

# Official Journal

## of the European Union

L 330



English edition

Legislation

Volume 54

14 December 2011

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

## II

(Non-legislative acts)

## REGULATIONS

## COUNCIL REGULATION (EU) No 1295/2011

of 13 December 2011

**amending Regulation (EU) No 1284/2009 imposing certain specific restrictive measures in respect of the Republic of Guinea**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 215(1) thereof,

Having regard to Council Decision 2011/706/CFSP of 27 October 2011 amending Decision 2010/638/CFSP concerning restrictive measures against the Republic of Guinea <sup>(1)</sup>,

Having regard to the joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the Commission,

Whereas:

- (1) Council Regulation (EU) No 1284/2009 <sup>(2)</sup> imposed certain specific restrictive measures in respect of the Republic of Guinea, in accordance with Council Common Position 2009/788/CFSP <sup>(3)</sup> (later replaced by Council Decision 2010/638/CFSP <sup>(4)</sup>), in response to the violent crackdown by security forces on political demonstrators in Conakry on 28 September 2009.
- (2) Decision 2010/638/CFSP was amended by Decision 2011/706/CFSP in order to modify, inter alia, the scope of the measures relating to military equipment and equipment capable of being used for internal repression.
- (3) Certain aspects of those measures fall within the scope of the Treaty and, therefore, notably with a view to ensuring their uniform application by economic operators in all Member States, regulatory action at the level of the Union is necessary in order to implement them.

- (4) Regulation (EU) No 1284/2009 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

Paragraph (1) of Article 4 of Regulation (EU) No 1284/2009 is replaced by the following:

‘1. By way of derogation from Articles 2 and 3, the competent authorities of the Member States as indicated in the websites listed in Annex III, may in duly justified cases authorise:

- (a) the sale, supply, transfer or export of equipment which might be used for internal repression, provided it is intended solely for humanitarian or protective use, or for institution-building programmes of the United Nations (UN) and the European Union, or for European Union and UN crisis management operations;
- (b) the sale, supply, transfer or export of non-lethal equipment which might be used for internal repression, provided it is intended solely to enable the police and gendarmerie of the Republic of Guinea to use only appropriate and proportionate force while maintaining public order;
- (c) the provision of financing, financial assistance, technical assistance, brokering services and other services related to equipment or to programmes and operations referred to in points (a) and (b);
- (d) the provision of financing, financial assistance, technical assistance, brokering services and other services related to non-lethal military equipment intended solely for humanitarian or protective use, for institution-building programmes of the UN and the European Union, or for European Union and UN crisis management operations;

<sup>(1)</sup> OJ L 281, 28.10.2011, p. 28.

<sup>(2)</sup> OJ L 346, 23.12.2009, p. 26.

<sup>(3)</sup> OJ L 281, 28.10.2009, p. 7.

<sup>(4)</sup> OJ L 280, 26.10.2010, p. 10.

- (e) the provision of financing, financial assistance, technical assistance, brokering services and other services related to non-lethal military equipment intended solely to enable the police and gendarmerie of the Republic of Guinea to use only appropriate and proportionate force while maintaining public order;
- to non-combat vehicles which have been manufactured or fitted with materials to provide ballistic protection, intended solely for protective use of personnel of the European Union and its Member States in the Republic of Guinea.’

*Article 2*

- (f) provision of financing, financial assistance, technical assistance, brokering services and other services related
- This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 13 December 2011.

*For the Council*  
*The President*  
M. CICHOCKI

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**COMMISSION IMPLEMENTING REGULATION (EU) No 1296/2011****of 9 December 2011****approving non-minor amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications [Riso di Baraggia Biellese e Vercellese (PDO)]**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs <sup>(1)</sup>, and in particular the first subparagraph of Article 7(4) thereof,

Whereas:

- (1) By virtue of the first subparagraph of Article 9(1) of Regulation (EC) No 510/2006, the Commission has examined Italy's application for the approval of amendments to the specification for the protected designation of origin 'Riso di Baraggia Biellese e Vercellese' registered under Commission Regulation (EC) No 982/2007 <sup>(2)</sup>.

- (2) Since the amendments in question are not minor within the meaning of Article 9 of Regulation (EC) No 510/2006, the Commission published the amendment application in the *Official Journal of the European Union* <sup>(3)</sup>, as required by the first subparagraph of Article 6(2) of that Regulation. As no statement of objection within the meaning of Article 7 of Regulation (EC) No 510/2006 has been sent to the Commission, the amendments should be approved,

HAS ADOPTED THIS REGULATION:

*Article 1*

The amendments to the specification published in the *Official Journal of the European Union* regarding the name contained in the Annex to this Regulation are hereby approved.

*Article 2*

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

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

Done at Brussels, 9 December 2011.

For the Commission,  
On behalf of the President,  
Dacian CIOLOŞ  
Member of the Commission

<sup>(1)</sup> OJ L 93, 31.3.2006, p. 12.

<sup>(2)</sup> OJ L 217, 22.8.2007, p. 22.

<sup>(3)</sup> OJ C 56, 22.2.2011, p. 18.

## ANNEX

Agricultural products intended for human consumption listed in Annex I to the Treaty:

**Class 1.6. Fruit, vegetables and cereals, fresh or processed**

ITALY

Riso di Baraggia Biellese e Vercellese (PDO)  
  

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## COMMISSION IMPLEMENTING REGULATION (EU) No 1297/2011

of 9 December 2011

## entering a name in the register of protected designations of origin and protected geographical indications [Seggiano (PDO)]

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs<sup>(1)</sup>, and in particular the third and fourth subparagraphs of Article 7(5) thereof,

Whereas:

(1) Pursuant to Article 6(2) and in accordance with Article 17(2) of Regulation (EC) No 510/2006, the Italian application to register the name 'Seggiano' was published in the *Official Journal of the European Union*<sup>(2)</sup>.

(2) The United Kingdom submitted an objection to the registration under Article 7 (1) of Regulation (EC) No 510/2006. The objection was deemed admissible under Article 7 (3) of that Regulation.

(3) The United Kingdom indicated in the objection that the registration of the name in question would be contrary to Article 3(4) of Regulation (EC) No 510/2006 and would jeopardise the existence of trademarks registered in its territory.

(4) By letter dated 18 November 2010, the Commission asked the Member States concerned to seek agreement among themselves in accordance with their internal procedures.

(5) Given that an agreement was reached between Italy and the United Kingdom within the designated timeframe, with minor modifications of the specification and no modification of the single document published in accordance with Article 6(2) of Regulation (EC) No 510/2006, the name 'Seggiano' should be entered in the 'Register of protected designations of origin and protected geographical indications',

HAS ADOPTED THIS REGULATION:

*Article 1*

The designation contained in the Annex to this Regulation shall be entered in the register.

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

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

Done at Brussels, 9 December 2011.

For the Commission,  
On behalf of the President,  
Dacian CIOLOŞ  
Member of the Commission

<sup>(1)</sup> OJ L 93, 31.3.2006, p. 12.

<sup>(2)</sup> OJ C 77, 26.03.2010, p. 6.

## ANNEX

Agricultural products intended for human consumption listed in Annex I to the Treaty:

**Class 1.5. Oils and fats (butter, margarine, oil, etc)**

ITALY

Seggiano (PDO)

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**COMMISSION IMPLEMENTING REGULATION (EU) No 1298/2011****of 9 December 2011****approving a non-minor amendment to the specification for a name entered in the register of protected designations of origin and protected geographical indications [Pélardon (PDO)]**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs<sup>(1)</sup>, and in particular the first subparagraph of Article 7(4) thereof,

Whereas:

- (1) By virtue of the first subparagraph of Article 9(1) of Regulation (EC) No 510/2006, the Commission has examined France's application for the approval of an amendment to the single document for the protected designation of origin 'Pélardon' registered in accordance with Commission Regulation (EC) No 2400/1996<sup>(2)</sup>, as amended by Regulation (EC) No 2372/2001<sup>(3)</sup>.

- (2) Since the amendments in question are not minor within the meaning of Article 9 of Regulation (EC) No 510/2006, the Commission published the amendment application in the *Official Journal of the European Union*<sup>(4)</sup>, as required by the first subparagraph of Article 6(2) of that Regulation. As no statement of objection within the meaning of Article 7 of Regulation (EC) No 510/2006 has been sent to the Commission, the amendment should be approved,

HAS ADOPTED THIS REGULATION:

*Article 1*

The amendments to the specification published in the *Official Journal of the European Union* regarding the name contained in the Annex to this Regulation are hereby approved.

*Article 2*

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

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

Done at Brussels, 9 December 2011.

*For the Commission,  
On behalf of the President,  
Dacian CIOLOȘ  
Member of the Commission*

<sup>(1)</sup> OJ L 93, 31.3.2006, p. 12.

<sup>(2)</sup> OJ L 327, 18.12.1996, p. 11.

<sup>(3)</sup> OJ L 320, 5.12.2001, p. 9.

<sup>(4)</sup> OJ C 35, 4.2.2011, p. 13.

## ANNEX

Agricultural products intended for human consumption listed in Annex I to the Treaty:

**Class 1.3. Cheeses**

FRANCE

Pélardon (PDO)  
  

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## COMMISSION IMPLEMENTING REGULATION (EU) No 1299/2011

of 9 December 2011

**approving a non-minor amendment to the specification for a name entered in the register of protected designations of origin and protected geographical indications [Azeites do Ribatejo (PDO)]**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs <sup>(1)</sup>, and in particular the first subparagraph of Article 7(4) thereof,

Whereas:

- (1) By virtue of the first subparagraph of Article 9(1) of Regulation (EC) No 510/2006 and having regard to Article 17(2) thereof, the Commission has examined Portugal's application for the approval of amendments to the specification for the protected designation of origin 'Azeites do Ribatejo' registered under Commission Regulation (EC) No 1107/96 <sup>(2)</sup>.

- (2) Since the amendments in question are not minor within the meaning of Article 9 of Regulation (EC) No 510/2006, the Commission published the amendment application in the *Official Journal of the European Union* <sup>(3)</sup>, as required by the first subparagraph of Article 6(2) of that Regulation. As no statement of objection within the meaning of Article 7 of Regulation (EC) No 510/2006 has been sent to the Commission, the amendments should be approved,

HAS ADOPTED THIS REGULATION:

*Article 1*

The amendments to the specification published in the *Official Journal of the European Union* regarding the name contained in the Annex to this Regulation are hereby approved.

*Article 2*

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

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

Done at Brussels, 9 December 2011.

For the Commission,  
On behalf of the President,  
Dacian CIOLOŞ  
Member of the Commission

<sup>(1)</sup> OJ L 93, 31.3.2006, p. 12.

<sup>(2)</sup> OJ L 148, 21.6.1996, p. 1.

<sup>(3)</sup> OJ C 56, 22.2.2010, p. 13.

## ANNEX

Agricultural products intended for human consumption listed in Annex I to the Treaty:

**Class 1.5. Oils and fats (butter, margarine, oils, etc.)**

PORTUGAL

Azeites do Ribatejo (PDO)

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**COMMISSION IMPLEMENTING REGULATION (EU) No 1300/2011****of 9 December 2011****entering a name in the register of protected designations of origin and protected geographical indications [Magyar szürkemarha hús (PGI)]**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs <sup>(1)</sup>, and in particular the first subparagraph of Article 7(4) thereof,

Whereas:

(1) Pursuant to the first subparagraph of Article 6(2) of Regulation (EC) No 510/2006, Hungary's application to register the name 'Magyar szürkemarha hús' was published in the *Official Journal of the European Union* <sup>(2)</sup>.

(2) As no statement of objection under Article 7 of Regulation (EC) No 510/2006 has been received by the Commission, that name should therefore be entered in the register,

HAS ADOPTED THIS REGULATION:

*Article 1*

The name contained in the Annex to this Regulation is hereby entered in the register.

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

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

Done at Brussels, 9 December 2011.

*For the Commission,  
On behalf of the President,  
Dacian CIOLOŞ  
Member of the Commission*

<sup>(1)</sup> OJ L 93, 31.3.2006, p. 12.

<sup>(2)</sup> OJ C 83, 17.3.2011, p. 14.

## ANNEX

Agricultural products intended for human consumption listed in Annex I to the Treaty:

**Class 1.1. Fresh meat (and offal)**

HUNGARY

Magyar szürkemarha hús (PGI)  
  

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## COMMISSION IMPLEMENTING REGULATION (EU) No 1301/2011

of 9 December 2011

**approving non-minor amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications [Vitellone bianco dell'Appennino centrale (PGI)]**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs<sup>(1)</sup>, and in particular the first subparagraph of Article 7(4) thereof,

Whereas:

- (1) By virtue of the first subparagraph of Article 9(1) of Regulation (EC) No 510/2006, the Commission has examined Italy's application for the approval of amendments to the specification for the protected geographical indication 'Vitellone bianco dell'Appennino centrale' registered under Commission Regulation (EC) No 1107/96<sup>(2)</sup>, as amended by Regulation (EC) No 134/98<sup>(3)</sup>.

- (2) Since the amendments in question are not minor within the meaning of Article 9 of Regulation (EC) No 510/2006, the Commission published the amendment application in the *Official Journal of the European Union*<sup>(4)</sup>, as required by the first subparagraph of Article 6(2) of that Regulation. As no statement of objection within the meaning of Article 7 of Regulation (EC) No 510/2006 has been sent to the Commission, the amendments should be approved,

HAS ADOPTED THIS REGULATION:

*Article 1*

The amendments to the specification published in the *Official Journal of the European Union* regarding the name contained in the Annex to this Regulation are hereby approved.

*Article 2*

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

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

Done at Brussels, 9 December 2011.

For the Commission,  
On behalf of the President,  
Dacian CIOLOŞ  
Member of the Commission

<sup>(1)</sup> OJ L 93, 31.3.2006, p. 12.

<sup>(2)</sup> OJ L 148, 21.6.1996, p. 1.

<sup>(3)</sup> OJ L 15, 21.1.1998, p. 6.

<sup>(4)</sup> OJ C 82, 16.3.2011, p. 7.

## ANNEX

Agricultural products intended for human consumption listed in Annex I to the Treaty:

**Class 1.1. Fresh meat (and offal)**

ITALY

Vitellone bianco dell'Appennino centrale (PGI)  
  

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**COMMISSION IMPLEMENTING REGULATION (EU) No 1302/2011****of 9 December 2011****concerning the classification of certain goods in the Combined Nomenclature**

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<sup>(1)</sup>, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.

(4) It is appropriate to provide that binding tariff information which has been issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature but which is not in accordance with this Regulation can, for a period of three months, continue to be invoked by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code<sup>(2)</sup>.

(5) The Customs Code Committee has not issued an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

*Article 1*

The goods described in column (1) of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN code indicated in column (2) of that table.

*Article 2*

Binding tariff information issued by the customs authorities of Member States, which is not in accordance with this Regulation, can continue to be invoked for a period of three months under Article 12(6) of Regulation (EEC) No 2913/92.

*Article 3*

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

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

Done at Brussels, 9 December 2011.

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

<sup>(1)</sup> OJ L 256, 7.9.1987, p. 1.

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

## ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>Plastic bottle made of polyethylene with stopper and a round base form.</p> <p>The product has a height of around 20 cm and a capacity of 0,5 litre.</p> <p>The product is designed for insertion into the holder for bottles on bicycles, and it is used for the conveyance of beverages.</p> <p>(See photo) (*)</p>	3923 30 10	<p>Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 3923, 3923 30 and 3923 30 10.</p> <p>As the product is a plastic bottle with a stopper containing no other elements such as, for example, detachable drinking cups, and as it is used for the conveyance of beverages for refreshment, it cannot be considered to be a tableware, kitchenware or other household article of heading 3924. Consequently, classification under heading 3924 is excluded.</p> <p>The product being an article for the conveyance or packing of goods is therefore to be classified under heading 3923 (see Harmonized System Explanatory Notes to heading 3923, point (a) of the first paragraph).</p>

(\*) The photo is purely for information.



**COMMISSION IMPLEMENTING REGULATION (EU) No 1303/2011****of 9 December 2011****concerning the classification of certain goods in the Combined Nomenclature**

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<sup>(1)</sup>, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.

(4) It is appropriate to provide that binding tariff information which has been issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature but which is not in accordance with this Regulation can, for a period of three months, continue to be invoked by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code<sup>(2)</sup>.

(5) The Customs Code Committee has not issued an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

*Article 1*

The goods described in column (1) of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN code indicated in column (2) of that table.

*Article 2*

Binding tariff information issued by the customs authorities of Member States, which is not in accordance with this Regulation, can continue to be invoked for a period of three months under Article 12(6) of Regulation (EEC) No 2913/92.

*Article 3*

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

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

Done at Brussels, 9 December 2011.

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

<sup>(1)</sup> OJ L 256, 7.9.1987, p. 1.

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

## ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>Gel put up for the relief of pain containing the following ingredients:</p> <ul style="list-style-type: none"> <li>— isopropyl alcohol</li> <li>— water</li> <li>— herbal extract (<i>Ilex paraguariensis</i>)</li> <li>— acrylic acid polymers (carbomer)</li> <li>— triethanolamine</li> <li>— menthol</li> <li>— camphor</li> <li>— silicon dioxide</li> <li>— methylparaben</li> <li>— glycerine</li> <li>— propylene glycol</li> <li>— tartrazine (E102)</li> <li>— brilliant blue FCF (E133)</li> </ul> <p>The quantities of the ingredients are not indicated on the packaging of the product.</p> <p>The packaging advises that the product is used for the temporary relief of minor aches and pains of muscles and joints associated with arthritis pain, backache, strains and sprains.</p>	<p>3824 90 97</p>	<p>Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Additional Note 1 to Chapter 30 and the wording of CN codes 3824, 3824 90 and 3824 90 97.</p> <p>The product neither serves a therapeutic use, as it does not treat or cure an illness or disease, nor a prophylactic use, as it does not defend or protect against an illness or disease. In addition, the product does not fulfil the requirements of Additional Note 1 to Chapter 30. Classification as a medicament under heading 3004 is therefore excluded.</p> <p>The product is not to be considered a beauty or make-up preparation as it is not used for skin care. Although the product has the effect of cooling the skin where it is applied, it does not actually treat the skin in any way. Classification under heading 3304 is therefore excluded.</p> <p>The product is therefore to be classified under CN code 3824 90 97 as other chemical products or preparations of the chemical or allied industries not elsewhere specified or included.</p>

## COMMISSION IMPLEMENTING REGULATION (EU) No 1304/2011

of 13 December 2011

**on the withdrawal of the temporary suspension of the duty-free regime for the year 2012 for the importation into the European Union of certain goods originating in Norway resulting from the processing of agricultural products covered by Council Regulation (EC) No 1216/2009**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1216/2009 of 30 November 2009 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products <sup>(1)</sup>, and in particular Article 7(2) thereof,

Having regard to Council Decision 2004/859/EC of 25 October 2004 concerning the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the Kingdom of Norway on Protocol 2 to the bilateral Free Trade Agreement between the European Economic Community and the Kingdom of Norway <sup>(2)</sup>, and in particular Article 3 thereof,

Whereas:

- (1) Protocol 2 to the bilateral Free Trade Agreement between the European Economic Community and the Kingdom of Norway <sup>(3)</sup>, and Protocol 3 to the EEA Agreement <sup>(4)</sup>, determine the trade arrangements for certain agricultural and processed agricultural products between the Contracting Parties.
- (2) Protocol 3 to the EEA Agreement, as amended by Decision of the EEA Joint Committee No 138/2004 <sup>(5)</sup>, provides for a zero duty applying to certain waters containing added sugar or other sweetening matter or flavoured, classified under CN code 2202 10 00 and certain other non alcoholic beverages containing sugar, classified under CN code ex 2202 90 10.
- (3) The zero duty for the waters and other beverages in question has been temporarily suspended for Norway by the Agreement in the form of an Exchange of Letters between the European Community and the Kingdom of Norway concerning Protocol 2 to the bilateral free trade Agreement between the European Economic Community and the Kingdom of Norway <sup>(6)</sup>, hereinafter referred to as 'the Agreement', approved by

Decision 2004/859/CE. According to point IV of the Agreed Minutes of the Agreement, duty-free imports of goods of the CN codes 2202 10 00 and ex 2202 90 10 originating in Norway are to be permitted only within the limits of a duty-free tariff quota, while a duty is to be paid for imports outside the tariff quota allocation.

- (4) Pursuant to point IV, third indent, last sentence of the Agreed Minutes of the Agreement, the products in question should be granted unlimited duty-free access to the European Union if the tariff quota has not been exhausted by 31 October of the previous year. According to data provided to the Commission, the annual quota for 2011 for the waters and beverages in question opened by Commission Regulation (EU) No 1248/2010 <sup>(7)</sup> has not been exhausted on 31 October 2011. Therefore, the products in question should be granted unlimited duty-free access to the European Union from 1 January 2012 to 31 December 2012.
- (5) It is therefore necessary to withdraw the temporary suspension of the duty-free regime applied under Protocol 2.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for horizontal questions concerning trade in processed products not listed in Annex I,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. From 1 January to 31 December 2012, the temporary suspension of the duty-free regime applied under Protocol 2 to the bilateral Free Trade Agreement between the European Economic Community and the Kingdom of Norway to goods classified under CN codes 2202 10 00 (waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured) and ex 2202 90 10 (other non-alcoholic beverages containing sugar (sucrose or invert sugar)) shall be withdrawn.

2. The rules of origin mutually applicable to the goods referred to in paragraph 1 shall be as set out in Protocol 3 of the bilateral Free Trade Agreement between the European Economic Community and the Kingdom of Norway.

<sup>(1)</sup> OJ L 328, 15.12.2009, p. 10.

<sup>(2)</sup> OJ L 370, 17.12.2004, p. 70.

<sup>(3)</sup> OJ L 171, 27.6.1973, p. 2.

<sup>(4)</sup> OJ L 22, 24.1.2002, p. 37.

<sup>(5)</sup> OJ L 342, 18.11.2004, p. 30.

<sup>(6)</sup> OJ L 370, 17.12.2004, p. 72.

<sup>(7)</sup> OJ L 341, 23.12.2010, p. 1.

*Article 2*

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

It shall apply from 1 January 2012.

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

Done at Brussels, 13 December 2011.

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

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**COMMISSION IMPLEMENTING REGULATION (EU) No 1305/2011****of 13 December 2011****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) <sup>(1)</sup>,Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors <sup>(2)</sup>, and in particular Article 136(1) thereof,

Whereas:

Implementing Regulation (EU) No 543/2011 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 XVI, Part A thereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 14 December 2011.

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

Done at Brussels, 13 December 2011.

*For the Commission,  
On behalf of the President,  
José Manuel SILVA RODRÍGUEZ  
Director-General for Agriculture and  
Rural Development*

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

<sup>(2)</sup> OJ L 157, 15.6.2011, p. 1.

## ANNEX

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

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	AL	58,0
	MA	72,2
	TN	80,5
	TR	94,4
	ZZ	76,3
0707 00 05	EG	170,1
	TR	111,9
	ZZ	141,0
0709 90 70	MA	41,1
	TR	146,0
	ZZ	93,6
0805 10 20	AR	40,2
	BR	41,5
	CL	30,5
	MA	56,3
	TR	58,8
	ZA	54,0
	ZZ	46,9
0805 20 10	MA	65,1
	ZZ	65,1
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	IL	84,5
	TR	80,1
	ZZ	82,3
0805 50 10	TR	55,7
	ZZ	55,7
0808 10 80	CA	109,9
	CL	90,0
	US	118,0
	ZA	80,2
	ZZ	99,5
0808 20 50	CN	60,4
	ZZ	60,4

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

# DECISIONS

## COUNCIL DECISION

of 1 December 2011

### on the practical and procedural arrangements for the appointment by the Council of four members of the European panel for the European Union action for the European Heritage Label

(2011/831/EU)

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS DECISION:

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

#### *Article 1*

The Council shall decide on the appointment of four members of the European panel in accordance with the practical and procedural arrangements laid down in Article 2.

Having regard to Decision No 1194/2011/EU of the European Parliament and of the Council of 16 November 2011 establishing a European Union action for the European Heritage Label <sup>(1)</sup>, and in particular Article 8 thereof,

#### *Article 2*

Whereas:

1. Member States shall be invited to make submissions of candidates to become members of the European panel. The participation of Member States in the process shall be voluntary. Each Member State shall have the right to submit only one candidate. In order to ensure a balanced geographical representation, Member States which have experts appointed by the Council for the previous term shall be excluded from participation.

(1) Article 8 of Decision No 1194/2011/EU provides that a European panel of independent experts ('European panel') is to be established and that this panel is to include 13 members appointed by the European institutions and bodies, four of whom are to be appointed for a three-year term by the Council.

2. Submissions shall be made in writing and clearly demonstrate that a given candidate is an independent expert with substantial experience and expertise in the fields relevant to the objectives of the action, and is committed to work on the European panel, in line with the requirements laid down in part 1 of the Annex. Those submissions shall also contain a duly signed declaration as set out in part 2 of the Annex.

(2) Each institution and body should seek to ensure that the competences of the members of the European panel it appoints are as complementary as possible.

3. The submissions shall specify, for each candidate, one main category of expertise from among the following:

(3) At the time of submitting candidates to become members of the European panel, Member States which already have one or more experts in that panel who were appointed by an institution or body other than the Council, are encouraged to take into account enhancing geographical and gender balance within the European panel when deciding on their participation in the process.

— European history and cultures,

(4) It is appropriate for the Council to decide on the practical and procedural arrangements for the appointment of its four members of the European panel.

— education and youth,

(5) These arrangements should be fair, easy to implement, non-discriminatory, transparent, and should seek to ensure that the members appointed to the European panel duly fulfil their obligations.

— cultural management, including the heritage dimension,

(6) These arrangements should be adapted, if necessary, in the light of the results of the evaluations of the action for the European Heritage Label provided for in Article 18 of Decision No 1194/2011/EU,

— communication and tourism.

4. A draw shall be organised from among the submissions acknowledged by the relevant preparatory body of the Council with a view to selecting one candidate in each of the four categories referred to in paragraph 3. The first name drawn for each category shall be considered as selected. This selection shall subsequently be approved by the Council.

<sup>(1)</sup> OJ L 303, 22.11.2011, p. 1.

5. If there are no candidates in one or more categories, one or more additional candidates shall be drawn from the categories in which there are most candidates. If there is only one candidate in a given category, that candidate is deemed to be selected without a draw.

6. If a member of the European panel is not able to fulfil his or her mandate, the Member State that appointed that member shall appoint a replacement as soon as possible. This appointment shall fulfil the requirements laid down in parts 1 and 2 of the Annex and apply for the remainder of the term of office of that member.

*Article 3*

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

Done at Brussels, 1 December 2011.

*For the Council*  
*The President*

W. KOSINIAK-KAMYSZ

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ANNEX

**LIST OF REQUIREMENTS TO BE FULFILLED BY THE CANDIDATES**

PART 1

EACH WRITTEN SUBMISSION SHALL CONTAIN:

- a description of the candidate's education, working experience and outstanding achievements relevant to the objectives of the action and the criteria to be met by the sites,
- a choice of a specific category of expertise accompanied by an explanation of that choice.

PART 2

EACH SUBMISSION SHALL CONTAIN THE FOLLOWING WRITTEN DECLARATION:

I am aware:

- of the duties entailed in the position and able to devote an appropriate number of working days per year to work for the European panel,
  - that membership of the European panel is not an honorary position and that I will be paid a fee for this work as well as travel and accommodation costs by the Commission,
  - that the duties require independence and that I will need to sign a declaration every year confirming that I have no actual or potential conflict of interest, in line with Article 8(5) of Decision No 1194/2011/EU.
-

**COMMISSION DECISION****of 7 December 2011****concerning a guide on EU corporate registration, third country and global registration under Regulation (EC) No 1221/2009 of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS)***(notified under document C(2011) 8896)***(Text with EEA relevance)**

(2011/832/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) <sup>(1)</sup>, and in particular Articles 3 and 46(4) thereof,

Whereas:

- (1) Regulation (EC) No 1221/2009 establishes the possibility for organisations with multiple sites located in one or more Member States or third countries to register under EMAS.
- (2) Companies and other organisations with sites located in different Member States or third countries should receive additional information and guidance about the possibilities to register themselves under EMAS.

- (3) The measures provided for in this Regulation are in accordance with the opinion of the Committee established pursuant to Article 49 of Regulation (EC) No 1221/2009,

HAS ADOPTED THIS DECISION:

*Article 1*

For the purpose of Article 46(4) and for the purpose of providing additional clarifying information on Article 3 of Regulation (EC) No 1221/2009, the Commission adopts this guide on EU corporate, third country and corporate registration under EMAS.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 7 December 2011.

*For the Commission*  
Janez POTOČNIK  
*Member of the Commission*

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<sup>(1)</sup> OJ L 342, 22.12.2009, p. 1.

## ANNEX

**Guide on EU corporate, third country and global registration under EMAS (Regulation (EC) No 1221/2009)**

## 1. INTRODUCTION

The purpose of this document is to give guidance on how the European Eco-management and Audit Scheme (EMAS) works for organisations operating with subsidiaries and sites located in several EU Member States and/or in third Countries, and to provide specific guidance to Member States, verifiers and organisations who can use it for registration purposes. This guide is the consequence of Article 46(4) of the EMAS Regulation <sup>(1)</sup> which states that 'The Commission shall, in cooperation with the Forum of Competent Bodies, develop a guide on registration of organisations outside the Community' and of Article 16(3), which states that 'The Forum of Competent Bodies shall develop guidance to ensure the consistency of procedures relating to the registration of organisations in accordance with this Regulation, including renewal of registration and suspension and deletion of organisations from the register both inside and outside the Community'.

When EMAS was introduced in 1993 it was designed to cover individual sites of organisations from the industrial and manufacturing sectors. Following the first revision in 2001, EMAS II was opened to all organisations with multiple sites (located in a Member State of the EU and the EEA as before). EMAS III has opened up further, and it is now applicable to organisations inside and outside the EU.

Opening up EMAS to third countries provides organisations from all sectors with a tool for achieving a high environmental performance levels that can be publicly recognised by stakeholders of the European Community.

Member States are free to make a decision as to whether their national competent body/bodies will provide for the registration of organisations in third countries in accordance with Article 11(1) of the EMAS Regulation.

**Registration**

Due to the interrelationship between the registration of organisations with multiple sites within the EU and the registration of organisations outside the EU, there are several different situations that can take place in reality. This document provides general guidance for cases that competent bodies, environmental verifiers and organisations applying for EMAS have to cope with. The following three specific types of situations are analysed:

- Situation 1: Registration of organisations with sites located in more than one EU Member State (EU corporate registration),
- Situation 2: Registrations of single or corporate organisations with sites located in third countries (third country registration), and
- Situation 3: Registrations of organisations with sites located in both EU Member States and third countries (global registration),

In all three procedures, the organisation may apply for one single corporate registration of all or some of those sites. The choice of the sites to be included in the registration is up to the organisation applying.

*Note:*

The simple case of an EU national corporate registration is not dealt with in this guidance.

This guidance deals with issues such as:

- identification of the competent body,
- accreditation or licensing of environmental verifiers operating outside the EU,
- coordination among Member States for these procedures,
- legal compliance in third countries,
- renewal, deletion and suspension of corporate registrations.

<sup>(1)</sup> Regulation (EC) No 1221/2009.

Requirements within the three situations are often quite similar; however, the use of cross references between the chapters is restricted to an absolute minimum in order to improve the readability of the text. Therefore, repetitions may occur.

For the credibility of EMAS it is important that the regulation is applied in a similar fashion inside and outside the EU. For this purpose, differences and difficulties in implementing some specific elements of EMAS, such as legal compliance, must be taken into account. Competent bodies in Member States allowing third country registrations shall adopt specific procedures to ensure that EMAS inside and outside the EU results in equivalent systems. The historical, economic and cultural relationships among EU Member States and third countries may drive the implementation of third country and global EMAS and can be used as a way to facilitate EMAS extension all over the world.

## 2. TERMINOLOGY

For the purpose of this guidance document, the following terminology will be used:

**Headquarters** means a management entity at the top of an organisation with multiple sites that controls and coordinates main functions of the organisation such as strategic planning, communications, tax, legal, marketing, finance, and others.

**Management centre** means a site, other than the headquarters of the organisation with multiple sites, specifically designated for the purpose of registration under the EMAS Regulation, where control and coordination of the environmental management system is ensured.

**Leading competent body** means the competent body in charge of the EU corporate registration, third country and global registration procedure.

*Note:*

Article 3(3) from the EMAS Regulation deals with the determination of the (leading) competent body.

The determination of the leading competent body may vary according to the 'Situations' described above, as follows:

- In case of situation 1 (EU corporate registration) the leading competent body is the competent body from the Member State in which the headquarters or the management centre of the applying organisation is located.
- In case of third country and global registration, it is the competent body from the Member State that provides for registration of organisations from outside the Community and where the verifier has been accredited. In other words, firstly the Member State has to provide for third country registration and, secondly verifiers that are accredited or licensed for verifications in those third countries where the sites included in the registration process are located need to be available.

## 3. EU CORPORATE REGISTRATION — REGISTRATION OF ORGANISATIONS WITH MULTIPLE SITES IN SEVERAL MEMBER STATES

### 3.1. Applicable legislation and legal compliance in EU Member States

- 3.1.1. Organisations must always be in compliance with EU and national legal requirements applicable to the sites included in the EMAS registration.
- 3.1.2. According to Annex IV(B)(g) to the EMAS Regulation, the environmental statement of organisations shall include a reference to the applicable legal requirements relating to the environment.
- 3.1.3. In order to provide the 'material or documentary evidence of legal compliance' as referred to in Article 4(4) of the EMAS Regulation, the organisation may provide statements from the competent enforcement authorities ensuring that there is no evidence of non-compliance and/or that the company is not involved in relevant enforcement procedures, lawsuits or complaint procedures. Verifiers shall — as a part of the verification procedure — check all environmental licences or permits applicable to the organisation or any other kind of evidence in accordance with the legal system operating in the Member State where the site is located.

### 3.2. Tasks of the competent bodies

- 3.2.1. In case of EU corporate registration, the location of the headquarters or management centre (in that order) of the organisation is decisive in determining who the leading competent body is.

- 3.2.2. In case of **EU corporate registration** the leading competent body cooperates solely with all the competent bodies located in the Member States where sites, included in the corporate registration process, are located.
- 3.2.3. The leading competent body is responsible for the registration and will coordinate the procedure with other relevant competent bodies.

The leading competent body shall not register, suspend, delete or renew registration of an organisation if the competent body from another Member State, where the sites of the organisation included in the registration are located, does not agree with the registration, suspension, deletion or renewal (see 3.4. and 3.6 of this guidance). As stated in section 3.4.6 the leading competent body can also decide to proceed with a corporate registration procedure with a smaller scope (e.g. without the disputed site).

- 3.2.4. Competent bodies should coordinate their activities with the accreditation and licensing bodies in their Member States, in order to ensure that both the competent body and the accreditation or licensing body are able to fulfil their respective tasks in a coordinated way.
- 3.2.5. General principles and specific coordination procedures between competent bodies shall, within six months of the adoption of this guidance document, be set up and approved by the Forum of Competent Bodies. They will then be submitted for adoption in accordance with the regulatory procedure with scrutiny as referred to in Articles 48(2) and 49(3) of the EMAS Regulation.
- 3.2.6. The Forum of Competent Bodies will develop standardised forms in all official languages of the European Union for implementing the 'coordination procedures' referred to above. In order to enable an efficient communication while minimising misunderstandings resulting from language difficulties, the standardised forms will mainly consist of tick-boxes and only a very limited number of 'commenting' fields that can contain free text. Written evidence of this communication, by means of regular mails, e-mails or faxes, should be kept in the event of disputes among competent bodies.

The abovementioned forms should include, as an updatable attachment, a list of applicable fees related to all Member States.

### 3.3. **Tasks of the accredited or licensed verifiers**

- 3.3.1. General rules applicable to EMAS environmental verifiers, their accreditation or licence, and to the verification process are established in Chapters V and VI of the EMAS Regulation.
- 3.3.2. The verification of the environmental management system and the validation of the EMAS environmental statement must be done by an EMAS environmental verifier who is accredited or licensed for the relevant scope in accordance with the NACE codes <sup>(1)</sup>.
- 3.3.3. In case of registration of an organisation with multiple sites and activities, the accreditation of the verifier(s) has/have to cover all the NACE codes of the organisation's sites and activities. If a verifier is not accredited or licensed for all relevant NACE codes, other accredited environmental verifiers shall be involved as appropriate through case-cooperation. It is up to an organisation seeking for registration to decide if it wants to involve several accredited verifiers taking into account Article 4 of the EMAS Regulation. Apart from reasons such as the lack of verifiers accredited for the relevant NACE codes, organisations might also have other reasons (e.g. local experience, language knowledge or the desire to combine the EMAS verification with certification against other standards) to use several verifiers. All cooperating verifiers have to sign the declaration referred to in Article 25(9) of the EMAS Regulation and the EMAS environmental statement. Each verifier involved is responsible for the outcome of that part(s) of the verification that results from his/her own area of expertise (mostly related to specific NACE codes). The practice that all verifiers must sign the same declaration enables the leading competent body to identify all involved verifiers. Consequently the leading competent body can verify, via the cooperating competent bodies (who should in turn coordinate their activities with the accreditation and licensing bodies), if all the involved verifiers have respected the prior notification obligation as stated in Article 23(2) of the EMAS Regulation. It also enables the leading competent body to verify if the NACE codes of the involved verifiers cover those of the organisation in question.
- 3.3.4. Verifiers accredited or licensed in one Member State are allowed to operate in other Member States. Verifiers shall send a notification to the accreditation or licensing body located in the Member State/s where they intend to operate at least four weeks in advance of starting their activities.

<sup>(1)</sup> As established in Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).

- 3.3.5. The accreditation or licensing body supervising the verifier(s) performing in its Member State shall send a supervision report in case of problems/negative results to the competent body in that Member State. This competent body shall then transfer the supervision report to the leading competent body in charge of the EU corporate registration.
- 3.3.6. If a verifier detects a non-compliance situation at the time of verification for the first registration, he/she shall not sign the declaration referred to in Article 25(9) of the EMAS Regulation and the EMAS environmental statement.
- 3.3.7. If a verifier detects a case of non-compliance in the period of validity of the registration or at the time of renewal, he/she can report to the (leading) competent body that the organisation in question does not comply with the EMAS requirements any longer. At the time of renewal of the EMAS registration he/she may only sign the declaration referred to in Article 25(9) and the updated EMAS environmental statement if the organisation demonstrates that it took measures (i.e. in cooperation with the enforcement authorities) to ensure that legal compliance is restored. If the organisation does not provide sufficient measures to solve the compliance problem, the verifier shall not validate the updated statement and not sign the declaration and the EMAS environmental statement. In other words the EMAS environmental verifier shall sign the declaration and validate the EMAS environmental statement only in case of full compliance.

#### 3.4. Registration process

- 3.4.1. General rules applicable to the Registration are established in Chapters II, III and IV of the EMAS Regulation.
- 3.4.2. The organisation should communicate at an early stage with the verifier(s) and leading competent body to clarify language issues with regard to the documents necessary for registration, keeping in mind the requirements of Article 5(3) and Annex IV (D) to the EMAS Regulation.
- 3.4.3. The leading competent body shall check the information contained in the application and it shall communicate on this with the other involved competent bodies. This means that the leading competent body is informed by the involved competent bodies about the validity of the information of the involved national sites.
- 3.4.4. The competent bodies involved shall check, via their accreditation and licensing bodies, for their own Member States whether the verifier(s) involved in the registration procedure is (are) accredited or licensed for all the NACE codes concerned in the registration process. This implies that the competent body checks whether the verifier(s) has/have made proper and timely (at least four weeks in advance of each verification in a Member State) notification, in accordance with Article 24(1) of the EMAS Regulation. Therefore the competent body must communicate to the accreditation or licensing body of its Member State, in any case a simple message that there are sites to be registered on the basis of verification/validation activities of verifiers from other Member States. If the verifier's competence is not approved by the accreditation and licensing body, the accreditation or licensing body can compel the verifier to comply with the relevant requirements or inform the competent body about the problem. Without this minimum communication between the competent bodies and the accreditation and licensing bodies as well as between the competent bodies and the leading competent body, the supervision activities could be undermined.
- 3.4.5. All competent bodies involved in the registration process will apply their national procedures to check, for the sites located in their Member State, compliance with the EMAS Regulation. They will inform the leading competent body about their decision (can be registered/cannot be registered). In case of a negative decision the competent body shall inform the leading competent body of the motivation thereof in form of a statement. Since this statement is binding, the leading competent body can either decide to stop the corporate registration procedure until the requirements of the regulation are fulfilled (in which case none of the sites will be EMAS registered), or inform the organisation that they can proceed with a corporate registration procedure without the disputed site.
- 3.4.6. Following the registration decision, the leading competent body shall inform all national competent bodies involved, who will inform their respective enforcement authorities.

#### Note:

The European Commission encourages the competent bodies involved to exchange contact details of their respective enforcement authorities to facilitate the exchange of information between competent bodies and enforcement authorities about the latter not being aware of any situations of non-compliance.

- 3.4.7. Monitoring of legal compliance at national level is ensured by the national enforcement authorities and by verifiers during the verification process. If these authorities detect a non-compliance situation they must inform the national competent body, who in its turn shall inform the leading competent body.

- 3.4.8. If a competent body in the Member State where a site of the organisation applying for the corporate registration in question is located finds evidence of breach of applicable legal requirements, complaints or any other relevant information, to meet the requirements concerning registration, renewal, suspension and deletion, they shall without any delay transmit to the leading competent body a supervision report outlining the problem.
- 3.4.9. Some Member States are obliged to charge fees according to their national legislation. Consequently, the leading competent body is not in a position to decide on fees which are set according to the legislation of other Member States. The role of the leading competent body regarding fees will merely consist of informing the organisation of the total amount and the individual fees to be paid to the national competent bodies involved in the registration procedure. The leading competent body will also inform the organisation that all competent bodies involved charge the fees resulting from registering the national sites involved in a corporate registration procedure directly to the respective national sites of the applicant organisation.

All involved competent bodies shall inform the leading competent body that fees have been effectively paid before registration, as required by Article 5(2)(d) of the EMAS Regulation.

*Note:*

The European Commission strongly encourages all Member States to investigate possibilities to lower applicable fees to organisations that apply for corporate registration. In corporate registration cases, only the leading competent body will have administrative costs comparable to those of a regular registration, while competent bodies involved will be less engaged and thus have lower costs. Lower fees will increase the attractiveness of the EMAS scheme and corporate registration.

- 3.4.10. All competent bodies involved should charge the fees resulting from registering the national sites involved in a corporate registration procedure directly to the respective national sites of the applicant organisation.

**3.5. Already registered organisations**

- 3.5.1. If an organisation already registered decides to go for EU corporate registration, the leading competent body may, upon request of the organisation, extend the scope of the existing registration, thus maintaining the existing number in the national register. The entry should also be recorded with the new registration number in the national register. In those cases, all the other involved competent bodies from Member States where the organisation has already registered sites shall ensure that the existing registrations will be registered under the new registration number in their respective registers.

**3.6. Deletion and suspension of registrations**

- 3.6.1. General rules for suspension and deletion established in Article 15 of the EMAS Regulation shall be applicable to this specific procedure.
- 3.6.2. Any complaint concerning the registered organisation shall be notified to the leading competent body.
- 3.6.3. Every competent body is in charge of the procedures related to the sites of the organisation in the respective Member State. If a case occurs in which an organisation must be suspended or deleted from the EMAS Register, the cooperating competent body informs the leading competent body via a statement of its point of view. This means that the national competent bodies only issue statements about their respective national sites. If one of these statements confirms that a national site cannot be registered, the leading competent body starts the procedure for deletion or suspension, while observing the requirements of Article 15 of the EMAS Regulation. Before making any final decision on deletion or suspension of the organisation, the leading competent body should inform the other cooperating competent bodies involved, so that they know about the reasons for suspension/deletion by one or more competent bodies. The leading competent body also should inform the headquarters or the management centre of the organisation about the decision made and the reasons for the proposed deletion or suspension. Subsequently, the leading competent body gives the organisation the opportunity to decide if the whole organisation shall be deleted from the EMAS Register or if the disputed sites will be removed from the scope of the corporate registration.
- 3.6.4. Disputes between individual national competent bodies involved in the corporate registration procedure shall be settled within the Forum of competent bodies. Disputes between the leading competent body and the organisation will be settled according to national law of the country in which the leading competent body is situated. Disputes between the organisation and individual competent bodies, e.g. about the legal compliance situation of individual national sites included in the corporate registration procedure, will be settled according to the applicable national law of the Member State in question. Disputes will be settled in line with the requirements of Article 15 of the EMAS Regulation.

- 3.6.5. If no settlement can be achieved between the competent bodies involved within the Forum of competent bodies, the registration procedure can eventually be continued without the disputed sites.

3.7. **Language issues**

- 3.7.1. The EMAS environmental statement and other relevant documents shall be submitted in (one of) the official language(s) of the Member State in which the leading competent body is situated (Article 5(3)). If an organisation presents a corporate environmental statement with information on individual sites, this information shall, in addition, be in (one of) the official language(s) of those Member States where the sites are located.

4. **THIRD COUNTRY REGISTRATION — REGISTRATION OF ORGANISATIONS WITH ONE OR MULTIPLE SITES IN THIRD COUNTRIES (SITUATION 2)**

EMAS third country registration means EMAS registration of an organisation operating in one or more third countries. Under the EMAS Regulation, Member States are free to make a decision whether their national competent body(s) will provide for the registration of organisations in third countries in accordance with Article 11(1) of the EMAS Regulation.

4.1. **Applicable legislation and legal compliance in third countries**

- 4.1.1. Organisations must always be in compliance with the respective national legal requirements of the third countries where the sites included in the EMAS registration are located.

- 4.1.2. In order to ensure that the EMAS scheme maintains its high level of ambition and credibility, it is enviable that the environmental performance of a third country organisation achieves a level as close as possible to the level that EU organisations are required to meet by the relevant European and national legislation. Therefore it is desirable for organisations outside the Community, on top of the references made to the applicable national environmental requirements, to make reference in the environmental statement also to the legal requirements relating to the environment applicable to similar organisations in the Member State where the organisation intends to apply for registration (Article 4(4) of the EMAS Regulation). The environmental requirements on that list should be used as a reference when setting eventual higher additional performance targets, but they are not binding for the assessment of the organisation's legal compliance.

- 4.1.3. According to Annex IV(B)(g) to the EMAS Regulation, the environmental statement of organisations shall include a reference to the applicable national environmental legal requirements.

- 4.1.4. For sites located in third countries, the documentary evidence as mentioned in Article 4(4) of the EMAS Regulation should preferably consist of:

- statements from enforcement authorities of the third country including information on the environmental permits applicable to the organisation and stating that there is no evidence of non-compliance and/or that the company is not involved in enforcement procedures, lawsuits or complaint procedures,
- additionally, the environmental statement should preferably also contain cross reference tables between the national legislation of the third country and the legislation in the country where the organisation applies for registration as mentioned in section 4.1.2.

4.2. **EMAS third country accreditation and licensing**

- 4.2.1. Member States shall make a decision on whether to provide for third country registration or not, in accordance with their means and operational procedures. In this case, Member States shall ensure that their national accreditation bodies or licensing bodies will provide for accreditation or licensing of environmental verifiers for third country EMAS. Only Member States that accept the principle of 'third country registration' are entitled to register organisations operating in third countries.

- 4.2.2. If a Member State decides to provide for third country registration, according to Article 3(3) from the EMAS Regulation, the possibility to get a registration from that specific Member State will in practice depend on the availability of accredited verifiers. The potential verifier should be accredited in that specific Member State that provides for third country registration, for that specific third country and for the specific economic sector(s) involved (determined based on NACE codes) in the given registration procedure.

*Clarifying comment:*

This means that the verifier who shall perform the verification in a given third country must be accredited for that specific third country by the accreditation and licensing body of the Member State that provides for registrations from third countries and where the organisation intends to register.

- 4.2.3. The accreditation or license that verifiers can obtain for third countries must state for which third countries it is valid, so that the registration allowance is consistent with the provisions of Article 22(2) of the EMAS Regulation. It is up to the Member States to decide if they want to issue separate certificates for each third country or issue an overall accreditation certificate with a geographical appendix, listing the countries in which the verification bodies are accredited to operate in, attached.

*Clarifying comment:*

Taking into account Article 22, 'additional requirements for environmental verifiers active in third countries' it is clear that accreditation/licensing for third countries can only be an additional accreditation/licensing to a basic accreditation/licensing for Europe. This implies that third country accreditation/licensing is granted as an additional requirement to general accreditation/licensing in a certain scope and its requirements. Consequently accreditation/licensing for third countries will have to include accreditation/licensing for one of the Member States and within a certain scope.

Once a verifier is accredited or licensed in one Member State he/she is free to perform verifying activities in other Member States in accordance with Article 24 of the Regulation.

**4.3. Tasks of the competent body**

- 4.3.1. A Member State that has more than one competent body should determine to which competent body applications for third country registrations can be made, which should be the same one as the one designated according to section 5.3.1.

- 4.3.2. The application for third country registration from organisations with sites located exclusively in third countries is made to any competent body designated for this purpose in those Member States where the following conditions are met:

(a) the Member State provides for registration of organisations from third countries;

(b) accredited or licensed verifiers are available for verifications in the third countries where the sites included in the registration are located, and that these verifiers cover the relevant NACE codes (in other words, the decision for choosing a verifier determines the Member State of registration and vice versa).

- 4.3.3. The competent bodies should coordinate their activities with the accreditation and licensing bodies in their Member States in order to ensure that whenever the Member States provide for registration of organisations from third countries both the competent body and the accreditation or licensing body are able to fulfil their respective tasks in a coordinated way.

**4.4. Tasks of the accredited or licensed verifiers**

- 4.4.1. General rules applicable to EMAS environmental verifiers, their accreditation or licence and to verification process are established in Chapters V and VI of the EMAS Regulation.

- 4.4.2. Those Member States that allow third country registration must put in place a specific system to accredit or license verifiers for third countries. Verifier accreditation or licensing will be granted country by country as an add-on to a general accreditation or licence, in accordance with the specifications described in this section.

- 4.4.3. The verifier(s) must be accredited or licensed for all the NACE codes of the organisation's activities related to the sites of this organisation which are to be included in the registration procedure. Due to the potentially wide scope of activities, organisations have the possibility to use several accredited verifiers as they see fit. In fact it might be difficult if not impossible to appoint a single verifier for all the activities of large organisations. If the verifier is not accredited or licensed for the relevant NACE codes himself/herself, other environmental verifiers shall be involved as appropriate through case-cooperation. It is up to an organisation seeking for registration to decide if it wants to involve several accredited/licensed verifiers taking into account Article 4 of the EMAS Regulation. Apart from reasons such as the lack of verifiers accredited for the relevant NACE codes organisations might also have other reasons (e.g. local experience, language knowledge or the desire to combine the EMAS verification with certification against other standards) to use several verifiers.

- 4.4.4. All cooperating verifiers have to sign the declaration referred to in Article 25(9) and the EMAS environmental statement. Each verifier involved is responsible for the outcome of that part(s) of the verification that results from his/her own area of expertise (mostly related to specific NACE codes). The practice that all verifiers must sign the same declaration enables the competent body to identify all involved verifiers. Consequently the competent body can verify, via the accreditation and licensing bodies, if all the involved verifiers have respected the prior notification obligation as stated in Article 23(2) of the EMAS Regulation. It also enables the competent body to verify if the NACE codes of the involved verifiers cover those of the organisation in question.

- 4.4.5. Verifiers who want to operate in third countries must obtain a specific accreditation or licence for the specific country in question as an add-on to a general accreditation or licence, in accordance with the specifications laid out in the EMAS Regulation. This means they must have:
- (a) a specific accreditation or licence for the NACE codes applicable to the organisation;
  - (b) knowledge and understanding of the legislative, regulatory and administrative requirements relating to the environment in the third country for which accreditation or licence is sought;
  - (c) knowledge and understanding of the official language of the third country for which accreditation or licence is sought.
- 4.4.6. Verifiers shall — as a part of the verification procedure — check all environmental licences or permits applicable to the organisation or any other kind of evidence in accordance with the legal system operating in the countries covered by the application.
- 4.4.7. In third countries, the verifier shall, on top of his regular duties, perform in particular an in depth check of the legal compliance of an organisation and of its sites included in the registration process. Thereby, specifically considering the content of Article 13(2)(c) of the EMAS Regulation, verifiers shall check that there is no evidence of non-compliance relating to the environment. Verifiers should use the findings of enforcement authorities and should thus contact those authorities in order to obtain detailed information about the legal compliance. The verifier must check if he/she is satisfied on the basis of material evidence received, for example through a written report from the competent enforcement authority. If no evidence for non-compliance is found, this shall be declared in the environmental verifier's declaration on verification and validation activities (Annex VII to the EMAS Regulation). This declaration is to be signed by the verifier. The verifier has the duty to check if the requirements of the EMAS Regulation are satisfied through usual audit techniques which are to be conducted in accordance with the EMAS Regulation. In order to ensure an equal level of quality of registration of the third country sites compared to similar sites in the EU, the verifier might consider performing a risk assessment evaluation.
- 4.4.8. In accordance with Article 13(2)(d) of the EMAS Regulation, the verifier should check if there are no relevant complaints from interested parties or that complaints have been positively solved.
- 4.4.9. Those Member States that provide for third country registration shall consider putting in place measures to strengthen the accreditation process in order to ensure that verifiers accredited for specific third countries are knowledgeable to check compliance of the organisation with the applicable national legislation in the third country.
- 4.4.10. Member States that provide for third country registration may consider putting in place optional specific provisions to reinforce the checking of legal compliance and ensure a registration process, similar to that in the EU. Member States may in particular consider the possibility of concluding agreements (bilateral agreement, memorandum of understanding, etc.). Such agreements could include a procedure to communicate legal compliance between the respective enforcement authority in the third country and the Member State, as well as how to communicate breaches of applicable legal requirements to the Member State's competent body in the time between the initial registration or renewal and the next renewal.
- 4.4.11. At least six weeks before verification or validation in a third country, the environmental verifier shall notify its accreditation or licence details and the time and place of the verification or validation to the accreditation or licensing body of the Member State in which the organisation concerned intends to apply for registration or is registered. The competent body of the Member State in which the sites are intended to be registered can also be notified.
- 4.4.12. If a verifier detects a non-compliance situation at the time of registration, he/she shall not sign the EMAS environmental statement and the declaration referred to in Article 25(9) of the Regulation.
- 4.4.13. If a verifier detects a case of non-compliance in the period of validity of the registrations or at the time of renewal, he/she can report to the competent body that the organisation in question does not comply with the EMAS requirements any longer. At the time of renewal he/she may only sign the declaration referred to in Article 25(9) and the updated EMAS environmental statement, if the organisation demonstrates that it took adequate measures (i.e. in cooperation with the enforcement authorities) to ensure that legal compliance is restored. If the organisation can not demonstrate to the verifier to have taken sufficient measures to restore legal compliance, the verifier shall not validate the updated statement and not sign the declaration and the EMAS environmental statement.

#### 4.5. **Registration process**

- 4.5.1. The organisation should communicate at an early stage with the verifier(s) and the competent body to clarify language issues with regard to the documents necessary for registration, keeping in mind the requirements of Article 5(3) and Annex IV(D) to the EMAS Regulation.
- 4.5.2. Before application for registration is sent to the competent body, the organisation shall provide material or documentary evidence to the verifier that there is no proof of non-compliance with the applicable legal requirements relating to the environment as described in section 4.1.4 of this guidance.
- 4.5.3. After fulfilling the EMAS requirements, specifically those applicable to the registration process listed in Annex II of the Regulation, and having the EMAS environmental statement validated by an accredited or licensed verifier, the organisation shall send the application form, and the related documents including Annexes VI and VII, for registration to the competent body.
- 4.5.4. The competent body shall check the information contained in the application, and, for that purpose, the competent body shall communicate with the national accreditation or licensing body.
- 4.5.5. The accreditation and licensing body shall assess, the environmental verifier's competence in the light of the elements set out in Articles 20, 21 and 22 of the EMAS Regulation. If the verifier's competence is not approved, the accreditation and licensing body can compel the verifier to comply with the relevant requirements and inform the competent body about the problem. Vice versa the competent body must communicate to the accreditation or licensing body in any case a simple message that a registration application has been received and that there are sites of third countries to be registered. After receiving such a message the accreditation and licensing body should communicate their findings regarding the verifier(s) involved to the competent body. This facilitates the final check by the competent body whether the verifier(s) involved in the registration procedure is (are) accredited or licensed for all the NACE codes concerned in the registration process. Without this minimum communication between the competent body and the accreditation and licensing body the supervision activities could be undermined.
- 4.5.6. The competent body in charge of the registration will coordinate checking the legal compliance based on the information the organisation has supplied to the verifier. Only in the case where a Member State has put in place special agreements with third countries, that include provisions that allow the Member State to contact enforcement authorities in the third countries, can they check legal compliance with the enforcement authorities in third countries directly. If not the competent body has to rely on the verifier and/or the organisation to obtain material or documentary evidence demonstrating compliance with the applicable legal requirements.

#### 4.6. **Deletion and suspension of registrations**

- 4.6.1. The competent body shall follow the general rules established in the EMAS Regulation regarding deletion and suspension.
- 4.6.2. Any complaint concerning the registered organisation shall be notified to the competent body.
- 4.6.3. Organisations from third countries aspiring to an EMAS Registration and willing to start a registration procedure must accept that the verifier may be asked by the competent body to verify potential causes of deletion or suspension which might happen in the third country where the sites are located before making any decision. The organisation shall cooperate and answer all questions concerning possible reasons for suspension and deletion to the verifier or to the competent body. The organisation must also be willing to bear the costs of the verifier's work to clarify the situation.
- 4.6.4. Agreements, whenever they have been signed between the Member State responsible for the registration and the third country, could include specific provisions to ensure legal monitoring and active communication of breaches from the enforcement authorities in the third country to the competent body.
- 4.6.5. In all situations, even when such agreements exist, the verifier shall be responsible for checking legal compliance. Potential complaints and non-conformities that might result in the deletion or suspension of the registration must be included in the compliance checks.
- 4.6.6. NGOs operating in the third country could be consulted and used as a source of information. In any case, the verifier shall report to the competent body any relevant information that is retrieved during the verification process.

#### 4.7. Language issues

- 4.7.1. The EMAS environmental statement and other relevant documents shall be submitted for the purpose of registration in (one of) the official language(s) of the Member State in which the competent body is located (Article 5(3)). If an organisation presents a corporate environmental statement with information on individual sites located in different third countries, this information should, in addition, be in (one of) the official language(s) of those third countries where the sites are located.

#### 5. GLOBAL REGISTRATION — ORGANISATION WITH MULTIPLE SITES IN MEMBER STATES AND IN THIRD COUNTRIES (SITUATION 3)

EMAS global registration means the registration of an organisation with multiple sites inside and outside the EU applying for a single registration of all the sites or part of them in a Member State that provides for third country registration.

Registration with multiple sites in Member States and in third countries is a complex procedure that represents a combination of the two procedures already described: EU corporate registration and third country registration. This section elucidates aspects that differ from what is described in sections 3 and 4 of this guidance.

#### 5.1. Applicable legislation and legal compliance in Member States and third countries

- 5.1.1. Organisations must always be in compliance with EU and national legal requirements applicable to the sites included in the EMAS registration.

- 5.1.2. In order to ensure that the EMAS scheme maintains its high level of ambition and credibility, it is enviable that the environmental performance of a third country organisation achieves a level as close as possible to the level that EU organisations are required to meet by the relevant European and national legislation. Therefore it is desirable for organisations with sites outside the Community, on top of the references made to the applicable national environmental requirements, to make reference in the environmental statement also to the legal requirements relating to the environment applicable to similar organisations in the Member State where the organisation intends to apply for registration (Article 4(4) of the EMAS Regulation). The environmental requirements on that list should be used as a reference when setting additional higher performance targets, but they are not relevant for the assessment of the organisation's legal compliance.

- 5.1.3. For sites located in third countries, the documentary evidence as mentioned in Article 4(4) of the Regulation should consist of:

— statements from enforcement authorities of the third country including information on the environmental permits applicable to the organisation and stating that there is no evidence of non-compliance and/or that the company is not involved in enforcement procedures, lawsuits or complaint procedures;

— additionally, the environmental statement should preferably also contain cross reference tables between the national legislation of the third country and the legislation in the country where the organisation applies for registration as mentioned in section 5.1.2.

#### 5.2. Accreditation and licensing

- 5.2.1. The provisions described in section 4.2 concerning EMAS third country accreditation and licensing, apply.

#### 5.3. Tasks of the competent bodies

- 5.3.1. A Member State that has more than one competent body should determine to which competent body applications for global registration can be made, which should be the same competent body as the one designated under section 4.3.1.

- 5.3.2. The application for global registration, i.e. from organisations with sites located in EU Member States and in third countries, is made to any competent body designated for this purpose in one of the Member States where the following conditions are met:

(a) the Member State provides for registration of organisations from outside the EU;

(b) accredited or licensed verifiers for verifications in third countries where the sites included in the registration are located are available, and that the accreditation or licensing of these verifiers cover the relevant NACE codes.

- 5.3.3. The determination of the Member State where the competent body in charge of this procedure will be located is established on the basis of conditions in the following order of preference:
- (1) when the organisation has headquarters in one Member States that provides for third country registration, the application should be submitted to the competent body in that Member State;
  - (2) if the headquarters of the organisation is not located in a Member State that provides for third country registration, but it has a Management Centre there, the application should be submitted to the competent body in that Member State;
  - (3) if the organisation that applies for Global registration has neither headquarters nor a Management Centre in any Member State that provides for third country registrations, then the organisation has to set up an 'ad hoc' management centre in a Member State that provides for third country registration, and the application should be submitted to the competent body in that Member State.
- 5.3.4. If more than one Member State is covered by the application, the coordination procedure between the involved competent bodies, as established in section 3.2. must be followed. Then that competent body will act as leading competent body under the EU Corporate aspects of the procedure.
- 5.4. **Tasks of the accredited or licensed verifiers**
- 5.4.1. General rules applicable to EMAS environmental verifiers, their accreditation or licence, and to the verification process are established in Chapters V and VI of the EMAS Regulation.
- 5.4.2. Those Member States that allow third country registration must put in place a specific system to accredit or license verifiers for third countries. Verifier accreditation or licensing will be granted country by country as an add-on to a general accreditation or licence, in accordance with the specifications described in this section.
- 5.4.3. In case of global registration of an organisation with multiple sites and activities, the accreditation of the verifier(s) has to cover all the NACE codes of the organisation's sites and activities. For third country sites, the verifier(s) must be accredited or licensed for all third countries and all the NACE codes of all the sites involved in the global registration in the Member State where the organisation intends to apply for registration. Due to the potentially wide scope of activities, organisations have the possibility to use several accredited verifiers as they see fit. In fact it might be difficult if not impossible to appoint a single verifier for all the activities of large organisations. If the verifier is not accredited or licensed for the relevant NACE codes or countries himself/herself, other accredited environmental verifiers shall be involved as appropriate through case-cooperation. It is up to an organisation seeking for registration to decide if it wants to involve several accredited/licensed verifiers taking into account Article 4 of the EMAS Regulation. Apart from reasons such as the lack of verifiers accredited for the relevant NACE codes organisations might also have other reasons (e.g. local experience, language knowledge or the desire to combine the EMAS verification with certification against other standards) to use several verifiers.
- 5.4.4. All cooperating verifiers have to sign the declaration referred to in Article 25(9) of the EMAS Regulation and the EMAS environmental statement. Each verifier involved is responsible for the outcome of that part(s) of the verification that results from his/her own area of expertise (mostly related to specific NACE codes). The practice that all verifiers must sign the same declaration enables the leading competent body to identify all involved verifiers. Consequently the leading competent body can verify, via the cooperating competent bodies (who should in turn coordinate their activities with the accreditation and licensing bodies), if all the involved verifiers have respected the prior notification obligation as stated in Article 23(2) of the EMAS Regulation. It also enables the leading competent body to verify if the NACE codes of the involved verifiers cover those of the organisation in question.
- 5.4.5. Verifiers who want to operate in third countries must obtain a specific accreditation or licence for the specific country in question as an add-on to a general accreditation or licence, in accordance with the specifications laid out in the EMAS Regulation. This means they must have:
- (a) a specific accreditation or licence for the NACE codes applicable to the organisation in question;
  - (b) knowledge and understanding of the legislative, regulatory and administrative requirements relating to the environment in the third country for which the accreditation or licence is sought;
  - (c) knowledge and understanding of the official language of the third country for which accreditation or licence is sought.

- 5.4.6. Verifiers shall — as a part of the verification procedure — check all environmental licences or permits applicable to the organisation or any other kind of evidence in accordance with the legal system operating in the countries covered by the application.
- 5.4.7. In third countries, the verifier shall, on top of his regular duties, perform in particular an in depth check of the legal compliance of the organisation and of its sites included in the registration process. Thereby, specifically considering the content of Article 13(2)(c) of the EMAS Regulation, verifiers shall check that there is no evidence of non-compliance relating to the environment. Verifiers should use the findings of enforcement authorities and should thus contact those authorities in order to obtain detailed information about the legal compliance. The verifier must check if he/she is satisfied on the basis of material evidence received, for example through a written report from the competent enforcement authority. If no evidence for non-compliance is found, this shall be declared in the environmental verifier's declaration on verification and validation activities (Annex VII to the EMAS Regulation). This declaration is to be signed by the verifier. The verifier has the duty to check if the requirements of the EMAS Regulation are satisfied through usual audit techniques. In order to ensure an equal level of quality of the third country sites and the EU sites involved in the registration, the verifier might consider performing a risk assessment evaluation.
- 5.4.8. In accordance with Article 13(2)(d) of the EMAS Regulation, the verifier should check if there are no relevant complaints from interested parties or that complaints have been positively solved.
- 5.4.9. Those Member States that provide for third country registration (and thus also for global registration) shall consider putting in place measures to strengthen the accreditation process in order to ensure that verifiers accredited for specific third countries are knowledgeable to check compliance of the organisation with the applicable national legislation in the third country.
- 5.4.10. Member States that provide for global registration may consider putting in place optional specific provisions to reinforce the checking of legal compliance and ensure a registration process, similar to that in the EU. Member States may in particular consider the possibility of concluding agreements (bilateral agreement, memorandum of understanding, etc.). Such agreements could include a procedure to communicate legal compliance between the respective enforcement authority in the third country and the Member State, as well as how to communicate breaches of applicable legal requirements to the Member State's competent body in the time between the initial registration or renewal and the next renewal.
- 5.4.11. At least six weeks before verification or validation in a third country, the environmental verifier shall notify its accreditation or licence details and the time and place of the verification or validation to the accreditation or licensing body of the Member State in which the organisation concerned intends to apply for registration or is registered. In addition the verifier(s) has/have to notify its accreditation or licence details to all accreditation or licensing bodies of those Member States where involved sites are located.
- 5.4.12. If a verifier detects a non-compliance situation at the time of registration, it shall not sign the EMAS environmental statement and the declaration referred to in Article 25(9) of the Regulation.
- 5.4.13. If a verifier detects a case of non-compliance in the period of validity of the registrations or at the time of renewal, he/she can report to the competent body that the organisation in question does not comply with the EMAS requirements any longer. At the time of renewal he/she may only sign the declaration referred to in Article 25(9) and the updated EMAS environmental statement, if the organisation demonstrates that it took adequate measures (i.e. in cooperation with the enforcement authorities) to ensure that legal compliance is restored. If the organisation can not demonstrate to the verifier to have taken sufficient measures to restore legal compliance, he/she shall not validate the updated statement and not sign the declaration and the EMAS environmental statement.

## 5.5. Registration process

- 5.5.1. The organisation should communicate at an early stage with the verifier(s) and the competent body to clarify language issues with regard to the documents necessary for registration, keeping in mind the requirements of Article 5(3) and Annex IV (D) to the EMAS Regulation.
- 5.5.2. The organisation shall provide material evidence of its legal compliance as described in section 5.1.3.
- 5.5.3. After fulfilling the EMAS requirements, specifically those applicable to the registration process listed in Annex II of the Regulation, and having the EMAS environmental statement validated by an accredited or licensed verifier, the organisation shall send the application form, and the related documents including Annexes VI and VII, for registration to the (leading) competent body.

- 5.5.4. The competent body in charge of the registration shall check the information contained in the application, and for that purpose, shall communicate with the national accreditation or licensing body and, if applicable, with the other competent bodies involved. If necessary the verifier responsible for the verification can be involved in this communication as well. Regular mail, e-mail or faxes are possible options, but written evidence of this communication should be kept.
- 5.5.5. The accreditation and licensing bodies in all the concerned Member States shall assess, the environmental verifier's competence in the light of the elements set out in Articles 20, 21 and 22 of the EMAS Regulation. If the verifier's competence is not approved, the accreditation and licensing body can compel the verifier to comply with the relevant requirements and inform the national competent body about the problem. Vice versa the competent body must communicate to the accreditation or licensing body in any case a simple message that a registration application has been received and that there are sites of to be registered. After receiving such a message the accreditation and licensing body should communicate their findings regarding the verifier(s) involved to the national competent body. All involved national competent bodies in turn communicate this to the leading competent body. This facilitates the final check by the involved competent bodies and the leading competent body whether the verifier(s) involved in the registration procedure is (are) accredited or licensed for all the NACE codes concerned in the registration process. Without this minimum communication between the competent bodies and the accreditation and licensing bodies the supervision activities could be undermined.
- 5.5.6. The competent body in charge of the registration will coordinate checking the legal compliance based on the information the organisation has supplied to the verifier. Only in the case where a Member State has put in place special agreements with third countries, that include provisions that allow the Member State to contact enforcement authorities in the third countries, can they check legal compliance with the enforcement authorities in third countries directly. If not the competent body has to rely on the verifier and/or the organisation to obtain material or documentary evidence demonstrating compliance with the applicable legal requirements.
- 5.5.7. If applicable, following the registration decision, the leading competent body shall inform all national involved competent bodies, who will inform their respective enforcement authorities.
- 5.5.8. In case several competent bodies are involved in a registration procedure, the conditions regarding fees as described in section 3.4 will apply.
- 5.6. **Deletion and suspension of registrations**
- 5.6.1. The competent body shall follow the general rules established in the EMAS Regulation regarding deletion and suspension.
- 5.6.2. Any complaint concerning the registered organisation shall be notified to the competent body.
- 5.6.3. Organisations from third countries aspiring an EMAS Registration and willing to start a registration procedure must accept that the verifier may be asked by the competent bodies to verify potential causes of deletion or suspension which might happen in the third country where the sites are located before making any decision. The organisation shall cooperate and answer all questions concerning possible reasons for suspension and deletion to the verifier or to the competent body. The organisation must also be willing to bear the costs of the verifiers work to clarify the situation.
- 5.6.4. In all situations, even when such agreements exist, the verifier shall be responsible for checking legal compliance. Potential complaints and non-conformities that might result in the deletion or suspension of the registration must be included in the compliance checks.
- 5.6.5. NGOs operating in that third country could be consulted and used as a source of information. In any case, the verifier shall report to the competent body any relevant information that is retrieved during the verification process.
- 5.7. **Language issues**
- 5.7.1. The EMAS environmental statement and other relevant documents shall be submitted in (one of) the official language(s) of the Member State in which the leading competent body is situated (Article 5.3). Additionally, if an organisation presents a corporate environmental statement with information on individual sites, the information concerning EU sites shall be in (one of) the official language(s) of those Member States where the sites are located, and the information concerning sites located in third countries should preferably be in (one of) the official language(s) of the respective third countries.
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**COMMISSION DECISION**  
**of 12 December 2011**  
**on the reuse of Commission documents**  
(2011/833/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 249 thereof,

Whereas:

- (1) Europe 2020 sets out a vision of Europe's social market economy for the 21st century. One of the priority themes in that context is 'Smart growth: developing an economy based on knowledge and innovation'.
- (2) The new information and communication technologies have created unprecedented possibilities to aggregate and combine content from different sources.
- (3) Public sector information is an important source of potential growth of innovative online services through value-added products and services. Governments can stimulate content markets by making public sector information available on transparent, effective and non-discriminatory terms. For this reason, the Digital Agenda for Europe<sup>(1)</sup> singled out the reuse of public sector information as one of the key areas for action.
- (4) The Commission and the other Institutions are themselves holders of many documents of all kinds which could be reused in added-value information products and services and which could provide a useful content resource for companies and citizens alike.
- (5) The right to access Commission documents is regulated through Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents<sup>(2)</sup>.
- (6) Directive 2003/98/EC of the European Parliament and of the Council<sup>(3)</sup> sets minimum rules for the reuse of public sector information throughout the European Union. In its recitals it encourages Member States to go beyond these minimum rules and to adopt open data policies, allowing a broad use of documents held by public sector bodies.
- (7) The Commission has set an example to public administrations in making statistics, publications and the full

corpus of Union law freely available online. This is a good basis to make further progress in ensuring the availability and reusability of data held by the institution.

- (8) Commission Decision 2006/291/EC, Euratom of 7 April 2006 on the reuse of Commission information<sup>(4)</sup> determines the conditions for the reuse of Commission documents.
- (9) In order to make the reuse regime of Commission documents more effective, the rules on the reuse of Commission documents should be adapted with a view to achieving a broader reuse of such documents.
- (10) A data portal as a single point of access to documents available for reuse should be set up. In addition, it is appropriate to include in the documents available for reuse the research information produced by the Joint Research Centre. A provision should be adopted to take into account the move towards machine-readable formats. An important improvement with respect to Decision 2006/291/EC, Euratom consists in making Commission documents generally available for reuse without the need for individual applications, through open reuse licences or simple disclaimers.
- (11) Decision 2006/291/EC, Euratom should therefore be replaced by this Decision.
- (12) An open reuse policy at the Commission will support new economic activity, lead to a wider use and spread of Union information, enhance the image of openness and transparency of the Institutions, and avoid unnecessary administrative burden for users and Commission services. In 2012, the Commission envisages exploring with other Union institutions and key Agencies to what extent they could adopt their own rules on reuse.
- (13) This Decision should be implemented and applied in full compliance with the principles relating to the protection of personal data in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>(5)</sup>.

<sup>(1)</sup> COM(2010) 245.

<sup>(2)</sup> OJ L 145, 31.5.2001, p. 43.

<sup>(3)</sup> OJ L 345, 31.12.2003, p. 90.

<sup>(4)</sup> OJ L 107, 20.4.2006, p. 38.

<sup>(5)</sup> OJ L 8, 12.1.2001, p. 1.

- (14) This Decision should not apply to documents for which the Commission is not in a position to allow reuse, e.g. in view of third party intellectual property rights or where the documents have been received from the other Institutions,

HAS ADOPTED THIS DECISION:

#### Article 1

##### Subject matter

This Decision determines the conditions for the reuse of documents held by the Commission or on its behalf by the Publications Office of the European Union (the Publications Office) with the aim of facilitating a wider reuse of information, enhancing the image of openness of the Commission, and avoiding unnecessary administrative burdens for reusers and the Commission services alike.

#### Article 2

##### Scope

1. This Decision applies to public documents produced by the Commission or by public and private entities on its behalf:

- (a) which have been published by the Commission or by the Publications Office on its behalf through publications, websites or dissemination tools; or
- (b) which have not been published for economic or other practical reasons, such as studies, reports and other data.

2. This Decision shall not apply:

- (a) to software or to documents covered by industrial property rights such as patents, trademarks, registered designs, logos and names;
- (b) to documents for which the Commission is not in a position to allow their reuse in view of intellectual property rights of third parties;
- (c) to documents which pursuant to the rules established in Regulation (EC) No 1049/2001 are excluded from access or only made accessible to a party under specific rules governing privileged access;
- (d) to confidential data, as defined in Regulation (EC) No 223/2009 of the European Parliament and of the Council <sup>(1)</sup>;
- (e) to documents resulting from ongoing research projects conducted by the staff of the Commission which are not published or available in a published database, and whose reuse would interfere with the validation of provisional research results or where reuse would constitute a reason to refuse registration of industrial property rights in the Commission's favour.

3. This Decision is without prejudice to and in no way affects Regulation (EC) No 1049/2001.

4. Nothing in this Decision authorises reuse of documents in a manner calculated to deceive or to defraud. The Commission shall take the appropriate measures to protect the interests and the public image of the EU in accordance to applicable rules.

#### Article 3

##### Definitions

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

(1) 'document' means:

- (a) any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audio-visual recording);
- (b) any part of such content;

(2) 'reuse' means the use of documents by persons or legal entities of documents, for commercial or non-commercial purposes other than the initial purpose for which the documents were produced. The exchange of documents between the Commission and other public sector bodies which use these documents purely in the pursuit of their public tasks does not constitute reuse;

(3) 'personal data' means data as defined in Article 2(a) of Regulation (EC) No 45/2001;

(4) 'licence' means the granting of permission to reuse documents under specified conditions. 'Open licence' means a licence where reuse of documents is permitted for all specified uses in a unilateral declaration by the right-holder;

(5) 'machine-readable' means that digital documents are sufficiently structured for software applications to identify reliably individual statements of fact and their internal structure;

(6) 'structured data' is data organised in a way that allows reliable identification of individual statements of fact and all their components, as exemplified in databases and spreadsheets;

(7) 'portal' refers to a single point of access to data from a variety of web sources. The sources generate both the data and the related metadata. The metadata needed for indexing are automatically harvested by the portal and integrated to the extent needed to support common functionalities such as search and linking. The portal may also cache data from the contributing sources in order to improve performance or provide additional functionalities.

<sup>(1)</sup> OJ L 87, 31.3.2009, p. 164.

*Article 4***General principle**

All documents shall be available for reuse:

- (a) for commercial or non-commercial purposes under the conditions laid down in Article 6;
- (b) without charge, subject to the provisions laid down in Article 9; and
- (c) without the need to make an individual application, unless otherwise provided in Article 7.

This Decision shall be implemented in full respect of the rules on the protection of individuals with regard to the processing of personal data, and in particular Regulation (EC) No 45/2001.

*Article 5***Data portal**

The Commission shall set up a data portal as a single point of access to its structured data so as to facilitate linking and reuse for commercial and non-commercial purposes.

Commission services will identify and progressively make available suitable data in their possession. The data portal may provide access to data of other Union institutions, bodies, offices and agencies at their request.

*Article 6***Conditions for reuse of documents**

1. Documents shall be made available for reuse without application unless otherwise specified and without restrictions or, where appropriate, an open licence or disclaimer setting out conditions explaining the rights of reusers.

2. Those conditions, which shall not unnecessarily restrict possibilities for reuse, may include the following:

- (a) the obligation for the reuser to acknowledge the source of the documents;
- (b) the obligation not to distort the original meaning or message of the documents;
- (c) the non-liability of the Commission for any consequence stemming from the reuse.

Where it is necessary to apply other conditions to a particular class of documents, the inter-service group referred to in Article 12 will be consulted.

*Article 7***Individual applications for reuse of documents**

1. Where an individual application for reuse is necessary, the Commission services shall clearly indicate this in the relevant

document or notice pointing to it and provide an address to which the application is to be submitted.

2. Individual applications for reuse shall be handled promptly by the relevant Commission service. An acknowledgement of receipt shall be submitted to the applicant. Within 15 working days from registration of the application, the Commission service or the Publications Office shall either allow reuse of the document requested and, where relevant, provide a copy of the document, or, in a written reply, indicate the total or partial refusal of the application, stating the reasons.

3. Where an application for reuse of a document concerns a very long document, a very large number of documents or the application needs to be translated, the time limit provided for in paragraph 2 may be extended by 15 working days, provided that the applicant is notified in advance and that detailed reasons for the extension are given.

4. Where an application for reuse of a document is refused, the Commission service or the Publications Office shall inform the applicant of the right to bring an action before the Court of Justice of the European Union or to lodge a complaint with the European Ombudsman, under the conditions laid down in Articles 263 and 228, respectively, of the Treaty on the Functioning of the European Union.

5. Where a refusal is based on point (b) of Article 2(2) of this Decision, the reply to the applicant shall include a reference to the natural or legal person who is the rightholder, where known, or alternatively to the licensor from which the Commission has obtained the relevant material, where known.

*Article 8***Formats for documents available for reuse**

1. Documents shall be made available in any existing format or language version, in machine-readable format where possible and appropriate.

2. This shall not imply an obligation to create, adapt or update documents in order to comply with the application, nor to provide extracts from documents where it would involve disproportionate effort, going beyond a simple operation.

3. This Decision does not create any obligation for the Commission to translate the requested documents into any other official language versions than those already available at the moment of the application.

4. The Commission or the Publications Office may not be required to continue the production of certain types of documents or to preserve them in a given format with a view to the reuse of such documents by a natural or legal person.

*Article 9***Rules on charging**

1. The reuse of documents shall in principle be free of charge.
2. In exceptional cases, marginal costs incurred for the reproduction and dissemination of documents may be recovered.
3. Where the Commission decides to adapt a document in order to satisfy a specific application, the costs involved in the adaptation may be recovered from the applicant. The assessment of the need to recover such costs shall take into account the effort necessary for the adaptation as well as the potential advantages the reuse may bring to the Union, for example in terms of spreading information on the functioning of the Union or in terms of enhancing the public image of the Institution.

*Article 10***Transparency**

1. Any applicable conditions and standard charges for the documents available for reuse shall be pre-established and published, through electronic means where possible and appropriate.
2. The search for documents shall be facilitated by practical arrangements, such as asset-lists of main documents available for reuse.

*Article 11***Non-discrimination and exclusive rights**

1. Any applicable conditions for the reuse of documents shall be non-discriminatory for comparable categories of reuse.
2. The reuse of documents shall be open to all potential actors in the market. No exclusive rights shall be granted.
3. However, where an exclusive right is necessary for the provision of a service in the public interest, the validity of the reason for granting such an exclusive right shall be subject to regular review, and shall, in any event, be reviewed after 3 years. Any exclusive arrangement shall be transparent and made public.

4. Exclusive rights may be granted to publishers of scientific and scholarly journals for articles based on the work of Commission officials for a limited period.

*Article 12***Inter-service group**

1. An inter-service group shall be set up, chaired by the Director-General responsible for this Decision, or his representative. It shall be composed of representatives of the Directorates-General and Services. It shall discuss issues of common concern and draw up a report on the implementation of the Decision every 12 months.
2. A steering committee chaired by the Publications Office and comprising the Secretariat-General, the Directorate-General for Communication, the Directorate-General for Information Society and Media, the Directorate-General for Informatics and several Directorates-General representing the data providers will oversee the project leading to the implementation of the data portal. Other institutions may be invited to join the committee at a later stage.
3. The terms of the open licence referred to in Article 6 shall be settled in agreement by the Directors-General responsible for this Decision and for the administrative execution of decisions related to intellectual property rights at the Commission, after consultation of the inter-service group referred to in paragraph 1.

*Article 13***Review**

This Decision shall be reviewed 3 years after its entry into force.

*Article 14***Repeal**

Decision 2006/291/EC, Euratom is repealed.

Done at Brussels, 12 December 2011.

*For the Commission*

*The President*

José Manuel BARROSO

## COMMISSION DECISION

of 13 December 2011

## terminating the anti-subsidy proceeding concerning imports of certain polyethylene terephthalate originating in Oman and Saudi Arabia

(2011/834/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community<sup>(1)</sup> (the basic Regulation) and in particular Article 14 thereof,

After consulting the Advisory Committee,

Whereas:

## A. PROCEDURE

- (1) On 3 January 2011, the European Commission (Commission) received a complaint concerning the alleged subsidisation of certain polyethylene terephthalate (PET) originating in Oman and Saudi Arabia (the countries concerned), thereby causing injury to the Union Industry.
- (2) The complaint was lodged by the Committee of Polyethylene Terephthalate (PET) Manufacturers in Europe (CPME) (the complainant) on behalf of producers representing a major proportion, in this case more than 50 %, of the total Union production of certain PET pursuant to Article 10 of the basic Regulation.
- (3) The complaint contained prima facie evidence of the existence of subsidisation and of material injury resulting therefrom, which was considered sufficient to justify the initiation of an anti-subsidy proceeding.
- (4) Prior to the initiation of the proceeding and in accordance with Article 10(7) of the basic Regulation, the Commission notified the governments of Oman and Saudi Arabia that it had received a properly documented complaint alleging that subsidised imports of certain PET originating in Oman and Saudi Arabia were causing material injury to the Union Industry. The

governments of Oman and Saudi Arabia were separately invited for consultations with the aim of clarifying the situation as regards the content of the complaint and arriving at a mutually agreed solution. During the consultations no mutually agreed solution was found.

- (5) The Commission, after consultation of the Advisory Committee, by a notice published in the *Official Journal of the European Union* <sup>(2)</sup> on 16 February 2011, initiated an anti-subsidy proceeding concerning imports into the European Union of certain PET originating in Oman and Saudi Arabia.
  - (6) On the same day, the Commission initiated an anti-dumping proceeding concerning imports into the Union of certain PET originating in the countries concerned <sup>(3)</sup>.
  - (7) The Commission sent questionnaires to the Union industry, to the exporters/producers in the countries concerned, to the importers, to any association known to be concerned, and to the authorities of the countries concerned. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.
  - (8) All interested parties who so requested and showed that there were particular reasons why they should be heard were granted a hearing.
- B. WITHDRAWAL OF THE COMPLAINT AND TERMINATION OF THE PROCEEDING**
- (9) By a letter of 12 October 2011 to the Commission, the CPME formally withdrew its complaint.
  - (10) In accordance with Article 14(1) of the basic Regulation, the proceeding may be terminated where the complaint is withdrawn, unless such termination would not be in the Union interest.
  - (11) In this respect it is noted that Commission did not identify any reason to indicate that termination would not be in the Union interest, nor was any such reason raised by interested parties. Therefore, the Commission considered that the present proceeding should be terminated. Interested parties were informed accordingly and were given the opportunity to comment.

<sup>(1)</sup> OJ L 188, 18.7.2009, p. 93.

<sup>(2)</sup> OJ C 49, 16.2.2011, p. 21.

<sup>(3)</sup> OJ C 49, 16.2.2011, p. 16.

- (12) Some interested parties expressed support for the termination of the proceeding. Other interested parties, although supporting the termination of the proceeding, requested a disclosure of the findings of the investigation.
- (13) It is noted in this regard that the Commission did not reach a conclusion on its findings and is therefore not in a position to disclose data gathered prior to the withdrawal of the complaint.
- (14) In view of the above, it is concluded that there are no compelling reasons against terminating this proceeding.
- (15) The Commission therefore concludes that the anti-subsidy proceeding concerning imports into the Union of certain polyethylene terephthalate (PET) originating in Oman and Saudi Arabia should be terminated,

HAS ADOPTED THIS DECISION:

*Article 1*

The anti-subsidy proceeding concerning imports of polyethylene terephthalate having a viscosity number of 78 ml/g or higher, according to the ISO Standard 1628-5, originating in Oman and Saudi Arabia, currently falling within CN code 3907 60 20, is hereby terminated.

*Article 2*

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

Done at Brussels, 13 December 2011.

*For the Commission*

*The President*

José Manuel BARROSO

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## COMMISSION DECISION

of 13 December 2011

## terminating the anti-dumping proceeding concerning imports of certain polyethylene terephthalate originating in Oman and Saudi Arabia

(2011/835/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community<sup>(1)</sup> (the basic Regulation), and in particular Article 9 thereof,

After consulting the Advisory Committee,

Whereas:

## A. PROCEDURE

- (1) On 3 January 2011, the European Commission (Commission) received a complaint concerning the alleged dumping of certain polyethylene terephthalate (PET) originating in Oman and Saudi Arabia (the countries concerned), thereby causing injury to the Union Industry.
- (2) The complaint was lodged by the Committee of Polyethylene Terephthalate (PET) Manufacturers in Europe (CPME) (the complainant) on behalf of producers representing a major proportion, in this case more than 50 %, of the total Union production of certain PET pursuant to Article 5 of the basic Regulation.
- (3) The complaint contained prima facie evidence of the existence of dumping, and of material injury resulting therefrom, which was considered sufficient to justify the initiation of an anti-dumping proceeding.
- (4) The Commission, after consultation of the Advisory Committee, by a notice published in the *Official Journal of the European Union*<sup>(2)</sup> on 16 February 2011, initiated an anti-dumping proceeding concerning imports into the European Union of certain PET originating in Oman and Saudi Arabia.

- (5) On the same day, the Commission initiated an anti-subsidy proceeding concerning imports into the Union of certain PET originating in the countries concerned<sup>(3)</sup>.

- (6) The Commission sent questionnaires to the Union industry, to the exporters/producers in the countries concerned, to the importers, to any association known to be concerned, and to the authorities of the countries concerned. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.

- (7) All interested parties who so requested and showed that there were particular reasons why they should be heard were granted a hearing.

## B. WITHDRAWAL OF THE COMPLAINT AND TERMINATION OF THE PROCEEDING

- (8) By a letter of 12 October 2011 to the Commission, the CPME formally withdrew its complaint.
- (9) In accordance with Article 9(1) of the basic Regulation, the proceeding may be terminated where the complaint is withdrawn, unless such termination would not be in the Union interest.
- (10) In this respect it is noted that the Commission did not identify any reason to indicate that termination would not be in the Union interest, nor was any such reason raised by interested parties. Therefore, the Commission considered that the present proceeding should be terminated. Interested parties were informed accordingly and were given the opportunity to comment.
- (11) Some interested parties expressed support for the termination of the proceeding. Other interested parties, although supporting the termination of the proceeding, requested a disclosure of the findings of the investigation.
- (12) It is noted in this regard that the Commission did not reach a conclusion on its findings and is therefore not in a position to disclose data gathered prior to the withdrawal of the complaint.

<sup>(1)</sup> OJ L 343, 22.12.2009, p. 51.

<sup>(2)</sup> OJ C 49, 16.2.2011, p. 16.

<sup>(3)</sup> OJ C 49, 16.2.2011, p. 21.

- (13) In view of the above, it is concluded that there are no compelling reasons against terminating this proceeding.
- (14) The Commission therefore concludes that the anti-dumping proceeding concerning imports into the Union of certain polyethylene terephthalate (PET) originating in Oman and Saudi Arabia should be terminated,

or higher, according to the ISO Standard 1628-5, originating in Oman and Saudi Arabia, currently falling within CN code 3907 60 20, is hereby terminated.

*Article 2*

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

HAS ADOPTED THIS DECISION:

Done at Brussels, 13 December 2011.

*Article 1*

The anti-dumping proceeding concerning imports of polyethylene terephthalate having a viscosity number of 78 ml/g

*For the Commission*

*The President*

José Manuel BARROSO

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