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II

(Non-legislative acts)

REGULATIONS

COUNCIL REGULATION (EU) No 1225/2010

of 13 December 2010

fixing for 2011 and 2012 the fishing opportunities for EU vessels for fish stocks of certain deep-sea fish species

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) According to Article 43(3) of the Treaty, the Council, on a proposal from the Commission, is to adopt measures on the fixing and allocation of fishing opportunities.
- (2) Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ⁽¹⁾ requires that measures governing access to waters and resources and the sustainable pursuit of fishing activities be established taking into account available scientific, technical and economic advice and in particular reports drawn up by the Scientific, Technical and Economic Committee for Fisheries (STECF).
- (3) It is incumbent upon the Council to adopt measures on the fixing and allocation of fishing opportunities by fishery or group of fisheries, including certain conditions functionally linked thereto, where appropriate. Fishing opportunities should be distributed among Member States in such a way as to assure each Member State relative stability of fishing activities for each stock or fishery and having due regard to the objectives of the Common Fisheries Policy established by Regulation (EC) No 2371/2002.
- (4) The total allowable catches (TACs) should be established on the basis of the available scientific advice, by taking into account the biological and socioeconomic aspects whilst ensuring fair treatment between fishing sectors,

as well as in the light of the opinions expressed during the consultation of stakeholders, in particular those of the Advisory Committee on Fisheries and Aquaculture and of the Regional Advisory Councils concerned.

- (5) Fishing opportunities should be in accordance with international agreements and principles, such as the 1995 United Nations agreement concerning the conservation and management of straddling stocks and highly migratory fish stocks ⁽²⁾, and the detailed management principles laid down in the 2008 International Guidelines for the Management of Deep-sea Fisheries in the High Seas of the Food and Agriculture Organisation of the United Nations, according to which, in particular, a regulator should be more cautious when information is uncertain, unreliable or inadequate. The absence of adequate scientific information should not be used as a reason for postponing or failing to take conservation and management measures.
- (6) The latest scientific advice from the International Council for the Exploration of the Sea (ICES) ⁽³⁾ and from the STECF ⁽⁴⁾ indicates that most deep-sea stocks are harvested unsustainably and that fishing opportunities for those stocks, in order to assure their sustainability, should be reduced until the evolution of the stock sizes show a positive trend. The ICES has further advised that no directed fishery should be allowed for orange roughy.
- (7) Concerning deep sea sharks, the main commercial species are considered depleted, and therefore no directed fishing should take place. Until the amount of unavoidable by-catch will have been established by means of selectivity projects and other technical measures, no by-catch should be allowed to be landed.

⁽¹⁾ OJ L 358, 31.12.2002, p. 59.

⁽²⁾ Agreement on the implementation of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (OJ L 189, 3.7.1998, p. 16).

⁽³⁾ Report of the ICES Advisory Committee on widely distributed and migratory stocks, book 9, June 2010.

⁽⁴⁾ JRC Scientific and Technical Reports, Review of scientific advice for 2011, part 2, July 2010.

- (8) The fishing opportunities for deep-sea species, as listed in Annex I to Council Regulation (EC) No 2347/2002 of 16 December 2002 establishing specific access requirements and associated conditions applicable to fishing for deep-sea stocks⁽¹⁾, are decided on a bi-annual basis. Nevertheless, an exception is made for the stocks of greater silver smelt and the main fishery of blue ling, for which the fishing opportunities depend on the outcome of the annual negotiations with Norway. The fishing opportunities for those stocks are therefore established in another relevant annual regulation fixing fishing opportunities.
- (9) In accordance with Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas⁽²⁾, the stocks that are subject to the various measures referred to therein must be identified.
- (10) To ensure the livelihood of Union fishermen, it is important to open these fisheries on 1 January 2011,

HAS ADOPTED THIS REGULATION:

Article 1

Subject-matter

This Regulation fixes for the years 2011 and 2012 the annual fishing opportunities available to EU vessels for fish stocks of certain deep-sea species in EU waters and in certain non-EU waters where catch limits are required.

Article 2

Definitions

1. For the purposes of this Regulation, the following definitions shall apply:
- (a) 'EU vessel' means a fishing vessel flying the flag of a Member State and registered in the Union;
- (b) 'EU waters' means the waters under the sovereignty or jurisdiction of the Member States with the exception of waters adjacent to the territories mentioned in Annex II to the Treaty;
- (c) 'total allowable catch' (TAC) means the quantity that can be taken and landed from each stock each year;
- (d) 'quota' means a proportion of the TAC allocated to the Union, a Member State or a third country;

⁽¹⁾ OJ L 351, 28.12.2002, p. 6.

⁽²⁾ OJ L 115, 9.5.1996, p. 3.

- (e) 'international waters' means waters falling outside the sovereignty or jurisdiction of any State.

2. For the purposes of this Regulation, the following zone definitions shall apply:

- (a) ICES zones are as defined in Regulation (EC) No 218/2009 of the European Parliament and of the Council of 11 March 2009 on the submission of nominal catch statistics by Member States fishing in the north-east Atlantic (recast)⁽³⁾;
- (b) CECAF (Eastern Central Atlantic or FAO major fishing zone 34) zones are as defined in Regulation (EC) No 216/2009 of the European Parliament and of the Council of 11 March 2009 on the submission of nominal catch statistics by Member States fishing in certain areas other than those of the North Atlantic (recast)⁽⁴⁾.

Article 3

TACs and allocations

The TACs for deep-sea species caught by EU vessels in EU waters and certain non-EU waters, the allocation of such TACs among Member States and the conditions functionally linked thereto, where appropriate, are set out in the Annex.

Article 4

Special provisions on allocations

The allocation of fishing opportunities among Member States provided for in the Annex shall be without prejudice to:

- (a) exchanges made pursuant to Article 20(5) of Regulation (EC) No 2371/2002;
- (b) deductions and reallocations made pursuant to Article 37 of Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy⁽⁵⁾ or pursuant to Article 10(4) of Council Regulation (EC) No 1006/2008 of 29 September 2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third country vessels to Community waters⁽⁶⁾;
- (c) additional landings allowed pursuant to Article 3 of Regulation (EC) No 847/96;
- (d) quantities withheld pursuant to Article 4 of Regulation (EC) No 847/96;
- (e) deductions made pursuant to Articles 105 and 107 of Regulation (EC) No 1224/2009.

⁽³⁾ OJ L 87, 31.3.2009, p. 70.

⁽⁴⁾ OJ L 87, 31.3.2009, p. 1.

⁽⁵⁾ OJ L 343, 22.12.2009, p. 1.

⁽⁶⁾ OJ L 286, 29.10.2008, p. 33.

*Article 5***Relationship with Regulation (EC) No 847/96**

For the purposes of Regulation (EC) No 847/96, all quotas in the Annex to this Regulation shall be considered analytical quotas.

*Article 6***Conditions for landing catch and by-catch**

Fish from stocks for which fishing opportunities are fixed by this Regulation shall be retained on board or landed only if they were taken by vessels of a Member State having a quota which is not exhausted.

*Article 7***Entry into force**

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

It shall apply from 1 January 2011.

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

Done at Brussels, 13 December 2010.

For the Council
The President
K. PEETERS

ANNEX

The references to fishing zones are references to ICES zones, unless otherwise specified.

PART 1**Definition of species and species groups**

1. In the list set out in Part 2 of this Annex, fish stocks are referred to following the alphabetical order of the Latin names of the species. However, deep-sea sharks are placed at the beginning of that list. A table of correspondences of common names and Latin names is given below for the purposes of this Regulation:

Common name	Scientific name
Black scabbardfish	<i>Aphanopus carbo</i>
Alfonsinos	<i>Beryx</i> spp.
Roundnose grenadier	<i>Coryphaenoides rupestris</i>
Orange roughy	<i>Hoplostethus atlanticus</i>
Blue ling	<i>Molva dypterygia</i>
Red seabream	<i>Pagellus bogaraveo</i>
Forkbeards	<i>Phycis</i> spp.

2. For the purposes of this Regulation, 'deep-sea sharks' means the following list of species:

Common name	Scientific name
Deep-water catsharks	<i>Apristurus</i> spp.
Frilled shark	<i>Chlamydoselachus anguineus</i>
Gulper shark	<i>Centrophorus granulosus</i>
Leafscale gulper shark	<i>Centrophorus squamosus</i>
Portuguese dogfish	<i>Centroscymnus coelolepis</i>
Longnose velvet dogfish	<i>Centroscymnus crepidater</i>
Black dogfish	<i>Centrosyllium fabricii</i>
Birdbeak dogfish	<i>Deania calcea</i>
Kitefin shark	<i>Dalatias licha</i>
Greater lanternshark	<i>Etmopterus princeps</i>
Velvet belly	<i>Etmopterus spinax</i>
Blackmouth catshark (Blackmouth dogfish)	<i>Galeus melastomus</i>
Mouse catshark	<i>Galeus murinus</i>
Six-gilled shark	<i>Hexanchus griseus</i>
Sailfin roughshark (Sharpback shark)	<i>Oxynotus paradoxus</i>
Knifetooth dogfish	<i>Scymnodon ringens</i>
Greenland shark	<i>Somniosus microcephalus</i>

PART 2

Annual fishing opportunities applicable for EU vessels in areas where TACs exist by species and by area (in tonnes live weight)

Species: Deep-sea sharks		Zone: EU and international waters of V, VI, VII, VIII and IX (DWS/56789-)	
Year	2011 ⁽¹⁾	2012	
Germany	0	0	
Estonia	0	0	
Ireland	0	0	
Spain	0	0	
France	0	0	
Lithuania	0	0	
Poland	0	0	
Portugal	0	0	
United Kingdom	0	0	
EU	0	0	
TAC	0	0	

⁽¹⁾ By-catches of up to 3 % of 2009 quotas are permitted:

For reference: quotas 2009

Germany	20
Estonia	1
Ireland	55
Spain	93
France	339
Lithuania	1
Poland	1
Portugal	127
United Kingdom	187

Species: Deep-sea sharks		Zone: EU and international waters of X (DWS/10-)	
Year	2011 ⁽¹⁾	2012	
Portugal	0	0	
EU	0	0	
TAC	0	0	

⁽¹⁾ By-catches of up to 3 % of 2009 quotas are permitted:

For reference: quota 2009

Portugal	10
----------	----

Species: Deep-sea sharks and <i>Deania hystricosa</i> and <i>Deania profundorum</i>		Zone: International waters of XII (DWS/12-)
Year	2011 ⁽¹⁾	2012
Ireland	0	0
Spain	0	0
France	0	0
United Kingdom	0	0
EU	0	0
TAC	0	0

⁽¹⁾ By-catches of up to 3 % of 2009 quotas are permitted:
For reference: quotas 2009

Ireland	1
Spain	17
France	6
United Kingdom	1

Species: Black scabbardfish <i>Aphanopus carbo</i>		Zone: EU and international waters of I, II, III and IV (BSF/1234-)
Year	2011	2012
Germany	4	3
France	4	3
United Kingdom	4	3
EU	12	9
TAC	12	9

Species: Black scabbardfish <i>Aphanopus carbo</i>		Zone: EU and international waters of V, VI, VII and XII (BSF/56712-)
Year	2011	2012
Germany	27	25
Estonia	13	12
Ireland	67	62
Spain	134	124
France	1 884	1 743
Latvia	88	81
Lithuania	1	1
Poland	1	1
United Kingdom	134	124
Others ⁽¹⁾	7	6
EU	2 356	2 179
TAC	2 356	2 179

⁽¹⁾ By-catches only. No directed fisheries are permitted under this quota.

Species: Black scabbardfish <i>Aphanopus carbo</i>		Zone: EU and international waters of VIII, IX and X (BSF/8910-)	
Year	2011	2012	
Spain	11	11	
France	26	26	
Portugal	3 311	3 311	
EU	3 348	3 348	
TAC	3 348	3 348	
<hr/>			
Species: Black scabbardfish <i>Aphanopus carbo</i>		Zone: EU and international waters of CECAF 34.1.2. (BSF/C3412-)	
Year	2011	2012	
Portugal	4 071	3 867	
EU	4 071	3 867	
TAC	4 071	3 867	
<hr/>			
Species: Alfonsinos <i>Beryx spp.</i>		Zone: EU and international waters of III, IV, V, VI, VII, VIII, IX, X, XII and XIV (ALF/3X14-)	
Year	2011	2012	
Ireland	10	10	
Spain	74	74	
France	20	20	
Portugal	214	214	
United Kingdom	10	10	
EU	328	328	
TAC	328	328	
<hr/>			
Species: Roundnose grenadier <i>Coryphaenoides rupestris</i>		Zone: EU and international waters of I, II and IV (RNG/124-)	
Year	2011	2012	
Denmark	2	1	
Germany	2	1	
France	9	10	
United Kingdom	2	1	
EU	15	13	
TAC	15	13	

Species: Roundnose grenadier <i>Coryphaenoides rupestris</i>		Zone: EU and international waters of III (RNG/03-) ⁽¹⁾	
Year	2011	2012	
Denmark	804	804	
Germany	5	5	
Sweden	41	41	
EU	850	850	
TAC	850	850	

⁽¹⁾ No directed fishery for roundnose grenadier shall be conducted in ICES zone IIIa pending consultations between the European Union and Norway.

Species: Roundnose grenadier <i>Coryphaenoides rupestris</i>		Zone: EU and international waters of Vb, VI, VII (RNG/5B67)	
Year	2011 ⁽¹⁾	2012 ⁽¹⁾	
Germany	5	5	
Estonia	43	38	
Ireland	190	165	
Spain	48	41	
France	2 409	2 096	
Lithuania	55	48	
Poland	28	25	
United Kingdom	141	123	
Others ⁽²⁾	5	5	
EU	2 924	2 546	
TAC	2 924	2 546	

⁽¹⁾ A maximum of 8 % of each quota may be fished in EU and international waters VIII, IX, X, XII and XIV

⁽²⁾ By-catches only. No directed fisheries are permitted under this quota.

Species: Roundnose grenadier <i>Coryphaenoides rupestris</i>		Zone: EU and international waters of VIII, IX, X, XII and XIV (RNG/8X14-)	
Year	2011 ⁽¹⁾	2012 ⁽¹⁾	
Germany	30	26	
Ireland	6	6	
Spain	3 286	2 857	
France	151	132	
Latvia	53	46	
Lithuania	6	6	
Poland	1 028	894	
United Kingdom	13	12	
EU	4 573	3 979	
TAC	4 573	3 979	

⁽¹⁾ A maximum of 8 % of each quota may be fished in EU and international waters of Vb, VI, VII

Species: Orange roughy <i>Hoplostethus atlanticus</i>		Zone: EU and international waters of VI (ORY/06-)	
Year	2011	2012	
Ireland	0	0	
Spain	0	0	
France	0	0	
United Kingdom	0	0	
EU	0	0	
TAC	0	0	

Species: Orange roughy <i>Hoplostethus atlanticus</i>		Zone: EU and international waters of VII (ORY/07-)	
Year	2011	2012	
Ireland	0	0	
Spain	0	0	
France	0	0	
United Kingdom	0	0	
Others	0	0	
EU	0	0	
TAC	0	0	

Species: Orange roughy <i>Hoplostethus atlanticus</i>		Zone: EU and international waters of I, II, III, IV, V, VIII, IX, X, XII and XIV (ORY/1CX14C)	
Year	2011	2012	
Ireland	0	0	
Spain	0	0	
France	0	0	
Portugal	0	0	
United Kingdom	0	0	
EU	0	0	
TAC	0	0	

Species: Blue ling <i>Molva dypterygia</i>		Zone: EU and international waters of II and IV (BLI/24-)	
Year	2011	2012	
Denmark	4	4	
Germany	4	4	
Ireland	4	4	
France	25	25	

Species: Blue ling <i>Molva dypterygia</i>		Zone: EU and international waters of II and IV (BLI/24-)
United Kingdom	15	15
Others ⁽¹⁾	4	4
EU	56	56
TAC	56	56

⁽¹⁾ By-catches only. No directed fisheries are permitted under this quota.

Species: Blue ling <i>Molva dypterygia</i>		Zone: EU and international waters of III (BLI/03-)
Year	2011	2012
Denmark	4	3
Germany	2	2
Sweden	4	3
EU	10	8
TAC	10	8

Species: Red seabream <i>Pagellus bogaraveo</i>		Zone: EU and international waters of VI, VII and VIII (SBR/678-)
Year	2011 ⁽¹⁾	2012 ⁽¹⁾
Ireland	6	6
Spain	172	172
France	9	9
United Kingdom	22	22
Others ⁽²⁾	6	6
EU	215	215
TAC	215	215

⁽¹⁾ A minimum landing size of 35 cm (total length) shall be respected. However, 15 % of fish landed may have a minimum landing size of at least 30 cm (total length).

⁽²⁾ By-catches only. No directed fisheries are permitted under this quota.

Species: Red seabream <i>Pagellus bogaraveo</i>		Zone: EU and international waters of IX (SBR/09-)
Year	2011 ⁽¹⁾ ⁽²⁾	2012 ⁽¹⁾ ⁽²⁾
Spain	614	614
Portugal	166	166
EU	780	780
TAC	780	780

⁽¹⁾ A minimum landing size of 35 cm (total length) shall be respected. However, 15 % of fish landed may have a minimum landing size of at least 30 cm (total length).

⁽²⁾ A maximum of 8 % of each quota may be fished in EU and international waters of VI, VII and VIII

Species: Red seabream <i>Pagellus bogaraveo</i>		Zone: EU and international waters of X (SBR/10-)
Year	2011	2012
Spain	10	10
Portugal	1 116	1 116
United Kingdom	10	10
EU	1 136	1 136
TAC	1 136	1 136

Species: Forkbeards <i>Phycis spp.</i>		Zone: EU and international waters of I, II, III and IV (GFB/1234-)
Year	2011	2012
Germany	9	9
France	9	9
United Kingdom	13	13
EU	31	31
TAC	31	31

Species: Forkbeards <i>Phycis spp.</i>		Zone: EU and international waters of V, VI and VII (GFB/567-)
Year	2011 ⁽¹⁾	2012 ⁽¹⁾
Germany	10	10
Ireland	260	260
Spain	588	588
France	356	356
United Kingdom	814	814
EU	2 028	2 028
TAC	2 028	2 028

⁽¹⁾ A maximum of 8 % of each quota may be fished in EU and international waters of VIII and IX.

Species: Forkbeards <i>Phycis spp.</i>		Zone: EU and international waters of VIII and IX (GFB/89-)
Year	2011 ⁽¹⁾	2012 ⁽¹⁾
Spain	242	242
France	15	15
Portugal	10	10
EU	267	267
TAC	267	267

⁽¹⁾ A maximum of 8 % of each quota may be fished in EU and international waters of V, VI, VII.

Species: Forkbeards <i>Phycis</i> spp.		Zone: EU and international waters of X and XII (GFB/1012-)	
Year	2011	2012	
France	9	9	
Portugal	36	36	
United Kingdom	9	9	
EU	54	54	
TAC	54	54	

COMMISSION REGULATION (EU) No 1226/2010**of 20 December 2010****amending Council Regulation (EC) No 1236/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment⁽¹⁾, and in particular Article 12(1) thereof,

Whereas:

(1) Annex I to Regulation (EC) No 1236/2005 lists the competent authorities to which specific functions related to the implementation of that Regulation are attributed.

(2) Further to a request made by Estonia the information concerning the competent authority in Estonia should be amended,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 1236/2005 is hereby amended as set out in the Annex to this Regulation.

*Article 2*This Regulation shall enter into force on the third 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, 20 December 2010.

For the Commission
The President
José Manuel BARROSO

⁽¹⁾ OJ L 200, 30.7.2005, p. 1.

ANNEX

Annex I to Regulation (EC) No 1236/2005 is amended as follows:

The information in Part A for Estonia is replaced by the following:

'ESTONIA

Eesti Välisministeerium

Rahvusvaheliste organisatsioonide ja julgeolekupoliitika osakond

Relvastus- ja strateegilise kauba kontrolli büroo

Islandi väljak 1

15049 Tallinn

Eesti

Tel: +372 637 7200

Faks: +372 637 7288

E-post: stratkom@mfa.ee'

COMMISSION REGULATION (EU) No 1227/2010**of 20 December 2010****amending Regulation (EC) No 1055/2008 implementing Regulation (EC) No 184/2005 of the European Parliament and of the Council, as regards quality criteria and quality reporting for balance of payments statistics**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 184/2005 of the European Parliament and of the Council of 12 January 2005 on Community statistics concerning balance of payments, international trade in services and foreign direct investment ⁽¹⁾, and in particular Article 4(3) thereof,

Whereas:

- (1) Regulation (EC) No 184/2005 establishes a common framework for the systematic production of Community statistics concerning balance of payments, international trade in services and foreign direct investment.
- (2) Commission Regulation (EC) No 1055/2008 ⁽²⁾ laid down the common quality criteria and the periodicity of quality reports for balance-of-payments statistics.
- (3) The common quality criteria and the periodicity of the quality reports for balance-of-payments statistics need to be adapted, in order to reflect the quality criteria laid down in Article 12(1) of Regulation (EC) No 223/2009 of the European Parliament and of the Council ⁽³⁾ on European statistics.

(4) Regulation (EC) No 1055/2008 should therefore be amended accordingly.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Balance of Payments Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1055/2008 is amended as follows:

1. Article 2 is replaced by the following:

‘Member States shall supply their quality report not later than 31 May every year.’;

2. the Annex is replaced by the Annex to this Regulation.

*Article 2*This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 20 December 2010.

For the Commission
The President
José Manuel BARROSO

⁽¹⁾ OJ L 35, 8.2.2005, p. 23.⁽²⁾ OJ L 283, 28.10.2008, p. 3.⁽³⁾ OJ L 87, 31.3.2009, p. 164.

ANNEX

1. Introduction

The quality report shall contain both quantitative and qualitative indicators of quality. The Commission (Eurostat) shall provide the results of the quantitative indicators for each Member State, calculated on the basis of data provided. Member States shall interpret and comment on them, in the light of their collection methodology.

2. Timeline

— Every year, by the end of the first quarter, the Commission (Eurostat) shall supply the Member States with draft documents for quality reports, based on data sent the previous year, partially pre-filled with most of the quantitative indicators and other information available to the Commission (Eurostat).

— Every year, within two months of receiving the pre-filled quality report and not later than 31 May, Member States shall supply the Commission (Eurostat) with the completed quality report.

3. Quality criteria

The quality report shall contain quantitative and qualitative indicators covering all the quality criteria defined in Article 12(1) of Regulation (EC) No 223/2009.

COMMISSION REGULATION (EU) No 1228/2010**of 15 December 2010****amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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

Whereas:

- (1) Regulation (EEC) No 2658/87 established the Combined Nomenclature (CN) to meet the requirements of the Common Customs Tariff, the external trade statistics of the Union, and other Union policies concerning the imports or exports of goods.
- (2) Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty⁽²⁾ applies to cases where taxation is not justified.
- (3) In certain circumstances, taking into account the special nature of some of the movements of goods mentioned in Regulation (EC) No 1186/2009, it seems appropriate to reduce the administrative burden when declaring such movements, by assigning them a specific CN code. It is the case, in particular, when the classification of each type of goods in a movement for the purpose of drawing up the customs declaration would entail a workload and expense disproportionate to the interests at stake.
- (4) Commission Regulation (EU) No 113/2010 of 9 February 2010 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community

statistics relating to external trade with non-member countries, as regards trade coverage, definition of the data, compilation of statistics on trade by business characteristics and by invoicing currency, and specific goods or movements⁽³⁾ and Commission Regulation (EC) No 1982/2004 of 18 November 2004 implementing Regulation (EC) No 638/2004 of the European Parliament and of the Council on Community statistics relating to the trading of goods between Member States and repealing Commission Regulations (EC) No 1901/2000 and (EEC) No 3590/92⁽⁴⁾ allow the Member States to use a simplified coding system for certain goods in the extra-EU and intra-EU trade statistics.

- (5) Those regulations provide for specific goods codes to be used under special conditions. For the sake of transparency as well as for information purposes, such codes should be mentioned in the CN.
- (6) For these reasons, it is appropriate to insert Chapter 99 in the CN.
- (7) Annex I to Regulation (EEC) No 2658/87 should therefore be amended accordingly.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EEC) No 2658/87 is amended as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the 1 January 2011.

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

Done at Brussels, 15 December 2010.

*For the Commission,
On behalf of the President,
Algirdas ŠEMETA
Member of the Commission*

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.
⁽²⁾ OJ L 324, 10.12.2009, p. 23.

⁽³⁾ OJ L 37, 10.2.2010, p. 1.
⁽⁴⁾ OJ L 343, 19.11.2004, p. 3.

ANNEX

Annex I to Regulation (EEC) No 2658/87 is amended as follows:

- (1) in the Summary, Part Two, Section XXI, Chapter 99, the phrase '*Reserved for special uses determined by the competent Community authorities*' is replaced by the following: 'Special Combined Nomenclature codes';
- (2) in Part Two, Section XXI, between the end of Chapter 98 and 'Part Three', the following 'Chapter 99' is inserted:

'CHAPTER 99

SPECIAL COMBINED NOMENCLATURE CODES*Sub-chapter I***Combined Nomenclature codes for certain specific movements of goods**

(Import or export)

Additional notes:

1. The provisions of this sub-chapter only apply to the movement of goods to which it refers.

Such goods shall be declared in the relevant subheading if the conditions and requirements thereof and of any applicable regulations are met. The description of such goods must be sufficiently precise to enable them to be identified.

Member States, may, however, choose not to apply the provisions of this sub-chapter in so far as import duties or other charges are at stake.

2. The provisions of this sub-chapter do not apply to the trading of goods between Member States.
3. Imported and exported goods as provided for in Regulation (EC) No 1186/2009 that have been refused the benefit of the relief of import or export duties are excluded from this sub-chapter.

Movements containing goods which are subject to any prohibition or restriction are also excluded from this sub-chapter.

CN code	Description	Note
1	2	3
9905 00 00	Certain goods, as provided for in Regulation (EC) No 1186/2009 (import and export): — Personal property belonging to natural persons transferring their normal place of residence	(¹)
9919 00 00	— The following goods, other than those mentioned above: — trousseaux and household effects belonging to a person transferring his or her normal place of residence on the occasion of his or her marriage; personal property acquired by inheritance. — school outfits, educational materials and related household effects — coffins containing bodies, funerary urns containing the ashes of deceased persons and ornamental funerary articles — goods for charitable or philanthropic organisations and goods for the benefit of disaster victims	(¹) (¹) (¹) (¹) (¹)
(¹) At importation, entry under this subheading and the relief from import duties shall be subject to the conditions laid down in Regulation (EC) No 1186/2009.		

Sub-chapter II

Statistical codes for certain specific movements of goods**Additional notes:**

1. Commission Regulation (EU) No 113/2010 of 9 February 2010 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards trade coverage, definition of the data, compilation of statistics on trade by business characteristics and by invoicing currency, and specific goods or movements ⁽¹⁾ and Commission Regulation (EC) No 1982/2004 of 18 November 2004 implementing Regulation (EC) No 638/2004 of the European Parliament and of the Council on Community statistics relating to the trading of goods between Member States and repealing Commission Regulations (EC) No 1901/2000 and (EEC) No 3590/92 ⁽²⁾ allow the Member States to use a simplified coding system for some goods in the extra-EU and intra-EU trade statistics.
2. The codes set out in this sub-chapter are subject to the conditions laid down in Regulation (EU) No 113/2010 and Regulation (EC) No 1982/2004.

CN Code	Description
1	2
9930	Goods delivered to vessels and aircraft:
9930 24 00	— goods from CN chapters 1 to 24
9930 27 00	— goods from CN chapter 27
9930 99 00	— goods classified elsewhere
9931	Goods delivered for the crew of the offshore installation or for the operation of the engines, machines and other equipment of the offshore installation:
9931 24 00	— goods from CN chapters 1 to 24
9931 27 00	— goods from CN chapter 27
9931 99 00	— goods classified elsewhere
9950 00 00	Code used only in trading of goods between Member States for individual transactions whose value is less than EUR 200 and for reporting residual products in some cases'

⁽¹⁾ OJ L 37, 10.2.2010, p. 1.

⁽²⁾ OJ L 343, 19.11.2004, p. 3.

COMMISSION REGULATION (EU) No 1229/2010
of 20 December 2010
establishing the standard import values for determining the entry price of certain fruit and vegetables

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 21 December 2010.

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

Done at Brussels, 20 December 2010.

For the Commission,
On behalf of the President,
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	AL	71,2
	EG	88,4
	MA	47,9
	TR	114,5
	ZZ	80,5
0707 00 05	EG	140,2
	JO	158,2
	TR	78,6
	ZZ	125,7
0709 90 70	MA	79,0
	TR	95,8
	ZZ	87,4
0805 10 20	AR	43,0
	BR	41,5
	MA	65,0
	PE	58,9
	TR	55,8
	UY	48,7
	ZA	44,7
	ZZ	51,1
0805 20 10	MA	68,3
	ZZ	68,3
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	HR	61,3
	IL	71,6
	TR	70,0
	ZZ	67,6
0805 50 10	AR	49,2
	TR	51,4
	UY	49,2
	ZZ	49,9
0808 10 80	AR	74,9
	CA	110,7
	CL	84,2
	CN	83,7
	MK	29,3
	NZ	74,9
	US	110,7
	ZA	124,1
ZZ	86,6	
0808 20 50	CN	76,6
	US	86,2
	ZZ	81,4

⁽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 (EU) No 1230/2010**of 20 December 2010****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EU) No 867/2010 for the 2010/11 marketing year**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector ⁽²⁾, and in particular Article 36(2), second subparagraph, second sentence thereof,

Whereas:

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

for the 2010/11 marketing year are fixed by Commission Regulation (EU) No 867/2010 ⁽³⁾. These prices and duties have been last amended by Commission Regulation (EU) No 1184/2010 ⁽⁴⁾

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

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties applicable to imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Regulation (EU) No 867/2010 for the 2010/11, marketing year, are hereby amended as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 21 December 2010.

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

Done at Brussels, 20 December 2010.

*For the Commission,
On behalf of the President,*

Jean-Luc DEMARTY
*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 178, 1.7.2006, p. 24.

⁽³⁾ OJ L 259, 1.10.2010, p. 3.

⁽⁴⁾ OJ L 330, 15.12.2010, p. 7.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 21 December 2010

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 11 10 ⁽¹⁾	64,20	0,00
1701 11 90 ⁽¹⁾	64,20	0,00
1701 12 10 ⁽¹⁾	64,20	0,00
1701 12 90 ⁽¹⁾	64,20	0,00
1701 91 00 ⁽²⁾	59,68	0,00
1701 99 10 ⁽²⁾	59,68	0,00
1701 99 90 ⁽²⁾	59,68	0,00
1702 90 95 ⁽³⁾	0,60	0,17

⁽¹⁾ For the standard quality defined in point III of Annex IV to Regulation (EC) No 1234/2007.⁽²⁾ For the standard quality defined in point II of Annex IV to Regulation (EC) No 1234/2007.⁽³⁾ Per 1 % sucrose content.

DECISIONS

COUNCIL DECISION

of 10 December 2010

on State aid to facilitate the closure of uncompetitive coal mines

(2010/787/EU)

THE COUNCIL OF THE EUROPEAN UNION,

activities in the context of an irrevocable closure plan and/or the financing of exceptional costs, in particular inherited liabilities.

Having regard to the Treaty on the Functioning of the European Union, and in particular point (e) of Article 107(3) thereof,

Having regard to the proposal from the European Commission,

(6) This Decision marks the transition, for the coal sector, from the application of sector-specific rules to the application of general State aid rules which are applicable to all sectors.

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

Whereas:

(7) In order to minimise the distortion of competition in the internal market resulting from State aid to facilitate the closure of uncompetitive coal mines, such aid should be degressive and strictly limited to coal production units that are irrevocably planned for closure.

(1) Council Regulation (EC) No 1407/2002 of 23 July 2002 on State aid to the coal industry ⁽²⁾ expires on 31 December 2010.

(2) The small contribution of subsidised coal to the overall energy mix no longer justifies the maintenance of such subsidies for securing the supply of energy in the Union.

(8) In order to mitigate the environmental impact of the production of coal by coal production units to which closure aid is granted, the Member States should establish a plan of appropriate measures, for example in the field of energy efficiency, renewable energy or carbon capture and storage.

(3) The Union's policy of encouraging renewable energy sources and a sustainable and safe low-carbon economy does not justify the indefinite support for uncompetitive coal mines. The categories of aid permitted by Regulation (EC) No 1407/2002 should therefore not be continued indefinitely.

(9) Undertakings should be eligible for aid to cover costs which, in accordance with normal accounting practice, do not directly affect the cost of production. Such aid is intended to cover exceptional costs that arise from the closure of their coal production units. In order to avoid such aid from unduly benefiting undertakings that close only some of their production sites, the undertakings concerned should keep separate accounts for each of their coal production units.

(4) However, in the absence of sector-specific State aid rules, only the general State aid rules apply to coal. In this context, uncompetitive coal mines, currently benefiting from aid under Regulation (EC) No 1407/2002, may no longer be eligible for aid and may be forced to close.

(5) Without prejudice to the general State aid rules, Member States should be able to take measures to alleviate the social and regional consequences of the closure of those mines, that is to say the orderly winding down of

(10) In accomplishing its task under this Decision, the Commission should ensure that normal conditions of competition are established, maintained and complied with. With regard, more especially, to the electricity market, aid to the coal industry should not be such as to affect electricity producers' choice of sources of primary energy supply. Consequently, the prices and quantities of coal should be freely agreed between the contracting parties in the light of prevailing conditions on the world market.

⁽¹⁾ Opinion of 23 November 2010 (not yet published in the Official Journal).

⁽²⁾ OJ L 205, 2.8.2002, p. 1.

- (11) The application of this Decision should not exclude that aid to the coal industry may be found compatible with the internal market on other grounds. In this context, other specific rules, in particular those concerning aid for research, development and innovation, aid for environmental protection and aid for training activities, continue to apply within the limits of the maximum aid intensities, unless they provide otherwise.
- (12) The Commission should assess the measures notified on the basis of this Decision and take decisions in accordance with Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽¹⁾.
- (13) To avoid any discontinuity between measures envisaged in Regulation (EC) No 1407/2002 and the measures foreseen in this Decision, this Decision should apply from 1 January 2011,

HAS ADOPTED THIS DECISION:

CHAPTER 1

INTRODUCTORY PROVISIONS

Article 1

Definitions

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

- (a) 'coal' means high-grade, medium-grade and low-grade category A and B coal within the meaning of the international codification system for coal laid down by the United Nations Economic Commission for Europe ⁽²⁾;
- (b) 'closure' means the permanent cessation of production and sale of coal;
- (c) 'closure plan' means a plan drawn up by a Member State providing for measures culminating in the definitive closure of coal production units;
- (d) 'coal production unit' means underground or opencast coal workings and related infrastructure capable of producing raw coal independently of other parts of the undertaking;
- (e) 'coal year' means calendar year or another 12-month period used as a reference for contracts in the coal industry;

⁽¹⁾ OJ L 83, 27.3.1999, p. 1.

⁽²⁾ International system for the codification of medium-grade and high-grade coal (1998), International classification of coal in seam (1998) and International system of codification for low-grade coal (1999).

- (f) 'production costs' means total costs related to current production, including mining operations, operations for the dressing of coal, in particular washing, sizing and sorting, and transport to the utilization point, normal depreciation and market-based interest charges on borrowed capital;
- (g) 'current production losses' means the positive difference between the coal production cost and the selling price at utilisation point freely agreed between the contracting parties in the light of the conditions prevailing on the world market.

CHAPTER 2

COMPATIBILITY OF AID

Article 2

Principle

1. In the context of closure of uncompetitive mines, aid to the coal industry may be considered compatible with the proper functioning of the internal market if it complies with the provisions of this Decision.

2. Aid shall cover only costs in connection with coal for the production of electricity, the combined production of heat and electricity, the production of coke and the fuelling of blast furnaces in the steel industry, where such use takes place in the Union.

Article 3

Closure aid

1. Aid to an undertaking intended specifically to cover the current production losses of coal production units may be considered compatible with the internal market only if it satisfies the following conditions:

- (a) the operation of the coal production units concerned must form part of a closure plan the deadline of which does not extend beyond 31 December 2018;
- (b) the coal production units concerned must be closed definitively in accordance with the closure plan;
- (c) the aid notified must not exceed the difference between the foreseeable production costs and the foreseeable revenue for a coal year. The aid actually paid must be subject to annual correction, based on the actual costs and revenue, at the latest by the end of the coal production year following the year for which the aid was granted;

- (d) the amount of aid per tonne coal equivalent must not cause prices for Union coal at utilisation point to be lower than those for coal of a similar quality from third countries;
- (e) the coal production units concerned must have been in activity on 31 December 2009;
- (f) the overall amount of closure aid granted by a Member State must follow a downward trend: by the end of 2013 the reduction must not be less than 25 %, by the end of 2015 not less than 40 %, by the end of 2016 not less than 60 % and by the end of 2017 not less than 75 % of the aid granted in 2011;
- (g) the overall amount of closure aid to the coal industry of a Member State must not exceed, for any year after 2010, the amount of aid granted by that Member State and authorised by the Commission in accordance with Articles 4 and 5 of Regulation (EC) No 1407/2002 for the year 2010;
- (h) the Member States must establish a plan to take measures aimed at mitigating the environmental impact of the production of coal by production units to which aid is granted pursuant to this Article, for example in the field of energy efficiency, renewable energy or carbon capture and storage.

2. The inclusion of measures constituting State aid within the meaning of Article 107(1) of the Treaty in a plan as referred to in point (h) of paragraph 1 shall be without prejudice to the notification and standstill obligations imposed on Member States with respect to such measures by Article 108(3) of the Treaty, and to the compatibility of such measures with the internal market.

3. If the coal production units to which aid is granted pursuant to paragraph 1 are not closed at the date fixed in the closure plan as authorised by the Commission, the Member State concerned shall recover all aid granted in respect of the whole period covered by the closure plan.

Article 4

Aid to cover exceptional costs

1. State aid granted to undertakings which carry out or have carried out an activity in connection with coal production to enable them to cover the costs arising from or having arisen from the closure of coal production units and which are not related to current production, may be considered compatible with the internal market provided that the amount paid does not exceed such costs. Such aid may be used to cover:

- (a) the costs incurred and cost provisions made only by undertakings which are closing or have closed coal production units, including undertakings benefiting from closure aid;

- (b) the costs incurred by several undertakings.

2. The categories of costs covered by paragraph 1 are defined in the Annex. Paragraph 1 shall not apply to costs resulting from non-compliance with environmental regulations.

Article 5

Cumulation

1. The maximum amount of aid authorised under this Decision shall apply regardless of whether the aid is financed entirely by Member States or is partly financed by the Union.

2. Aid authorised under this Decision shall not be combined with other State aid within the meaning of Article 107(1) of the Treaty or with other forms of Union financing for the same eligible costs if such overlapping results in an aid amount higher than that authorised under this Decision.

Article 6

Separation of accounts

All aid received by undertakings shall be shown in the profit-and-loss accounts as a separate item of revenue distinct from turnover. Where undertakings benefiting from aid under this Decision continue trading or operating after closing down some or all of their coal production units they shall keep precise and separate accounts for each of their coal production units and for other economic activities which are not related to coal mining. The aid granted under this Decision shall be managed in such a way that there is no possibility of it being transferred to other coal production units which are not part of the closure plan or to other economic activities of the same undertaking.

CHAPTER 3

PROCEDURES

Article 7

Information to be provided by Member States

1. In addition to Regulation (EC) No 659/1999, aid as referred to in this Decision shall be subject to the special rules laid down in paragraphs 2 to 6.

2. Member States which intend to grant closure aid as referred to in Article 3 shall notify a closure plan for the coal production units concerned to the Commission. The plan shall contain at least the following:

- (a) identification of the coal production units;

(b) the real or estimated production costs for each coal production unit per coal year;

(c) estimated coal production, per coal year, of coal production units forming the subject of a closure plan;

(d) the estimated amount of closure aid per coal year.

3. Member States shall notify any amendments to the closure plan to the Commission.

4. Member States shall notify all the aid which they intend to grant to the coal industry under this Decision during a coal year. They shall submit to the Commission all details relevant to the calculation of the foreseeable production costs and their relationship to the closure plans notified to the Commission pursuant to paragraph 2.

5. Member States shall inform the Commission of the amount, and of the calculation of the aid actually paid during a coal year, no later than six months after the end of the year in question. Where any corrections are made to the amounts originally paid during a given coal year, Member States shall inform the Commission before the end of the following coal year.

6. When notifying aid as referred to in Articles 3 and 4 and when informing the Commission on aid actually paid, Member States shall supply all the information necessary for the Commission to verify that the provisions of this Decision are complied with.

CHAPTER 4

FINAL PROVISIONS

Article 8

Implementing measures

The Commission shall take all necessary measures for the implementation of this Decision. It may, within the limits laid down by this Decision, establish a joint framework for communication of the information referred to in Article 7.

Article 9

Entry into force

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

It shall apply from 1 January 2011.

It shall expire on 31 December 2027.

Done at Brussels, 10 December 2010.

For the Council

The President

V. VAN QUICKENBORNE

ANNEX

DEFINITION OF COSTS REFERRED TO IN ARTICLE 4

1. Costs incurred and cost provisions made only by undertakings which have closed or are closing coal production units

The following cost categories exclusively, and only if they result from the closure of coal production units:

- (a) the cost of paying social welfare benefits resulting from the pensioning-off of workers before they reach statutory retirement age;
- (b) other exceptional expenditure on workers who have lost or who lose their jobs;
- (c) the payment of pensions and allowances outside the statutory system to workers who have lost or who lose their jobs and to workers entitled to such payments before the closure;
- (d) the cost covered by the undertakings for the readaptation of workers in order to help them find new jobs outside the coal industry, especially training costs;
- (e) the supply of free coal to workers who have lost or who lose their jobs and to workers entitled to such supply before the closure, or the monetary equivalent;
- (f) residual costs resulting from administrative, legal or tax provisions which are specific to the coal industry;
- (g) additional underground safety work resulting from the closure of coal production units;
- (h) mining damage, provided that it has been caused by the coal production units which have been closed or which are being closed;
- (i) all duly justified costs related to the rehabilitation of former coal mining sites, including:
 - residual costs resulting from contributions to bodies responsible for water supplies and for the removal of waste water,
 - other residual costs resulting from water supplies and the removal of waste water;
- (j) residual costs to cover former miners' health insurance;
- (k) costs related to the cancelling or modification of ongoing contracts (for a maximum value of 6 months of production);
- (l) exceptional intrinsic depreciation provided that it results from the closure of coal production units;
- (m) costs of surface recultivation.

The increase in the value of the land shall be deducted from the eligible costs for the cost categories referred to in points (g), (h), (i) and (m).

2. Costs incurred and cost provisions made by several undertakings

The following cost categories exclusively:

- (a) increase in contributions, outside the statutory system, to cover social security costs as a result of the drop, following closure of coal production units, in the number of contributors;
 - (b) expenditure, resulting from the closure of coal production units, on the supply of water and the removal of waste water;
 - (c) increase in contributions to bodies responsible for supplying water and removing waste water, provided that this increase is the result of a reduction, following the closure of coal production units, in the coal production subject to levy.
-

COUNCIL DECISION 2010/788/CFSP

of 20 December 2010

**concerning restrictive measures against the Democratic Republic of the Congo and repealing
Common Position 2008/369/CFSP**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Whereas:

- (1) On 14 May 2008, the Council adopted Common Position 2008/369/CFSP concerning restrictive measures against the Democratic Republic of the Congo ⁽¹⁾ following the adoption by the United Nations Security Council on 31 March 2008 of Resolution 1807 (2008) ('UNSCR 1807 (2008)').
- (2) On 1 December 2010, the Sanctions Committee established pursuant to United Nations Security Council Resolution 1533 (2004) ('UNSCR 1533 (2004)') amended the list of persons and entities which are subject to restrictive measures.
- (3) The procedure for amending the Annex to this Decision should include providing to designated persons and entities the grounds for listing so as to give them an opportunity to present observations. Where observations are submitted or where substantial new evidence is presented, the Council should review its decision in the light of those observations and inform the person or entity concerned accordingly.
- (4) This Decision respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union and notably the right to an effective remedy and to a fair trial, the right to property and the right to the protection of personal data. This Decision should be applied in accordance with those rights and principles.
- (5) This Decision also fully respects the obligations of Member States under the Charter of the United Nations and the legally binding nature of Security Council resolutions.
- (6) Common Position 2008/369/CFSP should therefore be repealed and replaced by this Decision.
- (7) The Union implementing measures are set out in Council Regulation (EC) No 889/2005 of 13 June 2005 imposing certain restrictive measures in respect of the Democratic Republic of the Congo ⁽²⁾ and Council Regulation (EC)

No 1183/2005 of 18 July 2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo ⁽³⁾,

HAS ADOPTED THIS DECISION:

Article 1

1. The direct or indirect supply, sale or transfer of arms and any related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned to all non-governmental entities and individuals operating in the territory of the Democratic Republic of the Congo (DRC) by nationals of Member States or from the territories of Member States, or using their flag vessels or aircraft, shall be prohibited whether originating or not in their territories.
2. It shall also be prohibited to:
 - (a) grant, sell, supply or transfer technical assistance, brokering services and other services related to military activities and to the provision, manufacture, maintenance and use of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, directly or indirectly to all non-governmental entities and individuals operating in the territory of the DRC;
 - (b) provide financing or financial assistance related to military activities, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of arms and related materiel, or for any grant, sale, supply, or transfer of related technical assistance, brokering services and other services, directly or indirectly to all non-governmental entities and individuals operating in the territory of the DRC.

Article 2

1. Article 1 shall not apply to:
 - (a) the supply, sale or transfer of arms and any related materiel or the provision of technical assistance, financing, brokering services and other services related to arms and related materiel intended solely for support of, or use by, the United Nations Organisation Mission in the DRC (MONUC);

⁽¹⁾ OJ L 127, 15.5.2008, p. 84.

⁽²⁾ OJ L 152, 15.6.2005, p. 1.

⁽³⁾ OJ L 193, 23.7.2005, p. 1.

(b) the supply, sale or transfer of protective clothing, including flak jackets and military helmets, temporarily exported to the DRC by United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only;

(c) the supply, sale or transfer of non-lethal military equipment intended solely for humanitarian or protective use, or the provision of technical assistance and training, related to such non-lethal equipment.

2. The supply, sale or transfer of arms and any related materiel or the provision of services or technical assistance and training referred to in paragraph 1 shall be subject to prior authorisation by the competent authorities of the Member States.

3. Member States shall give the Sanctions Committee established pursuant to UNSCR 1533 (2004) (Sanctions Committee) advance notification of any shipment of arms and related materiel for the DRC, or any provision of technical assistance, financing, brokering services and other services related to military activities in the DRC, other than those referred to in paragraphs 1(a) and (b). Such notification shall contain all relevant information, including, where appropriate, the end-user, the proposed date of delivery and the itinerary of shipments.

4. Member States shall consider deliveries under paragraph 1 on a case-by-case basis, taking full account of the criteria set out in Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment⁽¹⁾. Member States shall require adequate safeguards against misuse of authorisations granted pursuant to paragraph 2 and, where appropriate, make provisions for repatriation of the arms delivered and related materiel.

Article 3

Restrictive measures as provided for in Articles 4(1) and 5(1) and (2) shall be imposed against the following persons and, as appropriate, entities, designated by the Sanctions Committee:

- persons or entities acting in violation of the arms embargo and related measures as referred to in Article 1,
- political and military leaders of foreign armed groups operating in the DRC who impede the disarmament and the voluntary repatriation or resettlement of combatants belonging to those groups,
- political and military leaders of Congolese militias receiving support from outside the DRC, who impede the partici-

pation of their combatants in disarmament, demobilisation and reintegration processes,

- political and military leaders operating in the DRC and recruiting or using children in armed conflicts in violation of applicable international law,
- individuals operating in the DRC and committing serious violations of international law involving the targeting of children or women in situations of armed conflict, including killing and maiming, sexual violence, abduction and forced displacement,
- individuals obstructing the access to or the distribution of humanitarian assistance in the eastern part of the DRC,
- individuals or entities supporting the illegal armed groups in the eastern part of the DRC through illicit trade of natural resources.

The relevant persons and entities are listed in the Annex.

Article 4

1. Member States shall take the necessary measures to prevent the entry into, or transit through, their territories of the persons referred to in Article 3.

2. Paragraph 1 shall not oblige a Member State to refuse its own nationals entry into its territory.

3. Paragraph 1 shall not apply where the Sanctions Committee:

- (a) determines in advance and on a case-by-case basis that such entry or transit is justified on the grounds of humanitarian need, including religious obligation,
- (b) concludes that an exemption would further the objectives of relevant resolutions of the Security Council, that is to say peace and national reconciliation in the DRC and stability in the region,
- (c) authorises in advance and on a case-by-case basis, the transit of individuals returning to the territory of the State of their nationality, or participating in efforts to bring to justice perpetrators of grave violations of human rights or international humanitarian law.

4. In cases where, pursuant to paragraph 3, a Member State authorises the entry into, or transit through, its territory of persons designated by the Sanctions Committee, the authorisation shall be limited to the purpose for which it is given and to the persons concerned thereby.

⁽¹⁾ OJ L 335, 13.12.2008, p. 99.

Article 5

1. All funds, other financial assets and economic resources owned or controlled directly or indirectly by the persons or entities referred to in Article 3 or held by entities owned or controlled directly or indirectly by them or by any persons or entities acting on their behalf or at their direction, as identified in the Annex, shall be frozen.

2. No funds, other financial assets or economic resources shall be made available, directly or indirectly, to or for the benefit of the persons or entities referred to in paragraph 1.

3. Member States may allow for exemptions from the measures referred to in paragraphs 1 and 2 in respect of funds, other financial assets and economic resources which are:

- (a) necessary for basic expenses, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;
- (b) intended exclusively for the payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services;
- (c) intended exclusively for the payment of fees or service charges, in accordance with national laws, for routine holding or maintenance of frozen funds, or other financial assets and economic resources;
- (d) necessary for extraordinary expenses, after notification by the Member State concerned to, and approval by, the Sanctions Committee;
- (e) the subject of a judicial, administrative or arbitral lien or judgment, in which case the funds, other financial assets and economic resources may be used to satisfy that lien or judgment provided that the lien or judgment was entered before designation by the Sanctions Committee of the person or entity concerned, and is not for the benefit of a person or entity referred to in Article 3, after notification by the Member State concerned to the Sanctions Committee.

4. The exemptions referred to in paragraph 3(a), (b) and (c) may be made after notification to the Sanctions Committee by the Member State concerned of its intention to authorise, where appropriate, access to such funds, other financial assets and economic resources, and in the absence of a negative decision by the Sanctions Committee within four working days of such notification.

5. Paragraph 2 shall not apply to the addition to frozen accounts of:

(a) interest or other earnings on those accounts; or

(b) payments due under contracts, agreements or obligations that were concluded or arose before the date on which those accounts became subject to restrictive measures,

provided that any such interest, other earnings and payments remain subject to paragraph 1.

Article 6

The Council shall amend the list contained in the Annex on the basis of the determinations made by the Security Council or by the Sanctions Committee.

Article 7

1. Where the United Nations Security Council or the Sanctions Committee lists a person or entity, the Council shall include such person or entity in the Annex. The Council shall communicate its decision, including the grounds for listing, to the person or entity concerned, either directly, if the address is known, or through the publication of a notice, providing such person or entity an opportunity to present observations.

2. Where observations are submitted, or where substantial new evidence is presented, the Council shall review its decision and inform the person or entity concerned accordingly.

Article 8

1. The Annex shall include the grounds for listing of listed persons and entities as provided by the United Nations Security Council or the Sanctions Committee.

2. The Annex shall also include, where available, information provided by the United Nations Security Council or by the Sanctions Committee necessary to identify the persons or entities concerned. With regard to persons, such information may include names including aliases, date and place of birth, nationality, passport and ID card numbers, gender, address, if known, and function or profession. With regard to entities, such information may include names, place and date of registration, registration number and place of business. The Annex shall also include the date of designation by the United Nations Security Council or by the Sanctions Committee.

Article 9

This Decision shall be reviewed, amended or repealed as appropriate, as determined by the United Nations Security Council.

Article 10

Common Position 2008/369/CFSP is hereby repealed.

Article 11

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

Done at Brussels, 20 December 2010.

For the Council
The President
J. SCHAUVLIEGE

ANNEX

a) List of persons referred to in Articles 3, 4 and 5

Name	Alias	Date of birth/place of birth	Identifying information	Reasons	Date of designation
Frank Kakolele BWAMBALE	Frank Kakorere Frank Kakorere Bwambale		Left the CNDP in January 2008. As of December 2008 resides in Kinshasa.	Former RCD-ML leader, exercising influence over policies and maintaining command and control over the activities of RCD-ML forces, one of the armed groups and militias referred to in paragraph 20 of Resolution 1493 (2003), responsible for trafficking of arms, in violation of the arms embargo.	1.11.2005
Gaston IYAMUREMYE	Rumuli Byiringiro Victor Rumuli Victor Rumuri Michel Byiringiro	1948 Musanze District (Northern Province), Rwanda Ruhengeri, Rwanda	Second Vice President of FDLR Brigadier General As of November 2010, resides either in Kibua, North Kivu, DRC, or in Aru, Orientale Province, DRC.	According to multiple sources, including the UNSC DRC Sanctions Committee's Group of Experts, Gaston Iyamuremye is the second vice president of the FDLR and is considered a core member of the FDLR military and political leadership. Gaston Iyamuremye also ran Ignace Murwanashyaka's (President of the FDLR) office in Kibua, DRC until December 2009.	1.12.2010
Jérôme KAKWAVU BUKANDE	Jérôme Kakwavu		Congolese Known as: 'Commandant Jérôme' As of June 2010, has been arrested and is now being held in Kinshasa central prison. Judicial proceedings have been initiated against him and two other of the five senior FARDC officers.	Former President of UCD/FAPC. FAPC's control of illegal border posts between Uganda and the DRC - a key transit route for arms flows. As President of the FAPC, he exercises influence over policies and maintains command and control over the activities of FAPC forces, which have been involved in arms trafficking and, consequently, in violations of the arms embargo. Given the rank of General in the FARDC in December 2004. According to the Office of the SRSG on Children and Armed Conflict, he was responsible for recruitment and use of children in Ituri in 2002. One of five senior FARDC officers who had been accused of serious crimes involving sexual violence and whose cases the Security Council had brought to the Government's attention during its visit in 2009.	1.11.2005
Germain KATANGA			Congolese Under house arrest in Kinshasa from March 2005 for FRPI involvement in human rights abuses. Handed over by the Government of the DRC to the International Criminal Court on 18 October 2007.	FRPI chief. Appointed General in the FARDC in December 2004. Involved in weapons transfers, in violation of the arms embargo. According to the Office of the SRSG on Children and Armed Conflict, he was responsible for recruitment and use of children in Ituri from 2002 to 2003.	1.11.2005

Name	Alias	Date of birth/place of birth	Identifying information	Reasons	Date of designation
Thomas LUBANGA		Ituri	<p>Congolese</p> <p>Arrested in Kinshasa in March 2005 for UPC/L involvement in human rights abuses.</p> <p>Transferred to the ICC by the Congolese authorities on 17 March 2006.</p> <p>As of December 2008 is being tried for war crimes.</p>	<p>President of the UPC/L, one of the armed groups and militias referred to in paragraph 20 of Resolution 1493 (2003), involved in the trafficking of arms, in violation of the arms embargo.</p> <p>According to the Office of the SRSG on Children and Armed Conflict, he was responsible for recruitment and use of children in Ituri from 2002 to 2003.</p>	1.11.2005
Khawa Panga MANDRO	<p>Kawa Panga</p> <p>Kawa Panga Mandro</p> <p>Kawa Mandro</p> <p>Yves Andoul Karim</p> <p>Mandro Panga Kahwa</p> <p>Yves Khawa Panga Mandro</p>	20 August 1973, Bunia	<p>Congolese</p> <p>Known as:</p> <p>'Chief Kahwa'</p> <p>'Kawa'</p> <p>Arrested by Congolese authorities in October 2005, acquitted by the Court of Appeal in Kisangani, subsequently transferred to the judicial authorities in Kinshasa on new charges of crimes against humanity, war crimes, murder, aggravated assault and battery</p>	<p>Ex-President of PUSIC, one of the armed groups and militia referred to in paragraph 20 of Resolution 1493 (2003) involved in arms trafficking, in violation of the arms embargo. In prison in Bunia since 04/05 for sabotage of the Ituri peace process.</p> <p>According to the Office of the SRSG on Children and Armed Conflict, he was responsible for recruitment and use of children from 2001 to 2002.</p>	1.11.2005
Callixte MBARUSHIMANA		24 July 1963, Ndusu/Ruhen geru Northern Province, Rwanda	<p>Rwandan</p> <p>Current location: Paris or Thais, France</p>	<p>Executive Secretary of the FDLR and Vice-President of the FDLR military high command.</p> <p>Political/Military leader of a foreign armed group operating in the Democratic Republic of the Congo, impeding the disarmament and the voluntary repatriation and resettlement of combatants, per Security Council Resolution 1857 (2008) OP 4 (b).</p>	3.3.2009
Iruta MPAMO	<p>Mpano</p> <p>Douglas Iruta Mpamo</p>	<p>28 December 1965, Bashali, Masisi</p> <p>29 December 1965, Goma, DRC (formerly Zaire)</p>	<p>Congolese</p> <p>Based in Goma and Gisenyi, Rwanda.</p> <p>Frequently travels across international border between Rwanda and Congo.</p> <p>Address: Bld Kanyamuhanga 52, Goma</p>	<p>Owner/Manager of the Compagnie Aérienne des Grands Lacs and of Great Lakes Business Company, whose aircraft were used to provide assistance to armed groups and militias referred to in paragraph 20 of Resolution 1493 (2003). Also responsible for disguising information on flights and cargo apparently to allow for the violation of the arms embargo.</p>	1.11.2005

Name	Alias	Date of birth/place of birth	Identifying information	Reasons	Date of designation
Sylvestre MUDACUMURA			Rwandan Known as: 'Radja', 'Mupenzi Bernard', 'General Major Mupenzi', 'General Mudacumura' As of November 2009, continues to serve as FDLR-FOCA military commander. Based in Kibua, Masisi territory, DRC.	FDLR commander, exercising influence over policies, and maintaining command and control over the activities of FDLR forces, one of the armed groups and militias referred to in paragraph 20 of Resolution 1493 (2003), involved in trafficking of arms, in violation of the arms embargo. Mudacumura (or staff) was in telephone communication with FDLR leader Murwanashyaka in Germany, including at the time of the Busurungi Massacre May 2009, and military commander Major Guillaume during Umoja Wetu and Kimia II operations in 2009. According to the Office of the SRSG on Children and Armed Conflict, he was responsible for 27 cases of recruitment and use of children by troops under his command in North Kivu from 2002 to 2007.	1.11.2005
Leodomir MUGARAGU	Manzi Leon Leo Manzi	1954 1953 Kigali, Rwanda Rushashi (Northern Province), Rwanda	Address: Katoyi, North Kivu, DRC FDLR/FOCA Chief of Staff Brigadier General	According to open-source and official reporting, Leodomir Mugaragu is the Chief of Staff of the Forces Combattantes Abucunguzi/ Combatant Force for the Liberation of Rwanda (FOCA), the FDLR's armed wing. According to official reporting Mugaragu is a senior planner for FDLR's military operations in the eastern DRC.	1.12.2010
Leopold MUJYAMBERE	Musenyeri Achille Frere Petrus Ibrahim	17 March 1962, Kigali, Rwanda Est. 1966	Rwandan Rank: Colonel Current location: Mwenga, South Kivu, DRC	Commander of the Second Division of FOCA / the Reserve Brigades (an FDLR armed branch). Military leader of a foreign armed group operating in the Democratic Republic of the Congo, impeding the disarmament and the voluntary repatriation and resettlement of combatants, in violation of Security Council Resolution 1857 (2008) OP4 (b). In evidence collated by the UNSC DRC Sanctions Committee Group of Experts, detailed in its report of 13 February 2008, girls recovered from FDLR-FOCA had previously been abducted and sexually abused. Since mid-2007, FDLR-FOCA, which previously recruited boys in their mid to late teens, has been forcefully recruiting youth from the age of 10 years. The youngest are then used as escorts, and older children are deployed as soldiers on the frontline, in violation of Security Council Resolution 1857 (2008) OP4 (d) and (e).	3.3.2009
Dr. Ignace MURWANASHYAKA	Ignace	14 May 1963, Butera (Rwanda) Ngoma, Butare (Rwanda)	Rwandan Resident in Germany As of November 2009, still recognized as the President of the FDLR-FOCA political branch and supreme commander of the FDLR armed forces	President of the FDLR, and supreme commander of the FDLR armed forces exercising influence over policies, and maintaining command and control over the activities of FDLR forces, one of the armed groups and militias referred to in paragraph 20 of Resolution 1493 (2003), involved in trafficking of arms, in violation of the arms embargo. In telephone communication with FDLR military field commanders (including during the Busurungi May 2009 massacre); gave military orders to the high command; involved in coordinating the transfer of arms and ammunition to FDLR units and relaying specific	1.11.2005

Name	Alias	Date of birth/place of birth	Identifying information	Reasons	Date of designation
			Arrested by German Federal Police on 17 November 2009 on suspicion of committing crimes against humanity and war crimes in the DRC, as well as on the basis of other charges related to the forming and membership of a foreign terrorist organization.	instructions for use; managing large sums of money raised through illicit sale of natural resources in areas of FDLR control (pg.24-25, 83) Traveled to Uganda in 2006 in violation of travel ban According to the Office of the SRSG on Children and Armed Conflict, he held command responsibility as President and military commander of FDLR for recruitment and use of children by the FDLR in Eastern Congo.	
Straton MUSONI	IO Musoni	6 April 1961 (possibly 4 June 1961) Mugambazi, Kigali, Rwanda	Rwandan passport expired on 10 September 2004 Resident in Neuffen, Germany As of November 2009, still recognized as the 1st Vice President of the FDLR-FOCA political branch and President of the FDLR military high command. Arrested by German Federal Police on 17 November 2009 on suspicion of committing crimes against humanity and war crimes in the DRC, as well as on the basis of other charges related to the forming and membership of a foreign terrorist organization.	Through his leadership of the FDLR, a foreign armed group operating in the DRC, Musoni is impeding the disarmament and voluntary repatriation or resettlement of combatants belonging to those groups, in breach of Resolution 1649 (2005).	29.3.2007
Jules MUTEBUTSI	Jules Mutebusi Jules Mutebuzi Colonel Mutebutsi	South Kivu	Congolese (South Kivu) Arrested by the Rwandan authorities in December 2007 when he tried to cross the border into the DRC. Reportedly he is currently 'restrained.'	Former FARDC Deputy Military Regional Commander of 10th MR in April 2004, dismissed for indiscipline and joined forces with other renegade elements of former RCDG to take town of Bukavu in May 2004 by force. Implicated in the receipt of weapons outside of FARDC structures and provision of supplies to armed groups and militia mentioned in paragraph 20 of Resolution 1493 (2003), in violation of the arms embargo.	1.11.2005
Mathieu, Chui NGUDJOLO	Cui Ngudjolo		'Colonel' or 'General' Surrendered by the Government of the DRC to the International Criminal Court on 7 February 2008.	FNI Chief of Staff and former Chief of Staff of the FRPI, exercising influence over policies and maintaining command and control the activities of FRPI forces, one of the armed groups and militias referred to in paragraph 20 of Resolution 1493 (2003), responsible for trafficking of arms, in violation of the arms embargo. Arrested by MONUC in Bunia in October 2003. According to the Office of the SRSG on Children and Armed Conflict, he was responsible for recruitment and use of children under 15 years old in Ituri in 2006.	1.11.2005

Name	Alias	Date of birth/place of birth	Identifying information	Reasons	Date of designation
Floribert Njabu NJABU	Floribert Njabu Floribert Ndjabu Floribert Njabu Ndjabu		Arrested and placed under house arrest in Kinshasa from March 2005 for FNI involvement in human rights abuses.	President of FNI, one of the armed groups and militias referred to in paragraph 20 of Resolution 1493 (2003), involved in the trafficking of arms, in violation of the arms embargo.	1.11.2005
Laurent NKUNDA	Nkunda Mihigo Laurent Laurent Nkunda Bwatware Laurent Nkundab- atware Laurent Nkunda Mahoro Bwatware Laurent Nkunda Bwatware	6 February 1967 North Kivu/Rutshuru 2 February 1967	Congolese Known as: 'Chairman' 'General Nkunda' 'Papa Six' Arrested on Rwandan soil in January 2009 and subsequently replaced as commander of the CNDP in North Kivu.	Former RCD-G General. Joined forces with other renegade elements of former RCD-G to take Bukavu in May 04 by force. In receipt of weapons outside of FARDC in violation of the arms embargo. Founder, National Congress for the People's Defense, 2006; Senior Officer, Rally for Congolese Democracy- Goma (RCD-G), 1998-2006; Officer Rwandan Patriotic Front (RPF), 1992-1998. According to the Office of the SRSG on Children and Armed Conflict, he was responsible for 264 cases of recruitment and use of children by troops under his command in North Kivu from 2002 to 2009. As of November 2009, despite arrest in Rwanda in January 2009 and removal as President of CNDP, retains some control over CNDP and its international network.	1.11.2005
Felicien NSANZUBUKI-RE	Fred Irakeza	1967 Murama, Kinyinya, Rubungo, Kigali, Rwanda		According to multiple sources, Felicien Nsanzubukire is the 1st battalion leader of the FDLR, and is based in the Uvira-Sange area of South Kivu. Felicien Nsanzubukire has been a member of the FDLR since at least 1994 and operating in eastern DRC since October 1998. The UNSC DRC Sanction Committee's Group of Experts reports that Felicien Nsanzubukire supervised and coordinated the trafficking of ammunition and weapons between at least November 2008 and April 2009 from the United Republic of Tanzania, via Lake Tanganyika, to FDLR units based in the Uvira and Fizi areas of South Kivu.	1.12.2010
Pacifique NTAWUNGUKA	Colonel Omega Nzeri Israel Pacifique Ntawungula	1 January 1964, Gaseke, Gisenyi Province, Rwanda Est. 1964	Rwandan Rank: Colonel Current Location: Peti, Walikale - Masisi border, DRC Other: Received military training in Egypt	Commander of the First Division of FOCA (an FDLR armed branch). Military leader of a foreign armed group operating in the Democratic Republic of the Congo, impeding the disarmament and the voluntary repatriation and resettlement of combatants, in violation of Security Council Resolution 1857 (2008) OP 4 (b). In evidence collated by the UNSC DRC Sanctions Committee Group of Experts, detailed in its report of 13 February 2008, girls recovered from FDLR-FOCA had previously been abducted and sexually abused. Since mid-2007, FDLR-FOCA, which previously recruited boys in their mid to late teens, has been forcefully recruiting youth from the age of 10 years. The youngest are then used as escorts, and older children are deployed as soldiers on the frontline, in violation of Security Council Resolution 1857 (2008) OP4 (d) and (e).	3.3.2009

Name	Alias	Date of birth/place of birth	Identifying information	Reasons	Date of designation
James NYAKUNI			Ugandan	Trade partnership with Commandant Jerome, particularly smuggling across the DRC/Uganda border, including suspected smuggling of weapons and military material in unchecked trucks. Violation of the arms embargo and provision of assistance to armed groups and militia referred to in paragraph 20 of Resolution 1493 (2003), including financial support that allows them to operate militarily.	1.11.2005
Stanislas NZEYIMANA	Deogratias Bigaruka Izabayo Bigaruka Bigurura Izabayo Deo Jules Mateso Mlamba	1 January 1966, Mugusa (Butare), Rwanda Est. 1967 Alt. 28 August 1966	Rwandan As of November 2009, recognized as Major General Stanislas Nzeyimana, FDLR Deputy Commander Current location: Kalonge, Masisi, North Kivu, DRC or Kibua, DRC. Frequent travel to Kigoma	Deputy Commander of the FOCA (an FDLR armed branch). Military leader of a foreign armed group operating in the Democratic Republic of the Congo, impeding the disarmament and the voluntary repatriation and resettlement of combatants, in violation of Security Council Resolution 1857 (2008) OP 4 (b). In evidence collated by the UNSC DRC Sanctions Committee Group of Experts, detailed in its report of 13 February 2008, girls recovered from FDLR-FOCA had previously been abducted and sexually abused. Since mid-2007, FDLR-FOCA, which previously recruited boys in their mid to late teens, has been forcefully recruiting youth from the age of 10 years. The youngest are then used as escorts, and older children are deployed as soldiers on the frontline, in violation of Security Council Resolution 1857 (2008) OP4 (d) and (e).	3.3.2009
Dieudonné OZIA MAZIO	Ozia Mazio	6 June 1949, Ariwara	Congolese Known as: 'Omari' 'Mr Omari' Deceased in Ariwara on 23 September 2008.	President of FEC in Aru territory. Financial schemes with Commandant Jerome and FAPC and smuggling across the DRC/Uganda border, allowing supplies and cash to be made available to Commandant Jerome and his troops. Violation of the arms embargo, including by providing assistance to armed groups and militia referred to in paragraph 20 of Resolution 1493 (2003).	1.11.2005
Bosco TAGANDA	Bosco Ntaganda Bosco Ntagenda General Taganda		Congolese Known as: 'Terminator' 'Major' As of November 2009, de facto military head of CNDP following arrest of General Laurent Nkunda in January 2009. Former chief of staff of the CNDP. Based in Bunagana and Rutshuru.	UPC/L military commander, exercising influence over policies and maintaining command and control over the activities of UPC/L, one of the armed groups and militias referred to in paragraph 20 of Resolution 1493 (2003), involved in the trafficking of arms, in violation of the arms embargo. He was appointed General in the FARDC in December 2004 but refused to accept the promotion, therefore remaining outside of the FARDC. According to the Office of the SRSG on Children and Armed Conflict, he was responsible for recruitment and use of children in Ituri in 2002 and 2003, and 155 cases of direct and/or command responsibility for recruitment and use of children in North Kivu from 2002 to 2009. As CNDP Chief of Staff, had direct and command responsibility for the massacre at Kiwanja (November 2008)	1.11.2005

Name	Alias	Date of birth/place of birth	Identifying information	Reasons	Date of designation
			Since appointment as the de facto military head of CNDP in January 2009, has been instructed to manage integration into FARDC and given the post of deputy operational commander for Kimia II although this is officially denied by FARDC		
Innocent ZIMURINDA		September 1, 1972 1975 Ngungu, Masisi Territory, North Kivu Province, DRC	Lt. Col. According to opensource and official reporting, Lt Col Innocent Zimurinda was an officer in the Congrès National pour la Défense du Peuple (CNDP) which was integrated into Forces Armées de la République Démocratique du Congo (FARDC) in early 2009.	<p>According to multiple sources, Lt Col Innocent Zimurinda, in his capacity as one of the commanders of the FARDC 231st Brigade, gave orders that resulted in the massacre of over 100 Rwandan refugees, mostly women and children, during an April 2009 military operation in the Shalio area.</p> <p>The UNSC DRC Sanctions Committee's Group of Experts reported that Lt Col Innocent Zimurinda was witnessed first hand refusing to release three children from his command in Kalehe, on August 29, 2009.</p> <p>According to multiple sources, Lt Col Innocent Zimurinda, prior to the CNDP's integration into FARDC, participated in a November 2008 CNDP operation that resulted in the massacre of 89 civilians, including women and children, in the region of Kiwanja.</p> <p>In March 2010, 51 human rights groups working in eastern DRC posted a complaint online alleging that Lt Col Innocent Zimurinda was responsible for multiple human rights abuses involving the murder of numerous civilians, including women and children, between February 2007 and August 2007. Lt Col Innocent Zimurinda has also been accused in the same complaint to be responsible for the rape of a large number of women and girls.</p> <p>According to a May 21, 2010, statement by the Special Representative of the Secretary General for Children and Armed Conflict, Innocent Zimurinda has been involved in the arbitrary execution of child soldiers, including during operation Kimia II.</p> <p>According to the same statement, he denied access by the UN Mission in the DRC (MONUC) to screen troops for minors. According to the UNSC DRC Sanctions Committee's Group of Experts, Lt Col Zimurinda holds direct and command responsibility for child recruitment and for maintaining children within troops under his command.</p>	1.12.2010

b) List of entities referred to in Articles 3, 4 and 5

Name	Alias	Address	Identifying information	Reasons	Date of designation
BUTEMBO AIRLINES (BAL)		Butembo, DRC	Privately-owned airline, operates out of Butembo As of December 2008, BAL no longer holds an aircraft operating license in the DRC.	Kisoni Kambale (deceased on 5 July 2007 and subsequently de-listed on 24 April 2008) used his airline to transport FNI gold, rations and weapons between Mongbwalu and Butembo. This constitutes 'provision of assistance' to illegal armed groups in breach of the arms embargo of Resolutions 1493 (2003) and 1596 (2005).	29.3.2007
CONGOCOM TRADING HOUSE		Butembo, DRC Tel: +253 (0) 99 983 784	Gold trading house in Butembo.	CONGOCOM was owned by Kisoni Kambale (deceased on 5 July 2007 and subsequently de-listed on 24 April 2008). Kambale acquired almost all the gold production in the Mongbwalu district, which is controlled by the FNI. The FNI derive substantial income from taxes imposed on this production. This constitutes 'provision of assistance' to illegal armed groups in breach of the arms embargo of Resolutions 1493 (2003) and 1596 (2005).	29.3.2007
COMPAGNIE AERIENNE DES GRANDS LACS (CAGL) GREAT LAKES BUSINESS COMPANY (GLBC)		CAGL, Avenue Président Mobutu Goma, DRC (CAGL also has an office in Gisenyi, Rwanda) GLBC, PO Box 315, Goma, DRC (GLBC also has an office in Gisenyi, Rwanda)	As of December 2008, GLBC no longer had any operational aircraft, although several aircraft continued flying in 2008 despite UN sanctions.	CAGL and GLBC are companies owned by Douglas MPAMO, an individual already subject to sanctions under Resolution 1596 (2005). CAGL and GLBC were used to transport arms and ammunition in violation of the arms embargo of Resolutions 1493 (2003) and 1596 (2005).	29.3.2007
MACHANGA LTD		Kampala, Uganda	Gold export company in Kampala (Directors: Mr. Rajendra Kumar Vaya and Mr. Hirendra M. Vaya).	MACHANGA bought gold through a regular commercial relationship with traders in the DRC tightly linked to militias. This constitutes 'provision of assistance' to illegal armed groups in breach of the arms embargo of Resolutions 1493 (2003) and 1596 (2005).	29.3.2007
TOUS POUR LA PAIX ET LE DEVELOPPEMENT (NGO)	TPD	Goma, North Kivu	As of December 2008, TPD still existed and had offices in several towns in Masisi and Rutshuru territories, but its activities had almost ceased.	Implicated in violation of the arms embargo, by providing assistance to RCD-G, particularly in supplying trucks to transport arms and troops, and also by transporting weapons to be distributed to parts of the population in Masisi and Rutshuru, North Kivu, in early 2005	1.11.2005

Name	Alias	Address	Identifying information	Reasons	Date of designation
UGANDA COMMERCIAL IMPEX (UCI) LTD		Kajoka Street Kisemete Kampala, Uganda Tel.: +256 41 533 578/9; Alternative address: PO Box 22709 Kampala, Uganda	Gold export company in Kampala. (Directors Mr. J.V. LODHIA – known as 'Chuni'- and his son Mr. Kunal LODHIA).	UCI bought gold through a regular commercial relationship with traders in the DRC tightly linked to militias. This constitutes 'provision of assistance' to illegal armed groups in breach of the arms embargo of Resolutions 1493 (2003) and 1596 (2005).	29.3.2007

COMMISSION DECISION

of 17 November 2010

concerning aid for the costs of removal and destruction of fallen stock on agricultural holdings in the Walloon Region (State aid C 1/10 — Belgium)

(notified under document C(2010) 7263)

(Only the French and Dutch texts are authentic)

(2010/789/EU)

THE EUROPEAN COMMISSION,

included in the register of non-notified aid, under No NN 56/2007, as part of the funds had clearly already been paid out.

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 108(2)(1) ⁽¹⁾ thereof,

(4) At the request of the competent Belgian authorities a second technical meeting was held on 12 October 2007.

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) ⁽²⁾ thereof,

(5) By letter of 25 October 2007 the Commission services asked the Belgian authorities to provide further information. As no reply was received within the prescribed time limit, a reminder letter was sent to the Belgian authorities on 21 December 2007 with a new prescribed time limit to reply.

Having called on interested parties to submit their comments pursuant to those Articles ⁽³⁾,

Whereas:

(6) On 4 June 2008, not having received a reply to the first reminder letter within the prescribed time limit, the Commission services sent a new reminder letter drawing the attention of the Belgian authorities to the fact that if the four-week time limit assigned for the sending of a reply was not complied with, the Commission could send an information injunction according to Article 10(2) and (3) of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽⁴⁾. This time limit expired on 4 July 2008. For this reason, on 1 October 2008 the Commission adopted a decision requiring the Belgian authorities to provide the relevant information. In this Decision, the Commission requested the Belgian authorities to submit, inter alia, the relevant information sheets, as provided for in Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽⁵⁾ for the assessment of the aid granted after 31 January 2007.

(7) The Belgian authorities finally replied by letter of 27 November 2008 and sent additional information on 5 December 2008. However, they did not provide the information sheets as required in the Decision of the Commission of 1 October 2008.

I. PROCEDURE

(1) Following a complaint submitted on 23 April 2007, the Commission decided to initiate an investigation concerning alleged State aid granted by Belgium to cover costs associated with the removal and destruction of fallen stock on agricultural holdings in the Walloon Region.

(2) On 2 July 2007 the Commission sent a letter to the Belgian authorities, asking for information on the measure in question. The Belgian authorities provided information by letter of 27 July 2007, registered on 3 August 2007. At the request of the competent Belgian authorities a technical meeting was held on 21 August 2007. Following the meeting, the Belgian authorities provided, on 4 October 2007, additional information concerning the case.

(3) By letter of 10 September 2007, the Commission services informed Belgium that the aid scheme was

⁽¹⁾ From 1 December 2009, Articles 87 and 88 of the EC Treaty became Articles 107 and 108 respectively of the Treaty on the Functioning of the European Union (TFEU). In both cases the provisions are identical in their substance. For the purposes of this Decision, references to Articles 107 and 108 of the TFEU should be understood, where necessary, as being made to Articles 87 and 88 respectively of the EC Treaty.

⁽²⁾ OJ L 1, 3.1.1994, p. 3.

⁽³⁾ OJ C 191, 15.7.2010, p. 12.

⁽⁴⁾ OJ L 83, 27.3.1999, p. 1.

⁽⁵⁾ OJ L 140, 30.4.2004, p. 1.

(8) On 27 January 2009, the Commission sent the Belgian authorities a request for additional information. The Belgian authorities replied to this request by letter of 16 March 2009, registered on 19 March 2009.

- (9) By letter of 14 January 2010, the Commission informed Belgium that it had decided to initiate the procedure laid down in Article 108(2) of the Treaty on the Functioning of the European Union (TFEU) in respect of the notified aid. The Commission decision to initiate the procedure was published in the *Official Journal of the European Union* on 15 July 2010. The Commission invited interested parties to submit their comments on the measures concerned. No third party submitted comments.
- (10) By letter of 19 February 2010 the Belgian authorities requested that the deadline for replying set in the Commission letter of 14 January 2010 be extended by a further month. By letter of 5 March 2010 the Commission granted an extension of 1 month. Lastly, by letter of 12 March 2010 the Belgian authorities responded to the decision to initiate the procedure.

II. BACKGROUND

II.1. Commission Decision – Case No NN 48/2003

- (11) During the Commission's investigation it became clear that the complaint relates to the implementation of the aid scheme approved by the Commission on 26 November 2003, in State aid case NN 48/2003 (ex. N. 157/2003) entitled 'Management of removal and destruction of fallen stock on agricultural holdings in the Walloon Region'. This case concerned a scheme notified by the Belgian authorities, whereby the Belgian State would grant, through subsidised services, aid to agricultural holdings covering all costs relating to the removal, storage, processing and destruction of fallen stock.
- (12) In order for the clearance decision to be adopted, and in view of the imminent entry into force of the Community Guidelines for State aid concerning TSE tests, fallen stock and slaughterhouse waste ('the TSE Guidelines')⁽¹⁾ on 1 January 2004, the Belgian authorities committed themselves to amending their scheme. These amendments were necessary so as to comply with the conditions of the TSE Guidelines, and more specifically point 29 thereof. This point provided that Member States may grant State aid of up to 100 % of costs for the removal of fallen stock and 75 % of the costs of destruction of the carcasses. The Belgian scheme, as notified, was not in compliance with this provision, since it provided that the aid could cover 100 % of the costs of destruction of the carcasses.
- (13) Following the considerations mentioned in recitals (11) and (12) the Belgian authorities committed themselves (see recitals (33) and (34) of the Commission Decision in case No NN 48/2003) to amending their aid scheme accordingly so that from 1 January 2004, the aid provided for to cover the costs for the destruction of the carcasses would be covered only up to 75 % and not 100 %. The Belgian authorities also committed themselves to sending the Commission, at the latest by mid December 2003, evidence that the necessary changes had been made to the aid scheme.
- (14) Based on these commitments, the Commission approved this scheme for a duration of 5 years, beginning on 31 January 2002. This period therefore expired on 31 January 2007.

II.2. Complaint

- (15) On 23 April 2007, the Commission received a complaint alleging that the Belgian authorities were in breach of the TSE Guidelines by continuing to grant aid of up to 100 % for both the removal of fallen stock and the destruction of carcasses.

III. DETAILED DESCRIPTION OF THE MEASURE

- (16) The aid scheme in question concerns a regional measure aiming at covering all the costs for the provision of services for the removal, transport, storage, processing and destruction of fallen stock found on agricultural holdings located in the Walloon Region.
- (17) The organisation and management of the elimination of the carcasses found on the agricultural holdings has been organised through the award by the regional authorities of a service procurement contract. Following a general call for tender launched at European Union level by means of notice of a service procurement contract⁽²⁾, the contract was awarded on 31 January 2002 to the company S.A. RENDAC-UDES. It was divided into three separate lots, which corresponded to the different services to be provided.
- the collection of animal carcasses found on agricultural holdings, their transport to a processing plant, possibly through a regrouping or intermediary storage centre,
 - the processing of animal carcasses, considered in their entirety as items of specified risk, and the transport of the waste resulting from the processing to thermal destruction units, and,
 - the complete destruction of the waste resulting from this treatment within ad hoc facilities.

⁽¹⁾ OJ C 324, 24.12.2002, p. 2.

⁽²⁾ OJ S 156, 16.8.2001.

- (18) The only company that submitted a bid in the framework of this call for tender was S.A. RENDAC-UEDES, and it did so for all three lots. Therefore, the contract was awarded to this company on 31 January 2002, for a period of 5 years. According to the information that the Belgian authorities have submitted, the validity of the contract was extended at least four times: up to 31 December 2007, up to 31 December 2008, up to 30 June 2009 and finally up to the future implementation of the new procurement contract which, according to the Belgian authorities, should be operational by the third quarter of 2010.
- (19) The aid scheme in question involves aid to owners of agricultural holdings. The Belgian authorities confirmed that although the aid was granted directly to the company S.A. RENDAC-UEDES, as a service provider, for the costs of the services provided to owners of agricultural holdings, it was fully passed through to the farmers in order to cover all the costs linked to different activities of collection, transport, storage, processing and destruction, that they would otherwise have to bear. The Belgian authorities also confirmed that as regards the amounts paid directly to the company S.A. RENDAC-UEDES for the costs for the services provided to owners of agricultural holdings, these corresponded entirely and uniquely to the market prices for the services provided.
- (20) The Walloon waste office (Office wallon des déchets), a service within the regional Ministry for the Environment, was in charge of paying the invoices presented by S.A. RENDAC-UEDES, partly on a flat-rate basis and partly on the basis of price schedules.
- (21) In the framework of the examination of Case No NN 48/2003, the Belgian authorities have confirmed that the scheme concerns only fallen stock on agricultural holdings in the Walloon Region. It does not concern animal carcasses found in animal markets or slaughter-houses.

IV. COMMISSION DECISION OF 13 JANUARY 2010

- (22) In its decision of 13 January 2010 to initiate an investigation procedure, the Commission expressed doubts as to the compatibility of the aid scheme with the EU State aid rules. More precisely the Commission concluded that the aid scheme measures in question aiming to cover more than 75 % of the costs of destroying carcasses, can be considered to be incompatible with the internal market on the basis of the TSE Guidelines and the Community Guidelines concerning State aid in the agricultural and forestry sector 2007-2013 ('the 2007-2013 Guidelines')⁽¹⁾.
- (23) In addition, given that the Commission approved the aid scheme until 31 January 2007 on the basis of the Belgian authorities' commitments to amend the scheme so as to meet the conditions of the TSE Guidelines as of 1 January 2004 and these commitments were not complied with by the Belgian authorities, the

Commission has concluded that the aid granted for measures aiming to cover more than 75 % of the costs for the destruction of the carcasses was misused.

- (24) Therefore, in accordance with Article 4(4) of Regulation (EC) No 659/1999, and in conjunction with Article 16 of this Regulation concerning misuse of aid, the Commission has decided to initiate the formal investigation procedure and has invited Belgium to submit its comments.

V. COMMENTS FROM BELGIUM

- (25) In its reply of 12 March 2010 Belgium informed the Commission that it would take the required measures to implement a new service procurement contract. According to the Belgian authorities, the specifications intended to govern the future service procurement contract was due to be finalised by 15 April 2010 at the latest and it should be operational by the third quarter of 2010. The Belgian authorities have since claimed that the service procurement contract implemented on 31 January 2002 has been extended by means of an amendment subject to the same conditions as those applicable when it was awarded on 31 January 2002.
- (26) Moreover, the Belgian authorities have also claimed that (i) the Walloon Region will request the application of the *de minimis* principle in order to settle the situation of owners of agricultural holdings for the period of 1 January 2004 to 30 June 2008, and (ii) that within a maximum of 3 months it will recover from each owner of an agricultural holding an amount corresponding to 25 % of the costs of the processing and destruction of fallen stock, calculated for the period from 1 July 2008 to the date of entry into force of the next public contract.
- (27) Finally, the Belgian authorities have informed the Commission that they would require the recovery of *de minimis* aid amounts on the basis of Commission Regulation (EC) No 1860/2004 of 6 October 2004 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid in the agriculture sector⁽²⁾ exceeding EUR 3 000 over a period of 3 years. The Belgian authorities have also indicated that the maximum admissible amount of EUR 3 000 would have been exceeded for 58 owners of agricultural holdings.

VI. ASSESSMENT OF THE MEASURE

VI.1. Existence of aid within the meaning of Article 107(1) of the TFEU

- (28) According to Article 107(1) of the TFEU, aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.

⁽¹⁾ OJ C 319, 27.12.2006, p. 1.

⁽²⁾ OJ L 325, 28.10.2004, p. 4.

- (29) These conditions are fulfilled in the present case with regard to aid in favour of the owners of agricultural holdings. The aid in question is granted by the public authorities of the Walloon Region and confers an advantage to owners of agricultural holdings in the Walloon Region, by eliminating the costs for the removal and destruction of carcasses, which in normal circumstances should have been borne by themselves.
- (30) According to the case law of the Court of Justice of the European Union, the mere fact that the competitive position of an undertaking is strengthened compared to other competing undertakings, by giving it an economic benefit which it would not otherwise have received in the normal course of its business, points to a possible distortion of competition ⁽¹⁾.
- (31) Aid to an undertaking is considered to affect trade between Member States where that undertaking operates in a market open to trade within the European Union ⁽²⁾. There is substantial trade in the sector concerned within the European Union. Therefore, the present measure is liable to affect trade between Member States.
- (32) In view of the above, it is obvious that the conditions of Article 107(1) of the TFEU are fulfilled, except for aid to which the *de minimis* legislation applies.

VI.1.1. *De minimis* legislation

- (33) On several occasions the Belgian authorities have claimed that they have applied the *de minimis* rules which apply to the agricultural sector. The rules which apply during the period for granting the aid are Regulation (EC) No 1860/2004, and Commission Regulation (EC) No 1535/2007 of 20 December 2007 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid in the sector of agricultural production ⁽³⁾, which repealed Regulation (EC) No 1860/2004.
- (34) Aid which fulfils the conditions for the application of Regulation (EC) No 1860/2004 or Regulation (EC) No 1535/2007 is considered not to fulfil all the criteria contained in Article 107(1) of the TFEU.
- (35) According to Article 3(7) of Regulation (EC) No 1535/2007, *de minimis* aid cannot be cumulated with

State aid in respect of the same eligible costs, if such cumulation would result in an aid intensity exceeding that laid down by European Union rules in the specific circumstances of each case. This provision applies in this case: there can be no cumulation of *de minimis* aid (which would represent 25 % of the costs for the destruction of carcasses that should be borne by the owners of agricultural holdings) with the remaining 75 % which according to European Union rules (point 133 of the 2007-2013 Guidelines in combination with Article 16(1)(d) of Commission Regulation (EC) No 1857/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001 ⁽⁴⁾) can be considered compatible with Article 107(3)(c) of the TFEU.

- (36) However, according to the scheme laid down in Regulation (EC) No 1860/2004, it appears that a cumulation of the *de minimis* aid and the amounts making up 75 % of the costs of the destruction of carcasses was not excluded. This can be inferred by recital 7 of Regulation (EC) No 1860/2004, according to which '*The de minimis rule is without prejudice to the possibility that enterprises may receive, for the same project, State aid authorised by the Commission or covered by a group exemption Regulation*'. The conditions for applying the Regulation and in particular the maximum aid threshold of EUR 3 000 must be fulfilled, so that any aid in excess of the EUR 3 000 threshold cannot benefit from Regulation (EC) No 1860/2004 for the whole of the aid amount. In accordance with Article 6(2) of Regulation (EC) No 1535/2007, this cumulation would be possible up to 6 months after the entry into force of the Regulation, that is until 30 June 2008. After this date the provisions of Regulation (EC) No 1535/2007 will apply.

VI.2. Legality of the aid

- (37) The aid scheme, approved by the Commission under case No NN 48/2003 has been notified and approved for the period between 31 January 2003 and 31 January 2007. However, the Commission notes that although Belgium continued to apply the aid scheme after 1 February 2007, it failed to notify it to the Commission in accordance with Article 108(3) of the TFEU. The aid scheme therefore became an illegal State aid after 1 February 2007.

VI.3. Compatibility of the aid

- (38) Article 107(3)(c) of the TFEU provides that aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest, may be considered to be compatible with the internal market.

⁽¹⁾ Judgment of the Court of 17 September 1980 in Case 730/79 *Philip Morris Holland BV v Commission of the European Communities* [1980] ECR 2671.

⁽²⁾ See in particular the judgment of the Court of 13 July 1988 in Case 102/87 *French Republic v Commission of the European Communities* [1988] ECR 4067.

⁽³⁾ OJ L 337, 21.12.2007, p. 35.

⁽⁴⁾ OJ L 358, 16.12.2006, p. 3.

- (39) The scheme in question concerns the granting of aid, which takes the form of subsidised services, covering all the costs for services relating to the removal, transportation, processing and destruction of fallen stock on agricultural holdings in the Walloon Region.
- (40) As regards the period between 31 January 2002 until 31 December 2003, the Commission Decision in case No NN 48/2003 found that the scheme could benefit from the derogation of Article 107(3)(c) of the TFEU. However, as explained above, for the period after 1 January 2004, the Belgian authorities committed themselves to amending the notified State aid scheme so that it complies with the TSE Guidelines as applicable from 1 January 2004. In particular, they committed themselves to ensuring that the aid would cover only 75 % of the costs for the destruction of the carcasses (the remaining costs having to be borne by the owner of the agricultural holding himself) and to sending the Commission, at the latest by mid December 2003, evidence that the necessary changes had been made to the aid scheme.
- (41) This was a requirement imposed by the TSE Guidelines, which was the text applicable at the time. In point 29, the TSE Guidelines provided that:
- '29. From 1 January 2004 onwards, Member States may grant State aid of up to 100 % of costs of removal of fallen stock, which has to be disposed of, and 75 % of the costs of destruction of such carcasses; [...]*
- (42) Points 30 and 31 of the TSE Guidelines provided exceptions to the rule that the aid may cover only up to 75 % of the costs of destroying the fallen stock:
- '30. Alternatively, Member States may grant State aid of up to 100 % for costs of removal and destruction of carcasses where the aid is financed through fees or through compulsory contributions destined for the financing of the destruction of such carcasses, provided that such fees or contributions are limited to and directly imposed on the meat sector.*
- 31. Member States may grant State aid of up to 100 % for the costs of removal and destruction of fallen stock where there is an obligation to perform TSE tests on the fallen stock concerned.'*
- (43) It is to be noted, that within the framework of the examination of Case NN 48/2003, the Belgian authorities did at no time argue that one of these exceptions could apply.
- (44) The TSE Guidelines were revoked on 1 January 2007, as provided for in point 194 c) of the 2007-2013 Guidelines. Point 134 of the 2007-2013 Guidelines states that the Commission declares State aid concerning TSE tests and fallen stock compatible with Article 108(3)(c) of the TFEU, if it fulfils all the conditions of Article 16 of Regulation (EC) No 1857/2006.
- (45) Article 16 of the Regulation (EC) No 1857/2006 does not alter the substance as regards the assessment of aid granted for the removal and destruction of fallen stock. As was the case in the TSE Guidelines, it stipulates that aid at a rate of up to 100 % of costs of removal of fallen stock and 75 % of the costs of destruction of such carcasses shall be deemed compatible with the internal market (Article 16(1)(d)). The provisions of Article 16(1)(e) and 16(1)(f) provide for the possibility of derogating from the 75 % ceiling, whereby the aid rate can be increased to 100 %, when: (i) the aid is financed through fees or through compulsory contributions destined for the financing of the destruction of such carcasses, provided that such fees or contributions are limited to and directly imposed on the meat sector; or (ii) there is an obligation to carry out a TSE test on fallen stock.
- (46) Since the situation has not been changed in terms of the substance under the new rules (2007-2013 Guidelines and Regulation (EC) No 1857/2006) as compared to the old rules (the TSE Guidelines), the assessment of the case as regards the applicable European Union rules should be the same for the whole of the period concerned (1 January 2004 – present).
- (47) As emphasised above, the Belgian authorities had committed themselves, in the framework of the examination of Case No NN 48/2003, to amending their aid scheme in a way that from 1 January 2004, the aid provided for to cover the costs for the destruction of the carcasses would not exceed 75 % of those costs. However, during the investigation of the present case, the Belgian authorities did not deny that the State aid scheme had not been amended as they had promised.
- (48) In addition, the Belgian authorities have argued on several occasions (for instance in the letter dated 27 November 2008) that the second of the exceptions mentioned in recital 42 can indeed apply and that the aid can cover up to 100 % of the costs for the destruction of the carcasses. The reason, according to the Belgian authorities, was that there was an obligation to perform TSE tests on all fallen stock (Point 31 of the TSE Guidelines, and Article 16(1)(f) of Regulation (EC) No 1857/2006. However, they have not submitted evidence in support of this claim.

- (49) The main argument that Belgium brings in support of its claim is that it is obliged to perform such tests, in application of Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies⁽¹⁾. However, this argument cannot be accepted. The reason is that in application of this Regulation, the Walloon authorities have the obligation to test fallen stock for TSE as follows:
- between 1 July 2001 and 31 December 2008, on all bovine animals over 24 months of age which have died on the holding, and,
 - as from 1 January 2009, on all bovine animals over 48 months of age which have died on the holding. A Member State may, however, decide to continue testing at a lower age limit between 24-48 months.
- (50) Therefore, the obligation to perform tests applies only for animals of a certain age (24 months for the period 1 July 2001-31 December 2008 and 48 months after that). More importantly the obligation applies only for bovine animals. Animals of other fallen species on the holding (pigs, horses, poultry etc.) do not have to be compulsorily subjected to TSE tests. From the information provided by the Belgian authorities (letter dated 27 November 2008) it appears that the number of carcasses that might be affected by this exemption under the provisions of Regulation (EC) No 999/2001 represents less than 20 % - 25 % of the total costs for the fallen stock processed within the framework of the service contract. Therefore only aid related to costs which are strictly linked to the obligation to carry out the TSE tests, as provided for by Regulation (EC) No 999/2001 may be declared compatible, on the condition that these costs can be quantified precisely.
- (51) The Commission also notes that the first exception allowing for the costs of removing and destroying carcasses to be covered up to 100 % by means of advance payments and compulsory contributions in the meat sector is not applicable in this case. The Belgian authorities have never invoked the applicability of this exception nor provided any evidence supporting it.
- (52) In the light of the above, the Commission concludes that the measures under the aid scheme in question aiming to cover more than 75 % of the costs of destroying the carcasses are not compatible with the internal market on the basis of the TSE Guidelines or the Guidelines for 2007-2013, with the exception of the costs which are directly linked to processing animal carcasses for which there is an obligation to carry out TSE tests.
- (53) In addition, given that the Commission has approved the aid scheme until 31 January 2007 on the basis of the commitments of the Belgian authorities to amend the scheme so as to comply with the conditions of the TSE Guidelines as of 1 January 2004, and these commitments were not complied with by the Belgian authorities, the Commission concludes that the aid to cover more than 75 % of the costs for the destruction of the carcasses was misused, at least with regard to the aid which is not intended to compensate the obligation to carry out TSE tests.
- (54) In accordance with Article 14(1) of Regulation (EC) No 659/1999, where an illegally granted State aid is incompatible with the internal market it must be recovered from the beneficiaries. The purpose is achieved once the aid in question, together where appropriate with default interest, has been repaid by the recipients or, in other words, by the undertakings which actually benefited from it.
- (55) This Decision must be implemented immediately, particularly with regard to the recovery of all the individual aid granted under the scheme, apart from that granted for specific projects which, at the time the aid was granted, fulfilled all the conditions set out in the *De minimis* Regulation or the exemption applicable on the basis of Articles 1 and 2 of Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid⁽²⁾, or in an aid scheme approved by the Commission.

VII. CONCLUSION

- (56) The Commission finds that Belgium has unlawfully implemented the aid in question in breach of Article 108(3) of the TFEU. As the aid is partially incompatible with the internal market, Belgium must bring it to an end and recover from the beneficiary the amounts already unlawfully paid.

HAS ADOPTED THIS DECISION:

Article 1

1. The aid scheme implemented by Belgium for farmers in the Walloon Region for the costs of removing and destroying the carcasses of fallen stock on agricultural holdings in the Walloon Region is partially incompatible with the internal market.

⁽¹⁾ OJ L 147, 31.5.2001, p. 1.

⁽²⁾ OJ L 142, 14.5.1998, p. 1.

2. Only the part of the aid intended strictly to compensate the farmers obligation to carry out TSE tests in accordance with Regulation (EC) No 999/2001 is compatible with the internal market, provided that it is possible to quantify the costs precisely.

Article 2

Belgium must abolish the aid scheme referred to in Article 1 above.

Article 3

The amounts granted under the aid scheme referred to in Article 1 of this Decision does not constitute aid within the meaning of the Treaty if, at the time it was granted, it fulfilled the conditions laid down by the regulation adopted pursuant to Article 2 of Regulation (EC) No 994/98 which was applicable at the time the aid was granted.

Article 4

Individual aid granted under the scheme referred to in Article 1 of this Decision which, at the time it was granted, fulfilled the conditions laid down by a regulation adopted pursuant to Article 1 of Regulation (EC) No 994/98 or by any other approved aid scheme is compatible with the internal market up to the maximum aid intensities applicable to that type of aid.

Article 5

1. Notwithstanding Article 1(2), Article 3 and Article 4, Belgium shall take all the necessary measures to recover from its beneficiaries the incompatible aid referred to in Article 1 which has already been made available unlawfully.

2. Recovery shall be effected without delay and in accordance with the procedures of national law provided that they allow the immediate and effective execution of this Decision. The aid to be recovered shall include interest from the date on which it was available to the beneficiaries until the date of its recovery. Interest shall be calculated on the basis of the reference rate used for calculating the grant-equivalent of regional aid.

Article 6

Belgium shall inform the Commission within 2 months of the date of notification of this Decision of the measures taken to comply with it.

Belgium shall keep the Commission informed of the progress of the national measures taken to implement this Decision until recovery of the aid referred to in Article 1 has been completed. It shall immediately forward to the Commission, at the latter's request, any information on the measures already taken and planned to comply with this Decision, as well as detailed information concerning the amounts of aid and interest already recovered from the beneficiary(ies).

Article 7

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 17 November 2010.

For the Commission

Dacian CIOLOS

Member of the Commission

COMMISSION DECISION

of 15 December 2010

adjusting the weightings applicable from 1 August 2009, 1 September 2009, 1 October 2009, 1 November 2009, 1 December 2009 and 1 January 2010 to the remuneration of officials, temporary staff and contract staff of the European Union serving in third countries

(2010/790/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 336 thereof,

Having regard to the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the Communities laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽¹⁾, and in particular the second paragraph of Article 13 of Annex X thereto,

Whereas:

- (1) In accordance with the first paragraph of Article 13 of Annex X to the Staff Regulations, the weightings to be applied from 1 July 2009 to the remuneration of officials, temporary staff and contract staff of the European Union serving in third countries payable in the currency of their country of employment were laid down by Council Regulation (EU) No 768/2010 ⁽²⁾.
- (2) Some of these weightings need to be adjusted in accordance with the second paragraph of Article 13 of Annex X to the Staff Regulations, with effect from 1 August 2009, 1 September 2009, 1 October 2009, 1 November 2009, 1 December 2009 and 1 January 2010, since the statistics available to the Commission show that in certain third countries the variation in the cost of living measured on the basis of the weighting and the corresponding exchange rate has exceeded 5 % since weightings were last laid down,

HAS ADOPTED THIS DECISION:

Article 1

The weightings applied to the remuneration of officials, temporary staff and contract staff of the European Union serving in third countries, payable in the currency of the country of employment, shall be adjusted for certain countries as shown in the Annex hereto. It contains six monthly tables showing which countries are affected and the applicable dates for each one (1 August 2009, 1 September 2009, 1 October 2009, 1 November 2009, 1 December 2009 and 1 January 2010).

The exchange rates used for the calculation of this remuneration shall be established in accordance with the detailed rules for the implementation of the Financial Regulation and correspond to the dates of application of the weightings.

Article 2

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

Done at Brussels, 15 December 2010.

For the Commission,
On behalf of the President,
Catherine ASHTON
Vice-President

⁽¹⁾ OJ L 56, 4.3.1968, p. 1.

⁽²⁾ OJ L 228, 31.8.2010, p. 1.

ANNEX

AUGUST 2009

Place of employment	Economic parities August 2009	Exchange rate August 2009 (*)	Weightings August 2009 (**)
Eritrea ⁽¹⁾	11,28	21,6903	52,0
Georgia	1,919	2,3805	80,6
Ghana ⁽²⁾	1,009	2,0935	48,2
Indonesia (Jakarta) ⁽³⁾	10 091	13 989,6	72,1
Indonesia (Banda Aceh) ⁽⁴⁾	7 989	13 989,6	57,1
Liberia ⁽⁵⁾	USD 1,265	USD 1,4053	90,0
Moldova	9,558	15,9211	60,0
Montenegro	0,6456	1	64,6
Serbia (Belgrade) ⁽²⁾	65,28	93,045	70,2
Sudan (Khartoum) ⁽⁵⁾	1,93	3,55881	54,2

(*) EUR 1 = x units of local currency (USD for Cuba, El Salvador, Ecuador, Liberia, Panama, Democratic Republic of Congo, and Timor-Leste).

(**) Brussels = 100.

⁽¹⁾ The weighting for this place is adjusted three times: for August, October and December.

⁽²⁾ The weighting for this place is adjusted twice: for August and December.

⁽³⁾ The weighting for this place is adjusted twice: for August 2009 and January 2010.

⁽⁴⁾ The weighting for this place is adjusted twice: for August and November.

⁽⁵⁾ The weighting for this place is adjusted three times: for August, September and December.

SEPTEMBER 2009

Place of employment	Economic parities September 2009	Exchange rate September 2009 (*)	Weightings September 2009 (**)
Egypt ⁽²⁾	3,272	7,9632	41,1
Gambia ⁽³⁾	24,07	38,05	63,3
Guinea (Conakry)	4 456	6 793,48	65,6
Kazakhstan (Astana) ⁽²⁾	154,2	215,54	71,5
Sierra Leone	3 745	5 088,7	73,6
Sudan (Khartoum) ⁽¹⁾	2,035	3,63297	56,0
Timor-Leste ⁽⁴⁾	USD 1,008	USD 1,4364	70,2
Venezuela ⁽⁵⁾	2,94	3,08826	95,2

(*) EUR 1 = x units of local currency (USD for Cuba, El Salvador, Ecuador, Liberia, Panama, Democratic Republic of Congo, and Timor-Leste).

(**) Brussels = 100.

⁽¹⁾ The weighting for this place is adjusted three times: for August, September and December.

⁽²⁾ The weighting for this place is adjusted twice: for September and November.

⁽³⁾ The weighting for this place is adjusted twice: for September and December.

⁽⁴⁾ The weighting for this place is adjusted twice: for September 2009 and January 2010.

⁽⁵⁾ The weighting for this place is adjusted three times: for September and November 2009 and January 2010.

OCTOBER 2009

Place of employment	Economic parities October 2009	Exchange rate October 2009 (*)	Weightings October 2009 (**)
Albania	89,99	134,994	66,7
Australia ⁽²⁾	1,693	1,669	101,4
Cambodia	4 435	6 186,5	71,7
Croatia	6,345	7,2708	87,3
Democratic Republic of Congo (Kinshasa) ⁽³⁾	USD 1,663	USD 1,45490	114,3
Eritrea ⁽¹⁾	12,34	22,4703	54,9
Former Yugoslav Republic of Macedonia ⁽²⁾	39,56	61,4321	64,4
Guinea-Bissau	644,7	655,957	98,3
Mali	593,6	655,957	90,5
New Caledonia	141,4	119,332	118,5
Sri Lanka ⁽²⁾	107,3	169,169	63,4
Tajikistan	3,715	6,3745	58,3
Tanzania	1 287	1 894,85	67,9
Thailand	28,36	48,906	58,0
Turkey ⁽³⁾	1,742	2,168	80,4
Uganda	1 965	2 839,77	69,2
Ukraine	7,579	11,746	64,5
Zambia ⁽³⁾	3 830	6 820,88	56,2

(*) EUR 1 = x units of local currency (USD for Cuba, El Salvador, Ecuador, Liberia, Panama, Democratic Republic of Congo, and Timor-Leste).

(**) Brussels = 100.

⁽¹⁾ The weighting for this place is adjusted three times: for August, October and December.

⁽²⁾ The weighting for this place is adjusted twice: for October 2009 and January 2010.

⁽³⁾ The weighting for this place is adjusted twice: for October and December 2009.

NOVEMBER 2009

Place of employment	Economic parities November 2009	Exchange rate November 2009 (*)	Weightings November 2009 (**)
Algeria	74,7	107,642	69,4
Chad	751,4	655,957	114,6
Egypt ⁽²⁾	3,544	8,26565	42,9
Indonesia (Banda Aceh) ⁽¹⁾	8 536	14 188,1	60,2
Israel	5,351	5,5483	96,4
Kazakhstan (Almaty)	172	226,55	75,9

Place of employment	Economic parities November 2009	Exchange rate November 2009 (*)	Weightings November 2009 (**)
Kazakhstan (Astana) ⁽²⁾	162,9	226,55	71,9
Kyrgyzstan	48,82	64,4757	75,7
Laos ⁽⁴⁾	9 584	12 734	75,3
Lebanon	1 638	2 229,29	73,5
Nepal ⁽⁴⁾	79,66	111,64	71,4
Russia	40,41	43,1957	93,6
Venezuela ⁽³⁾	3,172	3,17543	99,9

(*) EUR 1 = x units of local currency (USD for Cuba, El Salvador, Ecuador, Liberia, Panama, Democratic Republic of Congo, and Timor-Leste).

(**) Brussels = 100.

⁽¹⁾ The weighting for this place is adjusted twice: for August and November.

⁽²⁾ The weighting for this place is adjusted twice: for September and November.

⁽³⁾ The weighting for this place is adjusted three times: for September and November 2009 and January 2010.

⁽⁴⁾ The weighting for this place is adjusted twice: for November 2009 and January 2010.

DECEMBER 2009

Place of employment	Economic parities December 2009	Exchange rate December 2009 (*)	Weightings December 2009 (**)
Congo (Brazzaville)	725	655,957	110,5
Cuba	USD 1,105	USD 1,4918	74,1
Democratic Republic of Congo (Kinshasa) ⁽²⁾	USD 1,772	USD 1,4918	118,8
Eritrea ⁽¹⁾	13,43	22,8273	58,8
Gambia ⁽⁴⁾	25,54	40,1	63,7
Ghana ⁽²⁾	1,069	2,155	49,6
Guatemala	8,18	12,3745	66,1
Haiti	60,46	64,591	93,6
India	38,84	69,5925	55,8
Liberia ⁽²⁾	USD 1,38	USD 1,4918	92,5
Madagascar	2 140	2 907,57	73,6
Malawi	158,9	213,936	74,3
Malaysia	3,289	5,0587	65,0
Paraguay	4 341	7 186,56	60,4
Saudi Arabia	4,174	5,5885	74,7
Serbia (Belgrade) ⁽²⁾	69,83	94,412	74,0
Solomon Islands	10,68	11,7695	90,7
Sudan (Khartoum) ⁽³⁾	2,19	3,52542	62,1
Suriname	1,92	4,18	45,9

Place of employment	Economic parities December 2009	Exchange rate December 2009 (*)	Weightings December 2009 (**)
Turkey ⁽⁵⁾	1,831	2,283	80,2
Vietnam	12 873	29 495,2	43,6
Zambia ⁽⁵⁾	4 038	6 974,14	57,9

(*) EUR 1 = x units of local currency (USD for Cuba, El Salvador, Ecuador, Liberia, Panama, Democratic Republic of Congo, and Timor-Leste).

(**) Brussels = 100.

⁽¹⁾ The weighting for this place is adjusted three times: for August, October and December.

⁽²⁾ The weighting for this place is adjusted twice: for August and December.

⁽³⁾ The weighting for this place is adjusted three times: for August, September and December.

⁽⁴⁾ The weighting for this place is adjusted twice: for September and December.

⁽⁵⁾ The weighting for this place is adjusted twice: for October and December.

JANUARY 2010

Place of employment	Economic parities January 2010	Exchange rate January 2010 (*)	Weightings January 2010 (**)
Argentina	3,219	5,4559	59,0
Australia ⁽⁴⁾	1,596	1,6036	99,5
Ethiopia	14,33	18,2782	78,4
Former Yugoslav Republic of Macedonia ⁽⁴⁾	37,26	61,447	60,6
Iceland	144,5	180,96	79,9
Indonesia (Jakarta) ⁽¹⁾	9 550	13 511,5	70,7
Kosovo (Pristina)	0,5854	1	58,5
Laos ⁽⁵⁾	8 875	12 174	72,9
Libya	1,018	1,7683	57,6
Nepal ⁽⁵⁾	74	107,83	68,6
Niger	593,3	655,957	90,4
Samoa	2,891	3,61939	79,9
Sri Lanka ⁽⁴⁾	114,1	163,139	69,9
Timor-Leste ⁽²⁾	USD 1,083	USD 1,4338	75,5
Venezuela ⁽³⁾	3,357	3,0788	109,0

(*) EUR 1 = x units of local currency (USD for Cuba, El Salvador, Ecuador, Liberia, Panama, Democratic Republic of Congo, and Timor-Leste).

(**) Brussels = 100.

⁽¹⁾ The weighting for this place is adjusted twice: for August 2009 and January 2010.

⁽²⁾ The weighting for this place is adjusted twice: for September 2009 and January 2010.

⁽³⁾ The weighting for this place is adjusted three times: for September and November 2009 and January 2010.

⁽⁴⁾ The weighting for this place is adjusted twice: for October 2009 and January 2010.

⁽⁵⁾ The weighting for this place is adjusted twice: for November 2009 and January 2010.

COMMISSION DECISION

of 20 December 2010

listing the products referred to in the second subparagraph of point III(1) of Annex XII to Council Regulation (EC) No 1234/2007

(recast)

(notified under document C(2010) 8434)

(2010/791/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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⁾, and in particular point (b)(i) of Article 121 in conjunction with Article 4 thereof,

Whereas:

- (1) Commission Decision 88/566/EEC of 28 October 1988 listing the products referred to in the second subparagraph of Article 3(1) of Council Regulation (EEC) No 1898/87 ⁽²⁾ has been substantially amended ⁽³⁾. Since further amendments are to be made, it should be recast in the interests of clarity.
- (2) Regulation (EC) No 1234/2007 establishes the principle that the descriptions milk and milk products may not be used for milk products other than those in described point II of Annex XII thereto. As an exception, this principle is not applicable to the description of products the exact nature of which is known because of traditional use and/or when the designations are clearly used to describe a characteristic quality of the product.
- (3) The Member States must notify to the Commission indicative lists of the products which they deem to meet, within their own territories, the criteria for the abovementioned exception. A list should be made of such products on the basis of the indicative lists notified by the Member States. That list should include the names of the relevant products according to their traditional use in the various languages of the Union, in order to render these names usable in all the Member States, provided they comply with the provisions of Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs ⁽⁴⁾.

- (4) Additions to this list may be made in accordance with Article 121(b)(i) of Regulation (EC) No 1234/2007.
- (5) Following the accessions to the European Union of 2004 and 2007, some of the new Member States have submitted lists of products which they deem to meet, within their own territories, the criteria for the above-mentioned exception. The list in Annex I to this Decision should therefore be completed by including the names of the products from the new Member States, in the relevant languages, which can benefit from the exception.
- (6) The measures provided for in this Decision are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS DECISION:

Article 1

The products corresponding, on the territory of the Union, to the products referred to in the second subparagraph of point III(1) of Annex XII to Regulation (EC) No 1234/2007 are listed in Annex I to this Decision.

Article 2

Decision 88/566/EEC is repealed.

References to the repealed Decision shall be construed as references to this Decision and shall be read in accordance with the correlation table in Annex III.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 20 December 2010.

For the Commission

Dacian CIOLOŞ

Member of the Commission

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 310, 16.11.1988, p. 32.

⁽³⁾ See Annex II.

⁽⁴⁾ OJ L 109, 6.5.2000, p. 29.

ANNEX I

List of the products referred to in the second subparagraph of point III(1) of Annex XII to Regulation (EC) No 1234/2007

	ES	Butterschnitzel	
Leche de almendras		Faschiertes Butterschnitzel	
	DA	Milchmargarine	
Kakaosmør		Margarinestreichkäse	
Mandelsmør			EL
Jordnøddesmør		Βούτυρο κακάου	
Kokosmælk		Φρουτόκρεμα	
Flødeboller		Κρέμα αραβοσίτου	
»... fromage«		Κρέμα κάστανου	
used in the description of a fruit-based dessert not containing milk or other milk products or milk or milk imitation products (for example, citronfromage)		Νουκρέμα	
			EN
Smørtyve		Coconut milk	
Ostekiks		'Cream ...' or 'Milk ...'	
Osterejer		used in the description of a spirituous beverage not containing milk or other milk products or milk or milk product imitations (for example, cream sherry, milk sherry)	
Flødetablet		Cream soda	
Flødefodbolde		Cream filled biscuits (for example, custard cream, bourbon cream, raspberry cream biscuits, strawberry cream, etc.)	
Flødemint		Cream filled sweets or chocolates (for example, peppermint cream, raspberry cream, crème egg)	
Flødekaramel	DE	Cream crackers	
Kokosmilch		Salad cream	
Liebfrau(en)milch		Creamed coconut and other similar fruit, nut and vegetable products where the term 'creamed' describes the characteristic texture of the product	
Fischmilch		Cream of tartar	
Milchner		Cream or creamed soups (for example, cream of tomato soup, cream of celery, cream of chicken, etc.)	
Butterbirne		Horseradish cream	
Rahmapfel		Ice-cream	
Butterbohne		Jelly cream	
Butterkohl		Table cream	
Butterpilz		Cocoa butter	
Milchbrätling		Shea butter	
Buttersalat		Nut butters (for example, peanut butter)	
Erdnussbutter		Butter beans	
Kakaobutter		Butter puffs	
Fleischkäse		Fruit cheese (for example, lemon cheese, Damson cheese)	
Leberkäse			
Käsekle			
Butterhäuptel			

FR	NL
Lait d'amande	Pindakaas
Lait de coco	Hoofdkaas
«Crème ...» used in the description of a soup not containing milk or other milk products or milk or milk product imitations (for example, crème de volailles, crème de légumes, crème de tomates, crème d'asperges, crème de bolets, etc.)	Cacaoboter Leverkaas Hamkaas Tongkaas
«Crème ...» used in the description of spirituous beverages not containing milk or other milk products or milk or milk product imitations (for example, crème de cassis, crème de framboise, crème de banane, crème de cacao, crème de menthe, etc.)	Nierkaas Kokosmelk „... crème”
«Crème ...» used in the description of prepared meat products (for example, poultry liver cream, cream pâté, etc.)	used in the description of soup not containing milk or other milk products or milk or milk product imitations (for example, groentencrème, tomatencrème, aspergecrème, etc.) „... crème”
Crème de maïs	used in the description of a spirituous beverage not containing milk or other milk products or milk or milk product imitations (for example, cassiscrème, frambozencrème, cacaoocrème, bananencrème, etc.)
Crème de riz	
Crème d'avoine	
Crème d'anchois	Crèmevulling
Crème d'écrevisses	Levercrème
Crème de pruneaux, crème de marron (cream of other stone fruits)	Boterbonen
Crème confiseur	
Beurre de cacao	PL
Beurre de cacahouète	Ser jabłeczny
Fromage de tête	
Haricot beurre	PT
Beurré Hardy	Leite de coco Manteiga de cacau
	Manteiga de amendoim
	Queijo doce de Tomar
	Queijinho de sal
	SL
	Mesni sir
	SK
	Arašidové maslo
	Fazol'a maslová (maslovka)
	Kakaové maslo
	Kokosové mlieko
	Masliak
	Maslová hruška (maslovka)
	Pečeňový syr
	Vtáacie mlieko
IT	
Latte di mandorla	
Burro di cacao	
Latte di cocco	
Fagiolini al burro	
HU	
Vajretek	
Gyümölcsaját (pl. birsalmasajt)	
Disznósajt vagy hússajt vagy fejsajt	
Haltej	
Kakaóvaj	
Kókusztej	
Mogyoróvaj	
Vajbab	
Vajkörte	

	FI	SV
	Kaakaovoi	Jordnötssmör
	Maapähkinävoi	Kakaosmör
	Voileipäkeksi	Smörsopp
	Voitatti	Kokosmjölk
	Voileipäkakku	Ostkex
		Margarinost
		Smördeg

ANNEX II

Repealed Decision with its amendment

Commission Decision 88/566/EEC

(OJ L 310, 16.11.1988, p. 32).

Commission Decision 98/144/EC

(OJ L 42, 14.2.1998, p. 61).

ANNEX III

Correlation table

Decision 88/566/EEC	This Decision
Article 1	Article 1
—	Article 2
Article 2	Article 3
Annex	Annex I
—	Annex II
—	Annex III

COMMISSION DECISION
of 20 December 2010
extending the transitional period concerning the acquisition of agricultural land in Hungary
(Text with EEA relevance)
(2010/792/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia,

Having regard to the Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, and in particular point 2 of Chapter 3 of Annex X thereto,

Having regard to the request made by Hungary,

Whereas:

- (1) The 2003 Act of Accession provides that Hungary may maintain in force, under the conditions laid down therein, for a 7-year period following the accession, expiring on 30 April 2011, prohibitions on the acquisition of agricultural land by natural persons who are non-residents or non-nationals of Hungary and by legal persons. This is a temporary exception to the free movement of capital as guaranteed by Articles 63 to 66 of the Treaty on the Functioning of the European Union. This transitional period may only be extended for a further 3 years.
- (2) On 10 September 2010, Hungary requested to extend the transitional period concerning the acquisition of agricultural land by 3 years.
- (3) The main reason for the transitional period was the need to safeguard the socioeconomic conditions for agricultural activities following the introduction of the single market and the transition to the common agricultural policy in Hungary. In particular, it aimed to meet concerns raised about the possible impact on the agricultural sector of liberalising the acquisition of agricultural land due to initial large differences in land prices and income compared with Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden

and the United Kingdom (hereinafter 'the EU-15'). The transitional period was also designed to ease the process of privatisation and restitution of agricultural land to farmers, and the Commission, in its Report of 16 July 2008 on the Review of the transitional measures for the acquisition of agricultural real estate set out in the 2003 Accession Treaty (hereinafter the 'Mid-Term Review') already emphasised the importance of the completion of this policy by the end of the foreseen transitional period. ⁽¹⁾

- (4) Despite the increasing convergence of land prices in Hungary with those prevailing in the EU-15 after Hungary's accession to the European Union, a 3- to 20-fold difference in average land prices still persists according to information submitted by Hungary. Although the complete convergence in land prices was neither expected nor seen as a necessary condition for terminating the transitional period, the noticeable differences in prices between Hungary and EU-15 are such as they may still hinder smooth progress towards price convergence. Similarly, the gap between the income of agricultural workers and farmers in Hungary and income in the EU-15 decreased but continues to exist. Furthermore, according to data from Eurostat, the agricultural sector of Hungary was hit relatively severely by the recent global financial and economic crisis with real agricultural income per worker falling by the highest rate in the Union (about 30 per cent against a Union average of about 12 per cent) in 2009. Lower income has been coupled with worse credit conditions relative to those in most of the EU-15 countries, both as regards nominal interest rates and the volume of credit available for farmers. The expected increased presence in Hungary of new financial institutions from EU-15 after the accession of Hungary was hampered by the financial and economic crisis.
- (5) Although the restitution process has advanced during the transitional period, it encountered difficulties in particular since 2008, and has thus not yet been completed. A similar trend can be observed as regards privatisation of agricultural land. The lack of certainty of property rights as well as underdeveloped credit and insurance facilities for farmers further weaken the Hungarian agricultural land market and still hinder its proper functioning.

⁽¹⁾ COM(2008) 461 final, 16 July 2008.

- (6) Against this background, it can be anticipated, as do the Hungarian authorities, that the lifting of the restrictions on 1 May 2011 would exert pressure on the land prices in Hungary. Moreover, taking into account the high number of participants, the very fragmented ownership structure of the agricultural land market, which has not changed significantly since accession, and the predominance of land leasing, the impact would likely be felt throughout the entire sector. Therefore, a threat of serious disturbances on the Hungarian agricultural land market upon the expiry of the transitional period exists.
- (7) An extension of 3 years to the transitional period referred to in point 2 of Chapter 3 of Annex X to the Act of Accession should therefore be granted.
- (8) In order to fully prepare the market for liberalisation, it continues to be of utmost importance, even amid adverse economic circumstances, to foster the improvement of factors such as credit and insurance facilities for farmers, and the restitution and privatisation of agricultural land during the transitional period, as already emphasised in the Mid-Term Review.
- (9) Increased inflow of foreign capital into the agricultural land market also presents potential benefits for this market in Hungary. As emphasised in the Mid-Term Review, foreign investment in the agriculture sector

would also have important long-term effects on the provision of capital and know-how, on the functioning of land markets and on agricultural productivity. The progressive loosening of the restrictions on foreign ownership during the transitional period would also contribute to preparing the market for full liberalisation,

HAS ADOPTED THIS DECISION:

Article 1

The transitional period concerning the acquisition of agricultural land in Hungary referred to in point 2 of Chapter 3 of Annex X to the 2003 Act of Accession shall be extended until 30 April 2014.

Article 2

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

Done at Brussels, 20 December 2010.

For the Commission

The President

José Manuel BARROSO

COMMISSION DECISION

of 20 December 2010

amending Decision 2005/1/EC authorising methods for grading pig carcasses in the Czech Republic as regards the presentation of such carcasses

(notified under document C(2010) 9187)

(Only the Czech text is authentic)

(2010/793/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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⁾, and in particular Article 43(m), in conjunction with Article 4 thereof,

Whereas:

- (1) By Commission Decision 2005/1/EC ⁽²⁾, the use of six methods for grading pig carcasses was authorised in the Czech Republic.
- (2) On 23 February 2010, the Czech Republic requested the Commission to be authorised to provide for a presentation of pig carcasses different from the standard presentation defined in the first paragraph of point B.III of Annex V to Regulation (EC) No 1234/2007.
- (3) In accordance with the second paragraph of point B.III of Annex V to Regulation (EC) No 1234/2007, Member States may be authorised to provide for a presentation of pig carcasses different from the standard presentation defined in the first paragraph of that point, where normal commercial practice in their territory differs from that standard presentation. In its request, the Czech Republic specified that in its territory it is commercial practice that carcasses can be presented without the flare fat being removed. This presentation that differs from the standard presentation should therefore be authorised in the Czech Republic.
- (4) In order to establish quotations for pig carcasses on a comparable basis, this different presentation should be taken into account by adjusting the weight recorded in such cases in relation to the weight for standard presentation.

(5) Decision 2005/1/EC should therefore be amended accordingly.

(6) The measures provided for in this Decision are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS DECISION:

Article 1

In Decision 2005/1/EC the following Article 1a is inserted:

'Article 1a

Notwithstanding the standard presentation laid down in the first paragraph of point B.III of Annex V to Regulation (EC) No 1234/2007, pig carcasses in the Czech Republic may be presented without the flare fat having been removed before being weighed and graded. In the case of such presentation the recorded hot carcase weight shall be adjusted in accordance with the following formula:

hot carcase weight = 1,65651 + 0,96139 × weight of the hot carcase with the flare fat.'

Article 2

This Decision is addressed to the Czech Republic.

Done at Brussels, 20 December 2010.

For the Commission

Dacian CILOŞ

Member of the Commission

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 1, 4.1.2005, p. 8.

GUIDELINES

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 13 December 2010

amending Guideline ECB/2000/7 on monetary policy instruments and procedures of the Eurosystem

(ECB/2010/30)

(2010/794/EU)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union, and in particular to the first indent of Article 127(2) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Articles 12.1 and 14.3, in conjunction with the first indent of Article 3.1, Article 18.2 and the first paragraph of Article 20 thereof,

Whereas:

- (1) Achieving a single monetary policy entails defining the instruments and procedures to be used by the Eurosystem, consisting of the national central banks (NCBs) of Member States whose currency is the euro (hereinafter the 'participating Member States') and the European Central Bank (ECB), in order to implement such a policy in a uniform manner throughout the participating Member States.
- (2) The ECB has the authority to establish the necessary guidelines to implement the Eurosystem's monetary policy and the NCBs have an obligation to act in accordance with such guidelines.
- (3) Guideline ECB/2000/7 of 31 August 2000 on monetary policy instruments and procedures of the Eurosystem⁽¹⁾, should be amended to reflect changes to the Eurosystem's monetary policy framework, in particular: (a) to introduce the eligibility criteria for the own use of non-UCITS compliant covered bank bonds with commercial mortgages as the underlying assets; (b) to add fixed-term deposits as eligible collateral for Eurosystem monetary policy operations and intraday credit;

and (c) to amend Appendix 5 to Annex I to reflect the fact that Estonia will adopt the euro on 1 January 2011 and that the name of the Central Bank and Financial Services Authority of Ireland has changed,

HAS ADOPTED THIS GUIDELINE:

Article 1

Amendments to Annex I

Annex I to Guideline ECB/2000/7 is amended in accordance with the Annex to this Guideline.

Article 2

Verification

1. The NCBs shall forward details of the texts and means by which they intend to comply with paragraphs 1, 3 and 4 of the Annex to this Guideline to the ECB by 31 December 2010 at the latest.
2. The NCBs shall forward details of the texts and means by which they intend to comply with paragraph 2 of the Annex to this Guideline to the ECB by 8 January 2011 at the latest.

Article 3

Entry into force

1. This Guideline shall enter into force 2 days after its adoption.
2. Paragraphs 1, 3 and 4 of the Annex to this Guideline shall apply from 1 January 2011.
3. Paragraph 2 of the Annex to this Guideline shall apply from 1 February 2011.

⁽¹⁾ OJ L 310, 11.12.2000, p. 1.

*Article 4***Addressees**

This Guideline is addressed to the NCBs of the participating Member States.

Done at Frankfurt am Main, 13 December 2010.

For the Governing Council of the ECB
The President of the ECB
Jean-Claude TRICHET

ANNEX

Annex I to Guideline ECB/2000/7 is amended as follows:

1. In Section 6.2.2, the first paragraph is replaced by the following:

Three types of non-marketable assets are eligible as collateral in the single framework for eligible assets: fixed-term deposits from eligible counterparties, credit claims and non-marketable retail mortgage-backed debt instruments (RMBDs) (*).

(*) Between 1 January 2007 and 31 December 2011, an intermediate regime is in place for credit claims, allowing each NCB to choose the minimum threshold for the size of credit claims eligible for collateral purposes, apart from cross-border use, and to decide whether a handling fee should be applied. From 1 January 2012, a fully unified regime will be in place.'

2. Section 6.2.3 is amended as follows:

- (a) The seventh paragraph (the fifth paragraph under the heading 'Rules for the use of eligible assets') is replaced by the following:

The above provisions concerning close links do not apply to: (a) close links between the counterparty and an EEA public sector entity which has the right to levy taxes, or in the case where a debt instrument is guaranteed by an EEA public sector entity which has the right to levy taxes; (b) covered bank bonds issued in accordance with the criteria set out in Article 22(4) of the UCITS Directive; or (c) cases in which debt instruments are protected by specific legal safeguards comparable to those instruments given under (b) such as in the case of (i) non-marketable RMBDs which are not securities; or (ii) residential real estate loan-backed structured covered bank bonds or commercial mortgage loan-backed structured covered bank bonds, i.e. certain covered bank bonds not declared UCITS compliant by the European Commission, that fulfil all the criteria that apply to asset-backed securities, as set out in Sections 6.2 and 6.3 and the following additional criteria (*):

In the case of residential real estate loan-backed structured covered bank bonds:

- Any residential real estate loans underlying the structured covered bank bonds must be denominated in euro; the issuer (and the debtor and guarantor, if they are legal persons) must be incorporated in a Member State, their underlying assets must be located in a Member State, and the law governing the loan must be that of a Member State.
- Residential real estate loans are eligible for the cover pool of relevant structured covered bank bonds, if they are guaranteed by an eligible guarantee or secured by a mortgage. An eligible guarantee must be payable within 24 months upon default. Eligible guarantees for the purposes of such guaranteed loans can be provided in different contractual formats, including contracts of insurance, provided that they are granted by a public sector entity or a financial institution subject to public supervision. The guarantor for the purposes of such guaranteed loans must not have close links to the issuer of the covered bank bonds, and must be rated at least [A+/A1/AH] by an accepted ECAI over the life of the transaction.
- High quality substitute collateral up to 10 % of the cover pool is accepted. This threshold can only be exceeded after an in-depth review by the relevant NCB.
- The maximum portion of each individual eligible loan that can be funded through the structured covered bank bond issuance is 80 % loan-to-value (LTV). The LTV calculation must be based on a conservative market valuation.
- The minimum mandatory over-collateralisation is 8 %.
- The maximum loan amount for residential real estate loans is EUR 1 million.
- The stand-alone credit assessment of the cover pool must correspond to an annual PD level of 10 basis points in line with the "single A" threshold (see Section 6.3.1).

- A long-term minimum threshold of “single A” (“A-” by Fitch or Standard & Poor’s, or “A3” by Moody’s, or “AL” by DBRS) must be applied to the issuer and related entities which are part of or relevant to the transaction relating to the structured covered bank bond.

In the case of commercial mortgage loan-backed structured covered bank bonds:

- Any commercial mortgage loans underlying the structured covered bank bonds must be denominated in euro; the issuer (and the debtor and guarantor, if they are legal persons) must be incorporated in a Member State, their underlying assets must be located in a Member State, and the law governing the loan must be that of a Member State.
- High quality substitute collateral up to 10 % of the cover pool is accepted. This threshold can only be exceeded after an in-depth review by the relevant NCB.
- The maximum portion of each individual eligible loan that can be funded through the structured covered bank bond issuance is 60 % LTV. The LTV calculation must be based on a conservative market valuation.
- The minimum mandatory over-collateralisation is 10 %.
- The share of each borrower in the cover pool, after aggregating all individual loan amounts outstanding from a given borrower, must not exceed 5 % of the cover pool’s total.
- The stand-alone credit assessment of the cover pool must correspond to credit quality step 1 in line with the Eurosystem rating scale (see Section 6.3.1).
- Credit quality step 2 must be applied to the issuer and related entities which are part of or relevant to the transaction relating to the structured covered bank bond.
- All underlying commercial mortgage loans need to be revalued at least on an annual basis. Price decreases of properties must be fully reflected in the revaluation. In the case of price increases, a 15 % haircut is applied. Loans that do not fulfil the LTV threshold requirement must be replaced by new loans, or must be over-collateralised, subject to the relevant NCB’s approval. The primary valuation methodology to be applied is the market value, i.e. the estimated price that would be obtained if the assets were sold on the market using reasonable efforts. This estimation must be based on the most conservative assumption. Statistical methods can also be applied but only as a secondary valuation methodology.
- Liquidity cushion in the form of cash in euro deposited with an eligible counterparty must be maintained at all times to cover all interest payments related to covered bank bonds for the subsequent six-month period.
- Whenever the short-term credit rating of the borrower of an underlying commercial mortgage loan falls below credit quality step 2 in the 9 months before a hard bullet covered bank bond matures, such borrower must post an amount of cash in euro sufficient to cover the relevant part of the covered bank bond principal payment as well as related expenses scheduled to be paid by the issuer under the covered bank bond to the liquidity cushion.
- In case of liquidity stress, the original maturity date can be extended up to 12 months to compensate for maturity mismatches between the amortising loans in the cover pool and the bullet redemption of the covered bank bond. However, the covered bank bond will become ineligible for own use after the original maturity date.

(*) Residential real estate loan-backed structured covered bank bonds submitted before 10 October 2010 that do not comply with these criteria can continue to be used until 31 March 2011. Commercial mortgage loan-backed structured covered bank bonds submitted before 1 February 2011 that do not comply with these criteria can continue to be used until 31 March 2011.

- (b) The eighth paragraph (the sixth paragraph under the heading ‘Rules for the use of eligible assets’) is replaced by the following:

‘Furthermore, for residential real estate loan-backed structured covered bank bonds or commercial mortgage loan-backed structured covered bank bonds, counterparties have to provide legal confirmation from a reputable law firm confirming the fulfilment of the following conditions:

- The issuer of the covered bank bonds is a credit institution incorporated in an EU Member State, and is not a special-purpose vehicle, even if such covered bank bonds are guaranteed by a credit institution incorporated in an EU Member State.
- The issuer/issue of the covered bank bonds is subject, by the law of the Member State where the issuer is incorporated or where the covered bank bonds were issued, to special public supervision designed to protect covered bank bond holders.
- In the event of the insolvency of the issuer, covered bank bond holders have priority as regards reimbursement of the principal and payment of interest deriving from the (underlying) eligible assets.
- Sums deriving from the issue of the covered bank bonds must be invested (according to the investment rules set out by the covered bank bond documentation) in conformity with the relevant national covered bank bond legislation or other legislation applicable to the assets in question.

3. In Section 6.4.3 the following sub-section is added:

Fixed-term deposits

Fixed-term deposits are not subject to any valuation haircut.

4. The table in Appendix 5 is replaced by the following:

The Eurosystem websites

Central Bank	Website
European Central Bank	www.ecb.europa.eu
Nationale Bank van België/Banque Nationale de Belgique	www.nbb.be or www.bnb.be
Deutsche Bundesbank	www.bundesbank.de
Eesti Pank	www.eestipank.ee
Central Bank of Ireland	www.centralbank.ie
Bank of Greece	www.bankofgreece.gr
Banco de España	www.bde.es
Banque de France	www.banque-france.fr
Banca d'Italia	www.bancaditalia.it
Central Bank of Cyprus	www.centralbank.gov.cy
Banque centrale du Luxembourg	www.bcl.lu
Central Bank of Malta	www.centralbankmalta.org
De Nederlandsche Bank	www.dnb.nl
Oesterreichische Nationalbank	www.oenb.at
Banco de Portugal	www.bportugal.pt
Národná banka Slovenska	www.nbs.sk
Banka Slovenije	www.bsi.si
Suomen Pankki	www.bof.fi

CORRIGENDA

Corrigendum to Commission Regulation (EC) No 692/2008 of 18 July 2008 implementing and amending Regulation (EC) No 715/2007 of the European Parliament and of the Council on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information

(Official Journal of the European Union L 199 of 28 July 2008)

On page 68, Annex III, in point 3.8:

for: For a fuel of composition $C_xH_yO_z$ the general formula is:

$$X = 100 \frac{x}{x + \frac{y}{2} + 3,76 \left(x + \frac{y}{2} - \frac{z}{2} \right)},$$

read: For a fuel of composition $C_xH_yO_z$ the general formula is:

$$X = 100 \frac{x}{x + \frac{y}{2} + 3,76 \left(x + \frac{y}{4} - \frac{z}{2} \right)},$$

Corrigenda

- ★ **Corrigendum to Commission Regulation (EC) No 692/2008 of 18 July 2008 implementing and amending Regulation (EC) No 715/2007 of the European Parliament and of the Council on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information (OJ L 199, 28.7.2008) 68**



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