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Note to the reader (see page 3 of the cover)



⁽¹⁾ Text with EEA relevance

I

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

REGULATIONS

COMMISSION REGULATION (EC) No 18/2009

of 13 January 2009

establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 14 January 2009.

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

Done at Brussels, 13 January 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ 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 ⁽¹⁾	Standard import value
0702 00 00	IL	147,8
	MA	46,6
	TN	134,4
	TR	114,9
	ZZ	110,9
0707 00 05	JO	155,5
	MA	110,0
	TR	138,7
	ZZ	134,7
0709 90 70	MA	110,2
	TR	139,4
	ZZ	124,8
0805 10 20	EG	53,5
	IL	54,9
	MA	65,0
	TN	47,4
	TR	64,9
	ZZ	57,1
0805 20 10	MA	74,2
	TR	58,0
	ZZ	66,1
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	59,6
	EG	91,8
	IL	69,9
	TR	57,2
	ZZ	69,6
0805 50 10	EG	47,1
	MA	57,3
	TR	65,2
	ZZ	56,5
0808 10 80	CA	87,4
	CN	64,4
	MK	28,8
	US	114,9
	ZZ	73,9
0808 20 50	CN	54,2
	US	114,1
	ZZ	84,2

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 19/2009**of 13 January 2009****implementing Regulation (EC) No 453/2008 of the European Parliament and of the Council on quarterly statistics on Community job vacancies, as regards the definition of a job vacancy, the reference dates for data collection, data transmission specifications and feasibility studies****(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 453/2008 of the European Parliament and of the Council of 23 April 2008 concerning quarterly statistics on Community job vacancies ⁽¹⁾, and in particular the second subparagraph of Article 2(1) and Articles 3(1), 5(1) and 7(1) thereof,

Whereas:

- (1) Regulation (EC) No 453/2008 established a common framework for the systematic production of quarterly statistics on Community job vacancies.
- (2) Implementing measures are necessary concerning the definition of the information to be provided and the reference dates for which the information will be collected.
- (3) It is also necessary to specify the format, the deadlines for the transmission of the required data and the date of the first reference quarter to be transmitted.
- (4) In accordance with Article 7 of Regulation (EC) No 453/2008, it is necessary to establish the appropriate framework of a series of feasibility studies to be carried out by those Member States with difficulties in providing data for small units and for certain activities.
- (5) The European Central Bank has been consulted.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Statistical Programme Committee,

HAS ADOPTED THIS REGULATION:

*Article 1***Definitions related to 'job vacancy'**

For the purposes of applying Article 2(1) of Regulation (EC) No 453/2008:

⁽¹⁾ OJ L 145, 4.6.2008, p. 234.

(a) 'active steps to find a suitable candidate' shall include:

- (i) notifying the job vacancy to the public employment services;
- (ii) contacting a private employment agency/head hunters;
- (iii) advertising the vacancy in the media (for example internet, newspapers, magazines);
- (iv) advertising the vacancy on a public notice board;
- (v) approaching, interviewing or selecting possible candidates/potential recruits directly;
- (vi) approaching employees and/or personal contacts;
- (vii) using internships.

(b) 'specific period of time' shall refer to the maximum time the vacancy is open and intended to be filled. That period shall be unlimited; all vacancies for which active steps are continuing on the reference date shall be reported.

*Article 2***Reference dates**

Member States shall provide data on the number of job vacancies and the number of occupied posts, as defined in Article 2(1) and (2) of Regulation (EC) No 453/2008 that can be considered representative for the reference quarter. The preferred methods to achieve this are data collection on a continuous basis or the calculation of a representative average of data collected for specific reference dates.

*Article 3***Data transmission**

1. Within 70 days after the end of the reference quarter, Member States shall transmit data broken down as specified in Article 1(2) of Regulation (EC) No 453/2008, together with the corresponding metadata.

Those Member States whose number of employees represents more than 3 % of the European Community total shall transmit the aggregate number of vacancies and occupied posts and the corresponding metadata within 45 days after the end of the reference quarter.

Each Member State's share of the total number of employees in the EC shall be calculated every five years on the basis of the average of the four quarters of the previous calendar year. In the event of accession of new Member States, ad hoc calculations shall be carried out. The first calculation shall refer to the calendar year previous to the year of the adoption of this Regulation. The source for the data on employees shall be the European Union Labour Force Survey provided for by Council Regulation (EC) No 577/98 ⁽¹⁾. Data shall refer to business units covered by Article 1 of Regulation (EC) No 453/2008.

Any changes in the transmission deadline for countries exceeding the 3 % threshold for the first time shall be applicable from the first reference quarter of the year following the calculation.

2. Corresponding metadata shall refer specifically to information regarding methodological or technical events in the quarter that is needed to interpret the results, and information about data cells that are deemed not to be sufficiently reliable or must not be disclosed.

3. The Member States shall send the quarterly data and corresponding metadata to the Commission (Eurostat) in electronic form. Transmission shall comply with appropriate interchange standards approved by the Statistical Programme Committee. The Commission (Eurostat) shall make available detailed documentation in relation to approved standards and shall supply guidelines on how to implement these standards.

4. The first data transmission shall relate to the first quarter of the year following that of the entry into force of this Regulation.

The data series shall be transmitted in the following forms:

- (a) unadjusted;
- (b) seasonally adjusted, in accordance with the Commission Regulation implementing Regulation (EC) No 453/2008 as regards seasonal adjustment procedures and quality reports; and
- (c) on a voluntary basis, in the form of trend-cycle series.

Article 4

Feasibility studies

The framework for the feasibility studies provided for in Article 7 of Regulation (EC) No 453/2008 is set out in the Annex.

Article 5

Entry into force

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, 13 January 2009.

For the Commission

Joaquín ALMUNIA

Member of the Commission

⁽¹⁾ OJ L 77, 14.3.1998, p. 3.

ANNEX

Feasibility study to assess how quarterly job vacancy statistics can be obtained for NACE Rev. 2 sections O, P, Q, R and/or S

The feasibility study undertaken by a Member State shall cover in particular:

1. the contribution which each of these economic activities makes to the national economy, expressed in terms of number of companies and employment share or a suitable alternative measure;
2. a description of the similarities and differences in job vacancy structures and developments for these economic activities compared to the job vacancy structures and developments within NACE Rev. 2 sections B to N.

Options

The different options for obtaining the number of job vacancies and the number of occupied jobs for NACE Rev. 2 sections O, P, Q, R and/or S are to be assessed. The following possible data sources should be taken into account:

- (a) existing data collections;
- (b) administrative sources;
- (c) statistical estimation procedures;
- (d) new data collections.

For each option considered, the assessment shall include details of the technical and legal issues involved, including: the timing of implementation; the expected statistical quality of the results; expected start-up and running costs of data collection expressed in euro and full-time equivalent persons employed; cost by single unit surveyed; estimates of any additional burden on businesses; any risk or uncertainties; and particular advantages or disadvantages. Cost and quality shall be compared with that of the existing data collection for sections B to N.

Recommendation

Based on the assessment of the different options, a recommendation on the most suitable approach shall be proposed.

Implementation

Details of the proposed implementation plan, including the starting and the completion dates of specific stages, shall be provided.

Member States undertaking feasibility studies

The following Member States shall undertake feasibility studies to assess how the quarterly job vacancy data defined in Article 2 of Regulation (EC) No 453/2008 can be obtained for NACE Rev. 2 sections O, P, Q, R and/or S:

- Denmark,
- Germany,
- Spain,
- France,
- Italy,
- Malta,
- Austria.

Feasibility study to assess how the quarterly job vacancy statistics can be obtained from business units with less than 10 employees

The feasibility study undertaken by a Member State shall cover in particular:

1. the contribution which each firm size class makes to the national economy, expressed in terms of number of companies and employment share or a suitable alternative measure;
2. a description of the similarities and differences in job vacancy structures and developments for this firm size class compared to the job vacancy structures and developments in firms with 10 or more employees.

Options

The different options for obtaining the number of job vacancies and the number of occupied jobs for firms with less than 10 employees, are to be assessed. The following possible data sources should be taken into account:

- (a) existing data collections;
- (b) administrative sources;
- (c) statistical estimation procedures;
- (d) new data collections.

For each option considered, the assessment shall include details of the technical and legal issues involved, including the timing of implementation; the expected statistical quality of the results; expected start-up and running costs of data collection expressed in euro and full-time equivalent persons employed; cost by single unit surveyed; estimates for any additional burden on businesses; any risk or uncertainties; and particular advantages or disadvantages. Cost and quality shall be compared with that of the existing data collection for businesses with 10 or more employees.

Recommendation

Based on the assessment of the different options, a recommendation on the most suitable approach shall be proposed.

Implementation

Details of the proposed implementation plan, including the starting and the completion dates of specific stages, shall be provided.

Member States undertaking feasibility studies

The following Member States shall undertake feasibility studies to assess how the quarterly job vacancy data defined in Article 2 of Regulation (EC) No 453/2008 can be obtained for business units with less than 10 employees:

- Denmark,
 - France,
 - Italy,
 - Malta.
-

COMMISSION REGULATION (EC) No 20/2009**of 13 January 2009****adopting the specifications of the 2010 *ad hoc* module on reconciliation between work and family life provided for by Council Regulation (EC) No 577/98****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 577/98 of 9 March 1998 on the organisation of a labour force sample survey in the Community ⁽¹⁾, and in particular Article 4(2) thereof,

Whereas:

- (1) Commission Regulation (EC) No 365/2008 of 23 April 2008 adopting the programme of *ad hoc* modules, covering the years 2010, 2011 and 2012, for the labour force sample survey provided for by Council Regulation (EC) No 577/98 ⁽²⁾ includes an *ad hoc* module on reconciliation between work and family life.
- (2) Council Decision 2008/618/EC of 15 July 2008 on guidelines for the employment policies of the Member States ⁽³⁾, the European Commission's Roadmap on equality between women and men ⁽⁴⁾ and the European Pact for Gender Equality ⁽⁵⁾ encourage Member States to take measures to promote a better work-life balance for

all in terms of childcare, care facilities for other dependents and the promotion of parental leave for both women and men. Consequently, a comprehensive and comparable set of data on reconciliation between work and family life is needed in order to monitor progress towards the objectives of the European Employment Strategy and to measure the impact of recent policies in this area.

- (3) The measures provided for in this Regulation are in accordance with the opinion of the Statistical Programme Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The detailed list of information to be collected in 2010 by the *ad hoc* module on reconciliation between work and family life shall be as set out in the Annex.

Article 2

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

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

Done at Brussels, 13 January 2009.

For the Commission

Joaquín ALMUNIA

Member of the Commission

⁽¹⁾ OJ L 77, 14.3.1998, p. 3.

⁽²⁾ OJ L 112, 24.4.2008, p. 22.

⁽³⁾ OJ L 198, 26.7.2008, p. 47.

⁽⁴⁾ COM(2006) 92 final.

⁽⁵⁾ Presidency Conclusion of the Brussels European Council of 23-24 March 2006.

ANNEX

LABOUR FORCE SURVEY

Specifications of the 2010 ad hoc module on reconciliation between work and family life

1. Member States and regions concerned: all.

2. The variables will be coded as follows:

The labelling of variables of the Labour Force Survey in the column 'Filter' refers to Annex III to Commission Regulation (EC) No 377/2008 of 25 April 2008 implementing Council Regulation (EC) No 577/98 on the organisation of a labour force sample survey in the Community as regards the codification to be used for data transmission from 2009 onwards, the use of a sub-sample for the collection of data on structural variables and the definition of the reference quarters ⁽¹⁾.

Name	Column	Code	Description	Filter
REGCARE	197		<i>Person regularly takes care of other children up to 14 (other than own/spouse's children living in the household) or of ill, disabled, elderly relatives/friends aged 15 or more in need of care</i>	Everybody aged 15 to 64
		1	Yes, of other children up to 14	
		2	Yes, of relatives/friends aged 15 or more in need of care	
		3	Yes, of other children up to 14 and of relatives/friends aged 15 or more in need of care	
		4	No	
		9	Not applicable (not included in the filter)	
		Blank	No answer	
CHILDCAR	198		<i>Use of childcare services per week for the youngest child living in the household (including paid childminders, pre-school; apart from compulsory school)</i>	Everybody aged 15 to 64 with at least one own/spouse's child up to 14 living in the household
			<i>Childcare services are used for ... per week</i>	
		1	— up to 10 hours	
		2	— more than 10 hours and up to 20 hours	
		3	— more than 20 hours and up to 30 hours	
		4	— more than 30 hours and up to 40 hours	
		5	— more than 40 hours	
		6	— No use of childcare services	
		9	— Not applicable (not included in the filter)	
		Blank	No answer	
IMPFACIL	199		<i>Impact of availability and affordability of care facilities on not working or working part-time</i>	Everybody aged 15 to 64 and (FTPTREAS ≠ 3 and SEEKREAS ≠ 3 and (REGCARE = 1-3 or has at least one own/spouse's child up to 14 living in the household)) and FTPT ≠ 1
		1	Suitable care services for children are not available or affordable	

⁽¹⁾ OJ L 114, 26.4.2008, p. 57.

Name	Column	Code	Description	Filter
NOWRECHI	200	2	Suitable care services for ill, disabled, elderly are not available or affordable	Everybody aged 15 to 64 and (NEEDCARE = 1,3 or IMPFACIL = 1,3)
		3	Suitable care services for both children and ill, disabled and elderly are not available or affordable.	
		4	Care facilities do not influence decision for labour market participation	
		9	Not applicable (not included in the filter)	
		Blank	No answer	
			<i>Main reason (linked with childcare) for not working or working part-time</i>	
		1	No childcare services available	
		2	Available childcare services are too expensive	
		3	Available childcare services are not of sufficient quality	
		4	Other reasons linked with the lack of suitable childcare services	
		9	Not applicable (not included in the filter)	
NOWRECAR	201	Blank	No answer	Everybody aged 15 to 64 and (NEEDCARE = 2,3 or IMPFACIL = 2,3)
			<i>Main reason (linked with care of other dependants) for not working or working part-time</i>	
		1	No care services available	
		2	Available care services are too expensive	
		3	Available care services are not of sufficient quality	
		4	Other reasons linked with the lack of suitable care services	
		9	Not applicable (not included in the filter)	
		Blank	No answer	
			<i>Variable working hours</i>	
		1	Fixed start and end of a working day or varying working time as decided by the employer	
			<i>Schedule decided by the employee within one of the following schemes:</i>	
VARHOURS	202	2	Flexitime/Working time banking	Everybody aged 15 to 64 and STAPRO = 3
		3	Daily number of hours fixed, but some flexibility within the day	
		4	Determines own work schedule (no formal boundaries at all)	
		5	Other	
		9	Not applicable (not included in the filter)	
		Blank	No answer	

Name	Column	Code	Description	Filter
POSTTEND	203		<i>Possible to vary start and/or end of working day for family reasons (at least one hour)</i>	VARHOURS = 1,3,5,blank
		1	Generally possible	
		2	Rarely possible	
		3	Not possible	
		9	Not applicable (not included in the filter)	
		Blank	No answer	
POSORGWT	204		<i>Possible to organise working time in order to take whole days off for family reasons (without using holidays)</i>	Everybody aged 15 to 64 and STAPRO = 3
		1	Generally possible	
		2	Rarely possible	
		3	Not possible	
		9	Not applicable (not included in the filter)	
		Blank	No answer	
REDWORK	205		<i>Reduced working hours to take care of the youngest child in the household for at least one month (excluding maternity leave)</i>	Everybody aged 15 to 64 with at least one own/spouse's child up to the 8th birthday living in the household and (WSTATOR = 1,2 or (EXISTPR = 1 and REFYEAR-YEARPR <= age of the youngest child + 1))
		1	Yes	
		2	No	
		9	Not applicable (not included in the filter)	
		Blank	No answer	
STOPWORK	206		<i>Stopped working to take care of the youngest child in the household for at least one month (excluding maternity leave)</i>	Everybody aged 15 to 64 with at least one own/spouse's child up to the 8th birthday living in the household and (WSTATOR = 1,2 or (EXISTPR = 1 and REFYEAR-YEARPR <= age of the youngest child + 1))
		1	No	
			Yes, stopped working for a completed period of:	
		2	— up to 3 months	
		3	— more than 3 months and up to 6 months	
		4	— more than 6 months and up to 1 year	
		5	— more than 1 year	
		6	Has not returned to work yet	
		9	Not applicable (not included in the filter)	
		Blank	No answer	
PARLEAVE	207		<i>Full-time parental leave of at least one month taken to care for the youngest child in the household (excluding maternity leave)</i>	Everybody aged 15 to 64 with at least one own/spouse's child up to the 8th birthday living in the household
		1	No, has not taken full-time parental leave for at least one month	

Name	Column	Code	Description	Filter
			<i>Yes, has taken full-time parental leave for a completed period of:</i>	
		2	— up to 3 months	
		3	— more than 3 months and up to 6 months	
		4	— more than 6 months and up to 1 year	
		5	— more than 1 year	
		6	Leave is still ongoing	
		9	Not applicable (not included in the filter)	
		Blank	No answer	
	210/215		<i>Weighting factor for the 2010 ad hoc module (optional)</i>	Everybody aged 15 to 64
		0000-9999	Columns 210-213 contain whole numbers	
		00-99	Columns 214-215 contain decimal places	

DIRECTIVES

COUNCIL DIRECTIVE 2008/118/EC

of 16 December 2008

concerning the general arrangements for excise duty and repealing Directive 92/12/EEC

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 93 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Whereas:

(1) Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products ⁽³⁾ has been substantially amended several times. Since further amendments are to be made, it should be replaced in the interests of clarity.

(2) Conditions for charging excise duty on the goods covered by Directive 92/12/EEC, hereinafter 'excise goods', need to remain harmonised in order to ensure the proper functioning of the internal market.

(3) It is appropriate to specify the excise goods to which this Directive applies and to refer for that purpose to Council Directive 92/79/EEC of 19 October 1992 on the approximation of taxes on cigarettes ⁽⁴⁾, Council Directive 92/80/EEC of 19 October 1992 on the approximation of taxes on manufactured tobacco other than cigarettes ⁽⁵⁾, Council Directive 92/83/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages ⁽⁶⁾, Council Directive 92/84/EEC of 19 October 1992 on

the approximation of the rates of excise duty on alcohol and alcoholic beverages ⁽⁷⁾, Council Directive 95/59/EC of 27 November 1995 on taxes other than turnover taxes which affect the consumption of manufactured tobacco ⁽⁸⁾ and Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity ⁽⁹⁾.

(4) Excise goods may be subject to other indirect taxes for specific purposes. In such cases, however, and in order not to jeopardise the useful effect of Community rules relating to indirect taxes, Member States should comply with certain essential elements of those rules.

(5) In order to ensure free movement, taxation of goods other than excise goods should not give rise to formalities connected with the crossing of frontiers.

(6) It is necessary to ensure the application of formalities when excise goods are moving from the territories which are defined as being part of the customs territory of the Community but which are excluded from the scope of this Directive to territories which are also so defined but to which this Directive does apply.

(7) Since suspensive procedures under Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁰⁾ provide for adequate monitoring whilst excise goods are subject to the provisions of that Regulation, there is no need for the separate application of an excise monitoring system for the time that the excise goods are subject to a Community customs suspensive procedure or arrangement.

(8) Since it remains necessary for the proper functioning of the internal market that the concept, and conditions for chargeability, of excise duty be the same in all Member States, it is necessary to make clear at Community level when excise goods are released for consumption and who the person liable to pay the excise duty is.

⁽¹⁾ Opinion of 18.11.2008 (not yet published in the Official Journal).

⁽²⁾ Opinion of 22.10.2008 (not yet published in the Official Journal).

⁽³⁾ OJ L 76, 23.3.1992, p. 1.

⁽⁴⁾ OJ L 316, 31.10.1992, p. 8.

⁽⁵⁾ OJ L 316, 31.10.1992, p. 10.

⁽⁶⁾ OJ L 316, 31.10.1992, p. 21.

⁽⁷⁾ OJ L 316, 31.10.1992, p. 29.

⁽⁸⁾ OJ L 291, 6.12.1995, p. 40.

⁽⁹⁾ OJ L 283, 31.10.2003, p. 51.

⁽¹⁰⁾ OJ L 302, 19.10.1992, p. 1.

- (9) Since excise duty is a tax on the consumption of certain goods, duty should not be charged in respect of excise goods which, under certain circumstances, have been destroyed or irretrievably lost.
- (10) Arrangements for the collection and reimbursement of duty have an impact on the proper functioning of the internal market and should therefore follow non-discriminatory criteria.
- (11) In the event of an irregularity, excise duty should be due in the Member State on whose territory the irregularity has been committed which has led to the release for consumption or, if it is not possible to establish where the irregularity has been committed, it should be due in the Member State where it has been detected. Where excise goods do not arrive at their destination and no irregularity has been detected, the irregularity shall be deemed to have occurred in the Member State of dispatch.
- (12) In addition to the cases of reimbursement provided for in this Directive, Member States should be able, where the purpose of this Directive so allows, to reimburse excise duty paid on excise goods released for consumption.
- (13) The rules and conditions for the deliveries which are exempt from the payment of excise duty should remain harmonised. For the exempted deliveries to organisations situated in other Member States, use should be made of an exemption certificate.
- (14) The situations in which tax-free sales to travellers leaving the territory of the Community are allowed should be clearly determined with a view to avoiding evasion and abuse. Since persons travelling over land can move more frequently and more freely as compared to persons travelling by boat or aircraft, the risk of non-respect of the duty and tax free import allowances by the traveller and consequently the control burden for the customs authorities is substantially higher in the case of travel over land. It is therefore appropriate to provide that excise duty-free sales at land borders should not be allowed, as is already the case in most Member States. A transitional period should however be provided for during which Member States are authorised to continue to exempt from excise duty goods supplied by existing tax-free shops situated at their land border with a third country.
- (15) Since checks need to be carried out in production and storage facilities in order to ensure that the tax debt is collected, it is necessary to retain a system of warehouses, subject to authorisation by the competent authorities, for the purpose of facilitating such checks.
- (16) It is also necessary to lay down requirements to be complied with by authorised warehousekeepers and traders without authorised warehousekeeper status.
- (17) It should be possible for excise goods, prior to their release for consumption, to move within the Community under suspension of excise duty. Such movement should be allowed from a tax warehouse to various destinations, in particular another tax warehouse but also to places equivalent for the purposes of this Directive.
- (18) The movement of excise goods under suspension of duty should also be allowed from their place of importation to those destinations and accordingly provision should be made with regard to the status of the person allowed to dispatch, but not allowed to hold, the goods from that place of importation.
- (19) In order to safeguard the payment of excise duty in a case of non-discharge of the excise movement, Member States should require a guarantee, which should be lodged by the authorised warehousekeeper of dispatch or the registered consignor or, if the Member State of dispatch so allows, by another person involved in the movement, under the conditions set by the Member States.
- (20) It is necessary, in order to ensure the collection of taxes at the rates laid down by Member States, for the competent authorities to be in a position to follow the movements of excise goods and provision should therefore be made for a monitoring system for such goods.
- (21) For that purpose, it is appropriate to use the computerised system established by Decision No 1152/2003/EC of the European Parliament and of the Council of 16 June 2003 on computerising the movement and surveillance of excisable products⁽¹⁾. Use of that system, as opposed to a paper-based system, accelerates the necessary formalities and facilitates the monitoring of movement of excise goods under suspension of excise duty.
- (22) It is appropriate to lay down the procedure by which traders inform the tax authorities of the Member States of consignments of excise goods dispatched or received. Due regard should be had to the situation of certain consignees not connected to the computerised system but who may receive excise goods moving under suspension of duty.

⁽¹⁾ OJ L 162, 1.7.2003, p. 5.

- (23) In order to ensure the proper functioning of the rules relating to movement under suspension of excise duty, the conditions for the start of the movement as well as the end, and the discharge of responsibilities, should be clarified.
- (24) It is necessary to determine the procedures to be used in a case in which the computerised system is not available.
- (25) Member States should be allowed to provide a special arrangement for the movement of excise goods under suspension of duty which takes place entirely on their territory, or conclude bilateral agreements with other Member States to allow simplification.
- (26) It is appropriate to clarify the taxation and procedural rules relating to the movement of goods on which excise duty has already been paid in a Member State without changing their general structure.
- (27) Where excise goods are acquired by private individuals for their own use and transported from one Member State to another by them, excise duty should be paid in the Member State in which the goods are acquired, in accordance with the principle governing the internal market.
- (28) In cases where, following their release for consumption in a Member State, excise goods are held for commercial purposes in another Member State, it is necessary to establish that excise duty is due in the second Member State. For these purposes, it is necessary, in particular, to define the concept of 'commercial purposes'.
- (29) Where excise goods are acquired by persons who are not authorised warehousekeepers or registered consignees and do not carry out an independent economic activity, and are dispatched or transported directly or indirectly by the vendor or on his behalf, excise duty should be paid in the Member State of destination and provision should be made for a procedure to be followed by the vendor.
- (30) In order to avoid conflicts of interest between Member States and double taxation in cases in which excise goods already released for consumption in one Member State move within the Community, provision should be made for situations in which excise goods, following their release for consumption, are subject to irregularities.
- (31) Member States should be able to provide that goods released for consumption carry tax markings or national identification marks. The use of these markings or marks should not place any obstacle in the way of intra-Community trade.
- Since the use of these markings or marks should not give rise to a double taxation burden, it should be made clear that any amount paid or guaranteed to obtain such markings or marks is to be reimbursed, remitted or released by the Member State which issued the marks if excise duty has become chargeable and has been collected in another Member State.
- However, in order to prevent any abuse, Member States which issued such markings or marks should be able to make reimbursement, remittance or release conditional on the presentation of evidence that they have been removed or destroyed.
- (32) Application of the normal requirements relating to the movement and monitoring of excise goods could put a disproportionate administrative burden on small wine producers. Therefore, Member States should be able to exempt those producers from certain requirements.
- (33) Account should be taken of the fact that, with regard to excise goods used as stores for boats and aircraft, no suitable common approach has yet been found.
- (34) With respect to excise goods used for the construction and maintenance of cross-border bridges between Member States, those Member States should be allowed to adopt measures derogating from the normal rules and procedures applying to excise goods moving from one Member State to another, in order to reduce the administrative burden.
- (35) Measures for the implementation of this Directive 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 ⁽¹⁾.
- (36) In order to allow a period of adjustment to the electronic control system for the movement of goods under suspension of excise duty, Member States should be able to benefit from a transitional period during which such movement may continue to be carried out subject to the formalities laid down by Directive 92/12/EEC.

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

- (37) Since the objective of this Directive, namely ensuring common arrangements in relation to certain aspects of excise duty, cannot be sufficiently achieved by the Member States and can therefore, by reason of its scale and effects, 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 Directive does not go beyond what is necessary to achieve that objective,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL PROVISIONS

Article 1

1. This Directive lays down general arrangements in relation to excise duty which is levied directly or indirectly on the consumption of the following goods (hereinafter 'excise goods'):

- (a) energy products and electricity covered by Directive 2003/96/EC;
- (b) alcohol and alcoholic beverages covered by Directives 92/83/EEC and 92/84/EEC;
- (c) manufactured tobacco covered by Directives 95/59/EC, 92/79/EEC and 92/80/EEC.

2. Member States may levy other indirect taxes on excise goods for specific purposes, provided that those taxes comply with the Community tax rules applicable for excise duty or value added tax as far as determination of the tax base, calculation of the tax, chargeability and monitoring of the tax are concerned, but not including the provisions on exemptions.

3. Member States may levy taxes on:

- (a) products other than excise goods;
- (b) the supply of services, including those relating to excise goods, which cannot be characterised as turnover taxes.

However, the levying of such taxes may not, in trade between Member States, give rise to formalities connected with the crossing of frontiers.

Article 2

Excise goods shall be subject to excise duty at the time of:

- (a) their production, including, where applicable, their extraction, within the territory of the Community;
- (b) their importation into the territory of the Community.

Article 3

1. The formalities laid down by the Community customs provisions for the entry of goods into the customs territory of the Community shall apply *mutatis mutandis* to the entry of excise goods into the Community from a territory referred to in Article 5(2).

2. The formalities laid down by the Community customs provisions for the exit of goods from the customs territory of the Community shall apply *mutatis mutandis* to the exit of excise goods from the Community to a territory referred to in Article 5(2).

3. By way of derogation from paragraphs 1 and 2, Finland shall be authorised, for movements of excise goods between its territory as defined in Article 4(2) and the territories referred to in Article 5(2)(c), to apply the same procedures as those applied for such movements on its territory as defined in Article 4(2).

4. Chapters III and IV shall not apply to excise goods covered by a customs suspensive procedure or arrangement.

Article 4

For the purpose of this Directive as well as its implementing provisions, the following definitions shall apply:

- 1. 'authorised warehousekeeper' means a natural or legal person authorised by the competent authorities of a Member State, in the course of his business, to produce, process, hold, receive or dispatch excise goods under a duty suspension arrangement in a tax warehouse;
- 2. 'Member State' and 'territory of a Member State' means the territory of each Member State of the Community to which the Treaty is applicable, in accordance with Article 299 thereof, with the exception of third territories;
- 3. 'Community' and 'territory of the Community' means the territories of the Member States as defined in point 2;

4. 'third territories' means the territories referred to in Article 5(2) and (3);
5. 'third country' means any State or territory to which the Treaty is not applicable;
6. 'customs suspensive procedure or arrangement' means any one of the special procedures as provided for under Regulation (EEC) No 2913/92 relating to the customs supervision to which non-Community goods are subjected upon their entry into the Community customs territory, temporary storage, free zones or free warehouses, as well as any of the arrangements referred to in Article 84(1)(a) of that Regulation;
7. 'duty suspension arrangement' means a tax arrangement applied to the production, processing, holding or movement of excise goods not covered by a customs suspensive procedure or arrangement, excise duty being suspended;
8. 'importation of excise goods' means the entry into the territory of the Community of excise goods unless the goods upon their entry into the Community are placed under a customs suspensive procedure or arrangement, as well as their release from a customs suspensive procedure or arrangement;
9. 'registered consignee' means a natural or legal person authorised by the competent authorities of the Member State of destination, in the course of his business and under the conditions fixed by those authorities, to receive excise goods moving under a duty suspension arrangement from another Member State;
10. 'registered consignor' means a natural or legal person authorised by the competent authorities of the Member State of importation, in the course of his business and under the conditions fixed by those authorities, to only dispatch excise goods under a duty suspension arrangement upon their release for free circulation in accordance with Article 79 of Regulation (EEC) No 2913/92;
11. 'tax warehouse' means a place where excise goods are produced, processed, held, received or dispatched under duty suspension arrangements by an authorised warehouse-keeper in the course of his business, subject to certain conditions laid down by the competent authorities of the Member State where the tax warehouse is located.

Article 5

1. This Directive and the Directives referred to in Article 1 shall apply to the territory of the Community.
2. This Directive and the Directives referred to in Article 1 shall not apply to the following territories forming part of the customs territory of the Community:
 - (a) the Canary Islands;
 - (b) the French overseas departments;
 - (c) the Åland Islands;
 - (d) the Channel Islands.
3. This Directive and the Directives referred to in Article 1 shall not apply to the territories within the scope of Article 299(4) of the Treaty, nor to the following other territories not forming part of the customs territory of the Community:
 - (a) the Island of Heligoland;
 - (b) the territory of Büsingen;
 - (c) Ceuta;
 - (d) Melilla;
 - (e) Livigno;
 - (f) Campione d'Italia;
 - (g) the Italian waters of Lake Lugano.
4. Spain may give notice, by means of a declaration, that this Directive and the Directives referred to in Article 1 shall apply to the Canary Islands — subject to measures to adapt to their extreme remoteness — in respect of all or some of the excise goods referred to in Article 1, as from the first day of the second month following deposit of such declaration.
5. France may give notice, by means of a declaration, that this Directive and the Directives referred to in Article 1 apply to the French overseas departments — subject to measures to adapt to their extreme remoteness — in respect of all or some of the excise goods referred to in Article 1, as from the first day of the second month following deposit of such declaration.
6. The provisions of this Directive shall not prevent Greece from maintaining the specific status granted to Mount Athos as guaranteed by Article 105 of the Greek Constitution.

Article 6

1. In view of the conventions and treaties concluded with France, Italy, Cyprus and the United Kingdom respectively, the Principality of Monaco, San Marino, the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia, and the Isle of Man shall not be regarded, for the purposes of this Directive, as third countries.

2. Member States shall take the measures necessary to ensure that movements of excise goods originating in or intended for:

- (a) the Principality of Monaco are treated as movements originating in or intended for France;
- (b) San Marino are treated as movements originating in or intended for Italy;
- (c) United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia are treated as movements originating in or intended for Cyprus;
- (d) the Isle of Man are treated as movements originating in or intended for the United Kingdom.

3. Member States shall take the measures necessary to ensure that movements of excise goods originating in or intended for Jungholz and Mittelberg (Kleines Walsertal) are treated as movements originating in or intended for Germany.

CHAPTER II

CHARGEABILITY, REIMBURSEMENT, EXEMPTION

SECTION 1

Time and place of chargeability

Article 7

1. Excise duty shall become chargeable at the time, and in the Member State, of release for consumption.

2. For the purposes of this Directive, 'release for consumption' shall mean any of the following:

- (a) the departure of excise goods, including irregular departure, from a duty suspension arrangement;
- (b) the holding of excise goods outside a duty suspension arrangement where excise duty has not been levied

pursuant to the applicable provisions of Community law and national legislation;

- (c) the production of excise goods, including irregular production, outside a duty suspension arrangement;
- (d) the importation of excise goods, including irregular importation, unless the excise goods are placed, immediately upon importation, under a duty suspension arrangement.

3. The time of release for consumption shall be:

- (a) in the situations referred to in Article 17(1)(a)(ii), the time of receipt of the excise goods by the registered consignee;
- (b) in the situations referred to in Article 17(1)(a)(iv), the time of receipt of the excise goods by the consignee;
- (c) in the situations referred to in Article 17(2), the time of receipt of the excise goods at the place of direct delivery.

4. The total destruction or irretrievable loss of excise goods under a duty suspension arrangement, as a result of the actual nature of the goods, of unforeseeable circumstances or force majeure, or as a consequence of authorisation by the competent authorities of the Member State, shall not be considered a release for consumption.

For the purpose of this Directive, goods shall be considered totally destroyed or irretrievably lost when they are rendered unusable as excise goods.

The total destruction or irretrievable loss of the excise goods in question shall be proven to the satisfaction of the competent authorities of the Member State where the total destruction or irretrievable loss occurred or, when it is not possible to determine where the loss occurred, where it was detected.

5. Each Member State shall lay down its own rules and conditions under which the losses referred to in paragraph 4 are determined.

Article 8

1. The person liable to pay the excise duty that has become chargeable shall be:

- (a) in relation to the departure of excise goods from a duty suspension arrangement as referred to in Article 7(2)(a):

- (i) the authorised warehousekeeper, the registered consignee or any other person releasing the excise goods or on whose behalf the excise goods are released from the duty suspension arrangement and, in the case of irregular departure from the tax warehouse, any other person involved in that departure;
 - (ii) in the case of an irregularity during a movement of excise goods under a duty suspension arrangement as defined in Article 10(1), (2) and (4): the authorised warehousekeeper, the registered consignor or any other person who guaranteed the payment in accordance with Article 18(1) and (2) and any person who participated in the irregular departure and who was aware or who should reasonably have been aware of the irregular nature of the departure;
- (b) in relation to the holding of excise goods as referred to in Article 7(2)(b): the person holding the excise goods and any other person involved in the holding of the excise goods;
- (c) in relation to the production of excise goods as referred to in Article 7(2)(c): the person producing the excise goods and, in the case of irregular production, any other person involved in their production;
- (d) in relation to the importation of excise goods as referred to in Article 7(2)(d): the person who declares the excise goods or on whose behalf they are declared upon importation and, in the case of irregular importation, any other person involved in the importation.

2. Where several persons are liable for payment of one excise duty debt, they shall be jointly and severally liable for such debt.

Article 9

The chargeability conditions and rate of excise duty to be applied shall be those in force on the date on which duty becomes chargeable in the Member State where release for consumption takes place.

Excise duty shall be levied and collected and, where appropriate, reimbursed or remitted according to the procedure laid down by each Member State. Member States shall apply the same procedures to national goods and to those from other Member States.

Article 10

1. Where an irregularity has occurred during a movement of excise goods under a duty suspension arrangement, giving rise to their release for consumption in accordance with

Article 7(2)(a), the release for consumption shall take place in the Member State where the irregularity occurred.

2. Where an irregularity has been detected during a movement of excise goods under a duty suspension arrangement, giving rise to their release for consumption in accordance with Article 7(2)(a), and it is not possible to determine where the irregularity occurred, it shall be deemed to have occurred in the Member State in which and at the time when the irregularity was detected.

3. In the situations referred to in paragraphs 1 and 2, the competent authorities of the Member States where the goods have been or are deemed to have been released for consumption shall inform the competent authorities of the Member State of dispatch.

4. Where excise goods moving under a duty suspension arrangement have not arrived at their destination and no irregularity giving rise to their release for consumption in accordance with Article 7(2)(a) has been detected during the movement, an irregularity shall be deemed to have occurred in the Member State of dispatch and at the time when the movement began, unless, within a period of four months from the start of the movement in accordance with Article 20(1), evidence is provided to the satisfaction of the competent authorities of the Member State of dispatch of the end of the movement in accordance with Article 20(2), or of the place where the irregularity occurred.

Where the person who guaranteed the payment in accordance with Article 18 has not been, or could not have been, informed that the goods have not arrived at their destination, a period of one month from the date of communication of this information by the competent authorities of the Member State of dispatch shall be granted to enable him to provide evidence of the end of the movement in accordance with Article 20(2), or of the place where the irregularity occurred.

5. However, in the situations referred to in paragraphs 2 and 4, if, before the expiry of a period of three years from the date on which the movement began, in accordance with Article 20(1), it is ascertained in which Member State the irregularity actually occurred, the provisions of paragraph 1 shall apply.

In these situations, the competent authorities of the Member State where the irregularity occurred shall inform the competent authorities of the Member State where the excise duty was levied, which shall reimburse or remit it as soon as evidence of the levying of the excise duty in the other Member State has been provided.

6. For the purposes of this Article, 'irregularity' shall mean a situation occurring during a movement of excise goods under a duty suspension arrangement, other than the one referred to in Article 7(4), due to which a movement, or a part of a movement of excise goods, has not ended in accordance with Article 20(2).

SECTION 2

Reimbursement and remission

Article 11

In addition to the cases referred to in Article 33(6), Article 36(5), and Article 38(3), as well as those provided for by the Directives referred to in Article 1, excise duty on excise goods which have been released for consumption may, at the request of a person concerned, be reimbursed or remitted by the competent authorities of the Member State where those goods were released for consumption in the situations fixed by the Member States and in accordance with the conditions that Member States shall lay down for the purpose of preventing any possible evasion or abuse.

Such reimbursement or remission may not give rise to exemptions other than those provided for in Article 12 or by one of the Directives referred to in Article 1.

SECTION 3

Exemptions

Article 12

1. Excise goods shall be exempted from payment of excise duty where they are intended to be used:

- (a) in the context of diplomatic or consular relations;
- (b) by international organisations recognised as such by the public authorities of the host Member State, and by members of such organisations, within the limits and under the conditions laid down by the international conventions establishing such organisations or by headquarters agreements;
- (c) by the armed forces of any State party to the North Atlantic Treaty other than the Member State within which the excise duty is chargeable, for the use of those forces, for the civilian staff accompanying them or for supplying their messes or canteens;
- (d) by the armed forces of the United Kingdom stationed in Cyprus pursuant to the Treaty of Establishment concerning the Republic of Cyprus dated 16 August 1960, for the use

of those forces, for the civilian staff accompanying them or for supplying their messes or canteens;

- (e) for consumption under an agreement concluded with third countries or international organisations provided that such an agreement is allowed or authorised with regard to exemption from value added tax.

2. Exemptions shall be subject to conditions and limitations laid down by the host Member State. Member States may grant the exemption by means of a refund of excise duty.

Article 13

1. Without prejudice to Article 21(1), excise goods moving under a duty suspension arrangement to a consignee referred to in Article 12(1) shall be accompanied by an exemption certificate.

2. The Commission shall, in accordance with the procedure referred to in Article 43(2), lay down the form and content of the exemption certificate.

3. The procedure laid down in Articles 21 to 27 shall not apply to the movements of excise goods under a duty suspension arrangement to the armed forces referred to in Article 12(1)(c), if they are covered by a procedure which is directly based on the North Atlantic Treaty.

However, Member States may provide that the procedure laid down in Articles 21 to 27 shall be used for such movements taking place entirely on their territory or, by agreement between the Member States concerned, between their territories.

Article 14

1. Member States may exempt from payment of excise duty excise goods supplied by tax-free shops which are carried away in the personal luggage of travellers to a third territory or to a third country taking a flight or sea-crossing.

2. Goods supplied on board an aircraft or ship during the flight or sea-crossing to a third territory or a third country shall be treated in the same way as goods supplied by tax-free shops.

3. Member States shall take the measures necessary to ensure that the exemptions provided for in paragraphs 1 and 2 are applied in such a way as to prevent any possible evasion, avoidance or abuse.

4. Member States which, at 1 July 2008, have tax-free shops situated elsewhere than within an airport or port may, until 1 January 2017, continue to exempt from excise duty excise goods supplied by such shops and carried away in the personal luggage of travellers to a third territory or to a third country.

5. For the purposes of this Article, the following definitions shall apply:

- (a) 'tax-free shop' means any establishment situated within an airport or port which fulfils the conditions laid down by the competent authorities of the Member States, pursuant in particular to paragraph 3;
- (b) 'traveller to a third territory or to a third country' means any passenger holding a transport document, for air or sea travel, stating that the final destination is an airport or port situated in a third territory or a third country.

CHAPTER III

PRODUCTION, PROCESSING AND HOLDING

Article 15

1. Each Member State shall determine its rules concerning the production, processing and holding of excise goods, subject to this Directive.

2. The production, processing and holding of excise goods, where the excise duty has not been paid, shall take place in a tax warehouse.

Article 16

1. The opening and operation of a tax warehouse by an authorised warehousekeeper shall be subject to authorisation by the competent authorities of the Member State where the tax warehouse is situated.

Such authorisation shall be subject to the conditions that the authorities are entitled to lay down for the purposes of preventing any possible evasion or abuse.

2. An authorised warehousekeeper shall be required to:

- (a) provide, if necessary, a guarantee to cover the risk inherent in the production, processing and holding of excise goods;
- (b) comply with the requirements laid down by the Member State within whose territory the tax warehouse is situated;
- (c) keep, for each tax warehouse, accounts of stock and movements of excise goods;
- (d) enter into his tax warehouse and enter in his accounts at the end of their movement all excise goods moving under a duty suspension arrangement, except where Article 17(2) applies;

(e) consent to all monitoring and stock checks.

The conditions for the guarantee referred to in point (a) shall be set by the competent authorities of the Member State in which the tax warehouse is authorised.

CHAPTER IV

MOVEMENT OF EXCISE GOODS UNDER SUSPENSION OF EXCISE DUTY

SECTION 1

General provisions

Article 17

1. Excise goods may be moved under a duty suspension arrangement within the territory of the Community, including where the goods are moved via a third country or a third territory:

(a) from a tax warehouse to:

(i) another tax warehouse;

(ii) a registered consignee;

(iii) a place where the excise goods leave the territory of the Community, as referred to in Article 25(1);

(iv) a consignee referred to in Article 12(1), where the goods are dispatched from another Member State;

(b) from the place of importation to any of the destinations referred to in point (a), where the goods are dispatched by a registered consignor.

For the purposes of this Article, 'place of importation' means the place where the goods are when they are released for free circulation in accordance with Article 79 of Regulation (EEC) No 2913/92.

2. By way of derogation from paragraph 1(a)(i) and (ii) and (b) of this Article, and except in the situations referred to in Article 19(3), the Member State of destination may, under the conditions which it lays down, allow excise goods to be moved under a duty suspension arrangement to a place of direct delivery situated on its territory, where that place has been designated by the authorised warehousekeeper in the Member State of destination or by the registered consignee.

That authorised warehousekeeper or that registered consignee shall remain responsible for submitting the report of receipt referred to in Article 24(1).

3. Paragraphs 1 and 2 shall also apply to movements of excise goods at a zero rate which have not been released for consumption.

Article 18

1. The competent authorities of the Member State of dispatch, under the conditions fixed by them, shall require that the risks inherent in the movement under suspension of excise duty be covered by a guarantee provided by the authorised warehousekeeper of dispatch or the registered consignor.

2. By way of derogation from paragraph 1, the competent authorities of the Member State of dispatch, under the conditions fixed by them, may allow the guarantee referred to in paragraph 1 to be provided by the transporter or carrier, the owner of the excise goods, the consignee, or jointly by two or more of these persons and the persons mentioned in paragraph 1.

3. The guarantee shall be valid throughout the Community. Its detailed rules shall be laid down by the Member States.

4. The Member State of dispatch may waive the obligation to provide the guarantee in respect of the following movements of excise goods under a duty suspension arrangement:

- (a) movements which take place entirely on its territory;
- (b) where the other Member States concerned so agree, movements of energy products within the Community by sea or by fixed pipeline.

Article 19

1. A registered consignee may neither hold nor dispatch excise goods under a duty suspension arrangement.

2. A registered consignee shall comply with the following requirements:

- (a) before dispatch of the excise goods, guarantee payment of excise duty under the conditions fixed by the competent authorities of the Member State of destination;
- (b) at the end of the movement, enter in his accounts excise goods received under a duty suspension arrangement;

(c) consent to any check enabling the competent authorities of the Member State of destination to satisfy themselves that the goods have actually been received.

3. For a registered consignee receiving excise goods only occasionally, the authorisation referred to in Article 4(9) shall be limited to a specified quantity of excise goods, a single consignor and a specified period of time. Member States may limit the authorisation to a single movement.

Article 20

1. The movement of excise goods under a duty suspension arrangement shall begin, in the cases referred to in Article 17(1)(a) of this Directive, when the excise goods leave the tax warehouse of dispatch, and in the cases referred to in its Article 17(1)(b) upon their release for free circulation in accordance with Article 79 of Regulation (EEC) No 2913/92.

2. The movement of excise goods under a duty suspension arrangement shall end, in the cases referred to in Article 17(1)(a)(i), (ii) and (iv) and Article 17(1)(b), when the consignee has taken delivery of the excise goods and, in the cases referred to in Article 17(1)(a)(iii), when the goods have left the territory of the Community.

SECTION 2

Procedure to be followed on a movement of excise goods under suspension of excise duty

Article 21

1. A movement of excise goods shall be considered to take place under a duty suspension arrangement only if it takes place under cover of an electronic administrative document processed in accordance with paragraphs 2 and 3.

2. For the purposes of paragraph 1 of this Article, the consignor shall submit a draft electronic administrative document to the competent authorities of the Member State of dispatch using the computerised system referred to in Article 1 of Decision No 1152/2003/EC (hereinafter 'the computerised system').

3. The competent authorities of the Member State of dispatch shall carry out an electronic verification of the data in the draft electronic administrative document.

Where these data are not valid, the consignor shall be informed thereof without delay.

Where these data are valid, the competent authorities of the Member State of dispatch shall assign to the document a unique administrative reference code and shall communicate it to the consignor.

4. In the cases referred to in Article 17(1)(a)(i), (ii) and (iv), Article 17(1)(b) and Article 17(2), the competent authorities of the Member State of dispatch shall forward the electronic administrative document without delay to the competent authorities of the Member State of destination, which shall forward it to the consignee where the consignee is an authorised warehousekeeper or a registered consignee.

Where the excise goods are intended for an authorised warehousekeeper in the Member State of dispatch, the competent authorities of that Member State shall forward the electronic administrative document directly to him.

5. In the case referred to in Article 17(1)(a)(iii) of this Directive, the competent authorities of the Member State of dispatch shall forward the electronic administrative document to the competent authorities of the Member State where the export declaration is lodged in application of Article 161(5) of Regulation (EEC) No 2913/92 (hereinafter the 'Member State of export'), if that Member State is different from the Member State of dispatch.

6. The consignor shall provide the person accompanying the excise goods with a printed version of the electronic administrative document or any other commercial document mentioning, in a clearly identifiable manner, the unique administrative reference code. It must be possible for that document to be presented to the competent authorities upon request throughout the movement under an excise duty suspension arrangement.

7. The consignor may cancel the electronic administrative document as long as the movement has not begun under Article 20(1).

8. During the movement under a duty suspension arrangement, the consignor may, using the computerised system, amend the destination to show a new destination which must be one of the destinations referred to in Article 17(1)(a)(i), (ii) or (iii) or, where applicable, in Article 17(2).

Article 22

1. In the case of movements of energy products under a duty suspension arrangement by sea or inland waterways to a consignee who is not definitely known at the time when the

consignor submits the draft electronic administrative document referred to in Article 21(2), the competent authorities of the Member State of dispatch may authorise the consignor to omit the data concerning the consignee in that document.

2. As soon as the data concerning the consignee are known, and at the latest at the end of the movement, the consignor shall, using the procedure referred to in Article 21(8), transmit them to the competent authorities of the Member State of dispatch.

Article 23

The competent authorities of the Member State of dispatch may allow, under the conditions fixed by that Member State, that the consignor splits a movement of energy products under suspension of excise duty into two or more movements provided that:

1. the total quantity of excise goods does not change;
2. the splitting is carried out in the territory of a Member State which permits such a procedure;
3. the competent authorities of that Member State are informed of the place where the splitting is carried out.

Member States shall inform the Commission if they allow movements to be split on their territory and under what conditions. The Commission shall transmit this information to the other Member States.

Article 24

1. On receipt of excise goods at any of the destinations referred to in Article 17(1)(a)(i), (ii) or (iv) or in Article 17(2), the consignee shall, without delay and no later than five working days after the end of the movement, except in cases duly justified to the satisfaction of the competent authorities, submit a report of their receipt (hereinafter the 'report of receipt'), using the computerised system.

2. The competent authorities of the Member State of destination shall determine the procedures for presentation of the report of receipt of the goods by the consignees referred to in Article 12(1).

3. The competent authorities of the Member State of destination shall carry out an electronic verification of the data in the report of receipt.

Where these data are not valid, the consignee shall be informed thereof without delay.

Where these data are valid, the competent authorities of the Member State of destination shall confirm to the consignee the registration of the report of receipt and send it to the competent authorities of the Member State of dispatch.

4. The competent authorities of the Member State of dispatch shall forward the report of receipt to the consignor. Where the places of dispatch and of destination are situated in the same Member State, the competent authorities of that Member State shall forward the report of receipt directly to the consignor.

Article 25

1. In the cases referred to in Article 17(1)(a)(iii) and, where applicable, Article 17(1)(b) of this Directive, a report of export shall be completed by the competent authorities of the Member State of export on the basis of the endorsement drawn up by the customs office of exit as referred to in Article 793(2) of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code⁽¹⁾ or by the office where the formalities referred to in Article 3(2) of this Directive are accomplished, certifying that the excise goods have left the territory of the Community.

2. The competent authorities of the Member State of export shall carry out an electronic verification of the data resulting from the endorsement referred to in paragraph 1. Once these data have been verified, and where the Member State of dispatch is different from the Member State of export, the competent authorities of the Member State of export shall send the report of export to the competent authorities of the Member State of dispatch.

3. The competent authorities of the Member State of dispatch shall forward the report of export to the consignor.

Article 26

1. In derogation from Article 21(1), where the computerised system is unavailable in the Member State of dispatch, the consignor may start a movement of excise goods under a duty suspension arrangement provided that:

- (a) the goods are accompanied by a paper document containing the same data as the draft electronic administrative document referred to in Article 21(2);
- (b) he informs the competent authorities of the Member State of dispatch before the beginning of the movement.

The Member State of dispatch may also require a copy of the document referred to in point (a), the verification of the data contained in that copy and, if the consignor is

responsible for the unavailability, appropriate information on the reasons for that unavailability before the beginning of the movement.

2. When the availability of the computerised system is restored, the consignor shall submit a draft electronic administrative document, in accordance with Article 21(2).

As soon as the data in the electronic administrative document have been validated, in accordance with Article 21(3), that document shall replace the paper document referred to in paragraph 1(a) of this Article. Article 21(4) and (5) and Articles 24 and 25 shall apply *mutatis mutandis*.

3. Until such time as the data in the electronic administrative document have been validated, the movement shall be regarded as taking place under a duty suspension arrangement under cover of the paper document referred to in paragraph 1(a).

4. A copy of the paper document referred to in paragraph 1(a) shall be kept by the consignor to back up his records.

5. Where the computerised system is unavailable in the Member State of dispatch, the consignor shall communicate the information referred to in Article 21(8) or Article 23 using alternative means of communication. To that end, he shall inform the competent authorities of the Member State of dispatch before the change of destination or splitting of the movement is initiated. Paragraphs 2 to 4 of this Article shall apply *mutatis mutandis*.

Article 27

1. When, in the cases referred to in Article 17(1)(a)(i), (ii) and (iv), Article 17(1)(b) and Article 17(2), the report of receipt provided for in Article 24(1) cannot be submitted at the end of a movement of excise goods within the deadline provided for in that Article, either because the computerised system is unavailable in the Member State of destination or because, in the situation referred to in Article 26(1), the procedures referred to in Article 26(2) have not yet been carried out, the consignee shall submit to the competent authorities of the Member State of destination, except in duly justified cases, a paper document containing the same data as the report of receipt and stating that the movement has ended.

Except where the report of receipt provided for in Article 24(1) can be submitted promptly by the consignee via the computerised system, or in duly justified cases, the competent authorities of the Member State of destination shall send a copy of the paper document mentioned in the first subparagraph to the competent authorities of the Member State of dispatch, which shall forward it to the consignor or keep it available for him.

⁽¹⁾ OJ L 253, 11.10.1993, p. 1.

As soon as availability of the computerised system is restored in the Member State of destination or the procedures referred to in Article 26(2) have been carried out, the consignee shall submit a report of receipt, in accordance with Article 24(1). Article 24(3) and (4) shall apply *mutatis mutandis*.

2. When, in the case referred to in Article 17(1)(a)(iii), the report of export provided for in Article 25(1) cannot be completed at the end of a movement of excise goods either because the computerised system is unavailable in the Member State of export or because, in the situation referred to in Article 26(1), the procedures referred to in Article 26(2) have not yet been carried out, the competent authorities of the Member State of export shall send to the competent authorities of the Member State of dispatch a paper document containing the same data as the report of export and certifying that the movement has ended, except where the report of export provided for in Article 25(1) can be completed promptly via the computerised system, or in duly justified cases.

The competent authorities of the Member State of dispatch shall forward a copy of the paper document referred to in the first subparagraph to the consignor or keep it available for him.

As soon as availability of the computerised system is restored in the Member State of export or the procedures referred to in Article 26(2) have been carried out, the competent authorities of the Member State of export shall send a report of export in accordance with Article 25(1). Article 25(2) and (3) shall apply *mutatis mutandis*.

Article 28

1. Notwithstanding Article 27, the report of receipt provided for in Article 24(1) or the report of export provided for in Article 25(1) shall constitute proof that a movement of excise goods has ended, in accordance with Article 20(2).

2. By way of derogation from paragraph 1, in the absence of the report of receipt or the report of export for reasons other than those mentioned in Article 27, alternative proof of the end of a movement of excise goods under a duty suspension arrangement may be provided, in the cases referred to in Article 17(1)(a)(i), (ii) and (iv), Article 17(1)(b) and Article 17(2), through an endorsement by the competent authorities of the Member State of destination, based on appropriate evidence, that the excise goods dispatched have reached their stated destination or, in the case referred to in Article 17(1)(a)(iii), through an endorsement by the competent authorities of the Member State in which the customs office of

exit is located, certifying that the excise goods have left the territory of the Community.

A document submitted by the consignee containing the same data as the report of receipt or the report of export shall constitute appropriate evidence for the purposes of the first subparagraph.

Where appropriate evidence has been accepted by the competent authorities of the Member State of dispatch, it shall end the movement in the computerised system.

Article 29

1. The Commission shall, in accordance with the procedure referred to in Article 43(2), adopt measures to determine:

- (a) the structure and content of the messages to be exchanged for the purposes of Articles 21 to 25 between the persons and competent authorities concerned with a movement of excise goods under a duty suspension arrangement;
- (b) the rules and procedures relating to the exchanges of the messages referred to in point (a);
- (c) the structure of the paper documents referred to in Articles 26 and 27.

2. Each Member State shall determine the situations where the computerised system may be considered unavailable and the rules and procedures to be followed in these situations, for the purposes of and in accordance with Articles 26 and 27.

SECTION 3

Simplified procedures

Article 30

Member States may establish simplified procedures in respect of movements of excise goods under a duty suspension arrangement which take place entirely on their territory, including the possibility to waive the requirement of electronic supervision of such movements.

Article 31

By agreement and under conditions fixed by all the Member States concerned, simplified procedures may be established for the purposes of frequent and regular movements of excise goods under a duty suspension arrangement which occur between the territories of two or more Member States.

This provision includes movements via fixed pipelines.

CHAPTER V

**MOVEMENT AND TAXATION OF EXCISE GOODS AFTER
RELEASE FOR CONSUMPTION**

SECTION 1

Acquisition by private individuals*Article 32*

1. Excise duty on excise goods acquired by a private individual for his own use, and transported from one Member State to another by him, shall be charged only in the Member State in which the excise goods are acquired.

2. To determine whether the excise goods referred to in paragraph 1 are intended for the own use of a private individual, Member States shall take account at least of the following:

- (a) the commercial status of the holder of the excise goods and his reasons for holding them;
- (b) the place where the excise goods are located or, if appropriate, the mode of transport used;
- (c) any document relating to the excise goods;
- (d) the nature of the excise goods;
- (e) the quantity of the excise goods.

3. For the purposes of applying paragraph 2(e), Member States may lay down guide levels, solely as a form of evidence. These guide levels may not be lower than:

- (a) for tobacco products:
 - cigarettes: 800 items,
 - cigarillos (cigars weighing not more than 3 g each): 400 items,
 - cigars: 200 items,
 - smoking tobacco: 1,0 kg;
- (b) for alcoholic beverages:
 - spirit drinks: 10 l,
 - intermediate products: 20 l,
 - wines: 90 l (including a maximum of 60 l of sparkling wines),

— beers: 110 l.

4. Member States may also provide that excise duty shall become due in the Member State of consumption on the acquisition of mineral oils already released for consumption in another Member State if such products are transported using atypical modes of transport by a private individual or on his behalf.

For the purposes of this paragraph, 'atypical mode of transport' shall mean the transport of fuels other than in the tanks of vehicles or in appropriate reserve fuel canisters and the transport of liquid heating products other than by means of tankers used on behalf of professional traders.

SECTION 2

Holding in another Member State*Article 33*

1. Without prejudice to Article 36(1), where excise goods which have already been released for consumption in one Member State are held for commercial purposes in another Member State in order to be delivered or used there, they shall be subject to excise duty and excise duty shall become chargeable in that other Member State.

For the purposes of this Article, 'holding for commercial purposes' shall mean the holding of excise goods by a person other than a private individual or by a private individual for reasons other than his own use and transported by him, in accordance with Article 32.

2. The chargeability conditions and rate of excise duty to be applied shall be those in force on the date on which duty becomes chargeable in that other Member State.

3. The person liable to pay the excise duty which has become chargeable shall be, depending on the cases referred to in paragraph 1, the person making the delivery or holding the goods intended for delivery, or to whom the goods are delivered in the other Member State.

4. Without prejudice to Article 38, where excise goods which have already been released for consumption in one Member State move within the Community for commercial purposes, they shall not be regarded as held for those purposes until they reach the Member State of destination, provided that they are moving under cover of the formalities set out in Article 34.

5. Excise goods which are held on board a boat or aircraft making sea-crossings or flights between two Member States but which are not available for sale when the boat or aircraft is in the territory of one of the Member States shall not be regarded as held for commercial purposes in that Member State.

6. The excise duty shall, upon request, be reimbursed or remitted in the Member State where the release for consumption took place where the competent authorities of the other Member State find that excise duty has become chargeable and has been collected in that Member State.

Article 34

1. In the situations referred to in Article 33(1), excise goods shall move between the territories of the various Member States under cover of an accompanying document listing the main data from the document referred to in Article 21(1).

The Commission shall, in accordance with the procedure referred to in Article 43(2), adopt measures establishing the form and content of the accompanying document.

2. The persons referred to in Article 33(3) shall comply with the following requirements:

- (a) before the goods are dispatched, submit a declaration to the competent authorities of the Member State of destination and guarantee payment of the excise duty;
- (b) pay the excise duty of the Member State of destination in accordance with the procedure laid down by that Member State;
- (c) consent to any checks enabling the competent authorities of the Member State of destination to satisfy themselves that the excise goods have actually been received and that the excise duty chargeable on them has been paid.

The Member State of destination may, in situations and under conditions which it lays down, simplify or grant a derogation from the requirements specified in point (a). In such cases, it shall notify the Commission, which shall inform the other Member States.

Article 35

1. Where excise goods already released for consumption in a Member State are moved to a place of destination in that Member State via the territory of another Member State, the following requirements shall apply:

- (a) such a movement shall take place under cover of the accompanying document referred to in Article 34(1) and use an appropriate itinerary;
- (b) the consignor shall, before the excise goods are dispatched, make a declaration to the competent authorities of the place of departure;
- (c) the consignee shall attest to having received the goods in accordance with the rules laid down by the competent authorities of the place of destination;
- (d) the consignor and the consignee shall consent to any checks enabling their respective competent authorities to satisfy themselves that the goods have actually been received.

2. Where excise goods are moved frequently and regularly under the conditions specified in paragraph 1, the Member States concerned may, by agreement, under conditions determined by them, simplify the requirements specified in paragraph 1.

SECTION 3

Distance selling

Article 36

1. Excise goods already released for consumption in one Member State, which are purchased by a person, other than an authorised warehousekeeper or a registered consignee, established in another Member State who does not carry out an independent economic activity, and which are dispatched or transported to another Member State directly or indirectly by the vendor or on his behalf shall be subject to excise duty in the Member State of destination.

For the purposes of this Article, 'Member State of destination' shall mean the Member State of arrival of the consignment or of transport.

2. In the case referred to in paragraph 1, the excise duty shall become chargeable in the Member State of destination at the time of delivery of the excise goods. The chargeability conditions and rate of excise duty to be applied shall be those in force on the date on which duty becomes chargeable.

The excise duty shall be paid in accordance with the procedure laid down by the Member State of destination.

3. The person liable to pay the excise duty in the Member State of destination shall be the vendor.

However, the Member State of destination may provide that the liable person shall be a tax representative, established in the Member State of destination and approved by the competent authorities of that Member State, or, in cases where the vendor has not respected the provision of paragraph 4(a), the consignee of the excise goods.

4. The vendor or tax representative shall comply with the following requirements:

- (a) before dispatching the excise goods, register his identity and guarantee payment of the excise duty with the competent office specifically designated and under the conditions laid down by the Member State of destination;
- (b) pay the excise duty at the office referred to in point (a) after the excise goods arrive;
- (c) keep accounts of deliveries of excise goods.

The Member States concerned may, under conditions determined by them, simplify these requirements on the basis of bilateral agreements.

5. In the case referred to in paragraph 1, the excise duty levied in the first Member State shall be reimbursed or remitted, at the vendor's request, where the vendor or his tax representative has followed the procedures laid down in paragraph 4.

6. Member States may lay down specific rules for applying paragraphs 1 to 5 to excise goods that are covered by special national distribution arrangements.

SECTION 4

Destruction and losses

Article 37

1. In the situations referred to in Article 33(1) and Article 36(1), in the event of the total destruction or irretrievable loss of the excise goods during their transport in a Member State other than the Member State in which they were released for consumption, as a result of the actual nature of the goods, or unforeseeable circumstances, or force majeure, or as a consequence of authorisation by the competent authorities of that Member State, the excise duty shall not be chargeable in that Member State.

The total destruction or irretrievable loss of the excise goods in question shall be proven to the satisfaction of the competent

authorities of the Member State where the total destruction or irretrievable loss occurred or, when it is not possible to determine where the loss occurred, where it was detected.

The guarantee lodged pursuant to Article 34(2)(a) or Article 36(4)(a) shall be released.

2. Each Member State shall lay down its own rules and conditions under which the losses referred to in paragraph 1 are determined.

SECTION 5

Irregularities during the movement of excise goods

Article 38

1. Where an irregularity has occurred during a movement of excise goods under Article 33(1) or Article 36(1), in a Member State other than the Member State in which they were released for consumption, they shall be subject to excise duty and excise duty shall be chargeable in the Member State where the irregularity occurred.

2. Where an irregularity has been detected during a movement of excise goods under Article 33(1) or Article 36(1), in a Member State other than the Member State in which they were released for consumption, and it is not possible to determine where the irregularity occurred, the irregularity shall be deemed to have occurred and the excise duty shall be chargeable in the Member State where the irregularity was detected.

However, if, before the expiry of a period of three years from the date on which the excise goods were acquired, it is ascertained in which Member State the irregularity actually occurred, the provisions of paragraph 1 shall apply.

3. The excise duty shall be due from the person who guaranteed payment thereof in accordance with Article 34(2)(a) or Article 36(4)(a) and from any person who participated in the irregularity.

The competent authorities of the Member State in which the excise goods were released for consumption shall, upon request, reimburse or remit the excise duty where it was levied in the Member State where the irregularity occurred or was detected. The competent authorities of the Member State of destination shall release the guarantee lodged pursuant to Article 34(2)(a) or Article 36(4)(a).

4. For the purposes of this Article, 'irregularity' shall mean a situation occurring during a movement of excise goods under Article 33(1) or Article 36(1), not covered by Article 37 due to which a movement, or a part of a movement, of excise goods has not duly ended.

CHAPTER VI

MISCELLANEOUS

SECTION 1

Marking

Article 39

1. Without prejudice to Article 7(1), Member States may require that excise goods carry tax markings or national identification marks used for fiscal purposes at the time when they are released for consumption in their territory, or, in the cases provided for in Article 33(1), first subparagraph, and Article 36(1), when they enter their territory.

2. Any Member State which requires the use of tax markings or national identification marks as set out in paragraph 1 shall be required to make them available to authorised warehouse-keepers of the other Member States. However, each Member State may require that these markings or marks be made available to a tax representative authorised by the competent authorities of that Member State.

3. Without prejudice to any provisions they may lay down in order to ensure that this Article is implemented properly and to prevent any evasion, avoidance or abuse, Member States shall ensure that tax markings or national identification marks as set out in paragraph 1 do not create obstacles to the free movement of excise goods.

Where such markings or marks are affixed to excise goods, any amount paid or guaranteed to obtain such markings or marks, apart from the fees for issuing them, shall be reimbursed, remitted or released by the Member State which issued them if excise duty has become chargeable and has been collected in another Member State.

The Member State which issued these markings or marks may nevertheless subject the reimbursement, remittance or release of the amount paid or guaranteed to the presentation of evidence, to the satisfaction of its competent authorities, that they have been removed or destroyed.

4. Tax markings or national identification marks as set out in paragraph 1 shall be valid in the Member State which issued them. However, there may be mutual recognition of these markings or marks between Member States.

SECTION 2

Small wine producers

Article 40

1. Member States may exempt small wine producers from the requirements of Chapters III and IV and from the other requirements relating to movement and monitoring. Where these small producers themselves carry out intra-Community transactions, they shall inform their relevant authorities and comply with the requirements laid down by Commission Regulation (EC) No 884/2001 of 24 April 2001 laying down detailed rules of application concerning the documents accompanying the carriage of wine products and the records to be kept in the wine sector ⁽¹⁾.

2. Where small wine producers are exempt from requirements in accordance with paragraph 1, the consignee shall, by means of the document required by Regulation (EC) No 884/2001 or by a reference to it, inform the competent authorities of the Member State of destination of the wine deliveries received.

3. For the purposes of this Article, 'small wine producers' shall mean persons producing on average less than 1 000 hl of wine per year.

SECTION 3

Stores for boats and aircraft

Article 41

Until the Council has adopted Community provisions on stores for boats and aircraft, Member States may maintain their national provisions concerning exemptions for such stores.

SECTION 4

Special arrangements

Article 42

Member States which have concluded an Agreement on the responsibility for the construction or maintenance of a trans-border bridge may adopt measures derogating from the provisions of this Directive in order to simplify the procedure for collecting excise duty on the excise goods used for the construction and the maintenance of that bridge.

For the purposes of those measures, the bridge and the construction sites referred to in the Agreement shall be deemed to be part of the territory of the Member State which is responsible for the construction or maintenance of the bridge in accordance with the Agreement.

⁽¹⁾ OJ L 128, 10.5.2001, p. 32.

The Member States concerned shall notify those measures to the Commission, which shall inform the other Member States.

CHAPTER VII

COMMITTEE ON EXCISE DUTY

Article 43

1. The Commission shall be assisted by a committee referred to as the 'Committee on Excise Duty'.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

Article 44

The Committee on Excise Duty shall, in addition to its tasks under Article 43, examine the matters raised by its chairman, either on his own initiative or at the request of the representative of a Member State, concerning the application of Community provisions on excise duty.

CHAPTER VIII

TRANSITIONAL AND FINAL PROVISIONS

Article 45

1. By 1 April 2013, the Commission shall submit to the European Parliament and the Council a report on the implementation of the computerised system and, in particular, on the obligations referred to in Article 21(6) and on the procedures applicable should the system be unavailable.

2. By 1 April 2015, the Commission shall submit to the European Parliament and the Council a report on the implementation of this Directive.

3. The reports set out in paragraphs 1 and 2 shall be based in particular on the information provided by the Member States.

Article 46

1. Until 31 December 2010, Member States of dispatch may continue to allow movements of excise goods under a duty suspension arrangement which were initiated under cover of

the formalities set out in Article 15(6) and Article 18 of Directive 92/12/EEC.

Those movements, as well as their discharge, shall be subject to the provisions referred to in the first subparagraph as well as to Article 15(4) and (5) and Article 19 of Directive 92/12/EEC. Article 15(4) of that Directive shall apply with regard to all the guarantors designated in accordance with Article 18(1) and (2) of this Directive.

Articles 21 to 27 of this Directive shall not apply to those movements.

2. Movements of excise goods which were initiated before 1 April 2010 shall be carried out and discharged in accordance with the provisions of Directive 92/12/EEC.

This Directive shall not apply to those movements.

Article 47

1. Directive 92/12/EEC is repealed with effect from 1 April 2010.

However, it shall continue to apply within the limits and for the purposes defined in Article 46.

2. References to the repealed Directive shall be construed as references to this Directive.

Article 48

1. Member States shall adopt and publish, not later than 1 January 2010, the laws, regulations and administrative provisions necessary to comply with this Directive with effect from 1 April 2010. They shall forthwith communicate to the Commission the text of such laws, regulations and administrative provisions together with a table showing the correlation between them and this Directive.

When they are adopted by Member States, these measures shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

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.

Article 49

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

Article 50

This Directive is addressed to the Member States.

Done at Brussels, 16 December 2008.

For the Council

The President

R. BACHELOT-NARQUIN

COMMISSION DIRECTIVE 2009/1/EC**of 7 January 2009****amending, for the purposes of its adaptation to technical progress, Directive 2005/64/EC of the European Parliament and of the Council on the type-approval of motor vehicles with regard to their reusability, recyclability and recoverability****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

- (4) The measures provided for in this Directive are in accordance with the opinion of the Committee on the Adaptation to Technical Progress — Motor Vehicles,

Having regard to the Treaty establishing the European Community,

HAS ADOPTED THIS DIRECTIVE:

Having regard to Directive 2005/64/EC of the European Parliament and of the Council of 26 October 2005 on the type-approval of motor vehicles with regard to their reusability, recyclability and recoverability and amending Council Directive 70/156/EEC ⁽¹⁾, and in particular the second subparagraph of Article 6(2) thereof,

Article 1

Annex IV to Directive 2005/64/EC is amended by inserting a new paragraph 4 as follows:

Whereas:

- (1) Directive 2005/64/EC is one of the separate Directives in the context of the EC type-approval procedure established under Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers ⁽²⁾.

- ‘4.1. For the purposes of preliminary assessment under Article 6 of Directive 2005/64/EC, the vehicle manufacturer shall be required to demonstrate that, through contractual arrangements with his suppliers, compliance with Article 4(2)(a) of Directive 2000/53/EC is ensured.

- (2) It is necessary to establish the detailed rules enabling to verify, in the framework of the preliminary assessment of the manufacturer referred to in Article 6 of Directive 2005/64/EC, whether the materials used for the construction of a vehicle type comply with the provisions of Article 4(2)(a) of Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles ⁽³⁾.

- 4.2. For the purposes of preliminary assessment under Article 6 of Directive 2005/64/EC, the vehicle manufacturer shall be required to establish procedures for the following purposes:

- (3) In particular, it is appropriate to ensure that competent authorities are able to verify for the purpose of reusability, recyclability and recoverability the existence of contractual arrangements between the vehicle manufacturer concerned and his suppliers and that the requirements for this purpose contained in such arrangements are properly communicated.

- (a) to communicate the applicable requirements to his staff and to all of his suppliers;
- (b) to monitor and ensure that suppliers act in accordance with those requirements;
- (c) to collect the relevant data through the full supply chain;
- (d) to check and verify the information received from suppliers;
- (e) to react adequately where the data received from the suppliers indicate non-compliance with the requirements under Article 4(2)(a) of Directive 2000/53/EC.

⁽¹⁾ OJ L 310, 25.11.2005, p. 10.

⁽²⁾ OJ L 42, 23.2.1970, p. 1.

⁽³⁾ OJ L 269, 21.10.2000, p. 34.

- 4.3. For the purposes of paragraph 4.1 and 4.2, the vehicle manufacturer shall be required to use, in agreement with the competent body, ISO 9000/14000 or other standardised quality assurance programme.'

Article 2

With effect from 1 January 2012, if the requirements laid down in Directive 2005/64/EC as amended by this Directive are not complied with, Member States, on grounds related to the reusability, recyclability and recoverability of motor vehicles, shall refuse to grant EC type-approval or national type-approval for new types of vehicles.

Article 3

1. Member States shall adopt and publish, by 3 February 2010, 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 those provisions from 4 February 2010.

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.

Article 4

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

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 7 January 2009.

For the Commission
Günter VERHEUGEN
Vice-President

II

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

DECISIONS

COUNCIL

DECISION No 1/2008 OF THE EU-JORDAN ASSOCIATION COUNCIL

of 10 November 2008

on the establishment of a tariff dismantling schedule for products appearing in Annex IV to the Association Agreement

(2009/20/EC)

THE ASSOCIATION COUNCIL,

HAS DECIDED AS FOLLOWS:

Having regard to the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part ⁽¹⁾ (hereinafter the 'Association Agreement'), signed in Brussels on 24 November 1997 and which entered into force on 1 May 2002, and in particular Articles 6 and 11(5) thereof,

Article 1

Imports into Jordan of the products originating in the Community listed in Annex IV to the Association Agreement shall be subject to the tariff dismantling schedule detailed in Article 2. The schedule shall apply with effect from 1 May 2008.

Article 2

Whereas:

- (1) Under the Association Agreement the Community and Jordan are progressively to establish a free trade area over a transitional period lasting for a maximum of 12 years beginning from the entry into force of the Association Agreement, in accordance with the provisions of the Agreement and in conformity with those of the General Agreement on Tariffs and Trade of 1994.
- (2) In accordance with the Association Agreement, the Association Council is to re-examine the arrangements to be applied to products listed in Annex IV to the Agreement, containing a list of industrial products originating in the Community, four years after its entry into force, and at the time of that re-examination, to establish a tariff dismantling schedule for those products.
- (3) The tariff dismantling schedule for products appearing in Annex IV to the Association Agreement has been negotiated by the European Commission and Jordan,

1. Customs duties applicable to imports into Jordan of products originating in the Community listed in list 1 of the Annex to this Decision shall be eliminated over a period of two years, beginning on 1 May 2008, and such products shall be duty free with effect from 1 May 2009. The phasing out of the customs duties shall take place in accordance with the following schedule:

(a) on 1 May 2008, the duty shall be reduced to 3 %;

(b) on 1 May 2009, the remaining duty shall be abolished.

2. Customs duties applicable to imports into Jordan of products originating in the Community listed in list 2 of the Annex to this Decision shall be eliminated over seven years beginning on 1 May 2008, and such products shall be duty free with effect from 1 May 2014. The phasing out of the customs duties shall take place in accordance with the following schedule:

(a) on 1 May 2008, the duty shall be reduced to 90 % of the basic duty;

⁽¹⁾ OJ L 129, 15.5.2002, p. 3.

- (b) on 1 May 2009, the duty shall be reduced to 80 % of the basic duty;
- (c) on 1 May 2010, the duty shall be reduced to 70 % of the basic duty;
- (d) on 1 May 2011, the duty shall be reduced to 60 % of the basic duty;
- (e) on 1 May 2012, the duty shall be reduced to 50 % of the basic duty;
- (f) on 1 May 2013, the duty shall be reduced to 40 % of the basic duty;
- (g) on 1 May 2014, the remaining duty shall be abolished.

3. Customs duties applicable to imports into Jordan of products originating in the Community listed in list 3 of the Annex to this Decision shall not be abolished. The Jordanian

authorities and European Commission shall jointly review in the industry, trade and services subcommittee the evolution of Community imports into Jordan of beer (HS 2203) and vermouth (HS 2205), to assess any significant reduction of Community imports caused by the preferential treatment accorded to other trading partners. In the event that a significant reduction of Community imports is proved, the Jordanian authorities and the European Commission shall review the applicable customs duties on those two products with a view to remedying the identified imbalance.

Article 3

This Decision shall enter into force on the day of its adoption by the Association Council.

Done at Brussels, 10 November 2008.

For the Association Council

The President

J.-P. JOUYET

ANNEX

List 1

HS Code	Description
ex 8703 10 000 (*)	- Vehicles specially designed for travelling on snow; golf cars and similar vehicles
ex 8703 21 300 (*)	--- Vehicles specially designed as ambulances and hearses
ex 8703 21 400 (*)	--- Furnished vehicles prepared for picnics (campers)
ex 8703 21 900 (*)	--- Other
ex 8703 22 300 (*)	--- Vehicles specially designed as ambulances and hearses
ex 8703 22 400 (*)	--- Furnished vehicles prepared for picnics (campers)
ex 8703 22 900 (*)	--- Other
ex 8703 23 130 (*)	---- Vehicles specially designed as ambulances and hearses
ex 8703 23 140 (*)	---- Furnished vehicles prepared for picnics (campers)
ex 8703 23 190 (*)	---- Other
ex 8703 23 210 (*)	---- Vehicles specially designed as ambulances and hearses
ex 8703 23 220 (*)	---- Furnished vehicles prepared for picnics (campers)
ex 8703 23 290 (*)	---- Other
ex 8703 23 310 (*)	---- Vehicles specially designed as ambulances and hearses
ex 8703 23 320 (*)	---- Furnished vehicles prepared for picnics (campers)
ex 8703 23 390 (*)	---- Other
ex 8703 24 100 (*)	--- Vehicles specially designed as ambulances and hearses
ex 8703 24 200 (*)	--- Furnished vehicles prepared for picnics (campers)
ex 8703 24 900 (*)	--- Other
ex 8703 31 300 (*)	--- Vehicles specially designed as ambulances and hearses
ex 8703 31 400 (*)	--- Furnished vehicles prepared for picnics (campers)
ex 8703 31 900 (*)	--- Other
ex 8703 32 130 (*)	---- Vehicles specially designed as ambulances and hearses
ex 8703 32 140 (*)	---- Furnished vehicles prepared for picnics (campers)
ex 8703 32 190 (*)	---- Other
ex 8703 32 210 (*)	---- Vehicles specially designed as ambulances and hearses

HS Code	Description
ex 8703 32 220 (*)	----- Furnished vehicles prepared for picnics (campers)
ex 8703 32 290 (*)	----- Other
ex 8703 33 110 (*)	----- Vehicles specially designed as ambulances and hearses
ex 8703 33 120 (*)	----- Furnished vehicles prepared for picnics (campers)
ex 8703 33 190 (*)	----- Other
ex 8703 33 210 (*)	----- Vehicles specially designed as ambulances and hearses
ex 8703 33 220 (*)	----- Furnished vehicles prepared for picnics (campers)
ex 8703 33 290 (*)	----- Other
ex 8703 90 300 (*)	---- Vehicles specially designed as ambulances and hearses
ex 8703 90 400 (*)	---- Furnished vehicles prepared for picnics (campers)
ex 8703 90 590 (*)	----- Other
ex 8703 90 600 (*)	----- Others, of a cylinder capacity exceeding 2 000 cc but not exceeding 2 500 cc.
ex 8703 90 700 (*)	----- Others, of a cylinder capacity exceeding 2 500 cc
ex 8703 90 900 (*)	--- Other

(*) "Used vehicles" means vehicles which are over six months after registration and have run at least 6 000 km.

List 2

HS Code	Description
5701 10 000	- Of wool or fine animal hair
5701 90 000	- Of other textile materials
5702 10 000	- Kelem, Schumacks, Karamanie and similar hand-woven rugs
5702 20 000	- Floor coverings of coconut fibres (coir)
5702 31 000	-- Of wool or fine animal hair
5702 39 000	-- Of other textile materials
5702 41 000	-- Of wool or fine animal hair
5702 49 000	-- Of other textile materials
5702 51 000	-- Of wool or fine animal hair
5702 59 000	-- Of other textile materials
5702 91 000	-- Of wool or fine animal hair

HS Code	Description
5702 99 000	-- Of other textile materials
5703 10 000	- Of wool or fine animal hair
5703 90 000	- Of other textile materials
5704 10 000	- Tiles, having a maximum surface area of 0,3 m ²
5705 00 000	Other carpets and other textile floor coverings, whether or not made up
6101 10 000	- Of wool or fine animal hair
6101 90 000	- Of other textile materials
6102 10 000	- Of wool or fine animal hair
6102 30 000	- Of man-made fibres
6102 90 000	- Of other textile materials
6103 12 000	-- Of synthetic fibres
6103 19 000	-- Of other textile materials
6103 21 000	-- Of wool or fine animal hair
6103 22 000	-- Of cotton
6103 23 000	-- Of synthetic fibres
6103 29 000	-- Of other textile materials
6103 39 000	-- Of other textile materials
6103 49 000	-- Of other textile materials
6104 12 000	-- Of cotton
6104 13 000	-- Of synthetic fibres
6104 23 000	-- Of synthetic fibres
6104 29 000	-- Of other textile materials
6104 31 000	-- Of wool or fine animal hair
6104 39 000	-- Of other textile materials
6104 44 000	-- Of artificial fibres
6104 49 000	-- Of other textile materials
6104 59 000	-- Of other textile materials
6104 61 000	-- Of wool or fine animal hair
6104 69 000	-- Of other textile materials

HS Code	Description
6106 10 000	- Of cotton
6108 11 000	-- Of man-made fibres
6108 19 000	-- Of other textile materials
6108 29 000	-- Of other textile materials
6108 32 000	-- Of man-made fibres
6108 39 000	-- Of other textile materials
6108 99 000	-- Of other textile materials
6110 90 000	- Of other textile materials
6111 90 000	- Of other textile materials
6112 20 000	- Ski suits
6112 31 000	-- Of synthetic fibres
6112 39 000	-- Of other textile materials
6112 41 000	-- Of synthetic fibres
6112 49 000	-- Of other textile materials
6113 00 000	Garments, made up of knitted or crocheted fabrics of heading 59.03, 59.06 or 59.07.
6114 10 000	- Of wool or fine animal hair
6114 90 000	- Of other textile materials
6115 99 900	--- Other
6116 10 000	- Impregnated, coated or covered with plastics or rubber
6116 91 000	-- Of wool or fine animal hair
6116 92 000	-- Of cotton
6116 93 000	-- Of synthetic fibres
6116 99 000	-- Of other textile materials
6117 10 000	- Shawls, scarves, mufflers, mantillas, veils and the like
6117 20 000	- Ties, bow-ties and cravats
6117 80 000	- Other accessories
6117 90 900	--- Other
6201 13 000	-- Of man-made fibres
6201 19 000	-- Of other textile materials

HS Code	Description
6201 99 000	-- Of other textile materials
6202 19 000	-- Of other textile materials
6202 91 000	-- Of wool or fine animal hair
6202 99 000	-- Of other textile materials
6205 90 000	- Of other textile materials
6206 10 000	- Of silk or silk waste
6206 40 000	- Of man-made fibres
6206 90 000	- Of other textile materials
6207 11 000	-- Of cotton
6207 19 000	-- Of other textile materials
6207 22 000	-- Of man-made fibres
6207 29 000	-- Of other textile materials
6207 92 000	-- Of man-made fibres
6207 99 000	-- Of other textile materials
6208 11 000	-- Of man-made fibres
6208 19 000	-- Of other textile materials
6208 21 000	-- Of cotton
6208 22 000	-- Of man-made fibres
6208 29 000	-- Of other textile materials
6208 91 000	-- Of cotton
6208 92 000	-- Of man-made fibres
6208 99 000	-- Of other textile materials
6209 10 000	- Of wool or fine animal hair
6209 90 000	- Of other textile materials
6210 10 000	- Of fabrics of heading 56.02 or 56.03
6210 40 000	- Other men's or boys' garments
6210 50 000	- Other women's or girls' garments
6211 11 000	-- Men's or boys'
6211 12 000	-- Women's or girls'

HS Code	Description
6211 20 000	- Ski suits
6211 31 000	-- Of wool or fine animal hair
6211 33 000	-- Of man-made fibres
6211 39 000	-- Of other textile materials
6211 41 000	-- Of wool or fine animal hair
6211 43 000	-- Of man-made fibres
6211 49 000	-- Of other textile materials
6212 20 000	- Girdles and panty-girdles
6212 30 000	- Corselettes
6212 90 000	- Other
6213 10 000	- Of silk or silk waste
6213 20 000	- Of cotton
6213 90 000	- Of other textile materials
6216 00 000	Gloves, mittens and mitts
6217 10 000	- Accessories
6217 90 900	--- Other
6309 00 100	--- Footwear
6309 00 900	--- Other
6401 10 000	- Footwear incorporating a protective metal toe-cap
6401 91 000	-- Covering the knee
6401 92 000	-- Covering the ankle but not covering the knee
6401 99 000	-- Other
6402 12 000	-- Ski-boots, cross-country ski footwear and snowboard boots
6402 19 000	-- Other
6402 20 000	- Footwear with upper straps or thongs assembled to the sole by means of plugs
6402 30 000	- Other footwear, incorporating a protective metal toe-cap
6402 91 000	-- Covering the ankle
6402 99 000	-- Other
6405 10 000	- With uppers of leather or composition leather

HS Code	Description
6405 20 000	– With uppers of textile materials
6405 90 000	– Other
6406 10 000	– Uppers and parts thereof, other than stiffeners
6406 20 000	– Outer soles and heels, of rubber or plastics
6406 91 000	-- Of wood
6406 99 000	-- Of other materials
9401 20 000	– Seats of a kind used for motor vehicles
9401 30 000	– Swivel seats with variable height adjustment
9401 40 000	– Seats other than garden seats or camping equipment, convertible into beds
9401 50 000	– Seats of cane, osier, bamboo or similar materials
9401 61 000	-- Upholstered
9401 69 000	-- Other
9401 71 000	-- Upholstered
9401 79 000	-- Other
9401 80 900	--- Other
9401 90 000	– Parts
9402 10 100	--- Barbers' chairs
9403 10 000	– Metal furniture of a kind used in offices
9403 20 000	– Other metal furniture
9403 30 000	– Wooden furniture of a kind used in offices
9403 40 000	– Wooden furniture of a kind used in the kitchen
9403 50 000	– Wooden furniture of a kind used in the bedroom
9403 60 000	– Other wooden furniture
9403 70 000	– Furniture of plastics
9403 80 000	– Furniture of other materials, including cane, osier, bamboo or similar materials
9403 90 000	– Parts
9404 10 000	– Mattress supports
9404 21 000	-- Of cellular rubber or plastics, whether or not covered
9404 29 000	-- Of other materials

HS Code	Description
9404 30 000	- Sleeping bags
9404 90 000	- Other
9405 10 000	- Chandeliers and other electric ceiling or wall lighting fittings, excluding those of a kind used for lighting public open spaces or thoroughfares
9405 20 000	- Electric table, desk, bedside or floor-standing lamps
9405 30 000	- Lighting sets of a kind used for Christmas trees
9405 40 900	--- Other
9405 50 900	--- Other
9405 60 000	- Illuminated signs, illuminated name-plates and the like
9405 91 900	--- Other
9405 92 900	--- Other
9405 99 900	--- Other
9406 00 900	--- Other

List 3

HS Code	Description
2203 00 000	Beer made from malt
2205 10 000	- Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances, in containers holding 2 litres or less
2205 90 000	- Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances: other
2402 10 000	- Cigars, cheroots and cigarillos, containing tobacco
2402 20 000	- Cigarettes containing tobacco
2402 90 100	--- Cigars
2402 90 200	--- Cigarettes
2403 99 900	--- Other

DECISION No 1/2008 OF THE EU-MOROCCO ASSOCIATION COUNCIL

of 26 November 2008

setting up a customs cooperation committee and adopting the rules of procedure for the economic dialogue group, amending the rules of procedure of certain subcommittees of the Association Committee

(2009/21/EC)

THE ASSOCIATION COUNCIL,

Having regard to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part ⁽¹⁾, hereinafter referred to as the 'Association Agreement',

Having regard to Decision No 1/2003 of the EU-Morocco Association Council of 24 February 2003 setting up subcommittees of the Association Committee ⁽²⁾, and in particular the fourth paragraph of the sole Article thereof,

Having regard to Recommendation No 1/2005 of the EU-Morocco Association Council of 24 October 2005 on the implementation of the EU-Morocco Action Plan ⁽³⁾,

Whereas:

(1) The Union's relations with Morocco, arising from the implementation of the Association Agreement and the EU-Morocco Action Plan adopted under the neighbourhood policy, are increasingly close.

(2) Both Parties are determined to reinforce still more their relations and to open new perspectives for them.

(3) Implementation of the partnership's priorities and approximation of legislation should be monitored. The EU's competences provide a framework for developing relations and cooperation with the Mediterranean countries in a manner consonant with the coherence and overall balance of the Barcelona Process.

(4) Decision No 2/2005 of the EU-Morocco Association Council of 18 November 2005 amending Protocol 4 to the Euro-Mediterranean Agreement, concerning the definition of the concept of 'originating products' and

methods of administrative cooperation ⁽⁴⁾, removed the reference to the customs cooperation committee. A new legal basis for the establishment of the customs cooperation committee must therefore be created.

(5) Article 84 of the Association Agreement provides for the setting up of the working groups or bodies necessary for the implementation of the Agreement.

(6) Article 44(a) of the Association Agreement established an economic dialogue between the EU and Morocco. Rules of procedure should be adopted for the economic dialogue group.

(7) New areas of dialogue and cooperation have emerged since the agreement on the EU-Morocco Action Plan. Not all of these areas are covered by the subcommittees created by Decision No 1/2003 of the Association Council.

(8) Steps must be taken to ensure that all the subject areas mentioned in the Association Agreement and the EU-Morocco Action Plan are monitored by the relevant subcommittees,

HAS DECIDED AS FOLLOWS:

Article 1

An EU-Morocco Customs Cooperation Committee shall be set up under the Association Committee charged with scrutinising implementation of the Association Agreement and the EU-Morocco Action Plan approved under the neighbourhood policy, providing administrative cooperation in the implementation of Protocol No 4 to the Association Agreement, and carrying out any other tasks in the customs field which may be entrusted to it.

The rules of procedure of the Customs Cooperation Committee are provided in Annex 1.

⁽¹⁾ OJ L 70, 18.3.2000, p. 2.

⁽²⁾ OJ L 79, 26.3.2003, p. 14.

⁽³⁾ OJ L 285, 28.10.2005, p. 49.

⁽⁴⁾ OJ L 336, 21.12.2005, p. 1.

The Customs Cooperation Committee shall work under the authority of the Association Committee, to which it shall report after each meeting. The Customs Cooperation Committee shall have no decision-making power. It may, however, make recommendations with a view to facilitating the proper implementation of the Association Agreement and submit proposals to the Association Committee. These recommendations and proposals shall be adopted by mutual consent.

The Association Committee shall take any other action needed to ensure that the Customs Cooperation Committee operates properly and inform the Association Council accordingly.

Article 2

The rules of procedure of the economic dialogue group set up by Article 44(a) of the Association Agreement are provided in Annex 2 and are hereby adopted.

The economic dialogue group shall work under the authority of the Association Committee, to which it shall report after each meeting. The group shall have no decision-making power. It may, however, submit proposals to the Association Committee.

The Association Committee shall take any other action needed to ensure that the group operates properly and inform the Association Council accordingly.

Article 3

The lists of subject areas covered by subcommittees No 1 'Internal market', No 2 'Industry, trade and services', No 3 'Transport, environment and energy', No 5 'Agriculture and fisheries' and No 6 'Justice and security' of the Association Council, as indicated in Annex III, point 3, of the rules of procedure of the subcommittees adopted by Decision No 1/2003 of the Association Council, shall be amended in accordance with the provisions of Annex 3 of this Decision.

Article 4

This Decision shall enter into force on the day of its adoption.

Done at Brussels, 26 November 2008.

For the Association Council

The President

M. NICOLAIDIS

ANNEX I

RULES OF PROCEDURE OF THE EU-MOROCCO CUSTOMS COOPERATION COMMITTEE**1. Composition and chair**

The EU-Morocco Customs Cooperation Committee, hereinafter 'the committee', shall be composed of representatives of the European Commission, assisted by Member States' customs experts, and of customs representatives (and/or other Government representatives) of Morocco. The committee shall be chaired alternately by a customs representative of Morocco and a representative of the European Community.

2. Role

The committee shall work under the authority of the Association Committee, to which it shall report after each meeting. The committee does not have decision-making power. It may, however, submit proposals to the Association Committee.

3. Subject matter

The committee shall discuss all customs aspects of the implementation of the Association Agreement and of the EU-Morocco Action Plan approved under the neighbourhood policy. In particular, it shall assess progress on the approximation, implementation and enforcement of laws. Where relevant, cooperation in public administration matters shall be discussed. The committee shall discuss any problems that may arise in the customs field (in particular, origin rules, general customs procedures, customs nomenclature, customs value, tariff arrangements, customs cooperation) and suggest steps that might be taken. At the Association Committee's request, other subjects, including horizontal matters, may be discussed by the committee.

The committee may discuss matters relating to one, several or all issues relating to customs.

4. Secretariat

An official of the European Commission and an official of the Government of Morocco shall act jointly as permanent secretaries of the committee.

All communications concerning the committee shall be forwarded to the secretaries of the committee.

5. Meetings

The committee shall meet whenever circumstances require and at least once a year. A meeting may be convened on the basis of a request from either Party, channelled through their secretary, who will pass the request onto the other Party. Upon receipt of a request for a committee meeting, the secretary of the other Party shall reply within 15 working days.

In cases of particular urgency, committee meetings may be convened at shorter notice subject to the agreement of both Parties. All requests to convene meetings should be in writing.

Each meeting of the committee shall be held at a time and place agreed by both Parties.

The meetings shall be convened by the secretary in charge in agreement with the chair. Before each meeting, the chair will be informed of the intended composition of the delegation of each Party.

If both Parties agree, the committee may invite to its meetings other representatives of the technical departments of both Parties concerned by or involved in horizontal issues, and experts to provide specific information.

6. Agendas for meetings

All requests for items to be included in the committee agenda shall be forwarded to the secretaries of the committee.

A provisional agenda will be drawn up by the chair for each meeting. It shall be forwarded by the secretary of the committee in charge to his or her counterpart not later than 10 days before the beginning of the meeting.

The provisional agenda shall include items in respect of which the secretaries have received a request for inclusion in the provisional agenda no later than 15 days before the beginning of the meeting. Reference papers and supporting documentation must be received by both Parties at least seven days ahead of the meeting. To take account of special and/or urgent matters, later notification and supply of documentation may be allowed, provided both Parties agree.

The agenda shall be adopted by the committee at the beginning of each meeting.

7. Minutes

Minutes shall be taken and agreed by both secretaries after each meeting. A copy of the minutes, including the committee's proposals, shall be forwarded by the secretaries of the committee to the secretaries and chair of the Association Committee.

8. Publicity

Unless otherwise decided, the meetings of the committee shall not be public.

ANNEX II

RULES OF PROCEDURE OF THE EU-MOROCCO ECONOMIC DIALOGUE GROUP**1. Composition and chair**

The economic dialogue group, hereinafter the 'group', shall be composed of representatives of the European Commission and representatives of the Government of Morocco, and shall be co-chaired by the two Parties. The Member States shall be informed and invited to the group meetings.

2. Role

The group shall be a forum for discussion, consultation and follow-up. It shall work under the authority of the Association Committee, to which it shall report after each meeting. It shall have no decision-making power. It may, however, submit proposals to the Association Committee.

3. Subject matter

The group shall be a forum for the discussion of macroeconomic issues. It shall also discuss the implementation of the Association Agreement and the EU-Morocco Action Plan approved under the neighbourhood policy, particularly in the sectors listed below, especially as regards progress in the approximation, implementation and enforcement of laws. Where relevant, cooperation in public administration matters shall be discussed. The group shall consider any problem that may arise in the sectors listed below and suggest what measures may be taken:

- (a) The macroeconomic framework;
- (b) Structural reforms;
- (c) Financial sector and capital markets (macroeconomic aspects);
- (d) Movement of capital and current payments;
- (e) Management and control of public finances;
- (f) Taxation;
- (g) Statistics.

The above list is not exhaustive and other subjects, including horizontal matters, may be added by the Association Committee.

The group may discuss matters relating to one, several or all of the above sectors.

4. Secretariat

An official of the European Commission and an official of the Government of Morocco shall act jointly as permanent secretaries of the group.

All communications concerning the group shall be forwarded to the secretaries of the group.

5. Meetings

The group shall meet whenever circumstances require and at least once a year. A meeting may be convened on the basis of a request from either Party, channelled through their secretary, who will pass the request onto the other Party. Upon receipt of a request for a group meeting, the secretary of the other Party shall reply within 15 working days.

In cases of particular urgency, meetings of the group may be convened at shorter notice subject to the agreement of both Parties. All requests to convene meetings should be in writing.

Each meeting of the group shall be held alternately in Brussels and in Rabat on a date agreed by both Parties.

The meetings shall be convened by the secretary in charge in agreement with the chair. Before each meeting, the chair will be informed of the intended composition of each Party's delegation.

If both Parties agree, the group may invite experts to its meetings to provide specific information.

6. Agendas for meetings

All requests for items to be included on the group's agenda shall be forwarded to the secretaries of the committee.

A provisional agenda will be drawn up for each meeting alternately by each co-chair. It shall be forwarded by the group's secretary to his or her counterpart not later than 10 days before the beginning of the meeting.

The provisional agenda shall include the items in respect of which the secretaries have received a request for inclusion in the agenda no later than 15 days before the beginning of the meeting. Supporting documentation must be received by both Parties at least seven days ahead of the meeting. To take account of special and/or urgent matters, later notification and supply of documentation may be allowed, provided both Parties agree.

The agenda shall be adopted by the group at the beginning of each meeting.

7. Minutes

Minutes shall be taken and agreed by both secretaries after each meeting. A copy of the minutes, including the group's proposals, shall be forwarded by the secretaries of the group to the secretaries and chair of the Association Committee.

8. Publicity

Unless otherwise decided, the meetings of the group shall not be public.

ANNEX III

A. RULES OF PROCEDURE OF EU-MOROCCO SUBCOMMITTEE No 1 'INTERNAL MARKET'

In Annex II, point 3 'Subject matter', of Decision 1/2003 of the Association Council, the list of sectors covered by the subcommittee is replaced by the following:

- '(a) Standardisation, certification, conformity assessment and market surveillance (aspects other than those relating to trade agreements in these areas);
- (b) Competition and State aid;
- (c) Intellectual, industrial and commercial property rights;
- (d) Public procurement;
- (e) Consumer protection;
- (f) Services (regulatory issues), including financial and postal services;
- (g) Company law and the right of establishment.'

B. RULES OF PROCEDURE OF EU-MOROCCO SUBCOMMITTEE No 2 'INDUSTRY, TRADE AND SERVICES'

In Annex II, point 3 'Subject matter', of Decision 1/2003 of the Council Association, the list of sectors covered by the subcommittee is replaced by the following:

- '(a) Industrial cooperation and enterprise policy;
- (b) Trade issues;
- (c) Trade in services and the right of establishment;
- (d) Tourism and the craft sector;
- (e) Preparation of trade agreements on technical regulations, standardisation, standards and conformity assessment;
- (f) Data protection;
- (g) Trade statistics.'

C. RULES OF PROCEDURE OF EU-MOROCCO SUBCOMMITTEE No 3 'TRANSPORT, ENVIRONMENT AND ENERGY'

In Annex II, point 3 'Subject matter', of Decision 1/2003 of the Association Council, the list of sectors covered by the subcommittee is replaced by the following:

- '(a) Transport: including infrastructure modernisation and development, strengthening security and safety of all modes of transport, control and management of ports and airports, and improvements to the multimodal system by integrating the interoperability issue.
- (b) Environment: including building capacity in institutional and legal aspects of environmental governance and for tackling the various forms of pollution; supporting the integration of the environmental dimension in the priority sectors of the Euro-Mediterranean Partnership with a view to sustainable development; the implementation of national environmental protection programmes, in particular those dealing with sewage treatment and solid waste management; stepping up regional and international cooperation, in particular in the area of climate change.
- (c) Energy: including infrastructure modernisation and development, security and safety of the energy infrastructure and the transport of energy, demand management, promotion of renewable energies, research and cooperation on data exchange.'

D. RULES OF PROCEDURE OF EU-MOROCCO SUBCOMMITTEE No 5 'AGRICULTURE AND FISHERIES'

In Annex II, point 3 'Subject matter', of Decision 1/2003 of the Council Association, the list of sectors covered by the subcommittee is replaced by the following:

- '(a) Agricultural and fisheries products;
- (b) Agricultural cooperation and rural development;
- (c) Processed agricultural products;
- (d) Veterinary and phytosanitary matters;
- (e) Legislation applicable to trade in these products.'

E. RULES OF PROCEDURE OF EU-MOROCCO SUBCOMMITTEE No 6 'JUSTICE AND SECURITY'

In Annex II, point 3 'Subject matter', of Decision 1/2003 of the Council Association, the list of sectors covered by the subcommittee is replaced by the following:

- '(a) Cooperation on justice;
 - (b) Judicial cooperation in civil and criminal matters;
 - (c) Cooperation on combating organised crime, including trafficking in human beings, drug-trafficking, terrorism, corruption and money-laundering;
 - (d) Cooperation in police matters.'
-

COUNCIL DECISION
of 8 December 2008
appointing the Chairman of the Military Committee of the European Union
(2009/22/EC)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty on European Union, and in particular Article 28(1) thereof,

Article 1

General Håkan SYRÉN is appointed Chairman of the Military Committee of the European Union for a period of three years as from 6 November 2009.

Having regard to the Treaty establishing the European Community, and in particular Article 207 thereof,

Article 2

Recalling Council Decision 2001/79/CFSP of 22 January 2001 setting up the Military Committee of the European Union ⁽¹⁾,

This Decision shall be published in the *Official Journal of the European Union*.

Whereas:

Done at Brussels, 8 December 2008.

(1) Pursuant to Article 3 of Decision 2001/79/CFSP, the Chairman of the Military Committee is to be appointed by the Council on the recommendation of the Committee meeting at the level of the Chiefs of Defence.

(2) At its meeting on 29 October 2008, the Committee meeting at the level of the Chiefs of Defence recommended that General Håkan SYRÉN be appointed Chairman of the Military Committee of the European Union,

For the Council

The President

B. KOUCHNER

⁽¹⁾ OJ L 27, 30.1.2001, p. 4.

RECOMMENDATIONS

COMMISSION

COMMISSION RECOMMENDATION

of 19 December 2008

on common guidelines for the national sides and the issuance of euro coins intended for circulation*(notified under document number C(2008) 8625)***(Only the Dutch, English, Finnish, French, German, Greek, Italian, Maltese, Portuguese, Spanish, Slovenian and Swedish texts are authentic)**

(2009/23/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 211 thereof,

Whereas:

- (1) According to Article 106(2) of the Treaty, Member States may issue coins subject to approval by the European Central Bank of the volume of the issue.
- (2) In accordance with the second sentence of Article 106(2) of the Treaty, the Council has adopted harmonising measures in this field, by way of Council Regulation (EC) No 975/98 of 3 May 1998 on denominations and technical specifications of euro coins intended for circulation ⁽¹⁾.
- (3) According to Article 11 of Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro ⁽²⁾, coins denominated in euro and cent and complying with the denominations and technical specifications should have the status of legal tender in all 'participating Member States' as defined in that Regulation.
- (4) According to common practice among participating Member States, euro coins intended for circulation, including commemorative coins intended for circulation, should be put into circulation at face value. This does not exclude, however, that a minor proportion of the total value of issued coins is sold at a higher price if produced with a special quality or presented in special packaging.
- (5) Euro coins not only circulate in the issuing Member State but in the whole euro area and even beyond. In this context, a clear indication of the issuing Member State should be put on the national side of the euro coin in order to allow interested coin users to easily identify the issuing Member State.
- (6) Euro coins have a common European side and a distinctive national side. The common European sides of the euro coins bear both the name of the single currency and the denomination of the coin. The national side should neither repeat the name of the single currency nor the denomination of the coin.
- (7) The designs on the national sides of the euro coins are decided by each participating Member State, but should be fully surrounded by the 12 stars of the European flag.
- (8) Common rules should be followed by the participating Member States as regards changes to the national side of the euro coins. The designs used for the national sides of regular euro coins intended for circulation should in principle not be modified, except if the Head of State referred to on a coin changes.
- (9) Commemorative coins are specific coins intended for circulation where the regular national design is replaced by a different national design in order to commemorate a specific subject. The 2-euro coin constitutes the most suitable denomination for this purpose, principally because of the large diameter of the coin and its technical characteristics offering adequate protection against counterfeiting.
- (10) Issues of commemorative euro coins intended for circulation should only commemorate subjects of major national or European relevance, since such coins are intended for circulation throughout the euro-area. Less important subjects should rather be celebrated by way of issuing euro collector coins, which are not intended for circulation and which must be easily distinguishable from euro coins intended for circulation. Commemorative coins collectively issued by all participating Member States should be reserved for subjects of the highest European relevance.

⁽¹⁾ OJ L 139, 11.5.1998, p. 6.

⁽²⁾ OJ L 139, 11.5.1998, p. 1.

- (11) The issuing limit of one commemorative euro coin intended for circulation per issuing Member State per year has worked well and should remain in place together with the additional possibility for a collective issue of a commemorative euro coin intended for circulation by all participating Member States. Moreover, Member States may issue a commemorative euro coin intended for circulation in the case of a temporary vacancy or a provisional occupation of the function of Head of State.
- (12) It is necessary to establish certain volume limits for commemorative coins intended for circulation in order to ensure that such coins remain a small percentage of the total number of the 2-euro coins in circulation. At the same time, these volume limits should allow for the issuance of a sufficient volume of coins to ensure that commemorative coins can circulate effectively.
- (13) As the euro coins circulate throughout the euro area, their national design features are a matter of common interest. Issuing Member States should inform each other about new national sides well in advance of the planned issue date. To this effect, issuing Member States should forward their draft euro coin designs to the Commission, which will verify the compliance with this Recommendation.
- (14) The Member States have been consulted on the guidelines set out in this Recommendation, in order to take account of their different national practices and preferences in this area.
- (15) The Community has concluded Monetary Agreements with the Principality of Monaco, the Republic of San Marino and the Vatican City State, allowing them to issue certain quantities of euro coins. The common guidelines should also be applicable to the coins intended for circulation issued by those States.
- (16) A review of this Recommendation should be prepared before the end of 2015, in order to determine whether the guidelines need to be modified.
- (17) This Recommendation should replace the Commission Recommendation of 29 September 2003 on a common practice for changes to the design of national obverse sides of euro circulation coins⁽¹⁾ and the Commission Recommendation of 3 June 2005 on common guidelines for the national sides of euro circulation coins⁽²⁾,

⁽¹⁾ OJ L 264, 15.10.2003, p. 38.

⁽²⁾ OJ L 186, 18.7.2005, p. 1.

HEREBY RECOMMENDS:

1. Putting euro coins into circulation

Euro coins intended for circulation should be put into circulation at face value. This does not exclude that a minor proportion of issued euro coins is sold at a higher price, if justified by reasons such as special quality or packaging.

2. Identification of the issuing Member State

The national sides of all denominations of the euro coins intended for circulation should bear an indication of the issuing Member State by means of the Member State's name or an abbreviation of it.

3. Absence of the currency name and denomination

1. The national side of the euro coins intended for circulation should not repeat any indication of the denomination, or any parts thereof, of the coin, neither should it repeat the name of the single currency or of its subdivision, unless such indication stems from the use of a different alphabet.
2. The edge lettering of the 2-euro coin could bear an indication of the denomination, provided that only the figure '2' or the term 'euro' or both are used.

4. Design of the national sides

The national side of the euro coins intended for circulation should bear the 12 European stars that should fully surround the national design, including the year mark and the indication of the issuing Member State's name. The European stars should be depicted as on the European flag.

5. Changes to the national sides of regular euro coins intended for circulation

Without prejudice to point 6, the designs used for the national sides of the euro coins intended for circulation denominated in euro or in cent should not be modified, except in cases where the Head of State referred to on a coin changes. Issuing Member States should, however, be allowed to update the design of euro coins depicting the Head of State every 15 years in order to take account of a change in the appearance of the Head of State. Issuing Member States should also be allowed to update their national sides of euro coins in order to fully comply with this Recommendation.

A temporary vacancy or the provisional occupation of the function of Head of State should not give the right to change the national sides of the regular euro coins intended for circulation.

6. Issuance of commemorative euro coins intended for circulation

1. Issues of commemorative euro coins intended for circulation showing a different national design from that of the regular euro coins intended for circulation should only commemorate subjects of major national or European relevance. Commemorative euro coins intended for circulation collectively issued by all participating Member States as defined in Article 1 of Regulation (EC) No 974/98 (hereafter the 'participating Member States') should only commemorate subjects of the highest European relevance and their issuance should be endorsed by the Council.

2. The issuance of commemorative euro coins intended for circulation should comply with the following rules:

(a) the number of issues should be limited to one per issuing Member State per year, except in cases where:

(i) commemorative euro coins intended for circulation are collectively issued by all participating Member States;

(ii) a possible commemorative euro coin intended for circulation is issued at the occasion of a temporary vacancy or a provisional occupation of the function of Head of State;

(b) the 2-euro coin should be the sole denomination used for such issues;

(c) the total number of coins put into circulation for each individual issue should not exceed the higher of the following two ceilings:

(i) 0,1 % of the total number of 2-euro coins brought into circulation by all participating Member States up to the beginning of the year preceding the year of issuance of the commemorative coin; this ceiling may be raised to 2,0 % of the total circulation of 2-euro coins of all participating Member States if a global and highly symbolic subject is commemorated, in which case the issuing Member State should refrain from launching another commemorative circulation coin issue using the raised ceiling during the subsequent four years and should set out the reasons for choosing the raised ceiling when providing information as provided for in point 7;

(ii) 5,0 % of the total number of 2-euro coins brought into circulation by the issuing Member State concerned up to the beginning of the year preceding the year of issuance of the commemorative coin;

(d) the edge lettering on commemorative euro coins intended for circulation should be the same as on regular euro coins intended for circulation.

7. Information procedure and publication of future changes

Member States should inform each other on the draft designs of new national sides of euro coins, including the edge letterings, and of the volume of issuance before they formally approve these designs. To this effect, new draft designs of euro coins should be forwarded by the issuing Member State to the Commission, as a rule, at least six months before the planned issue date. The Commission should verify compliance with the guidelines of this Recommendation and inform the other Member States without delay via the Economic and Financial Committee's relevant subcommittee. If and when the Commission considers that the guidelines of the present Recommendation are not respected, the relevant subcommittee of the Economic and Financial Committee should decide whether to approve the design.

The relevant subcommittee of the Economic and Financial Committee should approve the designs of commemorative euro coins intended for circulation collectively issued by all participating Member States.

All relevant information on new national euro coin designs will be published in the *Official Journal of the European Union*.

8. Scope of the recommended practices

This Recommendation should apply to national sides and edge letterings of both regular and commemorative euro coins intended for circulation. It should not apply to the national sides and edge letterings of both regular and commemorative euro coins intended for circulation which have been first issued or approved according to the agreed information procedure prior to the adoption of this Recommendation.

9. Repealing of previous recommendations

Recommendations 2003/734/EC and 2005/491/EC are hereby repealed.

10. Addressees

This Recommendation is addressed to all participating Member States.

Done at Brussels, 19 December 2008.

For the Commission
Joaquín ALMUNIA
Member of the Commission

NOTE TO THE READER

The institutions have decided no longer to quote in their texts the last amendment to cited acts.

Unless otherwise indicated, references to acts in the texts published here are to the version of those acts currently in force.