or experience in the European Union and for the most talented European students and academics towards third countries;
- (c) to contribute towards the development of human resources and the international cooperation capacity of higher education institutions in third countries through increased mobility streams between the European Union and third countries;

- (d) to improve accessibility and enhance the profile and visibility of European higher education in the world as well as its attractiveness for third-country and European nationals.

3. The Commission shall ensure that no group of third-country or European nationals is excluded or disadvantaged.

#### Article 4

##### Programme actions

1. The aims and specific objectives of the programme as set out in Article 3 shall be pursued by means of the following actions:
- (a) Action 1: Erasmus Mundus joint programmes (masters and doctoral programmes) of outstanding academic quality, including a scholarship scheme;
- (b) Action 2: Erasmus Mundus partnerships between European and third-country higher education institutions as a basis for structured cooperation, exchange and mobility at all levels of higher education, including a scholarship scheme;
- (c) Action 3: promotion of European higher education through measures enhancing the attractiveness of Europe as an educational destination and a centre of excellence at world level.

Further details of these actions are set out in the Annex.

2. As regards Action 2, the provisions of this Decision apply only in so far as they are in conformity with the provisions of the legislative act under which funding is provided in accordance with Article 12(2).
3. The following types of approaches may be used, combined where appropriate:
- (a) support for the development of high-quality joint educational programmes and cooperation networks facilitating the exchange of experience and good practice;
- (b) enhanced support for mobility of people in the field of higher education selected on the basis of academic excellence, particularly from third countries to European countries, taking into account the principles of equality between men and women and the wish to have a geographic representation that is as balanced as possible, while facilitating access to the programme in accordance with the principles of equal opportunities and non-discrimination;

- (c) promotion of language skills to the greatest extent possible, providing students with the possibility of learning at least two of the languages spoken in the countries in which the higher education institutions are situated, and promotion of the understanding of different cultures;
- (d) support for pilot projects based on partnerships with an external dimension designed to develop innovation and quality in higher education, in particular for the possibility of encouraging partnerships between academic and economic actors;
- (e) support for the analysis and follow-up of trends in, and the evolution of, higher education in an international perspective.

4. The programme provides for technical support measures including studies, meetings of experts as well as information and publications directly linked to the achievement of the objectives of the programme.

5. The Commission shall ensure the widest possible dissemination of information on activities and developments in the programme, mainly through the Erasmus Mundus website.

6. Support for the actions referred to in this Article may be granted by the Commission after examining the replies received to calls for proposals and/or tenders. With respect to the measures taken under paragraph 4, the Commission may, if necessary, implement these measures directly in accordance with Regulation (EC, Euratom) No 1605/2002. It shall systematically inform the European Parliament and the Committee referred to in Article 8(1) of this Decision.

#### Article 5

##### Access to the programme

Under the conditions and arrangements for implementation specified in the Annex and bearing in mind the definitions in Article 2, the programme is aimed at:

- (a) higher education institutions;
- (b) students in higher education, at all levels, including doctoral candidates;
- (c) post-doctoral researchers;
- (d) academics;
- (e) higher education staff;
- (f) other public or private bodies active in the field of higher education under national law and practice;
- (g) enterprises;
- (h) research centres.

#### Article 6

##### Tasks of the Commission and of the Member States

1. The Commission shall:

- (a) ensure the effective and transparent implementation of the Community actions provided for by the programme in conformity with the Annex and, as regards Action 2, with the legal instruments referred to in Article 7(1) and in compliance with the programme's objectives of academic excellence in selecting the beneficiaries of the programme;
- (b) take account of bilateral cooperation with third countries undertaken by Member States;
- (c) seek synergies and, where appropriate, develop joint actions with other Community programmes and actions in the field of higher education and research;
- (d) ensure, when determining the flat-rate amounts for the scholarships, to take into consideration the level of tuition fees and the estimated expenditure for the studies;
- (e) consult the relevant European associations and organisations in the field of higher education about issues raised during the implementation of the programme and inform the Committee referred to in Article 8(1) of the results of such consultation;
- (f) keep its delegations in the third countries concerned regularly informed of all useful public information on the programme.

2. The Member States shall:

- (a) take the necessary steps to ensure the efficient running of the programme at Member State level involving all the parties concerned in higher education in accordance with national practice, and endeavour to adopt such measures as may be deemed appropriate to remove any legal and administrative barrier linked specifically to exchange programmes between European countries and third countries. Member States should ensure that they provide accurate and clear information to students and institutions to facilitate their participation in the programme;

(b) designate appropriate structures to cooperate closely with the Commission;

(c) encourage potential synergies with other Community programmes and possible similar national initiatives taken at Member State level.

3. The Commission, in cooperation with the Member States, shall ensure:

(a) appropriate information, publicity and follow-up with regard to actions supported by the programme;

(b) the dissemination of the results of the actions undertaken within the framework of the programme;

(c) an intensification of the communication strategy aimed at potentially interested parties in European countries, and encouragement of partnerships between universities, the social partners and non-governmental organisations, with a view to developing the programme.

#### Article 7

##### Implementing measures

1. All measures necessary for the implementation of Action 2 shall be governed by the procedures set out in Regulation (EC) No 1085/2006, Regulation (EC) No 1638/2006, Regulation (EC) No 1905/2006, Regulation (EC) No 1934/2006, the ACP-EC Partnership Agreement and the Internal ACP-EC Agreement. The Commission shall on a regular basis inform the Committee referred to in Article 8(1) of the measures taken.

2. The following measures necessary for the implementation of the programme and of the other actions of this Decision shall be adopted in accordance with the management procedure referred to in Article 8(2) in accordance with the principles, general guidelines and selection criteria laid down in the Annex:

(a) the annual plan of work, including priorities;

(b) the annual budget, the breakdown of funds among the different actions of the programme, and indicative grant amounts;

(c) the application of the general guidelines for implementing the programme, including the selection criteria as laid down in the Annex;

(d) the selection procedures, including the composition and the internal rules of procedure of the selection board;

(e) the arrangements for monitoring and evaluating the programme and for the dissemination and transfer of results.

3. The selection decisions shall be taken by the Commission, which shall inform the European Parliament and the Committee referred to in Article 8(1) thereof within two working days.

#### Article 8

##### Committee procedure

1. The Commission shall be assisted by a Committee.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at two months.

#### Article 9

##### Participation of other countries in the programme on the same footing as Member States

The programme shall be open to the participation of:

(a) EFTA countries which are members of the EEA, in accordance with the conditions laid down in the EEA Agreement;

(b) the candidate countries which have a pre-accession strategy, in accordance with the general principles and general terms and conditions laid down in the framework agreements concluded with these countries for their participation in Community programmes;

(c) the countries of the Western Balkans, in accordance with the general principles and general terms and conditions laid down in the framework agreements concluded with these countries for their participation in Community programmes;

(d) The Swiss Confederation, provided that a bilateral agreement foreseeing its participation is concluded with that country.

*Article 10***Horizontal issues**

In implementing the programme, due regard shall be paid to ensuring that it contributes fully to furthering the horizontal policies of the Community, in particular by:

- (a) enhancing the European knowledge-based economy and society and contributing to creating more jobs in line with the objectives of the Lisbon Strategy and strengthening the global competitiveness of the European Union, its sustainable economic growth and its greater social cohesion;
- (b) fostering culture, knowledge and skills for peaceful and sustainable development in a Europe of diversity;
- (c) promoting an awareness of the importance of cultural and linguistic diversity within Europe, as well as of the need to combat racism and xenophobia and promoting intercultural education;
- (d) making provision for students with special needs, and in particular by helping to promote their integration into mainstream higher education, and promoting equal opportunities for all;
- (e) promoting equality between men and women and contributing to combating all forms of discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation;
- (f) promoting the development of third countries.

*Article 11***Consistency and complementarity with other policies**

1. The Commission shall, in cooperation with the Member States, ensure overall consistency and complementarity with other relevant Community policies, instruments and actions, in particular with the Lifelong Learning Programme, the Seventh Framework Programme for Research, development policy, external cooperation programmes, the ACP Association Agreements and the European Fund for the Integration of third-country nationals.

2. The Commission shall keep the European Parliament and the Committee referred to in Article 8(1) regularly informed about Community initiatives taken in relevant fields and ensure efficient linkage and, where appropriate, joint actions between the programme and the programmes and actions in the area of higher education undertaken within the framework of the Community's cooperation with third countries, including

bilateral agreements, and the competent international organisations.

*Article 12***Funding**

1. The financial envelope for the implementation of Actions 1 and 3 and related technical support measures referred to in Article 4(4) for the 2009-2013 period is hereby set at EUR 493 690 000.

2. The financial envelope for the implementation of Action 2 and related technical support measures referred to in Article 4(4) for the period specified in Article 1(2) is set in accordance with the rules, procedures and objectives laid down in Regulation (EC) No 1085/2006, Regulation (EC) No 1638/2006, Regulation (EC) No 1905/2006, Regulation (EC) No 1934/2006, the ACP-EC Partnership Agreement and the Internal ACP-EC Agreement.

3. The annual appropriations shall be authorised in accordance with the annual budgetary procedure by the budgetary authority within the limits of the financial framework.

*Article 13***Monitoring and evaluation**

1. The Commission shall regularly monitor the programme in cooperation with the Member States. The results of the process of monitoring and evaluation of the programme and of the previous programme shall be utilised when implementing the programme. Such monitoring shall include an analysis of the geographic distribution of programme beneficiaries by action and by country, the reports and communication referred to in paragraph 3 and specific activities.

2. The programme shall be evaluated regularly by the Commission having regard to the objectives laid down in Article 3, the impact of the programme as a whole and the complementarity between actions under the programme and those pursued under other relevant Community policies, instruments and actions.

3. The Commission shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions:

- (a) an interim evaluation report on the results achieved and on the qualitative and quantitative aspects of the implementation of the programme by 31 March of the second year following the actual start of the new courses set up under the programme;

(b) a communication on the continuation of the programme by 30 January 2012;

(c) an ex post evaluation report by 31 December 2015.

*Article 14*

**Transitional provisions**

1. Actions which are initiated on or before 31 December 2008 on the basis of Decision No 2317/2003/EC shall be administered in conformity with the provisions of that Decision, with the exception that the Committee established by that Decision shall be replaced by the Committee referred to in Article 8(1) of this Decision.

2. Actions which are initiated on or before 31 December 2008 on the basis of the procedures laid down in the legal

instruments mentioned in Article 7(1) shall be administered in conformity with the provisions of those instruments.

*Article 15*

**Entry into force**

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

Done at Strasbourg, 16 December 2008.

*For the European Parliament*

*The President*

H.-G. PÖTTERING

*For the Council*

*The President*

B. LE MAIRE

## ANNEX

**COMMUNITY ACTIONS (GENERAL GUIDELINES AND SELECTION CRITERIA), SELECTION PROCEDURES AND FINANCIAL PROVISIONS**

All the actions under the programme shall be implemented in accordance with the general guidelines and selection criteria described in this Annex.

**ACTION 1: ERASMUS MUNDUS JOINT PROGRAMMES****A. ERASMUS MUNDUS MASTERS PROGRAMMES**

1. The Community shall select masters programmes of outstanding academic quality which, for the purposes of the programme, shall be called 'Erasmus Mundus masters programmes'.
2. For the purposes of the programme, Erasmus Mundus masters programmes shall comply with the following general guidelines and selection criteria:
  - (a) they shall involve higher education institutions from a minimum of three different European countries;
  - (b) they may involve higher education institutions or other relevant partners, such as research centres, from third countries;
  - (c) they shall implement a study programme which involves a period of study in at least two of the participating higher education institutions under point (a);
  - (d) where appropriate, they shall encourage placements as part of the study programme;
  - (e) they shall have built-in mechanisms for the recognition of periods of study undertaken in partner institutions based on, or compatible with, the European credit transfer and accumulation system;
  - (f) they shall result in the awarding of joint and/or double or multiple degrees, recognised or accredited by the European countries, from the participating institutions. Programmes resulting in the awarding of joint degrees shall be promoted;
  - (g) they shall establish stringent self-evaluation procedures and agree to be peer reviewed by external experts (from European or third countries) in order to ensure the continuing high quality of the masters programme;
  - (h) they shall reserve a minimum of places for, and host, European and third-country students who have been granted financial support under the programme;
  - (i) they shall establish transparent joint conditions for admissions which pay due regard, inter alia, to gender and equity issues and which facilitate access in accordance with the principles of equal opportunities and non-discrimination;
  - (j) they shall be free to decide whether or not to establish tuition fees, in accordance with their national law and the agreement concluded between involved partners under points (a) and (b);
  - (k) they shall agree to comply with the rules applicable to the selection procedure for beneficiaries of grants (students and academics);
  - (l) they shall put in place appropriate arrangements to facilitate access and hosting of European and third-country students (information facilities, accommodation, assistance with visas, etc.). The Commission shall keep its delegations in the third countries concerned regularly informed of all updated provisions regarding the programme;
  - (m) without prejudice to the language of instruction, they shall provide for the use of at least two European languages spoken in the Member States where the higher education institutions involved in the Erasmus Mundus masters programme are situated and, as appropriate, offer preparatory language training and assistance for students, in particular by means of courses organised by the institutions in question.

3. Erasmus Mundus masters programmes shall be selected for a five-year period, subject to an annual renewal procedure based on progress reporting.
4. The Erasmus Mundus masters programmes selected under the Erasmus Mundus programme for 2004-2008 shall continue within the framework of Action 1 until the end of the period for which they have been selected, subject to an annual renewal procedure based on progress reporting.

#### B. ERASMUS MUNDUS DOCTORAL PROGRAMME

1. The Community shall select doctoral programmes of outstanding academic quality which, for the purposes of the programme, shall be called 'Erasmus Mundus doctoral programmes'.
2. For the purposes of the programme, Erasmus Mundus doctoral programmes shall comply with the following general guidelines and selection criteria:
  - (a) they shall involve higher education institutions from a minimum of three different European countries and, where appropriate, other relevant partners to ensure innovation and employability;
  - (b) they may involve higher education institutions or other relevant partners, such as research centres, from third countries;
  - (c) they shall implement a doctoral programme which involves a period of study and research in at least two of the participating higher education institutions under point (a);
  - (d) they shall encourage placements as part of the doctoral programme as well as partnerships between academic and economic actors;
  - (e) they shall have built-in mechanisms for the recognition of periods of study and research undertaken in partner institutions;
  - (f) they shall result in the awarding of joint and/or double or multiple degrees, recognised or accredited by the European countries, from the participating institutions. Programmes resulting in the awarding of joint degrees shall be promoted;
  - (g) they shall establish stringent self-evaluation procedures and agree to be peer reviewed by external experts (from European or third countries, but working in the former) in order to ensure the continuing high quality of the doctoral programme;
  - (h) they shall reserve a minimum of places for, and host, European and third-country doctoral candidates who have been granted financial support under the programme;
  - (i) they shall establish transparent joint conditions for admissions which pay due regard, inter alia, to gender and equity issues and which facilitate access in accordance with the principle of equal opportunities and non-discrimination;
  - (j) they shall be free to decide whether or not to establish tuition fees, in accordance with their national law and the agreement concluded between involved partners under points (a) and (b);
  - (k) they shall agree to comply with the rules applicable to the selection procedure of doctoral candidates;
  - (l) they shall put in place appropriate arrangements to facilitate access and hosting of European and third-country doctoral candidates (information facilities, accommodation, assistance with visas, etc.);
  - (m) they may provide for the use of employment contracts as an alternative to scholarships for doctoral candidates, if this is allowed under national law;
  - (n) without prejudice to the language of instruction, they shall provide for the use of at least two European languages spoken in the Member States where the higher education institutions involved in the Erasmus Mundus doctoral programme are situated and, as appropriate, offer preparatory language training and assistance for students, in particular by means of courses organised by the institutions in question.

3. Erasmus Mundus doctoral programmes shall be selected for a five-year period, subject to an annual renewal procedure based on progress reporting. That period may include a year of preparatory activities before the recruitment of doctoral candidates.

#### C. SCHOLARSHIPS

1. The Community may provide full-study scholarships to third-country and European masters students and doctoral candidates as well as short-term scholarships for third-country and European academics. In order to make the programme more attractive for third-country nationals, the amount of the full-study scholarships shall be higher for third-country masters students and doctoral candidates (Category A scholarships) than for European masters students and doctoral candidates (Category B scholarships).
  - (a) The Community may provide full-study Category A scholarships to third-country masters students and doctoral candidates who have been admitted, through a competitive process, to Erasmus Mundus masters programmes and Erasmus Mundus doctoral programmes. Those scholarships are for study at the European higher education institutions involved in an Erasmus Mundus masters programme or an Erasmus Mundus doctoral programme. Category A scholarships shall not be awarded to third-country students who have carried out their main activities (studies, employment, etc.) for more than 12 months in total over the last five years in a European country.
  - (b) The Community may provide full-study Category B scholarships to European masters students and doctoral candidates who have been admitted, through a competitive process, to Erasmus Mundus masters and doctoral programmes. Those scholarships are for study at the higher education institutions involved in an Erasmus Mundus masters or doctoral programme. Category B scholarships shall be awarded only to students from third countries who cannot apply for Category A scholarships.
  - (c) The Community may provide short-term scholarships to third-country academics visiting the Erasmus Mundus masters programmes, with a view to carrying out teaching and research assignments and scholarly work in the European higher education institutions participating in Erasmus Mundus masters programmes.
  - (d) The Community may provide short-term scholarships to European academics visiting third-country higher education institutions involved in Erasmus Mundus masters programmes, with a view to carrying out teaching and research assignments and scholarly work in the third-country higher education institutions participating in Erasmus Mundus masters programmes.
  - (e) The Community shall ensure that the higher education institutions apply transparent criteria for the award of scholarships, which take into account, inter alia, respect for the principles of equal opportunities and non-discrimination.
2. Scholarships shall be open to European and third-country masters students and doctoral candidates as well as academics as defined in Article 2.
3. Students who have been awarded scholarships shall be given sufficient advance notification of their initial study destination as soon as the award decision has been taken.
4. Persons having received a scholarship for Erasmus Mundus masters programmes are also eligible to receive a scholarship for Erasmus Mundus doctoral programmes.
5. The Commission shall take steps to ensure that no person receives financial support for the same purpose under more than one Community programme. In particular, persons having received an Erasmus Mundus scholarship are not eligible to receive an Erasmus grant for the same Erasmus Mundus masters programme or doctoral programme under the Lifelong Learning Programme. Similarly, persons benefiting from a grant under the 'People Specific Programme' (Marie Curie Actions) of the 7th Framework Programme for research, technological development and demonstration activities<sup>(1)</sup> are not eligible to receive an Erasmus Mundus scholarship for the same period of study or research.

<sup>(1)</sup> OJ L 54, 22.2.2007, p. 91.

**ACTION 2: ERASMUS MUNDUS PARTNERSHIPS**

1. The Community shall select partnerships of high academic quality which, for the purposes of the programme, shall be called 'Erasmus Mundus partnerships'. They pursue and are in line with the aims and specific objectives of Article 3 in so far as these are in conformity with the legal basis from which the funding is derived.
2. For the purposes of the programme, and in conformity with the legal basis from which the funding is derived, Erasmus Mundus partnerships shall:
  - (a) involve a minimum of five higher education institutions from a minimum of three different European countries and a number of higher education institutions in specific third countries not participating in the Lifelong Learning Programme to be defined in the annual calls for proposals;
  - (b) implement a partnership as a basis for transfer of know-how;
  - (c) organise exchanges of students, selected on the basis of academic excellence at all levels of higher education (from students in first cycle to post-doctoral researchers), academics and higher education staff for mobility periods of variable length, including the possibility of placement periods;
  - (d) have built-in mechanisms for the mutual recognition of periods of study and research undertaken in partner institutions based on, or compatible with, the European credit transfer and accumulation system as well as on compatible systems in third countries;
  - (e) use mobility instruments developed under the Erasmus programme, such as the recognition of previous study periods, the learning agreement and the transcript of records;
  - (f) establish transparent conditions for the award of mobility grants, which pay due regard, inter alia, to gender and equity issues and linguistic abilities, and which facilitate access in accordance with the principles of equal opportunities and non-discrimination;
  - (g) agree to respect the rules applicable to the selection procedure for beneficiaries of grants (students, academics and higher education staff);
  - (h) put in place appropriate arrangements to facilitate access for and hosting of European and third-country students, academics and higher education staff (information facilities, accommodation, assistance with visas, etc.);
  - (i) without prejudice to the language of instruction, provide for the use of the languages spoken in the countries where the higher education institutions involved in the Erasmus Mundus partnerships are situated and, as appropriate, for preparatory language training and assistance for beneficiaries of scholarships, in particular by means of courses organised by the institutions in question;
  - (j) implement further partnership activities, such as double degrees, joint curriculum development, transfer of best practices, etc.;
  - (k) in the case of measures funded under Regulation (EC) No 1905/2006 or the ACP-EC Partnership Agreement, encourage third-country nationals to return to their countries of origin on the expiry of their periods of study or research to allow them to contribute to the economic development and welfare of those countries.
3. The Commission, after consultation with the competent authorities in the third countries concerned via its delegations, shall define national and regional priorities according to the needs of the specific third country/ies concerned by the partnerships.
4. Erasmus Mundus partnerships shall be selected for a three-year period, subject to an annual renewal procedure based on progress reporting.
5. Scholarships shall be open to European and third-country students and academics as defined in Article 2.

6. In assigning the scholarships under Action 2, the Commission shall support socio-economic disadvantaged groups and populations in vulnerable situations, without compromising the transparency conditions set out in point 2(f).
7. The Commission shall take steps to ensure that no person receives financial support for the same purpose under more than one Community programme. In particular, persons having received an Erasmus Mundus scholarship are not eligible to receive an Erasmus grant for the same mobility period under the Lifelong Learning Programme. Similarly, persons benefiting from a grant under the above mentioned 'People Specific Programme' are not eligible to receive an Erasmus Mundus scholarship for the same period of study or research.
8. The partnerships selected under the Erasmus Mundus External Cooperation Window (former name of Action 2) shall continue within the framework of that action until the end of the period for which they have been selected, subject to a lightweight annual renewal procedure based on progress reporting.

### **ACTION 3: PROMOTION OF EUROPEAN HIGHER EDUCATION**

1. Through Action 3, the Community may support activities aimed at enhancing the attractiveness, profile and visibility of, and accessibility to, European higher education. Activities shall contribute to the objectives of the programme and relate to the international dimension of all aspects of higher education, such as promotion, accessibility, quality assurance, credit recognition, recognition of European qualifications abroad and mutual recognition of qualifications with third countries, curriculum development, mobility, quality of services, etc. Activities may include the promotion of the programme and its outputs.
2. Eligible institutions may include, in accordance with Article 5(f), public or private bodies, active in the field of higher education. Activities shall be conducted within projects involving organisations from a minimum of three different European countries and may involve organisations from third countries.
3. Activities may take various forms (conferences, seminars, workshops, studies, analyses, pilot projects, prizes, international networks, production of material for publication, development of information, communication and technology tools, etc.) and may take place anywhere in the world. The Commission shall ensure the widest possible dissemination of information relating to activities and developments in the programme, in particular through the Erasmus Mundus multilingual website, which should be made more visible and more accessible.
4. Activities shall seek to establish links between higher education and research and higher education and the private sector in European and third countries, and exploit potential synergies whenever possible.
5. The competent national authorities shall implement an integrated public information policy in cooperation with the higher education institutions participating in the programme. That policy shall be aimed at providing timely and complete information and explaining the required procedures, while the main priority should be given to the under-represented regions.
6. The Community may support, as appropriate, the structures designated in accordance with Article 6(2)(b) in their efforts to promote the programme and disseminate its results nationally and worldwide.
7. The Community shall support an alumni association of all students (European or third-country nationals) graduating from Erasmus Mundus masters programmes and Erasmus Mundus doctoral programmes.

### **TECHNICAL SUPPORT MEASURES**

The overall financial envelope of the programme may also cover expenditure related to experts, an executive agency, existing competent bodies in Member States and, if necessary, to other forms of technical and administrative assistance to which the Commission may need to have recourse for the implementation of the programme. Such other technical and administrative assistance may, in particular, include studies, meetings, information activities, publications, monitoring activities, control and audit activities, evaluation activities, expenditure on informatics networks for the exchange of information and any other expenditure directly necessary for the implementation of the programme and for the achievement of its objectives.

## SELECTION PROCEDURES

The selection procedures shall respect the following provisions:

- (a) proposals under Action 1 shall be selected by the Commission assisted by a selection board presided over by a person whom it elects, composed of personalities of high standing from the academic world who are representative of the diversity of higher education in the European Union. The selection board shall ensure that Erasmus Mundus masters programmes and doctoral programmes correspond to the highest academic quality, while taking into account the need for a geographical representation that is as balanced as possible. Balanced representation of different fields of study shall be sought over the duration of the programme. The Commission shall organise a European-level assessment of all eligible proposals by independent academic experts prior to submitting the proposals to the selection board. Each Erasmus Mundus masters and doctoral programme shall be allocated a specific number of scholarships which shall be paid to the selected individuals by the body (or bodies) managing the masters and doctoral programmes. The selection of masters students, doctoral candidates and academics shall be carried out by the institutions participating in the Erasmus Mundus masters and doctoral programmes on the basis of academic excellence following consultation with the Commission. Although Action 1 is intended mainly for third-country students, it is also open to European students. Selection procedures for Erasmus Mundus masters and doctoral programmes shall involve consultation with the structures designated in accordance with Article 6(2)(b);
- (b) proposals under Action 2 shall be selected by the Commission according to the rules laid down in Regulation (EC) No 1085/2006, Regulation (EC) No 1638/2006, Regulation (EC) No 1905/2006, Regulation (EC) No 1934/2006, the ACP-EC Partnership Agreement and the Internal ACP-EC Agreement;

Without prejudice to the provisions of the Regulations and Agreements referred to in the first paragraph, the Commission shall also ensure that Erasmus Mundus partnership proposals meet the highest academic quality standards, while taking into account the need for a geographical representation that is as balanced as possible. Students and academics shall be selected by establishments taking part in the partnership on the basis of academic excellence criteria, following consultation with the Commission. Action 2 is intended mainly for students from third countries. Nevertheless, in the interests of mutual enrichment, mobility should also extend to European nationals;

- (c) proposals under Action 3 shall be selected by the Commission;
- (d) the Commission shall inform the Committee referred to in Article 8(1) of all selection decisions without delay.

## FINANCIAL PROVISIONS

### 1. Flat-rate financing, scales of unit costs and prizes

Flat-rate financing and/or scales of unit costs, as provided for in Article 181(1) of Regulation (EC, Euratom) No 2342/2002 may be used in the case of all actions referred to in Article 4.

Flat-rate financing may be used up to a maximum of EUR 25 000 per partner within a grant agreement. They may be combined up to a maximum of EUR 100 000 and/or used in conjunction with scales of unit costs.

The Commission may provide for the award of prizes in relation to activities undertaken in the framework of the programme.

### 2. Partnership agreements

Where actions under the programme are supported by means of a framework partnership grant, pursuant to Article 163 of Regulation (EC, Euratom) No 2342/2002, such partnerships may be selected and funded for a five-year period, subject to a lightweight renewal procedure.

### 3. Public higher education institutions or organisations

Every higher education institution or organisation specified by Member States which has received over 50 % of its annual revenues from public sources over the preceding two years, or which is controlled by public bodies or their representatives, shall be treated by the Commission as having the necessary financial, professional and administrative capacity, together with the necessary financial stability to carry out projects under the programme. It shall not be required to present further documentation to demonstrate such capacity or stability. Such institutions or organisations may be exempted from auditing requirements pursuant to the fifth subparagraph of Article 173(4) of Regulation (EC, Euratom) No 2342/2002.

#### 4. Applicants' professional competencies and qualifications

The Commission may decide, in accordance with Article 176(2) of Regulation (EC, Euratom) No 2342/2002, that specified categories of beneficiaries have the professional competencies and qualifications required to complete the proposed action or work programme.

#### 5. Anti-fraud provisions

Commission decisions taken under Article 7, the contracts and agreements resulting from them, as well as agreements with participating third countries, shall provide in particular for supervision and financial control by the Commission (or any representative authorised by it), including by the European Anti-fraud Office (OLAF), and for audits – if necessary on-the-spot — by the Court of Auditors.

The beneficiary of a grant shall ensure that, where applicable, supporting documents in the possession of partners or members are made available to the Commission.

The Commission may have an audit of the use made of the grant carried out either directly by its own staff or by any other qualified outside body of its choice. Such audits may be carried out throughout the lifetime of the agreement and for a period of five years from the date of closure of the project. Where appropriate, the audit findings may lead to recovery decisions by the Commission.

Commission staff and outside personnel authorised by the Commission shall have an appropriate right of access, in particular to the beneficiary's offices and to all the information, including information in electronic format, needed in order to conduct such audits.

The Court of Auditors and OLAF shall enjoy the same rights, in particular as regards access, as the Commission.

In addition, the Commission may carry out on-the-spot checks and inspections under the programme in accordance with Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interest against fraud and other irregularities <sup>(1)</sup>.

For the Community actions financed under this Decision, the notion of irregularity referred to in Article 1(2) of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests <sup>(2)</sup> shall mean any infringement of a provision of Community law or any breach of a contractual obligation resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the European Union or allocations managed by it, by an unjustified item of expenditure.

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<sup>(1)</sup> OJ L 292, 15.11.1996, p. 2.

<sup>(2)</sup> OJ L 312, 23.12.1995, p. 1.

## II

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

## DECISIONS

## COMMISSION

## COMMISSION DECISION

of 8 December 2008

**excluding from Community financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) and under the European Agricultural Guarantee Fund (EAGF)**

(notified under document number C(2008) 7820)

(only the Danish, Dutch, English, Estonian, Finnish, French, Greek, Italian, Latvian, Portuguese, Slovenian, Spanish and Swedish texts are authentic)

(2008/960/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy <sup>(1)</sup>, and in particular Article 7(4) thereof,

Having regard to Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy <sup>(2)</sup>, and in particular Article 31 thereof,

Having consulted the Committee on the Agricultural Funds,

Whereas:

(1) Under Article 7(4) of Regulation (EC) No 1258/1999, and Article 31 of Regulation (EC) No 1290/2005, the Commission is to carry out the necessary verifications, communicate to the Member States the results of these

verifications, take note of the comments of the Member States, initiate a bilateral discussion so that an agreement may be reached with the Member States in question, and formally communicate its conclusions to them.

(2) The Member States have had an opportunity to request the launch of a conciliation procedure. That opportunity has been used in some cases and the report issued on the outcome has been examined by the Commission.

(3) Under Regulation (EC) No 1258/1999 and Regulation (EC) No 1290/2005, only agricultural expenditure which has been incurred in a way that has not infringed Community rules may be financed.

(4) In the light of the verifications carried out, the outcome of the bilateral discussions and the conciliation procedures, part of the expenditure declared by the Member States does not fulfil this requirement and cannot, therefore, be financed under the EAGGF Guarantee Section and the European Agricultural Guarantee Fund, hereinafter referred to as EAGF.

(5) The amounts that are not recognised as being chargeable to the EAGGF Guarantee Section and the EAGF should be indicated. Those amounts do not relate to expenditure incurred more than 24 months before the Commission's written notification of the results of the verifications to the Member States.

<sup>(1)</sup> OJ L 160, 26.6.1999, p. 103.

<sup>(2)</sup> OJ L 209, 11.8.2005, p. 1.

- (6) As regards the cases covered by this Decision, the assessment of the amounts to be excluded on grounds of non-compliance with Community rules was notified by the Commission to the Member States in a summary report on the subject.
- (7) This Decision is without prejudice to any financial conclusions that the Commission may draw from the judgments of the Court of Justice in cases pending on 11 September 2008 and relating to its content,

EAGF shall be excluded from Community financing because it does not comply with Community rules.

*Article 2*

This Decision is addressed to the Kingdom of Denmark, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Kingdom of the Netherlands, the Portuguese Republic, the Republic of Slovenia, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

HAS ADOPTED THIS DECISION:

Done at Brussels, 8 December 2008.

*Article 1*

The expenditure itemised in the Annex hereto that has been incurred by the Member States' accredited paying agencies and declared under the EAGGF Guarantee Section or under the

*For the Commission*  
Mariann FISCHER BOEL  
*Member of the Commission*

ANNEX  
Budget item 6 7 0 1

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
CY	Financial audit — late payments	2005	Failure to meet payment deadlines	one-off		EUR	- 307 476,09	0,00	- 307 476,09
CY	Financial audit — late payments	2007	Failure to meet payment deadlines	one-off		EUR	- 15 492,01	0,00	- 15 492,01
					<b>TOTAL CY</b>		<b>- 322 968,10</b>	<b>0,00</b>	<b>- 322 968,10</b>
DK	Financial audit — overshooting	2007	Overshooting of financial ceilings	one-off		EUR	- 5 152,13	- 5 152,13	0,00
DK	Meat premiums — ewes and goats	2003	Weaknesses in on-the-spot checks	one-off	2,00	DKK	- 259 091,35	0,00	- 259 091,35
DK	Meat premiums — ewes and goats	2003	Ineligible payments to farmers with less than 10 premium rights, non-application of sanctions	one-off		DKK	- 36 000,00	0,00	- 36 000,00
DK	Meat premiums — ewes and goats	2003	Ineligible payments to farmers with less than 10 premium rights, non-application of sanctions	one-off		DKK	- 5 470,00	0,00	- 5 470,00
DK	Meat premiums — ewes and goats	2004	Weaknesses in on-the-spot checks	one-off	2,00	DKK	- 260 526,93	0,00	- 260 526,93
DK	Meat Premiums — ewes and goats	2004	Ineligible payments to farmers with less than 10 premium rights, non-application of sanctions	one-off		DKK	- 7 953,00	0,00	- 7 953,00
DK	Meat premiums — ewes and goats	2005	Weaknesses in on-the-spot checks	one-off	2,00	DKK	- 251 525,26	0,00	- 251 525,27
DK	Meat premiums — ewes and goats	2005	Ineligible payments to farmers with less than 10 premium rights	ponctuelle		DKK	- 6 876,00	0,00	- 6 876,00
DK	Meat premiums — ewes and goats	2006	Weaknesses in on-the-spot checks	one-off	2,00	DKK	- 1 113,18	0,00	- 1 113,18
					<b>TOTAL DK (EUR)</b>		<b>- 5 152,13</b>	<b>- 5 152,13</b>	<b>0,00</b>
					<b>TOTAL DK (DKK)</b>		<b>- 828 555,71</b>	<b>0,00</b>	<b>- 828 555,73</b>
EE	Direct payments	2005	Absence of control of GAEC issues	one-off	5,00	EUR	- 53 048,53	0,00	- 53 048,53
EE	Direct payments	2005	Late parcel identification and control of eligibility; application of undue tolerance	one-off		EUR	- 8 354,58	0,00	- 8 354,58
					<b>TOTAL EE</b>		<b>- 61 403,11</b>	<b>0,00</b>	<b>- 61 403,11</b>

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
ES	Financial audit — late payments	2007	Failure to meet payment deadlines	one-off		EUR	- 2 841 217,50	- 2 841 217,50	0,00
ES	Financial audit — overshooting	2006	Overshooting of financial ceilings	one-off		EUR	- 12 065,99	0,00	- 12 065,99
ES	Financial audit — overshooting	2007	Overshooting of financial ceilings	one-off		EUR	2 414 475,70	2 414 475,70	0,00
ES	Fruit and vegetables — peaches and pears processing	2006	Weaknesses in reporting of the quantities	one-off		EUR	- 344 930,75	0,00	- 344 930,75
ES	Public storage of sugar	2006	Erroneous declaration in e-Faudit system	one-off		EUR	- 393 000,00	0,00	- 393 000,00
ES	RD guarantee accompanying measures (non-area related)	2005	Weaknesses in key and ancillary controls	one-off	2,00	EUR	- 3 595,00	0,00	- 3 595,00
ES	RD guarantee accompanying measures (non-area related)	2006	Weaknesses in key and ancillary controls	one-off	2,00	EUR	- 207 884,00	0,00	- 207 884,00
ES	RD guarantee accompanying measures (non-area related)	2006	Weaknesses in key and ancillary controls	one-off	5,00	EUR	- 288 357,00	0,00	- 288 357,00
ES	RD guarantee accompanying measures (area related)	2004	Cross-checks with IACS not formalised, weaknesses in supervision of administrative controls	one-off	5,00	EUR	- 14 615,00	0,00	- 14 615,00
ES	RD guarantee accompanying measures (area related)	2005	Cross-checks with IACS not formalised, weaknesses in supervision of administrative controls	one-off	5,00	EUR	- 30 439,00	0,00	- 30 439,00
<b>TOTAL ES</b>							<b>- 1 721 628,54</b>	<b>- 426 741,80</b>	<b>- 1 294 886,74</b>
FI	Financial audit — late payments	2007	Failure to meet payment deadlines	one-off		EUR	- 42 506,38	- 42 506,38	0,00
FI	Financial audit — overshooting	2007	Overshooting of financial ceilings	one-off		EUR	- 1 726 188,56	- 1 726 188,56	0,00
FI	Meat premiums — ewes and goats	2004	Ineligible payments	one-off		EUR	- 339,95	0,00	- 339,95
FI	Meat premiums — ewes and goats	2004	Deficiencies in the flock register and in the control of the supporting documents and inappropriate timing of on-the-spot checks	one-off	2,00	EUR	- 27 247,15	0,00	- 27 247,15
FI	Meat premiums — ewes and goats	2005	Ineligible payments	one-off		EUR	- 32,84	0,00	- 32,84
FI	Meat premiums — ewes and goats	2005	Deficiencies in the flock register and in the control of the supporting documents and inappropriate timing of on-the-spot checks	one-off	2,00	EUR	- 28 736,83	0,00	- 28 736,83

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
FI	Meat premiums — ewes and goats	2006	Ineligible payments	one-off		EUR	- 531,54	0,00	- 531,54
FI	Meat premiums — ewes and goats	2006	Deficiencies in the flock register and in the control of the supporting documents and inappropriate timing of on-the-spot checks	one-off	2,00	EUR	- 28 844,64	0,00	- 28 844,64
<b>TOTAL FI</b>							<b>- 1 854 427,90</b>	<b>- 1 768 694,94</b>	<b>- 85 732,96</b>
FR	Wine — restructuring	2001	Reimbursement following annulment of Commission Decision 2005/579/EC by the judgment of the Court of Justice in case T-370/05	one-off		EUR	1 865 093,29	0,00	1 865 093,29
FR	Wine — restructuring	2002	Reimbursement following annulment of Commission Decision 2005/579/EC by the judgment of the Court of Justice in case T-370/05	one-off		EUR	7 090 032,97	0,00	7 090 032,97
FR	Wine — restructuring	2003	Reimbursement following annulment of Commission Decision 2005/579/EC by the judgment of the Court of Justice in case T-370/05	one-off		EUR	4 563 995,79	0,00	4 563 995,79
FR	Financial audit — late payments	2007	Failure to meet payment deadlines	one-off		EUR	- 68 057,71	- 68 057,71	0,00
FR	Financial audit — overshooting	2007	Overshooting of financial ceilings	one-off		EUR	6 570 774,75	6 570 774,75	0,00
FR	Fruit and vegetables — nuts (other measures)	2005	Ineligible expenditure, non-application of sanction	one-off		EUR	- 103 178,78	0,00	- 103 178,78
FR	Fruit and vegetables — nuts (other measures)	2006	Ineligible expenditure, non-application of sanction	one-off		EUR	- 20 217,77	0,00	- 20 217,77
FR	Fruit and vegetables — operational funds	2002	Ineligible expenditure, non-application of sanction	one-off		EUR	- 59 992,28	0,00	- 59 992,28
FR	Fruit and vegetables — operational funds	2003	Ineligible expenditure, non-application of sanction	one-off		EUR	- 679 369,40	0,00	- 679 369,40
FR	Fruit and vegetables — operational funds	2004	Ineligible expenditure, non-application of sanction	one-off		EUR	- 1 027 984,81	0,00	- 1 027 984,81

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
FR	Fruit and vegetables — operational funds	2004	Ineligible expenditure, non-application of sanction	one-off	5,00	EUR	- 1 304 495,63	0,00	- 1 304 495,63
FR	Fruit and vegetables — operational funds	2005	Ineligible expenditure, non-application of sanction	ponctuelle		EUR	- 19 291 685,69	0,00	- 19 291 685,69
FR	Fruit and vegetables — operational funds	2005	Ineligible expenditure, non-application of sanction	one-off	5,00	EUR	- 1 572 466,41	0,00	- 1 572 466,41
FR	Fruit and vegetables — operational funds	2005	Ineligible expenditure, non-application of sanction	one-off	10,00	EUR	- 44 313,03	0,00	- 44 313,03
FR	Fruit and vegetables — operational funds	2006	Ineligible expenditure, non-application of sanction	ponctuelle		EUR	- 16 287 142,74	0,00	- 16 287 142,74
FR	Fruit and vegetables — operational funds	2006	Ineligible expenditure, non-application of sanction	one-off	5,00	EUR	- 1 195 302,78	0,00	- 1 195 302,78
FR	Fruit and vegetables — operational funds	2006	Ineligible expenditure, non-application of sanction	one-off	10,00	EUR	- 35 982,74	0,00	- 35 982,74
FR	Fruit and vegetables — Producer groups	2005	Certain recognition criteria not fulfilled	one-off	10,00	EUR	- 110 942,38	0,00	- 110 942,38
FR	Fruit and vegetables — Producer groups	2006	Certain recognition criteria not fulfilled	one-off	10,00	EUR	- 78 515,09	0,00	- 78 515,09
FR	Fruit and vegetables — withdrawals	2005	Ineligible expenditure, non-application of sanction	one-off		EUR	- 514 054,00	0,00	- 514 054,00
FR	Fruit and vegetables — withdrawals	2006	Ineligible expenditure, non-application of sanction	one-off		EUR	- 271 574,01	0,00	- 271 574,01
FR	IT Audit — general controls audit	2004	Differences between the number of animals for which aid has been paid and animals for which the aid should have been paid.	one-off		EUR	- 10 785,10	0,00	- 10 785,10
FR	IT Audit — general controls audit	2005	Differences between the number of animals for which aid has been paid and animals for which the aid should have been paid.	one-off		EUR	- 24 879,30	0,00	- 24 879,30
FR	IT Audit — general controls audit	2006	Differences between the number of animals for which aid has been paid and animals for which the aid should have been paid.	one-off		EUR	- 26 907,72	0,00	- 26 907,72
FR	Meat premiums — ewes and goats	2003	Weaknesses in the application of sanctions	one-off	2,00	EUR	- 6 341 113,15	0,00	- 6 341 113,15

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
FR	Meat premiums — ewes and goats	2004	Weaknesses in the application of sanctions	one-off	2,00	EUR	- 749 598,96	0,00	- 749 598,96
FR	Meat premiums — ewes and goats	2005	Weaknesses in the application of sanctions	one-off	2,00	EUR	- 3 500 199,46	0,00	- 3 500 199,46
FR	Meat premiums — ewes and goats	2006	Weaknesses in the application of sanctions	one-off	2,00	EUR	- 3 409 359,12	0,00	- 3 409 359,12
<b>TOTAL FR</b>							<b>- 36 638 221,26</b>	<b>6 502 717,04</b>	<b>- 43 140 938,32</b>
GB	Financial audit — late payments	2007	Failure to meet payment deadlines	one-off		EUR	- 84 719 103,39	- 84 719 103,39	0,00
GB	Financial audit — overshooting	2007	Overshooting of financial ceilings	one-off		EUR	- 3 631,78	- 3 631,78	0,00
GB	Cross compliance	2006	Deficiencies in applying the sanctions for non-compliances with SMR 2	one-off	0,06	GBP	- 258 049,93	0,00	- 258 049,93
GB	Cross compliance	2006	Minimum rate of OTSC was not achieved	one-off	0,30	GBP	- 4 618 521,99	0,00	- 4 618 521,99
GB	Fruit and vegetables — operational funds	2003	Weaknesses in key controls	one-off	5,00	GBP	- 58 457,00	0,00	- 58 457,00
GB	Fruit and vegetables — operational funds	2004	Weaknesses in key controls	one-off	5,00	GBP	- 633 224,00	0,00	- 633 224,00
GB	Fruit and vegetables — operational funds	2005	Weaknesses in key controls	one-off	5,00	GBP	- 847 207,00	0,00	- 847 207,00
GB	Fruit and vegetables — operational funds	2006	Weaknesses in key controls	one-off	5,00	GBP	- 462 110,00	0,00	- 462 110,00
GB	Fruit and vegetables — producer groups	2003	Weaknesses in the control system concerning the recognition of recently created producers' organisations	one-off		GBP	- 558 146,00	0,00	- 558 146,00
GB	Fruit and vegetables — producer groups	2004	Weaknesses in control system concerning producers' organisation created before 2002 (not providing technical means)	one-off		GBP	- 6 228 894,00	0,00	- 6 228 894,00
GB	Fruit and vegetables — producer groups	2005	Weaknesses in control system concerning producers' organisation created before 2002 (not providing technical means)	one-off		GBP	- 8 637 752,00	0,00	- 8 637 752,00
GB	Fruit and vegetables — producer groups	2006	Weaknesses in control system concerning producers' organisation created before 2002 (not providing technical means)	one-off		GBP	- 4 777 965,00	0,00	- 4 777 965,00

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
GB	Exceptional measure	2003	Payments for ineligible animals made as a result of control weaknesses	one-off	2,00	GBP	-200 749,00	0,00	-200 749,00
GB	Exceptional measure	2004	Payments for ineligible animals made as a result of control weaknesses	one-off	2,00	GBP	-473 831,00	0,00	-473 831,00
GB	Exceptional measure	2005	Payments for ineligible animals made as a result of control weaknesses	one-off	2,00	GBP	-262 024,00	0,00	-262 024,00
<b>TOTAL GB (EUR)</b>							<b>-84 722 735,17</b>	<b>-84 722 735,17</b>	<b>0,00</b>
<b>TOTAL GB (GBP)</b>							<b>-28 016 930,92</b>	<b>0,00</b>	<b>-28 016 930,92</b>
GR	Cotton	2002	Exceeding eligible level of production	one-off	5,00	EUR	-27 731 557,37	0,00	-27 731 557,37
GR	Cotton	2003	Exceeding eligible level of production	one-off		EUR	-4 870 264,97	0,00	-4 870 264,97
GR	Cotton	2003	Insufficient controls of environmental conditions	one-off	5,00	EUR	-32 655 464,17	0,00	-32 655 464,17
GR	Cotton	2004	Exceeding eligible level of production	one-off		EUR	-2 143 945,63	0,00	-2 143 945,63
GR	Financial audit — late payments	2005	Failure to meet payment deadlines	one-off		EUR	-4 521 536,62	-4 678 975,85	157 439,23
GR	Financial audit — overshooting	2004	Overshooting of financial ceilings	one-off		EUR	-6 326 450,77	-151 597,30	-6 174 853,47
GR	Financial audit — overshooting	2005	Overshooting of financial ceilings	one-off		EUR	-233 613,43	-7 621,91	-225 991,52
GR	Fruit and vegetables — citrus processing	2005	Payments by cheque. Weaknesses in administrative and accounting controls.	one-off	10,00	EUR	-2 289 213,00	0,00	-2 289 213,00
GR	Fruit and vegetables — citrus processing	2006	Payments by cheque. Weaknesses in administrative and accounting controls.	one-off	10,00	EUR	-385 748,00	0,00	-385 748,00
GR	Meat premiums — bovines	2003	Weaknesses in the I&R database and the on-the-spot checks	one-off	10,00	EUR	-9 445 037,70	0,00	-9 445 037,71
GR	Meat premiums — bovines	2004	Weaknesses in the I&R database and the on-the-spot checks	one-off	5,00	EUR	-3 639 136,55	0,00	-3 639 136,55
GR	Meat premiums — bovines	2004	Weaknesses in the I&R database and the on-the-spot checks	one-off	10,00	EUR	-1 872 425,62	0,00	-1 872 425,62

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
GR	Meat premiums — bovines	2005	Weaknesses in the I&R database and the on-the-spot checks	one-off	5,00	EUR	- 85 029,84	0,00	- 85 029,85
GR	Meat premiums — bovines	2005	Weaknesses in the I&R database and the on-the-spot checks	one-off	10,00	EUR	460 487,38	0,00	460 487,38
GR	Meat premiums — bovines	2006	Weaknesses in the I&R database and the on-the-spot checks	one-off	5,00	EUR	162 160,27	0,00	162 160,27
GR	Meat premiums — bovines	2006	Weaknesses in the I&R database and the on-the-spot checks	one-off	10,00	EUR	77 552,14	0,00	77 552,14
GR	Olive oil — production aid	2003	Recurrent deficiencies in controls of plantations, mills and yields	one-off	15,00	EUR	- 289 062,31	0,00	- 289 062,31
GR	Olive oil — production aid	2004	Recurrent deficiencies in controls of plantations, mills and yields	one-off	15,00	EUR	- 81 190 095,29	0,00	- 81 190 095,29
GR	Olive oil — production aid	2005	Recurrent deficiencies in controls of plantations, mills and yields	one-off	10,00	EUR	- 235 809,09	0,00	- 235 809,09
GR	Olive oil — production aid	2005	Recurrent deficiencies in controls of plantations, mills and yields	one-off	15,00	EUR	- 1 265 993,69	0,00	- 1 265 993,69
GR	Olive oil — production aid	2006	Recurrent deficiencies in controls of plantations, mills and yields	one-off	10,00	EUR	- 34 325,00	0,00	- 34 325,00
GR	Olive oil — production aid	2006	Recurrent deficiencies in controls of plantations, mills and yields	one-off	15,00	EUR	- 626 085,40	0,00	- 626 085,40
					<b>TOTAL GR</b>		<b>- 179 140 594,66</b>	<b>- 4 838 195,06</b>	<b>- 174 302 399,62</b>
IE	Financial audit — late payments	2007	Failure to meet payment deadlines	one-off		EUR	- 93 944,01	- 93 944,01	0,00
IE	Financial audit — overshooting	2006	Overshooting of financial ceilings	one-off		EUR	- 136 003,53	0,00	- 136 003,53
IE	Fruit and vegetables — operational funds	2004	Ineligible expenditure	one-off		EUR	- 1 479 118,94	0,00	- 1 479 118,94
IE	Fruit and vegetables — operational funds	2005	Ineligible expenditure	one-off		EUR	- 731 899,67	0,00	- 731 899,67
					<b>TOTAL IE</b>		<b>- 2 440 966,15</b>	<b>- 93 944,01</b>	<b>- 2 347 022,14</b>

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
IT	Financial audit — late payments	2005	Failure to meet payment deadlines	one-off		EUR	- 12 020 178,75	- 12 411 322,67	391 143,82
IT	Financial audit — late payments	2006	Failure to meet payment deadlines	one-off		EUR	- 44 999 501,14	- 50 877 193,90	5 877 692,76
IT	Financial audit — overshooting	2006	Overshooting of financial ceilings	one-off		EUR	431 931,77	431 931,77	0,00
IT	Olive oil — production aid	2003	Recurrent deficiencies in controls of plantations, mills and yields	one-off	10,00	EUR	- 69 502 963,67	0,00	- 69 502 963,67
IT	Olive oil — production aid	2004	Recurrent deficiencies in controls of plantations, mills and yields	one-off	5,00	EUR	- 33 962 143,60	0,00	- 33 962 143,60
IT	Olive oil — production aid	2004	Recurrent deficiencies in controls of plantations, mills and yields	one-off	10,00	EUR	- 388 003,29	0,00	- 388 003,29
IT	Olive oil — production aid	2005	Recurrent deficiencies in controls of plantations, mills and yields	one-off	5,00	EUR	- 390 610,81	0,00	- 390 610,81
IT	Olive oil — production aid	2005	Recurrent deficiencies in controls of plantations, mills and yields, weaknesses of SIG register	one-off	10,00	EUR	- 736 915,95	0,00	- 736 915,95
IT	Olive oil — production aid	2006	Recurrent deficiencies in controls of plantations, mills and yields	one-off	5,00	EUR	- 269 650,53	0,00	- 269 650,53
IT	Olive oil — production aid	2006	Recurrent deficiencies in controls of plantations, mills and yields, weaknesses of SIG register	one-off	10,00	EUR	- 285 788,56	0,00	- 285 788,56
IT	Promotional measures	2004	Late payments and weaknesses in key controls	one-off	10,00	EUR	- 267 629,30	0,00	- 267 629,30
IT	Promotional measures	2004	Late payments and weaknesses in key controls	one-off		EUR	- 438 250,40	0,00	- 438 250,40
IT	Promotional measures	2005	Late payments and weaknesses in key controls	one-off	10,00	EUR	- 550 739,86	0,00	- 550 739,86
IT	Promotional measures	2005	Late payments and weaknesses in key controls	one-off		EUR	- 899 332,00	0,00	- 899 332,00

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
IT	Promotional measures	2006	Late payments and weaknesses in key controls	one-off	10,00	EUR	- 822 921,46	0,00	- 822 921,46
IT	Promotional measures	2006	Late payments and weaknesses in key controls	one-off		EUR	- 1 343 791,60	0,00	- 1 343 791,60
IT	Promotional measures	2007	Late payments and weaknesses in key controls	one-off	10,00	EUR	- 135 044,28	0,00	- 135 044,28
IT	Promotional measures	2007	Late payments and weaknesses in key controls	one-off		EUR	- 220 520,88	0,00	- 220 520,88
IT	RD guarantee accompanying measures (area related)	2004	Weaknesses in control reports	one-off	2,00	EUR	- 303 451,00	0,00	- 303 451,00
IT	RD guarantee accompanying measures (area related)	2004	Weaknesses in control reports	one-off	2,00	EUR	- 188 845,00	0,00	- 188 845,00
IT	RD guarantee accompanying measures (area related)	2005	Weaknesses in control reports	one-off	2,00	EUR	- 319 213,00	0,00	- 319 213,00
IT	RD guarantee accompanying measures (area related)	2005	Weaknesses in control reports	one-off	2,00	EUR	- 146 966,00	0,00	- 146 966,00
					<b>TOTAL IT</b>		<b>- 167 760 529,32</b>	<b>- 62 856 584,80</b>	<b>- 104 903 944,62</b>
LV		2007	Inaccurate calculation of sanctions	ponctuelle		LVL	- 7 877,26	0,00	- 7 877,26
					<b>TOTAL LV</b>		<b>- 7 877,26</b>	<b>0,00</b>	<b>- 7 877,26</b>
NL	Financial audit — late payments	2006	Failure to meet payment deadlines	one-off		EUR	- 137 870,39	- 137 870,39	0,00
NL	Financial audit — late payments	2007	Failure to meet payment deadlines	one-off		EUR	- 74 874,44	- 74 874,44	0,00
NL	Financial audit — overshooting	2005	Overshooting of financial ceilings	one-off		EUR	- 183 554,00	0,00	- 183 554,00
NL	Financial audit — overshooting	2006	Overshooting of financial ceilings	one-off		EUR	- 4 382 373,60	- 4 382 373,60	0,00
NL	Financial audit — overshooting	2007	Overshooting of financial ceilings	one-off		EUR	- 124 315,72	- 124 315,72	0,00
					<b>TOTAL NL</b>		<b>- 4 902 988,15</b>	<b>- 4 719 434,15</b>	<b>- 183 554,00</b>

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
PT	Financial audit — late payments	2007	Failure to meet payment deadlines	one-off		EUR	- 14 191,28	- 14 191,28	0,00
PT	Financial audit — overshooting	2007	Overshooting of financial ceilings	one-off		EUR	- 268 925,46	- 268 925,46	0,00
PT	Food aid within the Community	2006	Ineligible expenses and erroneous declaration in <i>e-Faudit</i> system	one-off		EUR	- 13 741,70	0,00	- 13 741,70
PT	Food aid within the Community	2007	Ineligible expenses	one-off		EUR	- 2 197,30	0,00	- 2 197,30
PT	Fruit and vegetables — bananas	2004	Weaknesses in accountancy and control systems of producers' organisations in Madeira.	one-off	5,00	EUR	- 48 193,97	0,00	- 48 193,97
PT	Fruit and vegetables — bananas	2005	Weaknesses in accountancy and control systems of producers' organisations in Madeira.	one-off	5,00	EUR	- 247 262,07	0,00	- 247 262,07
						<b>TOTAL PT</b>	<b>- 594 511,78</b>	<b>- 283 116,74</b>	<b>- 311 395,04</b>
SE	Meat premiums — bovines	2003	High level of anomalies, insufficient on-the spot checks, inadequate controls of eligibility of forage area	one-off	2,00	SEK	- 22 378 863,88	0,00	- 22 378 863,88
SE	Meat premiums — bovines	2003	High level of anomalies, insufficient on-the spot checks, inadequate controls of eligibility of forage area	one-off	5,00	SEK	- 20 284 766,35	0,00	- 20 284 766,35
SE	Meat premiums — bovines	2004	High level of anomalies, insufficient on-the spot checks, inadequate controls of eligibility of forage area	one-off	2,00	SEK	- 21 595 488,80	0,00	- 21 595 488,80
SE	Meat premiums — bovines	2004	High level of anomalies, insufficient on-the spot checks, inadequate controls of eligibility of forage area	one-off	5,00	SEK	- 19 650 275,70	0,00	- 19 650 275,70
SE	Meat premiums — bovines	2005	High level of anomalies, insufficient on-the spot checks, inadequate controls of eligibility of forage area	one-off	2,00	SEK	- 23 046 504,52	0,00	- 23 046 504,52

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
SE	Meat premiums — bovines	2005	High level of anomalies, insufficient on-the spot checks, inadequate controls of eligibility of forage area	one-off	5,00	SEK	- 19 591 659,24	0,00	- 19 591 659,24
SE	Meat premiums — bovines	2006	High level of anomalies, insufficient on-the spot checks, inadequate controls of eligibility of forage area	one-off	2,00	SEK	- 43 931,84	0,00	- 43 931,84
SE	Meat premiums — bovines	2006	High level of anomalies, insufficient on-the spot checks, inadequate controls of eligibility of forage area	one-off	5,00	SEK	- 52 328,54	0,00	- 52 328,54
<b>TOTAL SE</b>							<b>- 126 643 818,88</b>	<b>0,00</b>	<b>- 126 643 818,89</b>
SI	Certification	2005	Most likely error	one-off		EUR	- 5 416,10	0,00	- 5 416,10
<b>TOTAL SI</b>							<b>- 5 416,10</b>	<b>0,00</b>	<b>- 5 416,10</b>

## COMMISSION DECISION

of 12 December 2008

**on the use by third countries' issuers of securities of certain third country's national accounting standards and International Financial Reporting Standards to prepare their consolidated financial statements***(notified under document number C(2008) 8218)***(Text with EEA relevance)**

(2008/961/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

of Canada, Japan or United States or with a GAAP of a third country which is subject to convergence with IFRS.

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC <sup>(1)</sup>, and in particular Article 23(4) thereof,

Whereas:

(1) Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of International Accounting Standards <sup>(2)</sup> requires companies governed by the law of a Member State, whose securities are admitted to trading on a regulated market in any Member State, to prepare their consolidated accounts in accordance with International Accounting Standards, now commonly referred to as International Financial Reporting Standards, adopted pursuant to Regulation (EC) No 1606/2002 (hereinafter referred to as adopted IFRS), for each financial year starting on or after 1 January 2005.

(2) Articles 4 and 5 of Directive 2004/109/EC provide that where an issuer is required to prepare consolidated accounts, the annual and half-yearly financial statements shall comprise such consolidated accounts drawn up in accordance with adopted IFRS. Even though this requirement applies to Community and third country issuers alike, third country issuers may be exempted from this requirement provided the law of the third country in question lays down equivalent requirements.

(3) Commission Decision 2006/891/EC <sup>(3)</sup> provided that a third country issuer may also prepare its consolidated accounts, for financial years starting before 1 January 2009, in accordance with IFRS as issued by the International Accounting Standards Board (IASB), with GAAP

(4) Financial statements drawn up in accordance with IFRS as issued by the IASB provide users of these statements with a sufficient level of information to enable them to make an informed assessment of the assets and liabilities, financial position, profit and losses and prospects of an issuer. Therefore, it is appropriate to allow third country issuers to use IFRS as issued by the IASB within the Community.

(5) In order to assess the equivalence of the Generally Accepted Accounting Principles (GAAP) of a third country with adopted IFRS, Commission Regulation (EC) No 1569/2007 of 21 December 2007 establishing a mechanism for the determination of equivalence of accounting standards applied by third country issuers of securities pursuant to Directives 2003/71/EC and 2004/109/EC of the European Parliament and of the Council <sup>(4)</sup> provides for the definition of equivalence and establishes a mechanism for the determination of equivalence of GAAP of a third country. Regulation (EC) No 1569/2007 also requires that the Commission decision permit Community issuers to use IFRS adopted pursuant to Regulation (EC) No 1606/2002 in the third country concerned.

(6) In December 2007 the Commission consulted the Committee of European Securities Regulators (CESR) with regard to the technical assessment of the equivalence of the GAAP of the United States, China and Japan. In March 2008 the Commission extended the consultation with regard to the GAAP of South Korea, Canada and India.

(7) In its advice delivered in March, May and October 2008 respectively, CESR recommended finding US GAAP and Japanese GAAP equivalent to IFRS for use within the Community. Furthermore, CESR recommended the acceptance of financial statements using GAAPs of China, Canada, South Korea and India within the Community on a temporary basis, until no longer than 31 December 2011.

<sup>(1)</sup> OJ L 390, 31.12.2004, p. 38.

<sup>(2)</sup> OJ L 243, 11.9.2002, p. 1.

<sup>(3)</sup> OJ L 343, 8.12.2006, p. 96.

<sup>(4)</sup> OJ L 340, 22.12.2007, p. 66.

- (8) In 2006 the United States' Financial Accounting Standards Board and the IASB concluded a Memorandum of Understanding which reaffirmed their objective of convergence between US GAAP and IFRS and outlined the work programme for this purpose. As a result of this work programme many major differences between US GAAP and IFRS have been resolved. In addition, following the dialogue between the Commission and the US Securities and Exchange Commission, reconciliation for Community issuers which prepare their financial statements according to IFRS as issued by the IASB is no longer required. Therefore, it is appropriate to consider US GAAP equivalent to adopted IFRS from 1 January 2009.
- (9) In August 2007 the Accounting Standards Board of Japan and the IASB announced their agreement to accelerate the convergence by eliminating major differences between Japanese GAAP and IFRS by 2008 and the remaining differences before the end of 2011. The Japanese authorities do not require any reconciliation for Community issuers which prepare their financial statements according to IFRS. Therefore, it is appropriate to consider Japanese GAAP equivalent to adopted IFRS from 1 January 2009.
- (10) According to Article 4 of Regulation (EC) No 1569/2007, third country issuers may be permitted to use other third country GAAPs which are converging or committed to adopt IFRS or which have reached a mutual recognition agreement with the Community before 31 December 2008 for a transitional period ending no later than 31 December 2011.
- (11) In China, the Accounting Standards for Business Enterprises are substantially converged with IFRS and cover nearly all topics under current IFRS. However, since the Accounting Standards for Business Enterprises are applied only from 2007, there is need for further evidence of their proper application.
- (12) The Accounting Standards Board of Canada made a public commitment in January 2006 to adopt IFRS by 31 December 2011 and is taking effective measures to secure timely and complete transition to IFRS by that date.
- (13) The Korean Financial Supervisory Commission and the Korean Accounting Institute made a public commitment in March 2007 to adopt IFRS by 31 December 2011 and are taking effective measures to secure timely and complete transition to IFRS by that date.
- (14) The Indian Government and the Indian Institute of Chartered Accountants made a public commitment in July 2007 to adopt IFRS by 31 December 2011 and are taking effective measures to secure the timely and complete transition to IFRS by that date.
- (15) Whilst no final decision on the equivalence of accounting standards converging to IFRS should be taken until an assessment of the implementation of those accounting standards by companies and auditors has been carried out, it is important to support the efforts of those countries which have undertaken to converge their accounting standards to IFRS and also of those countries which have undertaken to adopt IFRS. Accordingly, it is appropriate to allow third country issuers to prepare their annual and half-yearly financial statements in accordance with the GAAPs of China, Canada, South Korea or India in the Community for the transitional period of no more than three years.
- (16) The Commission should continue to monitor, with the technical assistance of CESR, the development of those third country GAAPs in relation to adopted IFRS.
- (17) Countries should be encouraged to adopt IFRS. The EU may determine that the national standards which have been determined to be equivalent may no longer be used in preparing information required under Directive 2004/109/EC or Commission Regulation (EC) No 809/2004 <sup>(1)</sup> implementing Directive 2003/71/EC when those respective countries have adopted IFRS as their sole accounting standard.
- (18) In the interests of clarity and transparency Decision 2006/891/EC should be replaced.
- (19) The measures provided for in this Decision are in accordance with the opinion of the European Securities Committee,

HAS ADOPTED THIS DECISION:

#### Article 1

From 1 January 2009, in addition to IFRS adopted pursuant to Regulation (EC) No 1606/2002, with regard to annual consolidated financial statements and half-yearly consolidated financial statements, the following standards shall be considered as equivalent to IFRS adopted pursuant to Regulation (EC) No 1606/2002:

- (a) International Financial Reporting Standards, provided that the notes to the audited financial statements contain an explicit and unreserved statement that these financial statements comply with international financial reporting standards in accordance with IAS 1 *Presentation of financial statements*;

<sup>(1)</sup> OJ L 149, 30.4.2004, p. 1. Corrected by OJ L 215, 16.6.2004, p. 3.

(b) Generally Accepted Accounting Principles of Japan;

*Article 1b*

The dates announced publicly by third countries in relation to a changeover to IFRS shall serve as reference dates for the abolition of equivalence recognition for those third countries.

(c) Generally Accepted Accounting Principles of the United States of America.

Prior to financial years starting on or after 1 January 2012, a third country issuer shall be permitted to prepare its annual consolidated financial statements and half-yearly consolidated financial statements in accordance with the Generally Accepted Accounting Principles of the People's Republic of China or Canada, the Republic of Korea or the Republic of India.

*Article 2*

Decision 2006/891/EC shall be repealed with effect from 1 January 2009.

*Article 1a*

The Commission shall continue to monitor, with the technical assistance of the CESR, the efforts made by third countries towards a changeover to IFRS and pursue an active dialogue with authorities during the convergence process. The Commission shall submit a report on progress made in this regard to the European Parliament and the European Securities Committee (ESC) during 2009. The Commission shall also report expeditiously to Council and the European Parliament if situations arise where EU issuers in the future are required to reconcile their financial statements to the national GAAP of the foreign jurisdiction concerned.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 12 December 2008.

*For the Commission*  
Charlie McCREEVY  
*Member of the Commission*

## COMMISSION DECISION

of 15 December 2008

**amending Decisions 2001/405/EC, 2002/255/EC, 2002/371/EC, 2002/740/EC, 2002/741/EC, 2005/341/EC and 2005/343/EC in order to prolong the validity of the ecological criteria for the award of the Community eco-label to certain products**

(notified under document number C(2008) 8442)

(Text with EEA relevance)

(2008/962/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

award of the Community eco-label to copying and graphic paper and amending Decision 1999/554/EC <sup>(6)</sup> expires on 28 February 2009.

Having regard to the Treaty establishing the European Community,

(6) Commission Decision 2005/341/EC of 11 April 2005 establishing the ecological criteria and the related assessment and verification requirements for the award of the Community eco-label to personal computers <sup>(7)</sup> expires on 30 April 2009.

Having regard to Regulation (EC) No 1980/2000 of the European Parliament and of the Council of 17 July 2000 on a revised Community eco-label award scheme <sup>(1)</sup>, and in particular the second subparagraph of Article 6(1) thereof,

(7) Commission Decision 2005/343/EC of 11 April 2005 establishing the ecological criteria and the related assessment and verification requirements for the award of the Community eco-label to portable computers <sup>(8)</sup> expires on 30 April 2009.

After consulting the European Union Eco-Labeling Board,

Whereas:

(1) Commission Decision 2001/405/EC of 4 May 2001 establishing the ecological criteria for the award of the Community eco-label to tissue-paper products <sup>(2)</sup> expires on 4 May 2009.

(8) Pursuant to Regulation (EC) No 1980/2000 a timely review has been carried out of the ecological criteria, as well as of the related assessment and verification requirements, established by those Decisions.

(2) Commission Decision 2002/255/EC of 25 March 2002 establishing ecological criteria for the award of the Community eco-label to televisions <sup>(3)</sup> expires on 31 March 2009.

(9) Given the different stages of the revision process for those Decisions, it is appropriate to prolong the periods of validity of the ecological criteria and the related assessment and verification requirements which they set out. The period of validity should be prolonged for a period of 7 months for Decisions 2002/255/EC and 2002/371/EC, for a period of 8 months for Decision 2001/405/EC, for a period of 10 months for Decision 2002/740/EC, for a period of 13 months for Decisions 2005/341/EC and 2005/343/EC, and for a period of 15 months for Decision 2002/741/EC.

(3) Commission Decision 2002/371/EC of 15 May 2002 establishing the ecological criteria for the award of the Community eco-label to textile products <sup>(4)</sup> expires on 31 May 2009.

(4) Commission Decision 2002/740/EC of 3 September 2002 establishing revised ecological criteria for the award of the Community eco-label to bed mattresses and amending Decision 98/634/EC <sup>(5)</sup> expires on 28 February 2009.

(10) Decisions 2001/405/EC, 2002/255/EC, 2002/371/EC, 2002/740/EC, 2002/741/EC, 2005/341/EC and 2005/343/EC should therefore be amended accordingly.

(5) Commission Decision 2002/741/EC of 4 September 2002 establishing revised ecological criteria for the

(11) The measures provided for in this Decision are in accordance with the opinion of the Committee instituted by Article 17 of Regulation (EC) No 1980/2000,

<sup>(1)</sup> OJ L 237, 21.9.2000, p. 1.

<sup>(2)</sup> OJ L 142, 29.5.2001, p. 10.

<sup>(3)</sup> OJ L 87, 4.4.2002, p. 53.

<sup>(4)</sup> OJ L 133, 15.5.2002, p. 29.

<sup>(5)</sup> OJ L 236, 4.9.2002, p. 10.

<sup>(6)</sup> OJ L 237, 5.9.2002, p. 6.

<sup>(7)</sup> OJ L 115, 4.5.2005, p. 1.

<sup>(8)</sup> OJ L 115, 4.5.2005, p. 35.

HAS ADOPTED THIS DECISION:

*Article 1*

Article 3 of Decision 2001/405/EC is replaced by the following:

*'Article 3*

The ecological criteria for the product group "tissue paper products", as well as the related assessment and verification requirements, shall be valid until 4 January 2010.'

*Article 2*

Article 4 of Decision 2002/255/EC is replaced by the following:

*'Article 4*

The ecological criteria for the product group "televisions", as well as the related assessment and verification requirements, shall be valid until 31 October 2009.'

*Article 3*

Article 5 of Decision 2002/371/EC is replaced by the following:

*'Article 5*

The ecological criteria for the product group "textile products", as well as the related assessment and verification requirements, shall be valid until 31 December 2009.'

*Article 4*

Article 5 of Decision 2002/740/EC is replaced by the following:

*'Article 5*

The ecological criteria for the product group "bed mattresses", as well as the related assessment and verification requirements, shall be valid until 31 December 2009.'

*Article 5*

Article 5 of Decision 2002/741/EC is replaced by the following:

*'Article 5*

The ecological criteria for the product group "copying and graphic paper", as well as the related assessment and verification requirements, shall be valid until 31 May 2010.'

*Article 6*

Article 3 of Decision 2005/341/EC is replaced by the following:

*'Article 3*

The ecological criteria for the product group "personal computers", and the related assessment and verification requirements, shall be valid until 31 May 2010.'

*Article 7*

Article 3 of Decision 2005/343/EC is replaced by the following:

*'Article 3*

The ecological criteria for the product group "portable computers", and the related assessment and verification requirements, shall be valid until 31 May 2010.'

*Article 8*

This Decision is addressed to the Member States.

Done at Brussels, 15 December 2008.

*For the Commission*

Stavros DIMAS

*Member of the Commission*