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Contents

[1] Text with EEA relevance

EN

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

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

[1] Text with EEA relevance

[1] Text with EEA relevance

II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) No 1025/2014

of 25 July 2014

amending Annex I to Council Regulation (EC) No 1528/2007 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements, as amended by Regulation (EU) No 38/2014 of the European Parliament and of the Council amending certain regulations relating to the common commercial policy as regards the granting of delegated and implementing powers for the adoption of certain measures

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1528/2007 of 20 December 2007 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements ([1]), as amended by Regulation (EU) No 38/2014 of the European Parliament and of the Council of 15 January 2014 amending certain regulations relating to the common commercial policy as regards the granting of delegated and implementing powers for the adoption of certain measures ([2]), and in particular Article 2(2) thereof,

Whereas:

(1) The list of beneficiary countries of the EU duty-free quota-free import regime is established by Annex I to Regulation (EC) No 1528/2007 (the Market Access Regulation).

(2) Botswana, Cameroon, Côte d'Ivoire, Fiji, Ghana, Kenya, Namibia and Swaziland had not taken the necessary steps towards ratification of their respective Agreement and will consequently, in accordance with Article 2(3) of Regulation (EC) No 1528/2007, and in particular point (b) thereof, cease to be covered by the market access arrangement permitted under Regulation (EC) No 1528/2007, as from 1 October 2014. This results from Regulation (EU) No 527/2013 of the European Parliament and of the Council ([3]).

(3) Côte d'Ivoire and Ghana, and the European Union and its Member States, concluded negotiations on an Economic Partnership Agreement on 30 June 2014.

(4) Botswana, Namibia and Swaziland, and the European Union and its Member States, concluded negotiations on an Economic Partnership Agreement on 15 July 2014.

(5) The Commission is empowered to adopt delegated acts in accordance with Article 24a of Regulation (EC) No 1528/2007 to amend Annex I to that Regulation so as to add regions or states from the ACP Group of States that have concluded negotiations on an agreement between the European Union and which meets the requirements of Article XXIV GATT 1994.

([1]) OJ L 348, 31.12.2007, p. 1.
([2]) OJ L 18, 21.1.2014, p. 52.
([3]) Regulation (EU) No 527/2013 of the European Parliament and of the Council of 21 May 2013 amending Council Regulation (EC) No 1528/2007 as regards the exclusion of a number of countries from the list of regions or states which have concluded negotiations (OJ L 165, 18.6.2013, p. 59).

(6) Following the date of application of this Regulation, the addition of Botswana, Côte d'Ivoire, Ghana, Namibia and Swaziland to Annex I to the Market Access Regulation will be subject to the conditions of Article 2(3) of that Regulation and in particular point (b) thereof,

HAS ADOPTED THIS REGULATION:

Article 1

Adding countries to Annex I

In Annex I to Regulation (EC) No 1528/2007 the following countries are inserted:

The Republic of Botswana;

The Republic of Côte d'Ivoire;

The Republic of Ghana;

The Republic of Namibia;

The Kingdom of Swaziland.

Article 2

Entry into force

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

It shall apply from 1 October 2014.

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

Done at Brussels, 25 July 2014

For the Commission

The President

José Manuel BARROSO

COMMISSION DELEGATED REGULATION (EU) No 1026/2014

of 25 July 2014

amending Annex I to Council Regulation (EC) No 1528/2007 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements, as amended by Regulation (EU) No 527/2013 of the European Parliament and of the Council as regards the exclusion of a number of countries from the list of regions or states which have concluded negotiations

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1528/2007 of 20 December 2007 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements ([1]), as amended by Regulation (EU) No 527/2013 of the European Parliament and of the Council of 21 May 2013 as regards the exclusion of a number of countries from the list of regions or states which have concluded negotiations ([2]), and in particular Articles 2a and 2b thereof,

Whereas:

(1) The list of beneficiary countries of the EU duty-free quota-free import regime is established by Annex I to Regulation (EC) No 1528/2007 ('the Market Access Regulation').

(2) Negotiations on the Economic Partnership Agreement ('the Agreement') between the European Community, of the one part, and the Pacific States, of the other part, were concluded on 23 November 2007.

(3) Botswana, Cameroon, Côte d'Ivoire, Fiji, Ghana, Kenya, Namibia and Swaziland had not taken the necessary steps towards ratification of their respective Agreement. Consequently, in accordance with Article 2(3) of Regulation (EC) No 1528/2007, and in particular point (b) thereof, Annex I to that Regulation was amended by Regulation (EU) No 527/2013 of the European Parliament and of the Council. Those countries ceased to be covered by the market access arrangement permitted under Regulation (EC) No 1528/2007, as from 1 October 2014.

(4) The Commission is empowered to adopt delegated acts in accordance with Articles 2a and 2b of Council Regulation (EC) No 1528/2007 to amend Annex I to that Regulation by re-instating those countries which were removed pursuant to Regulation (EU) No 527/2013, as soon as those countries have taken the necessary steps towards ratification of their respective Agreements.

(5) Fiji has taken the necessary steps towards ratification of its Agreement and informed the depository of the agreement of this fact on 17 July 2014,

HAS ADOPTED THIS REGULATION:

Article 1

Re-instatement of a country into Annex I

In Annex I to Regulation (EC) No 1528/2007 the following country is inserted:

The Republic of the Fiji Islands.

([1]) OJ L 348, 31.12.2007, p. 1.
([2]) OJ L 165, 18.6.2013, p. 59.

Article 2

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

It shall apply from 1 October 2014.

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

Done at Brussels, 25 July 2014.

For the Commission
The President
José Manuel BARROSO

COMMISSION DELEGATED REGULATION (EU) No 1027/2014

of 25 July 2014

amending Annex I to Council Regulation (EC) No 1528/2007 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements, as amended by Regulation (EU) No 527/2013 of the European Parliament and of the Council as regards the exclusion of a number of countries from the list of regions or states which have concluded negotiations

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1528/2007 of 20 December 2007 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements ([1]), as amended by Regulation (EU) No 527/2013 of the European Parliament and of the Council of 21 May 2013 as regards the exclusion of a number of countries from the list of regions or states which have concluded negotiations ([2]), and in particular Articles 2a and 2b thereof,

Whereas:

(1) The list of beneficiary countries of the EU duty-free quota-free import regime is established by Annex I to Regulation (EC) No 1528/2007 (the Market Access Regulation).

(2) Negotiations on the Economic Partnership Agreement (the Agreement) between the European Community and its Member States, of the one part, and the Central Africa Party, of the other part, were concluded on 17 December 2007.

(3) Botswana, Cameroon, Côte d'Ivoire, Fiji, Ghana, Kenya, Namibia and Swaziland had not taken the necessary steps towards ratification of their respective Agreement. Consequently, in accordance with Article 2(3) of Regulation (EC) No 1528/2007, and in particular point (b) thereof, Annex I to that Regulation was amended by Regulation (EU) No 527/2013. Those countries ceased to be covered by the market access arrangement permitted under Regulation (EC) No 1528/2007, as from 1 October 2014.

(4) The Commission is empowered to adopt delegated acts in accordance with Articles 2a and 2b of Regulation (EC) No 1528/2007 to amend Annex I to that Regulation by reinstating those countries which were removed pursuant to Regulation (EU) No 527/2013, as soon as those countries have taken the necessary steps towards ratification of their respective Agreements.

(5) Cameroon has taken the necessary steps towards ratification of its Agreement and informed the depository of the agreement of this fact on 22 July 2014,

HAS ADOPTED THIS REGULATION:

Article 1

Reinstatement of a country into Annex I

In Annex I to Regulation (EC) No 1528/2007 the following country is inserted:

The Republic of Cameroon.

([1]) OJ L 348, 31.12.2007, p. 1.
([2]) OJ L 165, 18.6.2013, p. 59.

Article 2

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

It shall apply from 1 October 2014.

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

Done at Brussels, 25 July 2014

For the Commission
The President
José Manuel BARROSO

COMMISSION IMPLEMENTING REGULATION (EU) No 1028/2014

of 26 September 2014

amending Implementing Regulation (EU) No 1207/2011 laying down requirements for the performance and the interoperability of surveillance for the single European sky

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 552/2004 of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management network (the interoperability Regulation) ([1]), and in particular Article 3(5) thereof,

Whereas:

(1) Commission Implementing Regulation (EU) No 1207/2011 ([2]) lays down requirements on the systems contributing to the provision of surveillance data in order to ensure the harmonisation of performance, the interoperability and the efficiency of those systems within the European air traffic management network and for the purpose of civil-military coordination.

(2) In order to be able to equip new aircraft with new capabilities operators must have the necessary equipment specifications at least 24 months before the foreseen application date. The relevant Certification Specifications were however adopted by the European Aviation Safety Agency (EASA) only in December 2013. As a consequence, it will not be possible for operators to equip new aircraft with the new functionalities ADS-B 'Out' and Mode S Enhanced by 8 January 2015. Implementing Regulation (EU) No 1207/2011 should therefore be amended, so as to provide the operators concerned with sufficient additional time for this purpose.

(3) Delays in certification and in availability of required equipment, as well as industrial capacity constraints for equipping aircraft, affect the smooth retrofitting of existing fleet. A number of aircraft, mainly for trans-Atlantic operations, are also to be equipped with ADS-B 'Out' functionality by 1 January 2020 as mandated by the United States Federal Aviation Administration (FAA). The retrofit date for ADS-B 'Out' and Mode S Enhanced should therefore be postponed and brought more closely into line with the deadline for the FAA ADS-B requirements.

(4) State aircraft operators should benefit from similar postponements in implementation dates as other operators of aircraft. The deadline for retrofitting for state aircraft with the new ADS-B 'Out' and Mode S Enhanced functionalities should therefore also be postponed.

(5) Implementing Regulation (EU) No 1207/2011 should be amended accordingly.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Single Sky Committee, established by Article 5 of Regulation (EC) No 549/2004,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) No 1207/2011 is amended as follows:

(1) Article 5 is amended as follows:

(a) Paragraph 4 is replaced by the following:

'4. Operators shall ensure that:

(a) aircraft operating flights referred to in Article 2(2) with an individual certificate of airworthiness first issued on or after 8 January 2015 are equipped with secondary surveillance radar transponders having the capabilities set out in Part A of Annex II;

([1]) OJ L 96, 31.3.2004, p. 26.

([2]) Commission Implementing Regulation (EU) No 1207/2011 of 22 November 2011 laying down requirements for the performance and the interoperability of surveillance for the single European sky (OJ L 305, 23.11.2011, p. 35).

(b) aircraft with a maximum certified take-off mass exceeding 5 700 kg or having a maximum cruising true airspeed capability greater than 250 knots, operating flights referred to in Article 2(2), with an individual certificate of airworthiness first issued on or after 8 June 2016 are equipped with secondary surveillance radar transponders having, in addition to the capabilities set out in Part A of Annex II, the capabilities set out in Part B of that Annex;

(c) fixed wing aircraft with a maximum certified take-off mass exceeding 5 700 kg or having a maximum cruising true airspeed capability greater than 250 knots, operating flights referred to in Article 2(2), with an individual certificate of airworthiness first issued on or after 8 June 2016 are equipped with secondary surveillance radar transponders having, in addition to the capabilities set out in Part A of Annex II, the capabilities set out in Part C of that Annex.'

(b) Paragraph 5 is replaced by the following:

'5. Operators shall ensure that:

(a) by 7 December 2017 at the latest, aircraft operating flights referred to in Article 2(2), with an individual certificate of airworthiness first issued before 8 January 2015, are equipped with secondary surveillance radar transponders having the capabilities set out in Part A of Annex II;

(b) by 7 June 2020 at the latest, aircraft with a maximum certified take-off mass exceeding 5 700 kg or having a maximum cruising true airspeed capability greater than 250 knots, operating flights referred to in Article 2(2), with an individual certificate of airworthiness first issued before 8 June 2016 are equipped with secondary surveillance radar transponders having, in addition to the capabilities set out in Part A of Annex II, the capabilities set out in Part B of that Annex;

(c) by 7 June 2020 at the latest, fixed wing aircraft with a maximum certified take-off mass exceeding 5 700 kg or having a maximum cruising true airspeed capability greater than 250 knots, operating flights referred to in Article 2(2), with an individual certificate of airworthiness first issued before 8 June 2016 are equipped with secondary surveillance radar transponders having, in addition to the capabilities set out in Part A of Annex II, the capabilities set out in Part C of that Annex.'

(2) In Article 8, paragraph 2 is replaced by the following:

'2. Member States shall ensure that, by 7 June 2020 at the latest, transport-type State aircraft with a maximum certified take-off mass exceeding 5 700 kg or having a maximum cruising true airspeed capability greater than 250 knots, operating in accordance with Article 2(2) are equipped with secondary surveillance radar transponders having in addition to the capability set out in Part A of Annex II, the capability set out in Part B and Part C of that Annex.'

(3) In Article 14, paragraph 1 is replaced by the following:

'1. Aircraft of specific types with a first certificate of airworthiness issued before 8 June 2016 that have a maximum take-off mass exceeding 5 700 kg or a maximum cruising true airspeed greater than 250 knots that do not have the complete set of parameters detailed in Part C of Annex II available on a digital bus on-board the aircraft may be exempted from complying with the requirements of point (c) of Article 5(5).'

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, 26 September 2014.

For the Commission

The President

José Manuel BARROSO

COMMISSION IMPLEMENTING REGULATION (EU) No 1029/2014

of 26 September 2014

amending Regulation (EU) No 73/2010 laying down requirements on the quality of aeronautical data and aeronautical information for the single European sky

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 552/2004 of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management network (the interoperability Regulation) ([1]), and in particular Article 3(5) thereof,

Whereas:

(1) Articles 3(13), 7(5) and 10(1) of Commission Regulation (EU) No 73/2010 ([2]) refer to Commission Regulation (EC) No 2096/2005 ([3]), which was repealed by Commission Implementing Regulation (EU) No 1035/2011 ([4]). The references to Regulation (EC) No 2096/2005 in Regulation No (EU) 73/2010 should therefore be updated to refer to Commission Implementing Regulation (EU) No 1035/2011.

(2) Annex III to Regulation (EU) No 73/2010 refers to standards laid down by the International Standardisation Organisation (ISO). However, since the adoption of Regulation (EU) No 73/2010, the ISO has revised and renumbered some of these standards. The references in Regulation (EU) No 73/2010 to the relevant ISO standards should therefore be updated to ensure coherence with the latest numbering and edition of these standards.

(3) Annexes I, III and XI to Regulation (EU) No 73/2010 refer to various definitions and provisions laid down in Annex 15 to the Convention on International Civil Aviation (Chicago Convention), and more specifically to its Twelfth Edition of July 2004, which incorporates Amendment No 34. Since the adoption of Regulation (EU) No 73/2010, the International Civil Aviation Organisation (ICAO) has amended a number of definitions and provisions and some of the structure of Annex 15 to the Chicago Convention, most recently in its Fourteenth Edition of July 2013, which incorporates Amendment No 37. The references in Regulation (EU) No 73/2010 to Annex 15 to the Chicago Convention should therefore be updated in order to meet the Member States' international legal obligations and ensure consistency with ICAO's international regulatory framework provided.

(4) Regulation (EU) No 73/2010 should be amended accordingly.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Single Sky Committee, established by Article 5 of Regulation (EC) No 549/2004 ([5]),

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 73/2010 is amended as follows:

(1) Article 3 is amended as follows:

(a) point (7) is replaced by the following:

'(7) "integrated aeronautical information package" (hereinafter IAIP) means a package in paper, or electronic media, which consists of the following elements:

(a) aeronautical information publications (hereinafter AIP), including amendments;

([1]) OJ L 96, 31.3.2004, p. 26.
([2]) Commission Regulation (EU) No 73/2010 of 26 January 2010 laying down requirements on the quality of aeronautical data and aeronautical information for the single European sky (OJ L 23, 27.1.2010, p. 6).
([3]) Commission Regulation (EC) No 2096/2005 of 20 December 2005 laying down common requirements for the provision of air navigation services (OJ L 335, 21.12.2005, p. 13).
([4]) Commission Implementing Regulation (EU) No 1035/2011 of 17 October 2011 laying down common requirements for the provision of air navigation services and amending Regulations (EC) No 482/2008 and (EU) No 691/2010 (OJ L 271, 18.10.2011, p. 23).
([5]) Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation) (OJ L 96, 31.3.2004, p. 1).

(b) supplements to the AIP;

(c) the NOTAM, as defined in point 17 and pre-flight information bulletins;

(d) aeronautical information circulars; and

(e) checklists and lists of valid NOTAMs;'

(b) point (8) is replaced by the following:

'(8) "obstacle data" means data concerning all fixed (whether temporary or permanent) and mobile objects, or parts thereof, that are located on an area intended for the surface movement of aircraft or that extend above a defined surface intended to protect aircraft in flight or that stand outside those defined surfaces and that have been assessed as being a hazard to air navigation;'

(c) point (10) is replaced by the following:

'(10) "aerodrome mapping data" means data collected for the purpose of compiling aerodrome mapping information;'

(d) point (13) is replaced by the following:

'(13) "aeronautical information service provider" means the organisation responsible for the provision of an aeronautical information service, certified in accordance with the requirements of Commission Implementing Regulation (EU) No 1035/2011;'

(e) point (24) is replaced by the following:

'(24) "critical data" means data as classified under point (c) of the integrity classification defined in Chapter 1, Section 1.1 of Annex 15 to the Chicago Convention on International Civil Aviation (hereinafter the Chicago Convention);'

(f) point (25) is replaced by the following:

'(25) "essential data" means data as classified under point (b) of the integrity classification defined in Chapter 1, Section 1.1 of Annex 15 to the Chicago Convention;'

(2) In Article 7, paragraph 5 is replaced by the following:

'5. Without prejudice to Implementing Regulation (EU) No 1035/2011, the parties referred to in Article 2(2) shall ensure that their personnel responsible for tasks in the provision of aeronautical data or aeronautical information are adequately trained, competent and authorised for the job they are required to do.'

(3) In Article 10, paragraph 1 is replaced by the following:

'1. Without prejudice to Implementing Regulation (EU) No 1035/2011, the parties referred to in Article 2(2) shall implement and maintain a quality management system covering their aeronautical data and aeronautical information provision activities, in accordance with the requirements laid down in Annex VII, Part A.'

(4) Annex I is amended in accordance with Annex I to this Regulation.

(5) Annex III is replaced by the text in Annex II to this Regulation.

(6) Annex XI is replaced by the text in Annex III to this Regulation.

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, 26 September 2014.

For the Commission

The President

José Manuel BARROSO

ANNEX I

In Annex I, part B, point (a) is replaced by the following:

'(a) be provided digitally in accordance with the ICAO standards referred to in points 9, 9a and 12 of Annex III;'

ANNEX II

'ANNEX III

PROVISIONS REFERRED TO IN ARTICLES AND ANNEXES

1. Chapter 3, Section 3.7 (Quality management system) of Annex 15 to the Chicago Convention — Aeronautical Information Services (Fourteenth edition — July 2013, incorporating Amendment No 37).

2. Chapter 3, Section 1.2.1 (Horizontal reference system) of Annex 15 to the Chicago Convention — Aeronautical Information Services (Fourteenth edition — July 2013, incorporating Amendment No 37).

3. Chapter 3, Section 1.2.2 (Vertical reference system) of Annex 15 to the Chicago Convention — Aeronautical Information Services (Fourteenth edition — July 2013, incorporating Amendment No 37).

4. Chapter 4 (Aeronautical Information Publications (AIP)) of Annex 15 to the Chicago Convention — Aeronautical Information Services (Fourteenth edition — July 2013, incorporating Amendment No 37).

5. Chapter 4, Section 4.3 (Specifications for AIP Amendments) of Annex 15 to the Chicago Convention — Aeronautical Information Services (Fourteenth edition — July 2013, incorporating Amendment No 37).

6. Chapter 4, Section 4.4 (Specifications for AIP Supplements) of Annex 15 to the Chicago Convention — Aeronautical Information Services (Fourteenth edition — July 2013, incorporating Amendment No 37).

7. Chapter 5 (NOTAM) of Annex 15 to the Chicago Convention — Aeronautical Information Services (Fourteenth edition — July 2013, incorporating Amendment No 37).

8. Chapter 6, Section 6.2 (Provision of information in paper copy form) of Annex 15 to the Chicago Convention — Aeronautical Information Services (Fourteenth edition — July 2013, incorporating Amendment No 37).

9. Chapter 10, Section 10.1 (Coverage areas and requirements for data provision) of Annex 15 to the Chicago Convention — Aeronautical Information Services (Fourteenth edition — July 2013, incorporating Amendment No 37).

9a Chapter 10, Section 10.2 (Terrain data set — content, numerical specification and structure) of Annex 15 to the Chicago Convention — Aeronautical Information Services (Fourteenth edition — July 2013, incorporating Amendment No 37

10. Appendix 1 (Contents of Aeronautical Information Publication (AIP)) of Annex 15 to the Chicago Convention — Aeronautical Information Services (Fourteenth edition — July 2013, incorporating Amendment No 37).

11. Appendix 7 (Aeronautical data publication resolution and integrity classification) of Annex 15 to the Chicago Convention — Aeronautical Information Services (Fourteenth edition — July 2013, incorporating Amendment No 37).

12. Appendix 8 (Terrain and obstacle data requirements) of Annex 15 to the Chicago Convention — Aeronautical Information Services (Fourteenth edition — July 2013, incorporating Amendment No 37).

13. Object Management Group Unified Modelling Language (UML) Specification Version 2.1.1.

14. International Organisation for Standardisation, ISO 19107:2003 — Geographic information — Spatial schema (Edition 1 — 8.5.2003).

15. International Organisation for Standardisation, ISO 19115:2003 — Geographic information — Metadata (Edition 1 — 8.5.2003 [Corrigendum Cor 1:2006 5.7.2006]).

16. International Organisation for Standardisation, ISO 19139:2007 — Geographic information — Metadata — XML schema implementation (Edition 1 — 17.4.2007).

17. International Organisation for Standardisation, ISO 19118:2011 — Geographic information — Encoding (Edition 2 — 10.10.2011).

18. International Organisation for Standardisation, ISO 19136:2007 — Geographic information — Geography Mark-up Language (GML) (Edition 1 — 23.8.2007).

19. International Organisation for Standardisation, ISO/IEC 19757-3:2006 — Information technology — Document Schema Definition Languages (DSDL) — Part 3: Rule-based validation — Schematron (Edition 1 — 24.5.2006).

20. ICAO Doc 9674-AN/946 — World Geodetic System — 1984 Manual (Second Edition — 2002).

21. Chapter 7, Section 7.3.2 (Cyclic redundancy check (CRC) algorithm) of ICAO Doc 9674-AN/946 — World Geodetic System — 1984 (WGS-84) Manual (Second Edition — 2002).

22. International Organisation for Standardisation, ISO/IEC 27002:2005 — Information technology — Security techniques — Code of practice for information security management (Edition 1 — 15.6.2005).

23. International Organisation for Standardisation, ISO 28000:2007: — Specification for security management systems for the supply chain (Edition 1 — 21.9.2007 under revision, to be replaced by Edition 2 target date 31.1.2008 [At enquiry stage]).

24. Eurocae ED-99A, User Requirements for Aerodrome Mapping Information (October 2005).

25. International Organisation for Standardisation, ISO 19110:2005 — Geographic information — Methodology for feature cataloguing (Edition 1).'

ANNEX III

'ANNEX XI

ICAO DIFFERENCES REFERRED TO IN ARTICLE 14

Chapter 3, Section 3.5.2 (Cyclic redundancy check) of Annex 15 to the Chicago Convention — Aeronautical Information Services. (Fourteenth edition — July 2013, incorporating Amendment No 37).'

COMMISSION IMPLEMENTING REGULATION (EU) No 1030/2014

of 29 September 2014

laying down implementing technical standards with regard to the uniform formats and date for the disclosure of the values used to identify global systemically important institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 ([1]), and in particular the third subparagraph of Article 441(2) thereof,

Whereas:

(1) In order to help ensure global consistency in disclosure and transparency in the process of identification of global systemically important institutions (G-SIIs), those institutions are required to publicly disclose indicator values used in that process.

(2) The disclosure templates used by institutions identified as G-SIIs in accordance with Article 131 of Directive 2013/36/EU of the European Parliament and of the Council ([2]) should take into account international standards, particularly those issued by the Basel Committee on Banking Supervision.

(3) In order to ensure consistency and comparability of the collected information, the reporting reference date should be set to coincide with an institution's financial year-end figures of the previous year or any other date agreed with its relevant authority.

(4) With a view to facilitating public access to the disclosed information, and seeing that data from all Member States are needed to perform the identification process, the European Banking Authority (EBA) should collect each institution's information and publish it on its website.

(5) This Regulation is based on the draft implementing technical standards submitted by the EBA to the Commission.

(6) The EBA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council ([3]),

HAS ADOPTED THIS REGULATION:

Article 1

Uniform format

G-SIIs shall fill out the template set out in the Annex to this Regulation in electronic format as published on the website of the European Banking Authority (EBA). By using that template, G-SIIs shall publicly disclose the values of the indicators used for determining the score of the institutions in accordance with the identification methodology referred to in Article 131 of Directive 2013/36/EU.

G-SIIs shall not be bound to disclose publicly the ancillary data and ancillary indicators.

([1]) OJ L 176, 27.6.2013, p. 1.

([2]) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

([3]) Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

Article 2

Date of disclosure

G-SIIs shall publicly disclose the financial year-end information referred to in Article 1 no later than four months after each financial year-end.

Relevant authorities may allow institutions whose financial year-end is 30 June to report indicator values based on their position at 31 December. In any case, the information shall be disclosed no later than 31 July.

Article 3

Disclosure location

Institutions may publicly disclose the values of the indicators specified in the template set out in the Annex to this Regulation in the medium they determine to disclose the information required by Part Eight of Regulation (EU) No 575/2013 in accordance with Article 434 of that Regulation.

Where the disclosures of the values of the indicators are not included in the medium referred to in the first paragraph, the G-SII shall provide a direct reference to the completed disclosures on the institution's website or to the medium in which they are made available.

Without undue delay, following the disclosure of that information by the G-SIIs, relevant authorities shall send those completed templates to EBA for centralisation purposes on its website.

Article 4

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, 29 September 2014.

For the Commission
The President
José Manuel BARROSO

ANNEX

Data required to identify G-SIIs

General Bank Data

Section 1: General Information	**Response**
a. General information provided by the national supervisor:	
(1) Country code	
(2) Bank name	
(3) Submission date (yyyy-mm-dd)	
b. General Information provided by the reporting institution:	
(1) Reporting date (yyyy-mm-dd)	
(2) Reporting currency	
(3) Euro conversion rate	
(4) Reporting unit	
(5) Accounting standard	
(6) Location of public disclosure	

Size Indicator

Section 2: Total Exposures	**Amount**
a. Counterparty exposure of derivatives contracts (method 1)	
b. Gross value of securities financing transactions (SFTs)	
c. Counterparty exposure of SFTs	
d. Other assets	
(1) Securities received in SFTs that are recognised as assets	
e. Total on-balance sheet items (sum of items 2.a, 2.b, 2.c, and 2.d, minus 2.d.(1))	
f. Potential future exposure of derivative contracts (method 1)	
g. Notional amount of off-balance sheet items with a 0 % CCF	
(1) Unconditionally cancellable credit card commitments	
(2) Other unconditionally cancellable commitments	
h. Notional amount of off-balance sheet items with a 20 % CCF	

Section 2: Total Exposures	Amount
i. Notional amount of off-balance sheet items with a 50 % CCF	
j. Notional amount of off-balance sheet items with a 100 % CCF	
k. Total off-balance sheet items (sum of items 2.f, 2.g, and 2.h through 2.j, minus 0,9 times the sum of items 2.g.(1) and 2.g.(2))	
l. Entities consolidated for accounting purposes but not for risk-based regulatory purposes:	
(1) On-balance sheet assets	
(2) Potential future exposure of derivatives contracts	
(3) Unconditionally cancellable commitments	
(4) Other off-balance sheet commitments	
(5) Investment value in the consolidated entities	
m. Regulatory adjustments	
n. Ancillary data:	
(1) Receivables for cash collateral posted in derivatives transactions	
(2) Net notional amount of credit derivatives	
(3) Net notional amount of credit derivatives for entities in item 2.l.	
(4) On and off-balance sheet exposures between entities included in item 2.l.	
(5) On and off-balance sheet exposures of entities included in item 2.l. to entities consolidated for risk-based regulatory purposes	
(6) On and off-balance sheet exposures of entities consolidated for risk-based regulatory purposes to entities included in item 2.l.	
(7) Total exposures for the calculation of the leverage ratio (January 2014 definition)	
o. Total exposures indicator (sum of items 2.e, 2.k, 2.l.(1), 2.l.(2), 0,1 times 2.l.(3), 2.l.(4), minus the sum of items 2.l.(5) and 2.m)	

Interconnectedness Indicators

Section 3: Intra-Financial System Assets	Amount
a. Funds deposited with or lent to other financial institutions	
(1) Certificates of deposit	
b. Undrawn committed lines extended to other financial institutions	

Section 3: Intra-Financial System Assets	Amount
c. Holdings of securities issued by other financial institutions:	
(1) Secured debt securities	
(2) Senior unsecured debt securities	
(3) Subordinated debt securities	
(4) Commercial paper	
(5) Stock (including par and surplus of common and preferred shares)	
(6) Offsetting short positions in relation to the specific stock holdings included in item 3.c.(5)	
d. Net positive current exposure of securities financing transactions with other financial institutions	
e. Over-the-counter (OTC) derivatives with other financial institutions that have a net positive fair value:	
(1) Net positive fair value (include collateral held if it is within the master netting agreement)	
(2) Potential future exposure	
f. Intra-financial system assets indicator (sum of items 3.a, 3.b through 3.c.(5), 3.d, 3.e.(1), and 3.e.(2), minus 3.c.(6))	

Section 4: Intra-Financial System Liabilities	Amount
a. Deposits due to depository institutions	
b. Deposits due to non-depository financial institutions	
c. Undrawn committed lines obtained from other financial institutions	
d. Net negative current exposure of securities financing transactions with other financial institutions	
e. OTC derivatives with other financial institutions that have a net negative fair value:	
(1) Net negative fair value (include collateral provided if it is within the master netting agreement)	
(2) Potential future exposure	
f. Ancillary data:	
(1) Funds borrowed from other financial institutions	
(2) Certificates of deposit included in items 4.a and 4.b	
g. Intra-financial system liabilities indicator (sum of items 4.a through 4.e.(2))	

Section 5: Securities Outstanding	Amount
a. Secured debt securities	
b. Senior unsecured debt securities	
c. Subordinated debt securities	
d. Commercial paper	
e. Certificates of deposit	
f. Common equity	
g. Preferred shares and any other forms of subordinated funding not captured in item 5.c.	
h. Ancillary data:	
(1) Book value of equities for which a market price is unavailable	
i. Securities outstanding indicator (sum of items 5.a through 5.g)	

Substitutability/Financial Institution Infrastructure Indicators

Section 6: Payments made in the reporting year (excluding intragroup payments)	Reported in	Amount in specified currency	Amount
a. Australian dollars	AUD		
b. Brazilian real	BRL		
c. Canadian dollars	CAD		
d. Swiss francs	CHF		
e. Chinese yuan	CNY		
f. Euros	EUR		
g. British pounds	GBP		
h. Hong Kong dollars	HKD		
i. Indian rupee	INR		
j. Japanese yen	JPY		
k. Swedish krona	SEK		
l. United States dollars	USD		
m. Ancillary data:			
(1) Mexican pesos	MXN		

Section 6: Payments made in the reporting year (excluding intragroup payments)	Reported in	Amount in specified currency	Amount
(2) New Zealand dollars	NZD		
(3) Russian rubles	RUB		
n. Payments activity indicator (sum of items 6.a through 6.l)			

Section 7: Assets Under Custody	Amount
a. Assets under custody indicator	

Section 8: Underwritten Transactions in Debt and Equity Markets	Amount
a. Equity underwriting activity	
b. Debt underwriting activity	
c. Underwriting activity indicator (sum of items 8.a and 8.b)	

Complexity Indicators

Section 9: Notional Amount of Over-the-Counter (OTC) Derivatives	Amount
a. OTC derivatives cleared through a central counterparty	
b. OTC derivatives settled bilaterally	
c. OTC derivatives indicator (sum of items 9.a and 9.b)	

Section 10: Trading and Available-for-Sale Securities	Amount
a. Held-for-trading securities (HFT)	
b. Available-for-sale securities (AFS)	
c. Trading and AFS securities that meet the definition of Level 1 assets	
d. Trading and AFS securities that meet the definition of Level 2 assets, with haircuts	
e. Ancillary data:	
(1) Held-to-maturity securities	
f. Trading and AFS securities indicator (sum of items 10.a and 10.b, minus the sum of 10.c and 10.d)	

Section 11: Level 3 Assets	Amount
a. Level 3 assets indicator	

Cross-Jurisdictional Activity Indicators

Section 12: Cross-Jurisdictional Claims	**Amount**
a. Foreign claims on an ultimate risk basis (excluding derivatives activity)	
b. Ancillary data:	
(1) Foreign derivative claims on an ultimate risk basis	
c. Cross-jurisdictional claims indicator (item 12.a)	

Section 13: Cross-Jurisdictional Liabilities	**Amount**
a. Foreign liabilities (excluding derivatives and local liabilities in local currency)	
(1) Any foreign liabilities to related offices included in item 13.a.	
b. Local liabilities in local currency (excluding derivatives activity)	
c. Ancillary data:	
(1) Foreign derivative liabilities on an ultimate risk basis	
d. Cross-jurisdictional liabilities indicator (sum of items 13.a and 13.b, minus 13.a.(1))	

Additional Indicators

Section 14: Ancillary Indicators	**Amount**
a. Total liabilities	
b. Retail funding	
c. Wholesale funding dependence ratio (the difference between items 14.a and 14.b, divided by 14.a)	
d. Foreign net revenue	
e. Total net revenue	
f. Total gross revenue	
g. Gross value of cash lent and gross fair value of securities lent in SFTs	
h. Gross value of cash borrowed and gross fair value of securities borrowed in SFTs	
i. Gross positive fair value of over-the-counter (OTC) derivatives transactions	
j. Gross negative fair value of OTC derivatives transactions	
	Amount in single units
k. Number of jurisdictions	

COMMISSION DELEGATED REGULATION (EU) No 1031/2014

of 29 September 2014

laying down further temporary exceptional support measures for producers of certain fruit and vegetables

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ([1]), and in particular Article 219(1) in conjunction with Article 228 thereof,

Whereas:

(1) On 7 August the Russian government introduced a ban on imports of certain products from the Union to Russia, including fruit and vegetables. This ban has created a serious threat of market disturbances caused by significant price falls due to the fact that an important export market has suddenly become unavailable.

(2) That threat of market disturbances is of particular relevance for the fruit and vegetables sector where large quantities of perishable products are harvested at this time of the year.

(3) Accordingly, a situation has arisen on the market for which the normal measures available under Regulation (EU) No 1308/2013 appear to be insufficient.

(4) In order to prevent the existing market situation from turning into a more severe or prolonged market disturbance, Commission Delegated Regulation (EU) No 932/2014 ([2]) was adopted. It provided for maximum amounts of support for withdrawal, non-harvesting and green harvesting operations. However, further support measures are needed. The mechanism introduced in that regulation should therefore be supplemented by measures in the form of additional, targeted support for certain quantities of products, calculated on the basis of traditional exports to Russia.

(5) Further temporary exceptional support measures should be adopted for tomatoes, carrots, cabbages, sweet peppers, cauliflowers and headed broccoli, cucumbers and gherkins, mushrooms, apples, pears, plums, soft fruit, fresh table grapes, kiwifruit, sweet oranges, clementines and mandarins.

(6) Taking the estimated quantities affected by the ban into account, the Union financial assistance should be granted in accordance with the quantities of products concerned. The calculation of those quantities should be made for each Member State in accordance with the level of its exports to Russia of the products concerned for the previous three years, less the quantities that have already been notified under Delegated Regulation (EU) No 932/2014.

(7) It is expected that products covered by this Regulation, which would have been exported to Russia, will be diverted to the markets of other Member States. Producers of the same products within these Member States, which do not traditionally export their products to Russia, may accordingly be faced with a significant market disturbance and a fall in prices.

(8) Therefore, and in order to further stabilise the market, Union financial assistance should also be available for producers in all Member States in respect of one or more of the products covered by this Regulation, but the quantity involved should not exceed 3 000 tonnes per Member State.

([1]) OJ L 347, 20.12.2013, p. 671.

([2]) Commission Delegated Regulation (EU) No 932/2014 of 29 August 2014 laying down temporary exceptional support measures for producers of certain fruit and vegetables and amending Delegated Regulation (EU) No 913/2014 (OJ L 259, 30.8.2014, p. 2).

(9) Member States should remain free to decide not to use the quantity of 3 000 tonnes. Where they do so, they should inform the Commission in time to allow the Commission to decide on a re-allocation of the quantities that have not been used.

(10) Market withdrawal, non-harvesting and green harvesting are effective crisis management measures in case of surplus of fruit and vegetables due to temporary and unpredictable circumstances. Member States should have the possibility to allocate the quantities made available to them to one or more of these measures in order to make the most efficient use of the amounts available.

(11) As in Delegated Regulation (EU) No 932/2014, the restriction of 5 % as a proportion of the volume of marketed production for supported market withdrawals should be temporarily lifted. The Union financial assistance should therefore be granted even when withdrawals exceed the 5 % ceiling.

(12) Financial assistance granted for market withdrawals should be based on the respective amounts set out in Annex XI to Commission Implementing Regulation (EU) No 543/2011 [1] for withdrawals for free distribution and for withdrawals for other destinations. For those products for which no amount is fixed in Annex XI to Implementing Regulation (EU) No 543/2011, maximum amounts should be laid down in this Regulation.

(13) Taking into account that the amounts for tomatoes set out in Annex XI to Implementing Regulation (EU) No 543/2011 refer to the marketing year of tomatoes for processing and tomatoes for fresh consumption, it is adequate to clarify that the maximum amount applicable for tomatoes for fresh consumption for the purpose of this Regulation is the one concerning the period from 1 November until 31 May.

(14) In the light of the exceptional market disturbances and in order to ensure that all producers of fruit and vegetables are supported by the Union, Union financial assistance for market withdrawals should be extended to producers of fruit and vegetables who are not members of a recognised producer organisation.

(15) In order to encourage the free distribution of withdrawn fruit and vegetables to certain organisations, such as charitable organisations and schools and any other equivalent destinations approved by the Member States, 100 % of the maximum amounts fixed in Annex XI to Implementing Regulation (EU) No 543/2011 should also be applicable to producers who are not members of a recognised producer organisation. In the case of withdrawals for destinations other than free distribution, they should receive 50 % of the maximum amounts fixed. In this context, producers who are not members of a recognised producer organisation should fulfil the same or similar conditions as producer organisations. Therefore, they should be subject, like recognised producer organisations, to the relevant provisions of Regulation (EU) No 1308/2013 and Implementing Regulation (EU) No 543/2011.

(16) Producer organisations are the basic actors of the fruit and vegetables sector and are the most suited entities to ensure that Union financial assistance for market withdrawals is paid to producers who are not members of a recognised producer organisation. They should ensure that such assistance is paid to the producers who are not members of a recognised producer organisation through the conclusion of a contract. As not all Member States have the same degree of organisation on the supply side of the fruit and vegetables market, it is appropriate to allow the competent authority of the Member States to pay the support directly to the producers where this is duly justified.

(17) The amounts of the support for non-harvesting and green harvesting should be fixed by Member States per hectare at a level to cover not more than 90 % of the maximum amounts for market withdrawals applicable to withdrawals for destinations other than free distribution as set out in Annex XI to Implementing Regulation (EU) No 543/2011 or, for products for which no amount has been fixed in that Annex, in this Regulation. For tomatoes for fresh consumption the amount to be taken into account by Member States should be the one set in Annex XI to Implementing Regulation (EU) No 543/2011 for the period from 1 November until 31 May. Non-harvesting should be supported even where commercial production has been taken from the producing area concerned during the normal production cycle.

[1] 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 (OJ L 157, 15.6.2011, p. 1).

(18) Producer organisations concentrate the supply and are able to act faster than producers who are not members of such organisations when having to cope with greater quantities with an immediate impact on the market. Therefore, in order to make the implementation of the exceptional support measures provided for in this Regulation more efficient and to speed up the stabilisation of the market, it is appropriate, in respect of producers who are members of recognised producer organisations to increase the Union financial assistance for withdrawals for destinations other than free distribution to 75 % of the relevant maximum amounts set for the support for withdrawals for other destinations.

(19) As for withdrawals, Union financial assistance for non-harvesting and green harvesting operations should be extended to producers who are not members of a recognised producer organisation. The financial assistance should be 50 % of the maximum amounts of support set for producer organisations.

(20) Given the high number of producers who are not members of a producer organisation and the need to carry out checks that are reliable but feasible, Union financial assistance should not be granted for green harvesting of fruit and vegetables for which the normal harvest has already begun, and for non-harvesting measures where commercial production has been taken from the producing area concerned during the normal production cycle for producers who are not members of a producer organisation. In this context, producers who are not members of a recognised producer organisation should be subject, like recognised producer organisations, to the relevant provisions of Regulation (EU) No 1308/2013 and Implementing Regulation (EU) No 543/2011.

(21) For producers who are not members of a producer organisation, the payment of the Union financial assistance for non-harvesting and green harvesting operations should be done directly by the competent authority of the Member State. That competent authority should pay the relevant amounts to the producers in accordance with Implementing Regulation (EU) No 543/2011 and the relevant national rules and procedures.

(22) In order to guarantee that the Union financial assistance to producers of certain fruits and vegetables is used for the intended purposes and to ensure the efficient use of the Union budget, Member States should carry out a reasonable level of checks. In particular, documentary, identity and physical checks as well as on-the-spot checks should be carried that cover a reasonable amount of products, areas, producer organisations and producers not being members of recognised producer organisation. Member States should ensure that withdrawal, green harvesting and non-harvesting operations for tomatoes only concern varieties intended for fresh consumption.

(23) Member States should notify the Commission of the operations that have been implemented by producer organisations and producers non-members at regular intervals.

(24) In order to have an immediate impact on the market and to contribute to stabilise prices, this Regulation should entry into force on the day of its publication,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1. This Regulation lays down rules for temporary exceptional Union support measures to be granted to producer organisations in the fruit and vegetables sector recognised in accordance with Article 154 of Regulation (EU) No 1308/2013 and to producers who are not members of such organisations.

Those temporary exceptional Union support measures shall cover withdrawal, non-harvesting and green harvesting operations.

2. The support referred to in paragraph 1 shall be granted in relation to the following products of the fruit and vegetables sector intended for fresh consumption:

(a) tomatoes of CN code 0702 00 00;

(b) carrots of CN code 0706 10 00;

(c) cabbages of CN code 0704 90 10;

(d) sweet peppers of CN code 0709 60 10;

(e) cauliflowers and headed broccoli of CN code 0704 10 00;

(f) cucumbers of CN code 0707 00 05;

(g) gherkins of CN code 0707 00 90;

(h) mushrooms of the genus Agaricus of CN code 0709 51 00;

(i) apples of CN code 0808 10;

(j) pears of CN code 0808 30;

(k) plums of CN code 0809 40 05;

(l) soft fruit of CN codes 0810 20, 0810 30 and 0810 40;

(m) fresh table grapes of CN code 0806 10 10;

(n) kiwifruit of CN code 0810 50 00;

(o) sweet oranges of CN code 0805 10 20;

(p) clementines of CN code 0805 20 10;

(q) mandarins (including tangerines and satsumas), wilking and similar citrus hybrids of CN codes 0805 20 30, 0805 20 50, 0805 20 70 and 0805 20 90.

3. The support referred to in paragraph 1 shall cover activities carried out in the period from 30 September 2014 until the date on which the quantities set out in Article 2(1) have been exhausted in each Member State concerned or 31 December 2014, whichever is earlier.

Article 2

Allocation of maximum quantities to Member States

1. The support referred to in Article 1(1) shall be made available to Member States for the quantities of products set out in Annex I.

That support shall also be available in all Member States for withdrawal, green harvesting or non-harvesting operations, with respect to one or more of the products referred to in Article 1(2) as determined by the Member State, provided that the additional quantity involved does not exceed 3 000 tonnes per Member State.

2. With respect to the quantities per Member State referred to in paragraph 1, Member States may determine for each product or group of products the quantities for market withdrawals for free distribution and for market withdrawals for destinations other than free distribution as well as the equivalent area for green harvesting and non-harvesting.

3. Member States may decide by 31 October 2014 not to make use of the quantity of 3 000 tonnes or part thereof. It shall notify the Commission of any quantities not used by 31 October 2014. As from the moment of notification, operations carried out in that Member State shall not be eligible for support under this Regulation.

Article 3

Allocation of the quantities to producers

Member States shall allocate the quantities referred to in Article 2 between producer organisations and producers who are not members of producer organisations following the first come, first served system.

However, Member States may decide to set up a different system for the allocation of quantities, provided the system established is based on objective and non-discriminatory criteria. For this purpose, Member States may take into account the extent of the effects of the Russian import ban on the producers concerned.

Article 4

Financial assistance for withdrawals to producer organisations

1. Union financial assistance shall be granted for market withdrawals for free distribution as referred to in Article 34(4) of Regulation (EU) No 1308/2013 and for destinations other than free distribution carried out in relation to the products referred to in Article 1(2) of this Regulation and during the period referred to in Article 1(3) of this Regulation.

2. The 5 % ceiling referred to in Article 34(4) of Regulation (EU) No 1308/2013 and in Article 79(2) of Implementing Regulation (EU) No 543/2011 shall not apply in respect of the products referred to in Article 1(2) of this Regulation when those products are withdrawn during the period referred to in Article 1(3) of this Regulation.

3. For products referred to in Article 1(2) of this Regulation, but not listed in Annex XI to Implementing Regulation (EU) No 543/2011, the maximum amounts of support shall be those set out in Annex II to this Regulation.

4. For tomatoes the maximum amount shall be the amount set out in Annex XI to Implementing Regulation (EU) No 543/2011 for the period 1 November to 31 May.

5. By way of derogation from Article 34(1) of Regulation (EU) No 1308/2013, the Union financial assistance for market withdrawals for destinations other than free distribution shall be 75 % of the maximum amounts of the support for other destinations referred to in Annex XI to Implementing Regulation (EU) No 543/2011 and in Annex II to this Regulation.

6. The Union financial assistance referred to in paragraph 1 shall be available to producer organisations even if they do not provide for such market withdrawal operations in their operational programmes and in the national strategies of Member States. Article 32(2) of Regulation (EU) No 1308/2013 and Article 55(4) of Implementing Regulation (EU) No 543/2011 shall not apply in relation to Union financial assistance under this Article.

7. The Union financial assistance referred to in paragraph 1 shall not be taken into account for the purpose of calculating the ceilings referred to in Article 34(2) of Regulation (EU) No 1308/2013.

8. The ceiling of one third of expenditure referred to in the fourth subparagraph of Article 33(3) of Regulation (EU) No 1308/2013 and the 25 % maximum ceiling for the increase of the operational fund referred to in Article 66(3)(c) of Implementing Regulation (EU) No 543/2011 shall not apply in respect of expenditure incurred for withdrawal operations of products referred to in Article 1(2) of this Regulation when those products are withdrawn during the period referred to in Article 1(3) of this Regulation.

9. Expenditure incurred in accordance with this Article shall form part of the operational fund of the producer organisations.

Article 5

Financial assistance for withdrawals to producers not being members of producer organisations

1. Union financial assistance shall be granted to producers of fruit and vegetables who are not members of a recognised producer organisation in accordance with this Article for:

(a) market withdrawals for free distribution as referred to in Article 34(4) of Regulation (EU) No 1308/2013;

(b) market withdrawals for destinations other than free distribution.

For market withdrawals referred to in point (a) of the first subparagraph, the maximum amounts of the financial assistance shall be the amounts set out in Annex XI to Implementing Regulation (EU) No 543/2011 and in Annex II to this Regulation.

For tomatoes the maximum amount shall be the amount set out in Annex XI to Implementing Regulation (EU) No 543/2011 for the period 1 November to 31 May.

For market withdrawals referred to in point (b) of the first subparagraph, the maximum amounts of the financial assistance shall be 50 % of the amounts set out in Annex XI to Implementing Regulation (EU) No 543/2011 and in Annex II to this Regulation.

For tomatoes that maximum amount shall be 50 % of the amount set out in Annex XI to Implementing Regulation (EU) No 543/2011 for the period 1 November to 31 May.

2. The financial assistance referred to in paragraph 1 shall be available for the withdrawal of the products referred to in Article 1(2) when those products are withdrawn during the period referred to in Article 1 (3).

3. Producers shall conclude a contract with a recognised producer organisation for the entire quantity to be delivered under this Article. Producer organisations shall accept all reasonable requests from producers who are not members of a recognised producer organisation. The quantities delivered by producers not being members shall be consistent with the regional yields and surface concerned.

4. The financial assistance shall be paid to producers not being members of a recognised producer organisation by the producer organisation with which they signed such a contract.

The amounts that correspond to the real costs incurred by the producer organisation for withdrawing the respective products shall be retained by the producer organisation. Evidence of those costs shall be provided by means of invoices.

5. For duly justified reasons, such as the limited degree of organisation of the producers in the Member State concerned, and in a non-discriminatory way, Member States may authorise that a producer not being a member of a recognised producer organisation makes a notification to the competent authority of the Member State, instead of signing the contract referred to in paragraph 3. For such notification, Article 78 of Implementing Regulation (EU) No 543/2011 shall apply *mutatis mutandis*. The quantities delivered by producers not being members shall be consistent with the regional yields and surface concerned.

In such cases, the competent authority of the Member State shall pay the Union financial assistance directly to the producer. Member States shall adopt new or apply existing national rules or procedures for this purpose.

6. Where the recognition of a producer organisation has been suspended in accordance with Article 114(2) of Implementing Regulation (EU) No 543/2011, its members shall be deemed to be producers not being members of a recognised producer organisation for the purpose of this Article.

7. Regulation (EU) No 1308/2013 and Implementing Regulation (EU) No 543/2011, as well as Article 4(6) to (9) of this Regulation shall apply *mutatis mutandis* in respect of this Article.

Article 6

Financial assistance for non-harvesting and green harvesting to producer organisations

1. Union financial assistance shall be granted in respect of non-harvesting and green harvesting operations carried out in relation to the products referred to in Article 1(2) and during the period referred to in Article 1(3).

2. Support for green harvesting shall cover only the products which are physically on the fields and which are actually green harvested. By way of derogation from Article 85(4) of Implementing Regulation (EU) No 543/2011, Member States shall set the amounts of the support, comprising both the Union financial assistance and the producer organisation contribution for non-harvesting and green harvesting, per hectare at a level to cover not more than 90 % of the amounts fixed for market withdrawals for destinations other than free distribution in Annex XI to Implementing Regulation (EU) No 543/2011 and in Annex II to this Regulation. For tomatoes that amount shall be 90 % of the amount set out in Annex XI to Implementing Regulation (EU) No 543/2011 for the period 1 November to 31 May for market withdrawals for destinations other than free distribution.

By way of derogation from Article 34(4) of Regulation (EU) No 1308/2013, the Union financial assistance for non-harvesting and green harvesting shall be 75 % of the amounts fixed by the Member States in accordance with the first subparagraph.

3. By way of derogation from the first subparagraph of Article 85(3) of Implementing Regulation (EU) No 543/2011, non-harvesting measures referred to in Article 84(1)(b) of that Regulation may, in respect of products referred to in Article 1(2) of this Regulation and during the period referred to in Article 1(3) of this Regulation, be undertaken even where commercial production has been taken from the producing area concerned during the normal production cycle. In such cases, the amounts of support referred to in paragraph 2 of this Article shall be proportionally reduced, taking into account the production already harvested, as established on the basis of stock records and financial accounts of the producer organisations concerned.

4. The Union financial assistance shall be granted even if producer organisations do not provide for those operations in the framework of their operational programme and in the national strategies of Member States. Article 32(2) of Regulation (EU) No 1308/2013 and Article 55(4) of Implementing Regulation (EU) No 543/2011 shall not apply in relation to Union financial assistance under this Article.

5. The ceiling of one third of expenditure referred to in the fourth subparagraph of Article 33(3) of Regulation (EU) No 1308/2013 and the 25 % maximum ceiling for the increase of operational fund referred to in Article 66(3)(c) of Implementing Regulation (EU) No 543/2011 shall not apply in respect of expenditure incurred for measures referred to in paragraph 1 of this Article and related to products referred to in Article 1(2) of this Regulation and during the period referred to in Article 1(3) of this Regulation.

6. The Union financial assistance shall not be taken into account for the purpose of calculating the ceilings referred to in Article 34(2) of Regulation (EU) No 1308/2013.

7. Expenditure incurred in accordance with this Article shall form part of the operational fund of the producer organisations.

Article 7

Financial assistance for non-harvesting and green harvesting to producers not being members of producer organisations

1. Union financial assistance shall be granted to producers who are not members of a recognised producer organisation to carry out non-harvesting and green harvesting operations in respect of the products referred to in Article 1(2) and during the period referred to in Article 1(3).

By way of derogation from Article 85(3) of Implementing Regulation (EU) No 543/2011, the following shall apply:

(a) support for green harvesting shall cover only the products which are physically on the fields, which are actually green harvested and for which normal harvest has not begun;

(b) non-harvesting measures shall not be undertaken where commercial production has been taken from the area concerned during the normal production cycle;

(c) green harvesting and non-harvesting shall in no circumstances both be applied to the same product and the same given area.

2. The amounts of Union financial assistance for non-harvesting and green harvesting operations shall be 50 % of the amounts set by Member States in accordance with Article 6(2).

3. Producers not being members of a recognised producer organisation shall make the appropriate notification to the competent authority of the Member State in accordance with the detailed provisions adopted by the Member State pursuant to Article 85(1)(a) of Implementing Regulation (EU) No 543/2011.

In such cases, the competent authority of the Member State shall pay the Union financial assistance directly to the producer. Member States shall adopt new or apply existing national rules or procedures for this purpose.

4. Where the recognition of a producer organisation has been suspended in accordance with Article 114(2) of Implementing Regulation (EU) No 543/2011, its members shall be deemed to be producers not being members of a recognised producer organisation for the purpose of this Article.

5. Regulation (EU) No 1308/2013 and Implementing Regulation (EU) No 543/2011 shall apply *mutatis mutandis* in respect of this Article.

Article 8

Checks on withdrawal, non-harvesting and green harvesting operations

1. The withdrawal operations referred to in Articles 4 and 5 shall be subject to first-level checks in accordance with Article 108 of Implementing Regulation (EU) No 543/2011. However, those checks shall cover at least 10 % of the quantity of products withdrawn from the market and at least 10 % of producer organisations benefiting from the Union financial assistance referred to in Article 4 of this Regulation.

However, for withdrawal operations referred to in Article 5(5), the first-level checks shall cover 100 % of the quantity of products withdrawn.

2. Non-harvesting and green harvesting operations as referred to in Articles 6 and 7 shall be subject to the checks and conditions provided for in Article 110 of Implementing Regulation (EU) No 543/2011, except as regards the requirement that no partial harvest has taken place where the derogation provided for in Article 6(3) of this Regulation is applied. Checks shall cover at least 25 % of the producing areas concerned.

For non-harvesting and green harvesting operations referred to in Article 7, the checks shall cover 100 % of the producing areas concerned.

3. The withdrawal operations referred to in Articles 4 and 5 shall be subject to second-level checks in accordance with Article 109 of Implementing Regulation (EU) No 543/2011. However, the on-the-spot checks shall cover at least 40 % of the entities subject to the first-level checks and at least 5 % of the quantity of products withdrawn from the market.

4. Member States shall take the appropriate control measures to ensure that withdrawals, non-harvesting and green harvesting operations for tomatoes only cover varieties intended for fresh consumption.

Article 9

Application for and payment of Union financial assistance

1. Producer organisations shall apply for the payment of the Union financial assistance referred to in Articles 4, 5 and 6 by 31 January 2015.

2. Producer organisations shall apply for the payment of the total Union financial assistance referred to in Article 4 and 6 of this Regulation in accordance with the procedure referred to in Article 72 of Implementing Regulation (EU) No 543/2011 by 31 January 2015.

However, the first paragraph and the first sentence of the second paragraph of Article 72 of Implementing Regulation (EU) No 543/2011 and the ceiling of 80 % of the initially approved amount of aid in respect of an operational programme laid down in the third paragraph of that Article shall not apply.

3. Producers not being members of a recognised producer organisation and not having signed a contract with a recognised producer organisation shall, by the date referred to in paragraph 1, apply themselves to the competent authorities designated by the Member States for the payment of Union financial assistance for the purposes of Article 5 and 7.

4. The applications referred to in paragraphs 1, 2 and 3 shall be accompanied by supporting documents justifying the amount of Union financial assistance concerned and contain a written undertaking that the applicant has not received and will not receive any double Union or national funding or compensation under an insurance policy in respect of the operations qualifying for Union financial assistance under this Regulation.

Article 10

Notifications

1. Member States shall notify the Commission by 30 September 2014, 15 October 2014, 31 October 2014, 15 November 2014, 30 November 2014, 15 December 2014, 31 December 2014, 15 January 2015, 31 January 2015 and 15 February 2015 of the following information for each product:

(a) the quantities withdrawn for free distribution;

(b) the quantities withdrawn for destinations other than free distribution;

(c) the equivalent area for green harvesting and non-harvesting;

(d) the total expenditure incurred for the quantities and areas referred to in points (a), (b) and (c).

Only operations that have been implemented shall be included in the notifications.

For those notifications Member States shall use the template set out in Annex III

2. When making their first notification, Member States shall notify the Commission of the amounts of support fixed by them in accordance with Article 79(1) or 85(4) of Implementing Regulation (EU) No 543/2011 and Articles 4 and 5 of this Regulation, using the templates set out in Annex IV.

Article 11

Payment of Union financial assistance

Member States' expenditure in relation to the payments under this Regulation shall only be eligible for Union financial assistance if it has been paid by 30 June 2015.

Article 12

Entry into force

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, 29 September 2014.

For the Commission
The President
José Manuel BARROSO

ANNEX I

Maximum quantities of products allocated per Member State as referred to in Article 2(1)

(tonnes)	Apples and pears	Plums, table grapes and kiwifruit	Tomatoes, carrots, sweet peppers, cucumbers and gherkins	Oranges, clementines and mandarins
Belgium	43 300	1 380	14 750	0
Germany	13 100	0	0	0
Greece	5 100	28 475	750	10 750
Spain	8 700	6 900	20 400	58 600
France	28 950	500	1 600	0
Croatia	1 050	0	0	7 900
Italy	35 805	38 845	0	2 620
Cyprus	0	0	0	16 220
Lithuania	0	0	4 000	0
Hungary	725	570	0	0
Netherlands	22 200	0	6 800	0
Poland	18 750	0	0	0
Portugal	4 120	225	0	0

ANNEX II

Maximum amounts of support for market withdrawals for products not listed in Annex XI to Implementing Regulation (EU) No 543/2011 as referred to in Articles 4, 5 and 6 of this Regulation

Product	Maximum support (EUR/100 kg)	
	Free distribution	Other destinations
Carrots	12,81	8,54
Cabbages	5,81	3,88
Sweet peppers	44,4	30
Headed broccoli	15,69	10,52
Cucumbers and gherkins	24	16
Mushrooms	43,99	29,33
Plums	34	20,4
Soft fruit	12,76	8,5
Fresh table grapes	39,16	26,11
Kiwifruit	29,69	19,79

ANNEX III

Templates for notifications as referred to in Article 10

NOTIFICATION ON WITHDRAWALS — FREE DISTRIBUTION

Member State: ..... Period covered: ..... Date: .....

Product	Producer organisations					Producer non-members					Total quantities (t)	Total Union financial assistance (EUR)
	Quantities (t)	Union financial assistance (EUR)				Quantities (t)	Union financial assistance (EUR)					
		withdrawal	transport	sorting and packing	TOTAL		withdrawal	transport	sorting and packing	TOTAL		
	(a)	(b)	(c)	(d)	(e) = (b) + (c) + (d)	(f)	(g)	(h)	(i)	(j) = (g) + (h) + (i)	(k) = (a) + (f)	(l) = (e) + (j)
Apples												
Pears												
Total Apples and Pears												
Tomatoes												
Carrots												
Sweet peppers												
Cucumbers and Gherkins												
Total Vegetables												
Plums												
Fresh table grapes												
Kiwifruit												
Total Other Fruit												
Oranges												
Clementines												
Mandarins												

Product	Producer organisations					Producer non-members					Total quantities (t)	Total Union financial assistance (EUR)
	Quantities (t)	Union financial assistance (EUR)				Quantities (t)	Union financial assistance (EUR)					
		withdrawal	transport	sorting and packing	TOTAL		withdrawal	transport	sorting and packing	TOTAL		
	(a)	(b)	(c)	(d)	(e) = (b) + (c) + (d)	(f)	(g)	(h)	(i)	(j) = (g) + (h) + (i)	(k) = (a) + (f)	(l) = (e) + (j)
Total Citrus												
Cabbages												
Cauliflowers and headed broccoli												
Mushrooms												
Soft fruit												
Total Others												
TOTAL												

* One different Excel sheet shall be completed for every notification

NOTIFICATION ON WITHDRAWALS — OTHER DESTINATIONS

Member State: ..... Period covered: ..... Date: .....

Product	Producer organisations		Producer non-members		Total quantities (t)	Total Union financial assistance (EUR)
	Quantities (t)	Union financial assistance (EUR)	Quantities (t)	Union financial assistance (EUR)		
	(a)	(b)	(c)	(d)	(e) = (a) + (c)	(f) = (b) + (d)
Apples						
Pears						
Total Apples and Pears						
Tomatoes						
Carrots						

Product	Producer organisations		Producer non-members		Total quantities (t)	Total Union financial assistance (EUR)
	Quantities (t)	Union financial assistance (EUR)	Quantities (t)	Union financial assistance (EUR)		
	(a)	(b)	(c)	(d)	(e) = (a) + (c)	(f) = (b) + (d)
Sweet peppers						
Cucumbers and Gherkins						
Total Vegetables						
Plums						
Fresh table grapes						
Kiwifruit						
Total Other Fruit						
Oranges						
Clementines						
Mandarins						
Total Citrus						
Cabbages						
Cauliflowers and headed broccoli						
Mushrooms						
Soft fruit						
Total Others						
TOTAL						

* One different Excel sheet shall be completed for every notification.

NOTIFICATION ON NON-HARVESTING AND GREEN HARVESTING

Member State: ..... Period covered: ..... Date: .....

Product	Producer organisations			Producer non-members			Total quantities (t)	Total Union financial assistance (EUR)
	Area (ha)	Quantities (t)	Union financial assistance (EUR)	Area (ha)	Quantities (t)	Union financial assistance (EUR)		
	(a)	(b)	(c)	(d)	(e)	(f)	(g) = (b) + (e)	(h) = (c) + (f)
Apples								
Pears								
Total Apples and Pears								
Tomatoes								
Carrots								
Sweet peppers								
Cucumbers and Gherkins								
Total Vegetables								
Plums								
Fresh table grapes								
Kiwifruit								
Total Other Fruit								
Oranges								
Clementines								
Mandarins								
Total Citrus								
Cabbages								

Product	Producer organisations			Producer non-members			Total quantities (t)	Total Union financial assistance (EUR)
	Area (ha)	Quantities (t)	Union financial assistance (EUR)	Area (ha)	Quantities (t)	Union financial assistance (EUR)		
	(a)	(b)	(c)	(d)	(e)	(f)	(g) = (b) + (e)	(h) = (c) + (f)
Cauliflowers and headed broccoli								
Mushrooms								
Soft fruit								
Total Others								
TOTAL								

* One different Excel sheet shall be completed for every notification.

ANNEX IV

TABLES TO BE SENT WITH THE FIRST NOTIFICATION AS REFERRED TO IN ARTICLE 10(1)

WITHDRAWALS — OTHER DESTINATIONS

Maximum amounts of support fixed by the Member State in accordance with Article 79(1) of Implementing Regulation (EU) No 543/2011 and Articles 4 and 5 of this Regulation

Member State: ..... Date: .....

Product	Producer Organisation's contribution (EUR/100 kg)	Union financial assistance (EUR/100 kg)
Apples		
Pears		
Tomatoes		
Carrots		
Cabbages		
Sweet peppers		
Cauliflowers and headed broccoli		
Cucumbers and Gherkins		
Mushrooms		
Plums		
Soft fruit		
Fresh table grapes		
Kiwifruit		
Oranges		
Clementines		
Mandarins		

NON-HARVESTING AND GREEN HARVESTING

Maximum amounts of support fixed by the Member State in accordance with Article 85(4) of Implementing Regulation (EU) No 543/2011 and Article 6 of this Regulation

Member State: ..... Date: .....

Product	Open air		Greenhouse	
	Producer Organisation's contribution (EUR/ha)	Union financial assistance (EUR/ha)	Producer Organisation's contribution (EUR/ha)	Union financial assistance (EUR/ha)
Apples				
Pears				
Tomatoes				
Carrots				
Cabbages				
Sweet peppers				
Cauliflowers and headed broccoli				
Cucumbers and Gherkins				
Mushrooms				
Plums				
Soft fruit				
Fresh table grapes				
Kiwifruit				
Oranges				
Clementines				
Mandarins				

COMMISSION IMPLEMENTING REGULATION (EU) No 1032/2014

of 29 September 2014

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

THE EUROPEAN COMMISSION,

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

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

Having regard to Commission 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 ([2]), and in particular Article 136(1) thereof,

Whereas:

(1) 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.

(2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

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 to this Regulation.

Article 2

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, 29 September 2014.

For the Commission,
On behalf of the President,
Jerzy PLEWA
Director-General for Agriculture and Rural Development

([1]) OJ L 299, 16.11.2007, p. 1.
([2]) 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 (1)	Standard import value
0702 00 00	MK	67,6
	TR	85,0
	XS	74,9
	ZZ	75,8
0707 00 05	MK	29,8
	TR	100,6
	ZZ	65,2
0709 93 10	TR	110,7
	ZZ	110,7
0805 50 10	AR	139,2
	CL	139,2
	IL	107,6
	TR	120,7
	UY	112,1
	ZA	171,0
	ZZ	131,6
0806 10 10	BR	167,9
	MK	103,8
	TR	119,6
	ZZ	130,4
0808 10 80	BA	41,5
	BR	56,4
	CL	101,5
	NZ	110,2
	US	135,4
	ZA	97,0
	ZZ	90,3
0808 30 90	CN	104,2
	TR	115,8
	ZZ	110,0
0809 40 05	MK	13,1
	ZZ	13,1

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

COMMISSION IMPLEMENTING REGULATION (EU) No 1033/2014

of 29 September 2014

fixing the representative prices and additional import duties applicable to molasses in the sugar sector from 1 October 2014

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 of the Council [1], and in particular Article 183 thereof,

Whereas:

(1) Commission Regulation (EC) No 951/2006 [2] provides that the cif import price for molasses of the standard quality defined in Article 27 of the said Regulation is to be considered the 'representative price'.

(2) For the purposes of fixing the representative prices, account must be taken of all the information provided for in Article 29 of Regulation (EC) No 951/2006, except in the cases provided for in Article 30 of the said Regulation and those prices should be fixed, where appropriate, in accordance with the method provided for in Article 33 of the said Regulation.

(3) Prices not relating to the standard quality should be adjusted upwards or downwards, according to the quality of the molasses offered, in accordance with Article 32 of Regulation (EC) No 951/2006.

(4) Where there is a difference between the trigger price for the product concerned and the representative price, additional import duties should be fixed under the terms laid down in Article 39 of Regulation (EC) No 951/2006. Should the import duties be suspended pursuant to Article 40 of the said Regulation, specific amounts for these duties should be fixed.

(5) The representative prices and additional duties applicable to the import of molasses covered by CN codes 1703 10 00 and 1703 90 00 should be fixed in accordance with Article 34 of Regulation (EC) No 951/2006.

(6) Given the need to ensure that this measure applies as soon as possible after the updated data have been made available, this Regulation should enter into force on the day of its publication,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties applicable to the import of molasses covered by CN codes 1703 10 00 and 1703 90 00 are set out in the Annex to this Regulation.

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[1] OJ L 347, 20.12.2013, p. 671.

[2] Commission Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector (OJ L 178, 1.7.2006, p. 24).

Article 2

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, 29 September 2014.

For the Commission,
On behalf of the President,
Jerzy PLEWA
Director-General for Agriculture and Rural Development

ANNEX

Representative prices and additional import duties applicable to molasses in the sugar sector from 1 October 2014

(in EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned	Duty to be applied to imports as a result of the suspension referred to in Article 40 of Regulation (EC) No 951/2006 per 100 kg net of the product concerned (1)
1703 10 00 (2)	13,48	—	0
1703 90 00 (2)	15,93	—	0

(1) This amount replaces, in accordance with Article 40 of Regulation (EC) No 951/2006, the rate of the Common Customs Tariff duty fixed for these products.
(2) For the standard quality as defined in Article 27 of Regulation (EC) No 951/2006.

DECISIONS

DECISION OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES

of 24 September 2014

appointing Judges to the Court of Justice

(2014/680/EU, Euratom)

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 19 thereof,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 253 and 255 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a(1) thereof,

Whereas:

(1) The terms of office of 14 Judges and four Advocates-General at the Court of Justice are due to expire on 6 October 2015. New appointments should therefore be made for the period from 7 October 2015 to 6 October 2021.

(2) It has been proposed that the terms of office of Mr Koen LENAERTS and Ms Rosario SILVA DE LAPUERTA as Judges of the General Court should be renewed.

(3) The panel set up by Article 255 of the Treaty on the Functioning of the European Union has given an opinion on the suitability of Mr Koen LENAERTS and Ms Rosario SILVA DE LAPUERTA to perform the duties of Judges of the Court of Justice,

HAVE ADOPTED THIS DECISION:

Article 1

The following are hereby appointed Judges to the Court of Justice for the period from 7 October 2015 to 6 October 2021:

— Mr Koen LENAERTS,

— Ms Rosario SILVA DE LAPUERTA.

Article 2

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

Done at Brussels, 24 September 2014.

The President

S. SANNINO

DECISION OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES

of 24 September 2014

appointing a Judge to the Court of Justice

(2014/681/EU, Euratom)

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 19 thereof,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 253 and 255 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a(1) thereof,

Whereas:

(1) Under Articles 5 and 7 of the Protocol on the Statute of the Court of Justice of the European Union, and following the resignation of Mr George ARESTIS as of 6 October 2014, a Judge should be appointed to the Court of Justice for the remainder of the term of office of Mr ARESTIS, which runs until 6 October 2018.

(2) Mr Constantinos LYCOURGOS has been proposed as a candidate for the vacant post.

(3) The panel set up by Article 255 of the Treaty on the Functioning of the European Union has given an opinion on the suitability of Mr Constantinos LYCOURGOS to perform the duties of Judge of the Court of Justice,

HAVE ADOPTED THIS DECISION:

Article 1

Mr Constantinos LYCOURGOS is hereby appointed Judge to the Court of Justice for the period from 7 October 2014 to 6 October 2018.

Article 2

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

Done at Brussels, 24 September 2014.

The President

S. SANNINO

COUNCIL DECISION

of 25 September 2014

appointing a Bulgarian alternate member of the Committee of the Regions

(2014/682/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 305 thereof,

Having regard to the proposal of the BulgarianGovernment,

Whereas:

(1) On 22 December 2009 and on 18 January 2010, the Council adopted Decisions 2009/1014/EU [1] and 2010/29/EU [2] appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2010 to 25 January 2015. On 10 July 2012, by Council Decision 2012/403/EU [3] Ms Kornelia MARINOVA was appointed as alternate member until 25 January 2015.

(2) An alternate member's seat on the Committee of the Regions has become vacant following the end of the term of office of Ms Kornelia MARINOVA,

HAS ADOPTED THIS DECISION:

Article 1

The following is hereby appointed as alternate member to the Committee of the Regions for the remainder of the current term of office, which runs until 25 January 2015:

— Ms Madlena BOYADZHIEVA, *Chair of the Municipal Council of the Municipality of Teteven.*

Article 2

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

Done at Brussels, 25 September 2014.

For the Council
The President
F. GUIDI

[1] OJ L 348, 29.12.2009, p. 22.
[2] OJ L 12, 19.1.2010, p. 11.
[3] Council Decision 2012/403/EU of 10 July 2012 appointing six Bulgarian members and eight Bulgarian alternate members of the Committee of the Regions(OJ L 188, 18.7.2012, p. 16).

COUNCIL DECISION

of 25 September 2014

appointing a United Kingdom member of the Committee of the Regions

(2014/683/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 305 thereof,

Having regard to the proposal of the United KingdomGovernment,

Whereas:

(1) On 22 December 2009 and on 18 January 2010, the Council adopted Decisions 2009/1014/EU [1] and 2010/29/EU [2] appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2010 to 25 January 2015. On 11 March 2014, by Council Decision 2014/C 74/01 [3], Mr Andrew LEWER was appointed member until 25 January 2015.

(2) A member's seat has become vacant following the end of the term of office of Mr Andrew LEWER,

HAS ADOPTED THIS DECISION:

Article 1

The following is hereby appointed as member to the Committee of the Regions for the remainder of the current term of office, which runs until 25 January 2015:

— Ms Ann STRIBLEY, *Councillor.*

Article 2

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

Done at Brussels, 25 September 2014.

For the Council
The President
F. GUIDI

[1] OJ L 348, 29.12.2009, p. 22.
[2] OJ L 12, 19.1.2010, p. 11.
[3] Council Decision of 11 March 2014 appointing four United Kingdom members of the Committee of the Regions (OJ C 74, 13.3.2014, p. 1).

COUNCIL DECISION

of 25 September 2014

appointing nine Greek members and twelve Greek alternate members of the Committee of the Regions

(2014/684/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 305 thereof,

Having regard to the proposal of the GreekGovernment,

Whereas:

(1) On 22 December 2009 and on 18 January 2010, the Council adopted Decisions 2009/1014/EU [1] and 2010/29/EU [2] appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2010 to 25 January 2015. On 9 April 2010, by Council Decision 2010/217/EU [3] Mr Dimitrios MARAVELIAS was appointed alternate member until 25 January 2015. On 21 March 2011, by Council Decision 2011/191/EU [4] Mr Ioannis BOUTARIS, Mr Dimitrios KALOGEROPOULOS, Mr Georgios KOTRONIAS, Mr Nikolaos PAPANDREOU, Mr Ioannis SGOUROS and Mr Grigorios ZAFEIROPOULOS were appointed members, and Mr Pavlos ALTINIS, Mr Athanasios GIAKALIS, Mr Aristeidis GIANNAKIDIS, Mr Dimitrios DRAKOS, Mr Polydoros LAMPRINOUDIS, Mr Christos LAPPAS, Mr Ioannis MACHAIRIDIS and Mr Dimitrios BIRMPAS were appointed as alternate members until 25 January 2015. On 29 October 2012, by Council Decision 2012/676/EU [5], Mr Spyridon SPYRIDON was appointed member and Mr Dimitrios PETROVITS was appointed alternate member until 25 January 2015.

(2) Nine members' seats on the Committee of the Regions have become vacant following the end of the terms of office of Mr Ioannis BOUTARIS, Mr Theodoros GKOTSOPOULOS, Mr Dimitrios KALOGEROPOULOS, Mr Georgios KOTRONIAS, Mr Nikolaos PAPANDREOU, Mr Ioannis SGOUROS, Mr Konstantinos SIMITSIS, Mr Spyridon SPYRIDON and Mr Grigorios ZAFEIROPOULOS.

(3) Twelve alternate members' seats on the Committee of the Regions have become vacant following the end of the terms of office of Mr Pavlos ALTINIS, Mr Dimitrios BIRMPAS, Mr Dimitrios DRAKOS, Mr Athanasios GIAKALIS, Mr Aristeidis GIANNAKIDIS, Mr Ioannis KOURAKIS, Mr Polydoros LAMPRINOUDIS, Mr Christos LAPPAS, Mr Ioannis MACHAIRIDIS, Mr Dimitrios MARAVELIAS, Mr Dimitrios PETROVITS and Mr Dimitrios PREVEZANOS,

HAS ADOPTED THIS DECISION:

Article 1

The following are hereby appointed to the Committee of the Regions for the remainder of the current term of office, which runs until 25 January 2015:

(a) as members:

— Mr Konstantinos AGORASTOS, *Governor of Thessaly Region*

— Mr Dimitrios KALOGEROPOULOS, *Advisor, politically accountable to the elected Municipal Council of Maroussi (change of mandate)*

— Mr Stavros KALAFATIS, *Municipal Councillor of Thessaloniki*

— Mr Alexandros KAHRIMANIS, *Governor of the Region of Epirus*

[1] OJ L 348, 29.12.2009, p. 22.
[2] OJ L 12, 19.1.2010, p. 11.
[3] Council Decision 2010/217/EU of 9 April 2010 appointing one Greek member and one Greek alternate member of the Committee of the Regions (OJ L 96, 16.4.2010, p. 7).
[4] Council Decision 2011/191/EU of 21 March 2011 appointing ten Greek members and nine Greek alternate members of the Committee of the Regions (OJ L 81, 29.3.2011, p. 12).
[5] Council Decision 2012/676/EU of 29 October 2012 appointing a Greek member and a Greek alternate member of the Committee of the Regions (OJ L 305, 1.11.2012, p. 26).

— Mr Ioannis KOURAKIS, *Municipal Councillor of Heraklion*

— Mr Dimitrios MARAVELIAS, *Regional Councillor of Attica*

— Mr Ioannis SGOUROS, *Regional Councillor of Attica (change of mandate)*

— Mr Konstantinos TZANAKOULIS, *Municipal Councillor of Larissa*

— Mr Nikolaos CHIOTAKIS, *Municipal Councillor of Kifissia*

and

(b) as alternate members:

— Mr Dimitrios BIRMPAS, *Mayor of Aigaleo (change of mandate)*

— Mr Ioannis BOUTARIS, *Mayor of Thessaloniki*

— Mr Fotios CHATZIDIAKOS, *Mayor of Rhodes*

— Mr Georgios DAKIS, *Regional Councillor, West Macedonia Region*

— Mr Nikolaos KARAPANOS, *Mayor of the city of Messolonghi*

— Mr Panagiotis KATSIVELAS, *Mayor of Trifylia*

— Mr Charalampos KOKKINOS, *Regional Councillor, South Aegean Region*

— Ms Anna PAPADIMITRIOU, *Regional Councillor, Region of Attica*

— Mr Dimitrios PETROVITS, *Deputy Governor, Region of Evros (change of mandate)*

— Mr Dimitrios PREVEZANOS, *Mayor of Skiathos (change of mandate)*

— Mr Konstantinos SIMITSIS, *Municipal Councillor of Kavala*

— Mr Petros SOULAS, *Mayor of Kordelio-Evosmos.*

Article 2

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

Done at Brussels, 25 September 2014.

For the Council
The President
F. GUIDI

COUNCIL DECISION 2014/685/CFSP

of 29 September 2014

amending Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo [1], EULEX KOSOVO

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 28, Article 42(4) and Article 43(2), thereof,

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

Whereas:

(1) On 4 February 2008, the Council adopted Joint Action 2008/124/CFSP [2].

(2) On 8 June 2010, the Council adopted Decision 2010/322/CFSP [3], which amended Joint Action 2008/124/CFSP and extended it for a period of two years until 14 June 2012.

(3) On 5 June 2012, the Council adopted Decision 2012/291/CFSP [4], which amended Joint Action 2008/124/CFSP and extended it for a period of two years until 14 June 2014.

(4) On 12 June 2014, the Council adopted Decision 2014/349/CFSP [5] amending Joint Action 2008/124/CFSP and extending it for a period of two years until 14 June 2016, and providing for a financial reference amount for the period 15 June 2014 until 14 October 2014.

(5) Joint Action 2008/124/CFSP should be amended to provide a new financial reference amount intended to cover the period from 15 October 2014 until 14 June 2015.

(6) Within the framework of its mandate and in line with conclusions of the Political and Security Committee of 2 September 2014, EULEX KOSOVO should also provide support to relocated criminal judicial proceedings within a Member State, subject to the conclusion of all necessary legal arrangements to cover all stages of these proceedings.

(7) EULEX KOSOVO will be conducted in the context of a situation which may deteriorate and could impede the achievement of the objectives of the Union's external action as set out in Article 21 of the Treaty,

(8) Joint Action 2008/124/CFSP should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Joint Action 2008/124/CFSP is hereby amended as follows:

(1) The following Article is inserted:

'Article 3a

Relocated judicial proceedings

1. For the purposes of fulfilling its mandate, including its executive responsibilities, as set out in Article 3(a) and (d), EULEX KOSOVO shall support re-located judicial proceedings within a Member State, in order to prosecute and adjudicate criminal charges arising from the investigation into the allegations raised in a report entitled "Inhuman treatment of people and illicit trafficking in human organs in Kosovo" released on 12 December 2010 by the Special Rapporteur for the Committee on Legal Affairs and Human Rights of the Council of Europe.

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[1] This designation is without prejudice to positions on status, and is in line with UNSCR 1244(1999) and the ICJ Opinion on the Kosovo declaration of independence.

[2] Council Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO (OJ L 42, 16.2.2008, p. 92).

[3] Council Decision 2010/322/CFSP of 8 June 2010 amending and extending Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO (OJ L 145, 11.6.2010, p. 13).

[4] Council Decision 2012/291/CFSP of 5 June 2012 amending and extending Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO (OJ L 146, 6.6.2012, p. 46).

[5] Council Decision 2014/349/CFSP of 12 June 2014 amending Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO (OJ L 174, 13.6.2014, p. 42).

2. The judges and prosecutors responsible for the proceedings shall enjoy full independence and autonomy in the discharge of their duties.'.

(2) In Article 8(2), the following sentence is added:

'EULEX KOSOVO Judges and Prosecutors shall meet the highest professional qualification necessary for the level or complexity of the matter before them and shall be appointed following an independent selection process.'.

(3) In Article 16(1), the final subparagraph is replaced by the following:

'The financial reference amount intended to cover the expenditure of EULEX KOSOVO from 15 October 2014 until 14 June 2015 shall be EUR 55 820 000.

The financial reference amount for the subsequent period for EULEX KOSOVO shall be decided by the Council.'.

(4) In Article 18, the following paragraph is added:

'5. The authorisation given to the High Representative to release to third parties and competent local authorities EU classified information and documents generated for the purposes of EULEX KOSOVO under paragraphs 1 and 2 shall not extend to information gathered or documents generated for the purpose of the judicial proceedings carried out within the framework of EULEX KOSOVO's mandate. This does not prevent the release of non-sensitive information which relates to the administrative organisation or efficiency of the proceedings.'.

(5) In Article 20, the second paragraph is replaced by the following:

'It shall expire on 14 June 2016. The Council, acting on a proposal from the High Representative, and considering complementary sources of funding as well as contributions from other partners, shall take the necessary decisions in order to ensure that EULEX KOSOVO's mandate in support of the re-located judicial proceedings referred to in Article 3a and the related necessary financial means shall remain in effect until such time as these judicial proceedings have been concluded.'.

Article 2

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

Done at Brussels, 29 September 2014.

For the Council

The President

S. GOZI

COMMISSION DECISION

of 3 July 2014

on State aid SA.33927 (12/C) (ex 11/NN)

implemented by Belgium — Guarantee scheme protecting the shares of individual members of financial cooperatives

(notified under document C(2014) 1021)

(Only the Dutch and the French texts are authentic)

(Text with EEA relevance)

(2014/686/EU)

THE EUROPEAN COMMISSION,

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

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

Having called on interested parties to submit their comments pursuant to the provisions cited above ([1]) and having regard to their comments,

Whereas:

1. PROCEDURE

(1) By letter of 7 November 2011, the Belgian State notified the Commission that it had put in place a guarantee scheme ('the cooperative guarantee scheme' or 'the measure') to cover the shares of individual shareholders in those recognised cooperatives which are either under prudential supervision of the National Bank of Belgium ('NBB') or have invested at least half of their assets in an institution subject to such supervision ('financial cooperatives').

(2) By letter of 6 December 2011, the Commission indicated to the Belgian State that the measure might represent unlawful State aid ([2]) and urged the Belgian State to refrain from further steps to implement the measure. The Commission invited the Belgian State to comment on its preliminary findings which the Belgian State did by letter of 22 December 2011.

(3) By decision of 3 April 2012 ('the Opening Decision'), the Commission informed Belgium that it had initiated the procedure laid down in Article 108(2) of the Treaty on the Functioning of the European Union ('the Treaty') in respect of the measure and it enjoined Belgium in accordance with Article 11(1) of Council Regulation (EC) No 659/19The Belgian Council of State also pointed to the potential99 of 22 March 1999 laying down detailed rules for the application of Article 108 of the treaty on the functioning of the European Union ([3]) to suspend the measure until the Commission had decided on its compatibility with the internal market. The Commission required Belgium to immediately cease any action which would further implement the cooperative guarantee scheme and to abstain from any payments under the measure. The Commission decision to initiate the procedure — by which the Commission also invited interested parties to comment on the measure — was published in the *Official Journal of the European Union* ([4]).

(4) By letters of 24 April 2012 and 31 May 2012, the Belgian State asked for additional time to react on the Opening Decision, to which the Commission did not object. By letter of 18 June 2012, the Belgian State sent a reaction on the Opening Decision annexed to which was, among others, a letter from the Governor of the NBB to the Belgian Minister of Finance dated 7 October 2011.

([1]) OJ C 213, 19.7.2012, p. 64.
([2]) The Belgian Council of State also pointed to the potential State aid character of the measure. See Avis du Conseil d'Etat No 46.131/2 of 4 March 2009.
([3]) OJ L 83, 27.3.1999, p. 1.
([4]) See footnote 1.

(5) On 17 August 2012, the Arco Group ('ARCO' ([5])) also submitted a reaction to the Opening Decision. On 29 August 2012, the Commission forwarded that submission to the Belgian State, thereby giving the Member State the opportunity to react to ARCO's comments. On 16 October 2012, however, the Belgian State indicated it would not make use of that opportunity.

(6) Follow-up questions from the Commission on the measure, in particular on 17 September 2012 and 24 July 2013, were answered by the Belgian State on 5 December 2012 and 20 September 2013 respectively.

2. **FACTUAL BACKGROUND**

2.1. **Genesis of the notified measure**

(7) The establishment of the cooperative guarantee scheme was linked to rescue measures in another State aid case.

(8) On 30 September 2008, Dexia announced a capital increase of EUR 6,4 billion, subscribed by its existing shareholders (one of which was ARCO) and by the authorities of Belgium, France and Luxembourg. Before a Special Commission of the Belgian Parliament investigating the circumstances of the dismantlement of Dexia (hereafter 'the Dexia Commission'), the Belgian Minister of Finance at the time State aid was granted to Dexia in 2008 explained that, following requests to intervene in favour of ARCO, there had already been in September/October 2008 a political decision to put the cooperative guarantee scheme in place. He explained that, in order to reach an agreement on Dexia, the government had to take at the same time a decision on ARCO and Ethias ([6]). It is also clear from the statements of the current Belgian Minister of Finance that the commitment was made in 2008 in order to ensure that ARCO agreed to take part in the rescue of Dexia ([7]).

(i) *Press communications*

(9) On 10 October 2008, the Belgian government announced by way of press release from the services of the Minister of Finance that it had decided to:

— increase the coverage of the existing Deposit Guarantee Scheme for credit institutions from EUR 20 000 to EUR 100 000

([5]) ARCO will be described in more detail in recitals 38 to 44.

([6]) See (http://www.dekamer.be/kvvcr/pdf_sections/comm/dexia/N031_20120125reynders.pdf) — Transcripts Dexia Commission — hearing of 25 January 2012 with Minister Reynders, page 7 and 32; Those transcripts read as follows:'… *in 2008 a core group of members of the government worked together to urge the State to intervene on Ethias and Arco. In view of the prevailing crisis, the government committed itself, on 10 October 2008 and 21 January 2009, to protecting the paid-up capital of individual shareholders in financial cooperatives… by a political decision, at some point I therefore realised that neither the Prime Minister at the time nor I could reach an agreement with our counterparts* [*pro memoria*: France and Luxembourg were the other Member States concerned in the Dexia-file] *and with Dexia's management if no decisions were taken on Ethias and Arco at the same time… We therefore made this commitment to individual shareholders in financial cooperatives… Why in three stages and after quite a lot of time? Because we first had to translate this political agreement into a legal instrument*'. ('*…en 2008, des membres du gouvernement sont intervenus en Conseil restreint afin de demander à l'Etat d'intervenir pour Ethias et pour ARCO. Compte tenu de la situation de crise dans laquelle on était, le gouvernement s'est engagé le 10 octobre 2008 et le 21 janvier 2009 à protéger la part de capital des coopérateurs personnes physiques dans des sociétés coopératives… dans une décision politique, j'ai donc bien compris à un moment donné que je ne pourrais pas — et le premier ministre aussi à l'époque — boucler l'accord avec nos collègues* [*pro memoria*: France and Luxembourg were the other Member States concerned in the Dexia-file] *et avec la direction de Dexia — si en même temps, il n'y avait pas des décisions prises sur Ethias et sur ARCO. …, Donc, pour les coopérateurs des coopératives, nous avions pris cet engagement …. Alors pourquoi en trois étapes et pourquoi avec pas mal de temps? Parce qu'il a d'abord fallu faire en sorte que cet accord politique puisse se traduire dans un texte*'.

([7]) In an article published in the magazine Trends of 15 May 2014, and also available on its website, the minister is quoted as saying 'at the end of September 2008, during the first Dexia crisis, we asked Holding Communal, ARCO and Ethias to participate in a capital increase for which they did not have the money. The people behind ARCO and Ethias needed a guarantee, otherwise they would have withdrawn their savings. That would have bankrupted ARCO. The guarantee has to be seen in the context of the time: ARCO, Ethias and Holding Communal were obliged to participate in raising Dexia's capital because there was no other solution. It was 2008…The federal government — with five political parties — gave a government guarantee. So the ARCO savers did not withdraw their money, thinking "We have to keep on providing support, and if things go wrong there's a safety net".' ('*Eind september 2008, bij de eerste Dexia-crisis, werd aan de Gemeentelijke Holding, Arco en Ethias gevraagd om deel te nemen aan een kapitaalverhoging waarvoor ze het geld niet hadden. De achterban van onder andere Arco en Ethias had waarborgen nodig, anders zouden ze hun spaargeld weghalen. Dat had het faillissement van Arco betekend. Die waarborg heeft dus veel te maken met de context van dat moment. Arco, Ethias en de Gemeentelijke Holding waren verplicht om mee te gaan in de kapitaalverhoging van Dexia, omdat er geen andere oplossing was. Dat was 2008.* […] *Op dat moment kende de federale wetgever — met vijf partijen — een overheidswaarborg toe. Het resultaat was dat de Arcospaarders hun geld lieten staan. Ze dachten: we moeten blijven steunen, en als het misloopt is er een vangnet.*').

— make available a similar scheme to other financial products (in particular 'branch 21' life insurance products ([8]) and shares in financial cooperatives ([9])).

(10) On 21 January 2009, the Prime Minister and the Minister of Finance confirmed in a joint press release the commitment given by the previous government ([10]) to introduce a cooperative guarantee scheme ([11]). On the same day, ARCO put that press release of the Belgian government on its website. By contrast, other financial cooperatives distanced themselves from the analogy between deposits and shares in financial cooperatives which underlies the cooperative guarantee scheme ([12]).

(ii) *Legislative process*

(11) On 15 October 2008, the Belgian Parliament approved a law ([13]) allowing the Belgian government to take measures to preserve financial stability. On 14 November 2008 ([14]), the Belgian State published a Royal Decree increasing the level of coverage under the Deposit Guarantee Scheme for credit institutions to EUR 100 000, while also introducing an insurance guarantee scheme for 'branch 21' life insurance products. On 29 October 2008, the Financial Stability Board had given a favourable opinion on the draft version of that Royal Decree ([15]).

(12) On 14 April 2009 ([16]), the Belgian State amended the Law of 15 October 2008, allowing the government to put in place by Royal Decree a system to guarantee the paid-up capital of individual shareholders in financial cooperatives. By Royal Decree of 10 October 2011 ([17]) the Belgian authorities modified the Royal Decree of 14 November 2008. The Royal Decree of 10 October 2011 contains further details on the cooperative guarantee scheme.

(13) On 7 October 2011, the Governor of the NBB wrote a letter to the then Minister of Finance to give an opinion on the (draft) Royal Decree of 10 October 2011, a procedural step which was required under the Law on the organisation of the NBB ([18]). The Governor noted that the government could legally take a Royal Decree on a cooperative guarantee scheme in case of a sudden crisis on the financial markets or in case of a serious threat of a

([8]) A 'branch 21' life insurance product is defined in point 21 of Annex I to the Royal Decree on the supervision of insurance companies and relates to those insurance products which are not linked to an investment fund (as opposed to 'branch 23' life insurance products). 'Branch 21' products offer in principle a guaranteed investment return which can be increased by a participation in the investment result of the insurance company.

([9]) The press release contains the following paragraph: 'The government has decided to extend the protection provided by this fund to other institutions in the financial sector (in particular insurance companies and recognised cooperatives) which request such protection for deposit-like products, such as, for example, "branch 21" life insurance products. Certain bodies have already expressed their interest'. ('Le gouvernement a décidé d'étendre la protection donnée par ce fonds à 'autres institutions du secteur financier (notamment des compagnies d'assurances ou des coopératives agrées) qui en feraient la demande pour des produits assimilables à des dépôts bancaires comme par exemple certains produits faisant partie de la branche 21. Certains organismes ont déjà fait part de leur intérêt').

([10]) On 18 December 2008, the previous government resigned and on 30 December 2008 a new government took office.

([11]) In that press release the Belgian government repeated its commitment to put in place a cooperative guarantee scheme: 'The government confirms the commitment made by the previous government to offer a guarantee scheme to shareholders in recognised cooperatives' ('le gouvernment confirme l'engagement pris par le gouvernement précédent d'offrir un régime de garantie aux associés des sociétés coopératives agréées'). The press release also contained technical details on the cooperative guarantee scheme.

([12]) ArgenCo explained in its cooperative share prospectus of 5 October 2010 (page 4): 'cooperative shares do not qualify as debt issued by a credit institution and do not qualify as a deposit either. Consequently, the shares are not covered by any deposit guarantee scheme.' A similar message was conveyed by Lanbokas/Agricaisse on page 6 of its 15 May 2009 prospectus where it stated that purchasers of cooperative shares should take into account the absence of protection from the deposit guarantee scheme.

([13]) Moniteur Belge, 17.10.2008, Ed.2, N.2008 — 3690 [2008/03425].

([14]) Moniteur Belge, 17.11.2008, Ed.2, N.2008 — 4088 [2008/03450].

([15]) The Financial Stability Board concluded that the extension of the deposit guarantee scheme was indispensable for the stability of the Belgian financial system, stating its view that 'the measures put forward are indispensable to maintain the stability of the Belgian financial system and must be brought into effect as quickly as possible'. (Le Comité de Stabilité Financière 'estime que les mesures proposées sont effectivement indispensables afin de préserver la stabilité du système financier belge et doivent pouvoir entrer en vigueur dans les plus brefs délais').

([16]) Moniteur Belge, 21.4.2009, Ed.1, N.2009 1426 [2009/03147].

([17]) Moniteur Belge, 12.10.2011, Ed.2, N.2011 2682 [2011/205241].

([18]) After the introduction of the cooperative guarantee scheme, the Law on the organisation of the NBB was adjusted accordingly and Article 36/24 was introduced (http://www.nbb.be/doc/ts/Enterprise/juridisch/F/loi_organique.pdf).

systemic crisis. The Governor concluded that those circumstances seemed to be met and that a cooperative guarantee scheme would help to limit the effects of such a crisis ([19]). At the same time however, the Governor's letter expressly refrained from taking a view as to whether individual shares of financial cooperatives are in essence deposits ([20]). The letter also indicated that the measure might raise State aid issues ([21]) and expressed concerns that the non-mandatory character of the cooperative guarantee scheme could lead to 'adverse selection' problems ([22]).

(14) On 13 October 2011, the three cooperative undertakings of ARCO (ARCOFIN, ARCOPAR and ARCOPLUS) applied to participate in the cooperative guarantee scheme. The Belgian government approved that request by a Royal Decree of 7 November 2011 ([23]). As part of its application, ARCO also paid total fees of EUR 2,05 million ([24]).

(15) On 8 December 2011 the General Meetings of ARCOFIN, ARCOPAR and ARCOPLUS approved the proposals of their executive boards to go into liquidation.

2.2. **Directive 94/19/EC on deposit guarantee schemes**

(16) Article 3 of Directive 94/19/EC of the European Parliament and the Council of 30 May 1994 on deposit guarantee schemes ([25]) ('the DGS Directive') obliges every Member State to:

'*…ensure that within its territory one or more deposit guarantee schemes are introduced and officially recognized. Except in [certain] circumstances …., no credit institution* ([26]) *authorized in that Member State …, may take deposits* ([27]) *unless it is a member of such a scheme.*'

(17) In 1998, the Belgian State transposed the DGS Directive into national law and put in place a deposit guarantee scheme covering aggregate deposits of a depositor in case of unavailability. The Belgian deposit guarantee was entrusted to a deposit guarantee fund. By means of the Royal Decree of 14 November 2008, the Belgian State subsequently created a 'Special Protection Fund', which covers later initiatives of the Belgian State ([28]).

([19]) 'The current circumstances appear to correspond to these conditions, since the sovereign debt crisis, the ongoing disruption in the financial markets and the dysfunctionality of the interbank markets put our economy at the risk of a serious systemic crisis. A State guarantee covering individual shares in certain recognised cooperatives would accordingly make it possible to limit the effects of such a crisis.' ('Les circonstances actuelles nous semblent répondre à ces conditions, en ce que la crise des dettes souveraines, les perturbations actuelles sur les marches financiers et le dysfonctionnement des marchés interbancaires font peser sur notre économie un risque grave de cette crise systémique. A cet effet, une garantie d'Etat couvrant les parts des coopérateurs de certaines sociétés coopératives agréées permettrait de limiter les effets de cette crise.').

([20]) 'The official reasoning for this measure is based on an analogy between individual shares in certain recognised cooperatives and bank deposits. Since this opinion is limited to the draft Royal Decree, there is no reason to examine here the said analogy.' ('Le législateur justifie cette disposition sur la base d'une assimilation des parts de coopérateurs de certaines sociétés coopératives à des dépôts bancaires. Le présent avis étant limité à l'avant-projet d'Arrêté royal, il n'examine pas l'assimilation pratiquée par le législateur.').

([21]) 'At first sight, we believe that convincing the Commission that the measure that the draft Royal Decree seeks to implement is open to all comparable market players in the market and therefore falls outside of the scope of the State aid rules will be no easy matter.' ('Prima facie, il ne nous semble pas évident de convaincre à coup sûr la Commission de ce que la mesure que l'avant-projet d'Arrêté royal vise à exécuter s'adresse bien à tous les acteurs comparables du marché et ne relève donc pas du champ d'application des règles sur les Aides d'Etat.').

([22]) 'The non-mandatory character of the scheme could give rise to "adverse selection" problems, in that the only cooperative societies actually contributing to the Special Protection Fund may be those with significant exposure to the risk of losses.' ('Ce caractère facultatif donne lieu à un risque de sélection adverse par lequel seules les sociétés coopératives fortement exposées à des risques de perte contribueraient effectivement au Fonds Spécial de Protection.').

([23]) Moniteur Belge, 18.11.2011 Ed.2, N.2011 2974 [2011/03368].

([24]) ARCOPAR paid in total EUR 1 794 102, ARCOFIN EUR 193 391 and ARCOPLUS EUR 63 265.

([25]) OJ L 135, 31.5.1994, p. 5.

([26]) Article 1(4) of the DGS Directive defines a 'credit institution' as 'an undertaking the business of which is to receive deposits or other repayable funds from the public and to grant credits for its own accounts.'.

([27]) Article 1(1) of the DGS Directive defines a 'deposit' as 'any credit balance which results from funds left in an account or from temporary situations deriving from normal banking transactions and which a credit institution must repay under the legal and contractual conditions applicable, and any debt evidenced by a certificate issued by a credit institution'.

([28]) The deposit tranche between EUR 50 000 and EUR 100 000 and the coverage — up to EUR 100 000 — of branch 21 life insurance products and individual shares of financial cooperatives.

(18) In its original form Article 7 of the DGS Directive provided that the aggregate deposits of each depositor had to be covered up to EUR 20 000. At its meeting of 7 October 2008, the Ecofin Council agreed that the deposit coverage then foreseen in the DGS Directive should be increased. According to its press release, it agreed that:

'*all Member States would, for an initial period of at least one year, provide deposit guarantee protection for individuals for an amount of at least EUR 50 000, acknowledging that many Member States determine to raise their minimum to EUR 100 000. We welcome the intention of the Commission to bring forward urgently an appropriate proposal to promote convergence of deposit guarantee schemes*' ([29]).

(19) In terms of coverage, Article 2 of the DGS Directive provides that deposit guarantee schemes should not protect capital instruments of credit institutions ([30]).

(20) Directive 2009/14/EC of the European Parliament and the Council of 11 March 2009 amending Directive 94/19/EC on deposit-guarantee schemes as regards the coverage level and the pay-out delay ([31]) increased the coverage level of deposit guarantee schemes (first to EUR 50 000 minimum and then in principle to EUR 100 000 minimum and maximum by 31 December 2010).

(21) Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on investor-compensation schemes ([32]) ('Investor Compensation Scheme Directive') provides for compensation for investors in cases where an investment firm is unable to return assets belonging to an investor. Such compensation is available for example where there is fraud or negligence at a firm or where there are errors or problems in the firm's systems. However, investor compensation schemes do not cover investment risk (for example when an investor has bought stocks which then fall in value).

2.3. **Belgian legal framework for cooperative companies**

(22) The Belgian Company Code ([33]) — and in particular Articles 350 to 436 — detail the legal framework for cooperative companies. It provides that a cooperative in its Articles of Association must choose whether it takes the form of 'a limited liability company' (i.e. shareholders' losses cannot go beyond their capital investment) or of an 'unlimited liability company' (i.e. shareholders are personally liable for the debt of the company and can therefore lose more than their capital investment).

(23) The Belgian Company Code (in particular Articles 362, 364, 366, 367 and 374) permits certain restrictions on the transferability of cooperative shares. Cooperative shares can be sold to other shareholders of the cooperative but the Articles of Association of the cooperative company can attach conditions to such a transfer. Transfers to third parties can only take place under conditions and only to persons which are defined in Article 366 of the Belgian Company Code.

(24) The Belgian Company Code (Article 367) also provides that cooperative shareholders may only exit the cooperative in the first six months of the financial year. In the case of such an exit, Article 374 of the Belgian Company Code provides that a cooperative shareholder is entitled to the value of its shares which will be based on the cooperative's balance sheet.

(25) While the Belgian Company Code sets the general framework for cooperative companies, the Royal Decree of 8 January 1962 ([34]) lays down criteria for 'recognised cooperatives' ([35]). Concretely, a recognised

([29]) http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ecofin/103250.pdf

([30]) Article 2 of the DGS Directive reads as follows: 'The following shall be excluded from any repayment by guarantee schemes: …
— all instruments which would fall within the definition of "own funds" in Article 2 of Council Directive 89/299/EEC of 17 April 1989 on the own funds of credit institutions'.

([31]) OJ L 68, 13.3.2009, p. 3.

([32]) OJ L 84, 26.3.1997, p. 22.

([33]) Moniteur Belge, 6.8.1999, Ed 2, N.99-2630 [99/09646].

([34]) http://www.ejustice.just.fgov.be/cgi_loi/loi_a.pl?language=nl&caller=list&cn=1962010830&la=n&fromtab=wet&sql=dt='koninklijk%20besluit'&tri=dd+as+rank&rech=1&numero=1.

([35]) The National Council of Cooperatives — set up by the Law of 20 July 1955 — plays an important role in the recognition process of recognised cooperatives.

cooperative cannot refuse new shareholders or exclude existing shareholders on speculative grounds; the cooperative shares have, irrespective of their value, equal rights; cooperative shareholders have equal voting rights in an annual general meeting ('AGM'); the AGM has to appoint the members of the board of directors and the supervisory board; the operational profits of the cooperative (after all costs have been deducted) can be distributed amongst shareholders but only pro rata to their transactions with the cooperative and the dividend paid on cooperative shares cannot exceed a certain percentage determined by Royal Decree.

(26) Article 21 of the Belgian Tax Code provides that interest paid on cooperative shares of recognised cooperatives is exempt from withholding taxes up to a certain amount ([36]).

2.4. **Description of the measure**

(27) The cooperative guarantee scheme covers the paid-up capital (and not the potential capital gains) of individual cooperative shareholders up to a limit of EUR 100 000.

(28) In contrast to the deposit guarantee scheme for credit institutions, membership of the cooperative guarantee scheme is optional.

(29) If financial cooperatives want to participate in the cooperative guarantee scheme, they must apply to the Minister of Finance. Within one month, the Council of Ministers will decide whether or not to allow the applicant financial cooperative to participate in the cooperative guarantee scheme, if necessary under conditions. Those conditions can include:

(a) the obligation to reserve future public offerings to institutional shareholders;

(b) the commitment of all institutional shareholders not to withdraw shares or any money paid to the cooperative company and not to resign as a shareholder unless by way of transfer of shares; and

(c) a cap of 4,5 % p.a. on interest to be paid to shareholders.

(30) Once a financial cooperative has applied for coverage, the financial cooperative cannot exit the scheme for a period of one year. After that period, the cooperative can terminate its participation by giving three months' notice. It will not be possible to reclaim any contributions paid in whatever form. If a cooperative decides to leave the cooperative guarantee scheme, it must wait for three years before being able to participate again.

(31) Only cooperative shares which were issued before the entry into force of the Royal Decree of 10 October 2011 are covered by the measure.

(32) The cooperative guarantee scheme is only available to individual shareholders and not to institutional shareholders of financial cooperatives.

(33) The financing of the Special Protection Fund comes from:

(i) an annual contribution of 0,15 % of the protected amount (payable by all participants); and

(ii) a one-off entry fee of 0,10 % of the protected amount (payable by the cooperatives).

([36]) The same article of the Tax Code lists other financial products whose income is also partly or in full exempted from withholding taxes.

(34) In addition, financial cooperatives can also be required to pay a capital gains contribution to the Special Protection Fund in connection with their listed equity holdings. The capital gains contribution corresponds to up to 10 % of the difference between the sale price of the relevant shares (or, if no sale occurs during a period of three years after the cessation of the protection system, the closing average stock price of the relevant share during a 30-day period before that third anniversary) and the reference price fixed by the government when a financial cooperative joins the cooperative guarantee scheme.

(35) The Special Protection Fund will start making payments if the financial cooperative is bankrupt or if the financial supervisor has alerted the Special Protection Fund that the financial cooperative can no longer repay its shareholders wishing to exit.

(36) If the Special Protection Fund has insufficient means to fulfil its duties, the Deposit and Consignment Office, which is a governmental body without legal status, will advance the necessary means. Depending on whether the failed institution is a mandatory participant or a financial cooperative, that advance will later be reimbursed by

— allocating 50 % of the annual contributions to be paid by mandatory participants;

— allocating a special annual contribution to be paid by financial cooperatives (whose participation is voluntary)

(37) If the Special Protection Fund intervenes, it takes over the rights of the individual cooperative shareholder, ranking *pari passu* with the other remaining shareholders. That feature differs from the deposit guarantee scheme for credit institutions where the Fund ranks *pari passu* with the other creditors of the relevant company.

2.5. **Description of ARCO**

(38) Historically, ARCO was the shareholder of Artesia Banking Corporation NV (hereafter 'Artesia'), which itself owned 100 % of BACOB Bank and 82 % of the insurance company DVV. As a result of the merger of Artesia with Dexia in 2001, ARCO became the biggest shareholder of Dexia with a stake of around 15 % ([37]).

(39) ARCO is a group name for ARCOPAR, ARCOPLUS and ARCOFIN, which are all recognised cooperative companies ([38]). ARCO has more than 800 000 members, 99 % of which are individual persons. The capital of individual shareholders in ARCOPAR, ARCOPLUS and ARCOFIN amounted to EUR 1,3 billion, EUR 46 million and EUR 140 million respectively.

(40) The Articles of Association of ARCOPAR, ARCOPLUS and ARCOFIN provide that the three entities are limited liability companies ([39]).

(41) The Articles of Association of all three entities contain provisions which are relevant to shareholders wishing to exit.

([37]) Source: 'Entreprendre avec du capital coopératif: Le Groupe ARCO 1935-2005'; Maarten Van Dijck, Kadoc, Lannoo, pages 176-177.

([38]) It should be noted that ARCOFIN immediately after the Dexia transaction in 2001 temporarily gave up its status of recognised cooperative. In 'Entreprendre avec du capital coopératif' that period is described in the following manner (own translation): 'ARCO changed a few months after the Dexia transaction the Articles of Association of its cooperative entities to allow those shareholders, who were already shareholders before the Dexia transaction, to participate in the improved profit prospects for Dexia Group and the ARCO entities. The new Articles of Association provided that the minimum pay-out ratio and maximum pay-out ratio to shareholders would from then on amount to 80 % and 90 % of the ordinary annual profit. As a result, the ARCOFIN dividend in March could be increased from 6 % net to 8 % gross. Because that increase resulted in a breach of the foreseen maximum dividend (6 %) for recognised cooperatives, ARCOFIN lost its status as a recognised cooperative for the National Council for Cooperatives. This implied that the withholding tax exemption was no longer applicable. After withholding tax, the majority of cooperative shareholders still earned a net dividend of 6,8 %. In March 2005, the gross dividend was increased to 8,5 %.'.

([39]) http://www.groeparco.be/website/groeparco/assets/files/arcopar/ARCOPAR_20100629_FR.pdf

(42) ARCOPAR's Articles of Association provide, for instance, that the cooperative can restrict exits if more than 10 % of the total cooperative capital or 10 % of the shareholder base were to try to exit in the same financial year ([40]). A shareholder wishing to exit ARCOPAR would get its capital back. Shareholders of 'A, B and C shares' of ARCOPAR ([41]) are also entitled to a 'bonus reserve' ([42]).

(43) Article 35 of the Articles of Association of ARCOPAR describes what ARCOPAR shareholders are entitled to receive in case of a liquidation. In essence, if there is a positive balance after repayment of debt and social costs, shareholders will be reimbursed ([43]).

(44) The risks of investing in ARCO shares were described for instance in the ARCOPAR prospectus approved by the Belgian authorities in June 2008 which was published for a capital market operation that took place between 7 July 2008 and 30 September 2008. That prospectus makes clear that Dexia-related profits represented more than 69 % of the ARCOPAR net profits in the financial years 2005/06, 2006/07 and 2007/08. The prospectus also referred to the risk of large exits, while also underlining that shareholders could lose everything in a liquidation. At the same time, the company's annual reports made clear that ARCO had leveraged its balance sheet by taking on debt in order to invest ([44]).

2.6. **Grounds for initiating the opening procedure**

(45) In its Opening Decision, the Commission's preliminary conclusion was that the notified measure met the four (cumulative) State aid criteria and it doubted whether the measure could be declared compatible with the internal market.

(46) The Commission found the measure to be imputable to the Belgian State as it was financed by the Special Protection Fund. To that end, the Commission noted that Belgian legislation determined the contribution that participants had to pay to the Special Protection Fund and also determined how those funds would be used. Moreover, the Commission observed that the Deposit and Consignment Office would advance funds to the Special Protection Fund if the need were to arise. The Commission questioned how the Deposit and Consignment Office would be repaid as it was unclear whether financial cooperatives would have sufficient financial means available. The Commission also wondered whether the fact that participation is optional for financial cooperatives would hinder an effective refinancing of the Special Protection Fund.

([40]) The Articles of Association specify that '… such withdrawals may be refused if, as a result of the withdrawal, more than one tenth of the shareholders or more than one tenth of the paid up capital were to be removed in the course of a single financial year…' ('…cette démission peut être refusée si à la suite de la démission, plus d'1/10 des actionnaires ou plus d'1/10 du capital placé devrait disparaître au cours du même exercice…').

([41]) They are shares which predate the Dexia merger.

([42]) ARCO explains on its website (http://www.groeparco.be/faq/be-fr/150/detail/item/789/) that the bonus reserve was introduced in 2004 in the company's Articles of Association. Insofar as the results of ARCOPAR allowed, the entity could add until 2010 an amount to the bonus reserve. Cooperative shareholders which were already shareholders before 3 July 2001 (i.e. the holders of A, B and C shares) are entitled to a proportional part of the bonus reserve. That bonus reserve comes on top of the capital value of their shares. Example: Shareholder X exits with a capital value of EUR 100 and the total capital amount of shares A, B and C amounts to EUR 10 000. As a result, shareholder X owns 1/100 of the total capital of the company. The total bonus reserve amounts to EUR 500. Applying the ratio 1/100 leads to an amount of EUR 5. Shareholder X will receive at the time of his exit EUR 100 capital + EUR 5 from the bonus reserve.

([43]) Article 35 of the Articles of Association of ARCOPAR lays down that: 'Unless the General Meeting decides otherwise, all the company's assets are to be liquidated. In the event that not all shares are paid up to the same extent, the liquidators shall either request additional payments be made or make prior payments in order to ensure uniformity. After the payment of debt and social costs, all residual monies shall be used to repay the capital paid in on the shares. In any event, the proceeds of the liquidation shall be used in accordance with the company's objects' ('Sauf si l'Assemblée générale en décide autrement, tous les actifs de la société sont réalisés. Au cas où les parts ne sont pas toutes libérées dans la même mesure, les liquidateurs restaurent l'équilibre, soit en demandant des versements supplémentaires, soit en effectuant des paiement préalables. Après paiement des dettes et des charges sociales, le solde servira d'abord au remboursement des sommes libérées sur les parts. En tout cas, le solde éventuel de la liquidation doit être affecté en tenant compte des objectifs de la société').

([44]) ARCOPAR's debt ratio (i.e. debt/total liabilities) amounted to 19,1 % (31 March 2011), while the debt ratios of ARCOPLUS and ARCOFIN amounted to 6,5 % (31 March 2011) and 25,9 % (31 December 2010) respectively.

(47) The Commission came to the conclusion that financial cooperatives could be considered as undertakings and that the measure presented a selective advantage to them. As regards the selective advantage the cooperative guarantee scheme seemed to have helped cooperatives to either attract new capital or maintain existing capital, convincing existing cooperative shareholders not to withdraw from financial cooperatives. Such protection was particularly relevant in periods of financial uncertainty such as the period between autumn 2008 and the date on which the Royal Decree was adopted, when financial cooperatives were effectively shielded from the risk of significant exit disbursements.

(48) The Commission also observed that the protection was far-reaching and that the Belgian State allowed entry into the cooperative guarantee scheme irrespective of the financial health of the applicant financial cooperative. In the example of ARCO, financial cooperatives had been allowed to enter into the cooperative guarantee scheme when they were already insolvent, only to enter into liquidation shortly thereafter.

(49) The Commission also concluded that the measure distorted competition as financial cooperatives competed on the market for retail investment products where they benefited from a selective advantage that was not available to other market players with similar products.

(50) The Commission also believed the cooperative guarantee scheme to have an impact on intra-Union trade. In fact, many international providers of investment products are active on the Belgian market and the market share that any financial cooperative is able to preserve thanks to the measure is unavailable to them.

(51) The Commission wondered whether the financial cooperatives could be considered financial institutions and whether that factor had implications for the applicability of the 2008 Banking Communication ([45]). The Commission concluded that as financial cooperatives do not seem to be financial institutions in the meaning of the 2008 Banking Communication, the aid would have to be evaluated directly under the Treaty.

(52) Concretely, in order to be compatible with the internal market on the basis of Article 107(3)(b) of the Treaty, a measure has to be necessary, appropriate and proportionate. The Commission doubted that the measure met any of those three cumulative criteria. It doubted whether the protection of shareholders of financial cooperatives was necessary to avoid a serious disturbance of the Belgian economy. As regards potential spill-over effects, the Commission noted that Belgium had already put in place several measures (e.g. increasing coverage under the deposit guarantee scheme to EUR 100 000 and State aid measures to several banks in different forms (recapitalisation measures, liquidity measures, impaired asset measure and *ad hoc* measures)). It did not therefore see why, in addition to all those measures, it was necessary to protect shareholders of financial cooperatives.

(53) The Commission doubted that it was appropriate to protect shareholders of financial cooperatives. In that regard, the Commission observed that the financial cooperatives are not financial institutions and given their size did not seem to be of systemic importance. It invited the Belgian State to explain via which channels investment losses — which also incurred for investors of, e.g., mutual funds — would have created major negative spill-over effects for the Belgian economy.

(54) Finally the Commission doubted whether the measure was proportionate. First, it was not clear to the Commission whether financial cooperatives would be paying a fair remuneration for the guarantee. Second, the Commission observed that the discretion to enter combined with the absence of a viability check in the entry procedure of the Belgian State implied that financial cooperatives had an incentive to enter only once it is clear that the guarantee would be triggered. It could lead to situations where beneficiaries could use the guarantee while avoiding to a large extent any payment for it. Finally, the Commission also wondered whether the cooperative guarantee scheme would not unduly distort competition, as shareholders in competitors were not protected, thus facilitating access to capital for financial cooperatives and their overall retail investment market share.

([45]) Communication from the Commission — The application of State aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis (OJ C 270, 25.10.2008, p. 8).

3. COMMENTS FROM INTERESTED PARTIES ON THE OPENING DECISION

3.1. Comments from ARCO

(55) According to ARCO, the Belgian government decided and announced on 10 October 2008 the creation of the cooperative guarantee scheme as part of a broader package (increasing of deposit guarantee for savings deposits of credit institutions to EUR 100 000 and extending the guarantee scheme to 'branch 21' life insurance products and to individual shareholders of financial cooperatives). ARCO argued that the decision of 10 October 2008 was implemented for 'branch 21' products by the law of 15 October 2008 and Royal Decree of 14 November 2008 and for share certificates issued by financial cooperatives by the law of 14 April 2009 and Royal Decree of 10 October 2011.

(56) ARCO claimed that the cooperative guarantee scheme is not State aid as it does not confer a selective advantage on financial cooperatives. ARCO also argued that the Commission concluded that a guarantee scheme for branch 21 products of insurance companies did not entail State aid, because it was open to all insurance companies and therefore not selective ([46]). In addition ARCO affirms that the cooperative guarantee scheme is open to all financial cooperatives on equal terms and therefore not selective.

(57) In line with observations of the Belgian government, ARCO argued that all the characteristics of shares in financial cooperatives confirm that they respond to the same client needs as deposits and are treated by the legislator as such. ARCO underlined that the Belgian government was concerned about a contamination effect. If the Belgian State had not introduced the cooperative guarantee scheme, it would have undermined investor confidence and could have led to a run on all savings products.

3.2. Comments from the Belgian State

(58) The Belgian State argued that the cooperative guarantee scheme does not meet all of the cumulative State aid criteria of Article 107(1) of the Treaty and is therefore not State aid. Concretely, the Belgian State stated that three State aid criteria are not met. First, the Belgian State defended the viewpoint that the measure represents only aid to individuals and not to undertakings. Next, the Belgian State argued that the measure does not represent a selective advantage to financial cooperatives and finally, the Belgian State contended that the measure is not distortive.

(59) As regards the argument that the aid does not benefit undertakings, the Belgian State argued that the normal deposit guarantee scheme for credit institutions, including its extension (i.e. the cooperative guarantee scheme) had been adopted in implementation of and in accordance with the Decisions of the ECOFIN Council, the DGS Directive as amended and the Investor Compensation Scheme Directive.

(60) The Belgian State defended the viewpoint that individual shares in financial cooperatives have all the characteristics of deposits and are also purchased as such. It pointed to the following features:

(i) The (individual) beneficiaries of the cooperative guarantee scheme deserve the same protection as depositors with other institutions active in the same business area and subject to the same supervision.

(ii) For tax purposes, dividends paid by financial cooperatives and interest paid on deposits are both — up to a fixed amount — exempted from withholding tax ([47]).

(iii) Individual shareholders of financial cooperatives can only subscribe to a specific maximum amount of capital, in line with provisions in the Articles of Association of the financial cooperative.

([46]) Commission Decision in case N256/09 Restructuring aid Ethias (OJ C 252, 18.9.2010, p. 5). Recital 99 of that Decision reads as follows: 'The Commission notes that although the extension of the scheme has benefited Ethias, the scheme is available to all market participants on equal terms. In view of the above, the Commission considers that the advantage conferred by the measure is not selective and therefore does not constitute State aid in the meaning of Article 107(1) TFEU'.

([47]) See recital 26 and footnote 36.

(iv) Shareholders of financial cooperatives can only exit the company in the first six months of a financial year and a shareholder wishing to exit is not entitled to a pro rata part of the capital gains of the cooperative. According to the Belgian State, the value of cooperative shares does not reflect the value of the underlying assets of the financial cooperative and so shares in financial cooperatives do not compete with investment products in general but only with the subset of products which already benefit from a State guarantee (i.e. deposits and 'branch 21' life insurance products).

(v) The shares in financial cooperatives are registered and their transferability is limited by law ([48]). They cannot be sold freely in order to realise capital gains. Shareholders in financial cooperatives are only entitled to a modest (tax-exempt) dividend and a reimbursement when they cease to be shareholders.

(vi) Shares in financial cooperatives cannot be qualified as an investment in shares in a corporation or listed entity.

(vii) Shares of financial cooperatives cannot be considered to be a risk investment as shareholders of financial cooperatives are not entitled to receive capital gains.

(viii) The cooperative guarantee scheme only protects the shares of natural persons (as opposed to institutions).

(61) As to the absence of a selective advantage, the Belgian State pointed out that the cooperative guarantee scheme only covers financial cooperative shares issued before 10 October 2011. The Belgian State observed that after that date financial cooperatives could not use the cooperative guarantee scheme to position themselves in any market. The Belgian State also clarified that ARCO had not issued any new shares since September 2008.

(62) The Belgian State also denied that the cooperative guarantee scheme helped financial cooperatives to maintain existing capital. In support of that argument, the Belgian State stated that the 10 October 2008 press release was merely a proposed policy initiative, making only a passing reference to financial cooperatives. According to the Belgian State, the 10 October 2008 press release was not a detailed agreement which had been coordinated with any concurrent press releases by financial cooperatives. In that regard, the Belgian State distinguished its press release from the press releases issued by the UK government and Lloyds in the Lloyds case ([49]) to which the Commission referred in the Opening Decision. The Belgian State concluded that the 10 October 2008 press release is not the type of measure that could grant a selective advantage to financial cooperatives. As regards the subsequent press release of 21 January 2009, the Belgian State considered it normal that ARCO had immediately put that press release of the government on its website, as all financial cooperatives (including ARCO) were closely following that matter at the time.

(63) The Belgian State insisted that the Commission should follow the same approach as it had taken in regard to Ethias and conclude that the cooperative guarantee scheme was not selective. The Belgian State also argued that the special position of genuine cooperatives had already been recognised by the Court of Justice in *Paint Graphos* ([50]). The Belgian State pointed in particular at paragraph 61 of *Paint Graphos*, from which it is clear that, in light of their particular characteristics, such cooperatives 'cannot, in principal, be regarded as being in a comparable factual and legal situation to that of commercial companies'.

(64) The Belgian State also provided information on the number of shareholders of ARCO exiting the entity since the start of the crisis. In the financial years leading up to the voluntary liquidation, the number of ARCO shareholders which asked to have their capital refunded amounted to 9 764 in 2007/08, 21 150 in 2008/09 and 23 762 in 2010/11.

(65) As regards the distortive impact of the measure, the Belgian State argued that the Commission should have explained to a reasonable extent with which financial products shares in financial cooperatives compete, even though the Belgian authorities acknowledged that the Commission in a State aid procedure is not obliged to proceed with a detailed market definition exercise. The Belgian State in essence claimed that the same level of protection was offered to individual shareholders of financial cooperatives as to investors in all similar deposit/savings products.

([48]) See recital 23.
([49]) Case N428/09: Restructuring of Lloyds Banking Group (OJ C 46, 24.2.2010, p. 2), recital 124.
([50]) See Joined Cases C-78/08 to C-80/08 *Paint Graphos and others* [2011] ECR I-7611, paragraph 61.

(66) The Belgian authorities also explained that the cooperative guarantee scheme serves the same purpose as the DGS Directive i.e. to protect the deposits of individual savers, to maintain depositor confidence and to attain greater stability of the financial markets. The Belgian State believes that deposit guarantee schemes of other Member States sometimes also cover non-classic deposit products and argued that the Commission should take that factor into account ([51]).

(67) The Belgian State also insisted that — if the Commission were to conclude that the cooperative guarantee scheme represented State aid — the aid should be considered compatible with the internal market on the basis of Article 107(3)(b) of the Treaty. The Belgian State considered that it is not relevant whether ARCO is a financial institution in the meaning of the 2008 Banking Communication. According to the Belgian State, the crucial question that the Commission should answer is whether the cooperative guarantee scheme is an appropriate and necessary response to prevent a serious disturbance of the economy.

(68) The Belgian State defended the viewpoint that the measure is necessary, that its effects are limited to the minimum and that there are burden sharing mechanisms in place.

(69) First, the Belgian State developed the argument that the cooperative guarantee scheme is appropriate and necessary to reassure depositors in Belgium.

(70) Belgium conceded that it was theoretically possible that institutions that have protected deposits on their balance sheet might derive an indirect benefit from the existence of such protection schemes as they help to avoid a 'bank run'. However, it explained that deposit guarantee schemes are necessary to avoid 'bank runs' and a disturbance of the financial markets. The Belgian State contended the cooperative guarantee scheme was needed to avoid a reduction of public confidence in the Belgian financial system. The basic characteristics of cooperative shares as savings products and the fact that more than half of the funds held by cooperatives are invested in banks enhanced their similarity to deposits and highlighted their importance for the Belgian banking system. An uncontrolled default of financial cooperatives would have had a snowball effect on all financial institutions and the Belgian economy. Not to provide the same level of protection for financial cooperatives' shares as for basic deposits would have entailed the same risk as not providing protection to deposits. It would have had a great impact on the public confidence in all deposit products in Belgium and create a systemic risk. In support of its arguments, the Belgian State referred to the fact that the number of shareholders (natural persons) in financial cooperatives is large relative to the total population in Belgium ([52]).

(71) The Belgian State also strongly objected to the language that the Commission used in the Opening Decision, and in particular to the terms 'capital instruments' and 'risk capital' used in recital 62 and footnote 35 respectively.

(72) In order to show the necessity of the cooperative guarantee scheme, the Belgian State also provided the Commission with letters from the Financial Stability Board and from the Governor of the NBB to the then Minister of Finance dated respectively 29 October 2008 ([53]) and 7 October 2011 ([54]).

(73) When commenting on the compatibility of the measure, the Belgian State refers to the Commission's decision on Ethias. According to the Belgian State, the Commission accepted measures in favour of Ethias, including the extension of the deposit guarantee scheme to 'branch 21' products, as appropriate and necessary to prevent a serious disturbance to the Belgian economy.

(74) Second, the Belgian State reiterated its view that the measure is proportionate. The financial cooperatives share the burden, inter alia, through their contributions to the Special Protection Fund. The Belgian State considered the level of remuneration for the guarantee to be reasonable and similar to the contributions for guarantee schemes of other protected institutions. The Belgian State disagreed that the voluntary character of the cooperative guarantee scheme could make the measure disproportionate.

([51]) The Belgian State refers for instance to the Irish Deposit Guarantee Scheme, which also covers deposits beyond the EUR 100 000 threshold, to the Danish Guarantee Fund for Depositors and Investors, which according to the Belgian State fully covers pensions accounts, lawyers' clients' accounts and deposits of the purchase price for real property up to nine months after the deposit has been made, and to the Cypriot Cooperative Societies' Supervision and Development Authority, which — according to the Belgian State — protects permanent deposits for the members of the Cooperative Savings Societies.

([52]) The Belgian State explained that ARCO has 800 000 individual shareholders, Cera over 400 000, Lanbokas/Agricaisse 150 000 and ArgenCo almost 70 000.

([53]) See also recital 11.

([54]) See also recital 13.

(75) The Belgian State submitted that if the Commission were to conclude that the measure is State aid, it should conclude that the measure was compatible liquidation aid. The Belgian State recalled that the Royal Decree of 7 November 2011 clearly provides that any payment by the Special Protection Fund in case of liquidation of any relevant cooperative would take place only after the issuance and the approval of the final order of the liquidation.

(76) The Belgian State also defended the viewpoint that, because natural persons were not undertakings, the Commission's suspension injunction did not cover the payment of individuals after the liquidation of ARCO.

(77) In a letter to the Commission dated 18 March 2014, which was after the time limit, Belgium made some further comments.

(78) It argued that the Commission could not prohibit the payment of guarantees to individual shareholders. The Commission could not oblige Belgium to suspend any payments under the cooperative guarantee scheme nor could it recover the payments made under the scheme to individual shareholders.

(79) Shareholders who were natural persons were not undertakings within the meaning of Article 107(1) of the Treaty and the payment of the guarantee to individual shareholders would have no impact on ARCO or the likelihood of the Belgian State recovering the aid received by these undertakings.

4. **ASSESSMENT OF THE MEASURE**

4.1. **Beneficiary of the measure**

(80) First as a preliminary observation, the Commission recalls that in recital 18 of the Opening Decision, it argued that the cooperative guarantee scheme benefitted financial cooperatives. However, a careful analysis of the chronology and the characteristics of the measure revealed that ARCO was the only real beneficiary from the measure as will be described in this section.

(81) In the case at hand, the Commission observes that there is an important difference between ARCO and the other financial cooperatives which were potentially eligible to participate in the cooperative guarantee scheme.

(82) From the description of the facts ([55]), it is clear that the cooperative guarantee scheme was from the beginning tailor-made for ARCO, which had run into trouble because of its investments in Dexia. ARCO was ultimately the only financial cooperative that applied to participate in the measure.

(83) In relation to the other financial cooperatives, the Commission notes that the cooperative guarantee scheme is a voluntary scheme, that the Council of Ministers had discretion over whether and if so on what conditions to admit an applicant financial cooperative to the cooperative guarantee scheme, that none of the other financial cooperatives applied to join the cooperative guarantee scheme and that some of them actively distanced themselves from it. The Commission also observes that no other financial cooperative had problems with its investments to the same extent as ARCO had with Dexia.

(84) Therefore, the Commission concludes that the only real beneficiary with economic activities from the cooperative guarantee scheme is ARCO.

([55]) See in particular the account given by the then Minister of Finance to the Dexia Commission described in recital 8 and footnote 6. See also the current Finance Minister's statements published in the magazine Trends and quoted in footnote 7.

4.2. **Announcement and implementation of the measure form one single intervention**

(85) The Commission observes that the measure was decided and announced by the government on 10 October 2008 ([56]). It is clear that the Belgian government had made the decision to offer ARCO the benefit of a cooperative guarantee scheme at the same time as the measure in favour of Dexia was designed in 2008 ([57]). Another press release of 21 January 2009 further detailed the measure and after that the legal transposition of the government's commitment began.

(86) The Commission takes note of the binding and unambiguous language in the press releases of 10 October 2008 and 21 January 2009, which used terms such as 'décidé' and 'l'engagement', thus creating a legitimate expectation as to their fulfilment.

(87) The press releases were also sent out via the official channels: the press release of 10 October 2008 was sent out by the services of the Minister of Finance, while the press release of 10 January 2009 was sent on behalf of the Prime Minister and the Minister of Finance. The repeated nature of the press communication strengthened the underlying message.

(88) The Commission notes that it was clear already at the time of the press release of 10 October 2008 that the cooperative guarantee scheme would be designed as an extension of the deposit guarantee scheme. The press release of 21 January 2009 contains further technical details. As soon as the press release of 21 January 2009 was published, ARCO put it on its website. The latter step was clearly taken with a view to reassuring its individual shareholders. Moreover the Commission notes the consistency of the measure over time given that the measure has not materially changed between the initial announcement on 10 October 2008 and the final Royal Decree.

(89) In its judgment of 19 March 2013 in Joined Cases C-399/10 P and C-401/10 P ([58]) the Court of Justice held that the announcement of a measure and the effective implementation can be analysed as one single intervention, if to do so is justified by the chronology and purpose of the announcement and the implementation and by the circumstances of the undertaking at the time of such intervention. In a similar manner, in the case of this measure the Belgian State decided and announced a measure on 10 October 2008, which was later implemented for the same purpose in respect of the originally intended beneficiary. Moreover, in its own decisions, the Commission has considered an announcement and an implementation to be one measure and considered an advantage to have been created as of the date of the announcement ([59]). Indeed, the current Belgian Minister of Finance qualified the measure in question as a commitment made in 2008 ([60]).

(90) Based on the information in recitals 85 to 89, the Commission concludes that the announcement and the implementation of the cooperative guarantee scheme have to be dealt with as a single measure.

([56]) As was also confirmed by the account given by the then Minister of Finance to the Dexia Commission described in recital 8 and in footnote 6.

([57]) '*En même temps*' in the declarations of the then Minister of Finance to the Dexia Commission quoted in footnote 6.

([58]) See Joined Cases C-399/10 P and C-401/10 P *Bouygues SA and Bouygues Télécom SA* v *European Commission and Others* [2013] ECR I-0000.

([59]) See for instance recital 48 of Commission Decision of 30 March 2010 in case NN11/10 on Capital support measures in relation to Irish Nationwide Building Society (OJ C 60, 25.2.2011, p. 6), '*The Commission furthermore observes that the aid was effectively granted on 22 December 2009 on the basis of the indication by the Minister for Finance of his intention to recapitalise INBS*'; recital 41 of Commission Decision of 10 August 2010 in case NN 35/10 on Third recapitalisation in favour of Anglo Irish Bank (OJ C 290, 27.10.2010, p. 4): '*The Commission furthermore observes that the recapitalisation was effectively granted on 30 June 2010, on the basis of the indication by the Minister for Finance to recapitalise Anglo*', recitals 49 and 50 of the Commission Decision of 27 July 2012 in case SA.34824 on HFSF Recapitalisation commitment to National Bank of Greece (OJ C 359, 21.11.2012, p. 18) '*The bridge recapitalisation finalised on 28 May 2012 is the implementation of the obligation undertaken in the commitment letter and thus a continuation of the same aid*'.Similar reasoning was also made in other Greek bank cases, HFSF Recapitalisation commitment to Alpha Bank SA.34823 (OJ C 357, 20.11.2012, p. 36); HFSF Recapitalisation commitment to Eurobank SA.34825 (OJ C 359, 21.11.2012, p. 31), and HFSF Recapitalisation commitment to Piraeus Bank SA.34826 (OJ C 359, 21.11.2012, p. 43).

([60]) See footnote 7.

4.3. **Existence of aid**

(91) As stated in Article 107(1) of the Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Members States, be incompatible with the internal market, save as otherwise provided in the Treaty.

(92) Both the Belgian State and ARCO argue that the Commission should analyse whether ARCO received State aid by basing itself on another decision of the Commission, namely that on Ethias ([61]). However, State aid is an objective concept which is defined in the Treaty. In order to be classified as State aid, a measure has to meet the following four (cumulative) State aid criteria: the measure (i) should be granted by the State or through State resources; (ii) should provide a selective advantage to the aid beneficiary; (iii) should (potentially) distort competition; and (iv) should affect trade between Member States.

(93) The Commission is obliged to evaluate those four criteria and will do so in recitals 94 to 110.

State resources

(94) The Commission has to assess whether the cooperative guarantee scheme is financed through State resources and is imputable to the State.

(95) According to settled case law ([62]), all financial means by which the public sector may actually support undertakings, irrespective of whether or not those means are permanent assets of the public sector, fall under Article 107(1) of the Treaty, provided that they constantly remain under public control, and remain therefore available to the competent national State.

(96) In particular, State aid is involved when funds come from contributions imposed by State legislation and when those funds are managed and apportioned in accordance with provisions of that legislation, even if they are administered by institutions separate from the State. The status of the body or undertaking granting the aid in question is not regarded as a determining factor for the application of State aid rules.

(97) As regards the organisation of the cooperative guarantee scheme, the Commission observes that Belgian legislation determines the contributions that participants have to pay and that Belgian legislation also determines how those funds will be used. Therefore, the funds of the Special Protection Fund are considered to be State resources even if they originally stemmed from private sources.

(98) Moreover, if it is necessary for the Deposit and Consignment Office to do so that governmental body will advance the funds required to finance pay-outs that the Special Protection Fund is supposed to make. That aspect of the cooperative guarantee scheme creates in any event a sufficiently concrete economic risk of burdens on the budget of the Member State for State resources to be present for the purposes of Article 107(1) of the Treaty ([63]).

(99) As regards the imputability of the measure to the Belgian State, it is clear that the cooperative guarantee scheme cannot be seen as a transposition of the DGS Directive. The DGS Directive only obliges Member States to introduce a deposit guarantee scheme for deposits of credit institutions and Article 2 of that Directive explicitly provides that all instruments that fall within the definition of own funds of credit institutions are excluded from repayment by deposit guarantee schemes. If a Member State decides to establish other repayment schemes guaranteeing other financial products, such a decision does not stem from Union law but is an initiative from the

([61]) As described in recitals 56 and 63.
([62]) See Case C-262/12 *Vent de Colère* [2013] ECR I-0000, paragraph 21, and Case T-358/94 *Air France* v *Commission* [1996] ECR II-2109, paragraphs 63 to 69.
([63]) See Case C-279/08 P *Commission* v *Netherlands* [2011] ECR I-7671, paragraph 111.

Member State itself ([64]). The Commission also observes that the Belgian State refers to the Investor Compensation Scheme but that comparison is irrelevant since investor compensation schemes are not designed to cover investment risk. As explained already in recital 21, investor compensation schemes are merely designed for cases where an investor firm is unable to return assets belonging to an investor for instance because of fraud or because of problems with the firm's systems.

Selective advantage

(100) The Commission concludes that the cooperative guarantee scheme has created a benefit for ARCO. The Court of Justice has accepted that undertakings can obtain an advantage in the form of improved access to capital in circumstances in which a measure taken by a Member State in favour of investors increases the latter's willingness to place their money in a particular set of investment targets ([65]). In the case of the measure, it has helped the entities in the ARCO Group to maintain their existing capital, convincing existing cooperative shareholders not to withdraw from those financial cooperatives ([66]), which was a particularly important advantage in the nervous market situation which characterised the period immediately following the bankruptcy of Lehman Brothers. On 21 January 2009, ARCO put a press release from the Belgian government on its website to reassure its shareholders, which clearly shows that being able to reassure investors was a major advantage for ARCO. In that regard, the Commission observes that the ARCOPAR prospectus issued in summer 2008 ([67]) had referred to the risk of individual shareholders leaving the financial cooperative ([68]) ([69]).

(101) The measure is also clearly selective. In the first place, it only applies to holders of financial cooperative shares and not to persons holding investment products issued by competing undertakings. Thus financial players which offered conservative bond or money market funds or capital-guaranteed mutual funds could not offer their clients a similar guarantee. The Belgian State argues that individual shares of financial cooperatives are in essence similar to deposits ([70]). However, a number of the elements which the Belgian State invoked refer to cooperatives in general not to financial cooperatives. In addition, the description of financial cooperative shares offered by the Belgian State does not contain references to relevant information, such as the risks of investing in those instruments ([71]), which are not characteristic of deposits.

(102) The selective nature of the measure can also be seen when the treatment of financial cooperatives is compared to other recognised cooperatives that are non-financial. The Belgian State relied on *Paint Graphos* to plead in favour of special treatment for individual shareholders of financial cooperatives. *Paint Graphos* was a preliminary ruling on an order for reference from an Italian court which wished to know whether tax benefits enjoyed by producers' and workers' cooperatives could be classified as State aid within the meaning of Article 107(1) of the Treaty. In its judgment, the Court concluded that the tax advantage had to be evaluated against the four cumulative State aid criteria and gave more detailed guidance in particular on how to evaluate whether such a tax benefit represents a selective advantage ([72]). The Court held that it should be determined (i) whether such a tax benefit could be justified by the inherent characteristics of the tax system ([73]), (ii) whether there were appropriate control and monitoring procedures in place ([74]) and (iii) whether the tax benefit was proportional and did not go beyond the minimum necessary ([75]).

([64]) See, in that regard, Case C-460/07 *Puffer* [2009] ECR I-3251, paragraphs 69 to 71, and Case T-351/02 *Deutsche Bahn* v *Commission* [2006] ECR II-1047, paragraphs 99 to 104.
([65]) Case C-156/98 *Germany* v *Commission* [2000] ECR I-6857, paragraphs 26 and 27; and Case C-382/99 *Netherlands* v *Commission* [2002] ECR I-5163, paragraphs 38 and 60 to 66. See also Case T-445/05 *Associazione italiana del risparmio gestito and Fineco Asset Management* v *Commission* [2009] ECR II-289, paragraph 131.
([66]) See also the current Belgian Finance Minister's statements published in the magazine Trends and quoted in footnote 7.
([67]) See footnote 39.
([68]) See recital 44.
([69]) Additionally, ARCO derived an advantage from the measure inasmuch as it could have used the cooperative guarantee scheme to attract new capital, even though the Commission acknowledges that ARCO since 10 October 2008 has not made use of that possibility. By contrast, while other financial cooperatives like ArgenCo and Lanbokas/Agricaisse did raise new capital, they explicitly distanced themselves from the cooperative guarantee scheme as described in footnote 12.
([70]) See recital 60, describing what the Belgian State considers to be the key characteristics of individual shares of financial cooperatives.
([71]) Recital 44 in particular shows that ARCO shareholders own a leveraged investment in assets, which are characterised by a high single-name risk (i.e. Dexia).
([72]) See paragraphs 48 to 76 of the judgment.
([73]) Paragraphs 67 to 73 of the judgment.
([74]) Paragraph 74 of the judgment.
([75]) Paragraphs 75 to 76 of the judgment.

(103) The Commission considers that the argument of the Belgian State cannot succeed because the nature of the advantage conferred by the measure is qualitatively different from that which was examined by the Court in *Paint Graphos*. The measure put in place by Belgium involves the creation of a positive benefit and not relief from a fiscal burden or from an obligation to pay a charge. As such, the standard three-part analysis which the Union courts have endorsed when examining whether a fiscal advantage or exemption from a levy is selective cannot be applied to the measure.

(104) In any event, even if the *Paint Graphos* analysis could be applied to the measure, the latter's specific features are such that its selective nature would remain.

(105) First the Commission observes that *Paint Graphos* refers to all producers' and workers' cooperatives, not to a relatively small subsector such as financial cooperatives. If, as Belgium claims, there should be special treatment for 'genuine' cooperatives, that special treatment should apply to all recognised cooperatives. The limited focus of the measure on financial cooperatives only is therefore sufficient in itself to establish the selective nature of the measure.

(106) Second, the Commission observes that in the view of the Belgian State, financial cooperatives seemed to deserve additional privileges as of 10 October 2008. The Commission observes that prior to that date recognised cooperatives got a form of favourable treatment as a result of their special status in the form of a withholding tax exemption ([76]). The Commission does not take a view in the present Decision on whether that tax advantage is proportionate but it believes that there was no reason to introduce suddenly on 10 October 2008 additional compensation for, or protection of, companies which have the status of financial cooperatives.

(107) Finally, even if the Commission were to enter into a *Paint Graphos* analysis as proposed by Belgium, it believes that there is no justification for providing a 100 % guarantee to individual shareholders of ARCO (i.e. part (i) of the *Paint Graphos* analysis), whose entities were limited liability companies. Because of the nature of such companies as determined by Belgium's general rules on company law, individual shareholders of ARCO should have been aware that they could lose their entire capital in case of a liquidation ([77]). Moreover, protecting 100 % of all capital subscribed by the individual shareholders of financial cooperatives is not a proportionate measure (part (iii) of the *Paint Graphos* analysis) as those shareholders would be shielded from any risk, which would create an undue advantage for the undertakings of which they are shareholders ([78]).

Distortions of competition and effect on trade between Member States

(108) The cooperative guarantee scheme provides financial cooperatives with an advantage that other players offering retail investment products and other non-financial recognised cooperatives do not have. Thanks to the measure ARCO has been able to preserve market share for a longer period of time. ARCO did not suffer from capital outflows, or they only occurred later and at a lower level than would have been the case in the absence of the measure. As a result, capital that would otherwise have been available for investment did not become available to those other players, which had to compete on their merits and could not rely on the cooperative guarantee scheme. Therefore, the cooperative guarantee scheme distorts competition ([79]).

(109) Where a Member State grants aid to an undertaking, internal activity may be maintained or increased as a result, so that the opportunities for undertakings established in other Member States to (further) penetrate the market are thereby reduced ([80]). As there are many international providers of investment products active on the Belgian market, the measure most definitely has an effect on Union-wide trade.

([76]) See recital 26.
([77]) See the summary in recital 44 of the risk factors described in relation to the prospectus for ARCOPAR shares issued in the summer of 2008.
([78]) As the analysis in recital 107 suffices to show that the cooperative guarantee scheme does not meet the criteria described in *Paint Graphos*, the Commission does not have to pronounce in this Decision on the question as to whether there are appropriate control and monitoring procedures in place to prevent economic entities from choosing and changing their particular legal form for the sole purpose of taking advantage of certain benefits for that kind of undertaking (part (ii) of the *Paint Graphos* analysis).
([79]) See, for a similar analysis, the findings of the Court in Case C-156/98 *Germany* v *Commission* [2000] ECR I-6857 at paragraphs 29 to 31.
([80]) See Case C-197/11 *Libert and others* [2013] ECR I-0000, paragraphs 76 to 79.

Conclusion

(110) Based on the analysis made in recitals 91 to 109, the Commission, concludes that the cooperative guarantee scheme involves State resources, represents a selective advantage to ARCO, distorts competition and affects intra-Union trade and therefore meets all the State aid criteria. All of those elements were in place at the latest when the Royal Decree of 10 October 2011 was adopted but the advantage created by the measure was already in existence as from the announcement by the Belgian authorities on 10 October 2008 that such a measure would be created. The entire amount of the advantage must be taken into account in examining the compatibility of the aid and, if necessary, recovery from its beneficiaries.

4.4. **Compatibility of aid**

(111) After having established that the cooperative guarantee scheme is State aid within the meaning of Article 107(1) of the Treaty, the Commission must establish if that aid could be found compatible with the internal market.

(112) Article 107(1) of the Treaty provides that State aid shall be incompatible with the internal market and therefore be prohibited, save as otherwise provided in the Treaty. Paragraphs (2) and (3) of Article 107 of the Treaty subsequently define two categories of compatible aid.

(113) First, Article 107(2) of the Treaty lists categories of State aid that are automatically exempted from the prohibition principle, but the cooperative guarantee scheme does not fall within any of those categories.

(114) Second, Article 107(3) of the Treaty covers several categories of aid that may be considered compatible with the internal market. In theory, subparagraphs (b) or (c) of Article 107(3) of the Treaty could apply.

(115) With respect to Article 107(3)(c) of the Treaty, the Commission has explained in guidelines how it will apply the exemption laid down in that provision to certain types of aid. The Commission observes, however, that the measure does not correspond to any of the types of aid covered by those guidelines. Moreover, neither Belgium nor ARCO have given any indication of an objective of common interest for the purposes of that provision. As such, the Commission should examine the possible compatibility of the measure only on the basis of Article 107(3)(b) of the Treaty.

(116) With respect to Article 107(3)(b) of the Treaty, the Commission observes that the Belgian State argues that, if the Commission concludes that the cooperative guarantee scheme involves State aid, the measure should be evaluated under Article 107(3)(b) of the Treaty. That provision allows aid to be declared compatible with the internal market if the aid is needed to remedy a serious disturbance of the economy of a Member State.

(117) However, Article 107(3)(b) of the Treaty necessitates a restrictive interpretation of what can be considered a serious disturbance of a Member State's economy. The disturbance in question must affect the whole of the economy of a Member State and not merely the economy of one of its regions or areas of territory ([81]).

(118) When the financial crisis reached its first culmination point in the autumn of 2008, the Commission decided in the 2008 Banking Communication that Article 107(3)(b) of the Treaty would become available to evaluate State aid measures undertaken to address the problems of financial institutions ([82]).

([81]) See Joined Cases T-132/96 and T-143/96 *Freistaat Sachsen, Volkswagen AG and Volkswagen Sachen GmbH* v *Commission* [1999] ECR II-3663, paragraph 167.

([82]) At the same time, point (11) of the 2008 Banking Communication added that the use of Article 107(3)(b) of the Treaty should not be generalised beyond the financial sector at that time.

(119) Outside the financial sector, the Commission also developed under Article 107(3)(b) of the Treaty the temporary Union framework for State aid measures to support access to finance in the current financial and economic crisis ('Temporary Framework') ([83]). However, that framework does not apply to the measure. Instead it aims at the real economy by enabling Member States to take suitable measures to improve access to finance for undertakings willing to invest during the financial crisis in a period when bank financing became scarcer. The problems of ARCO are not related to a lack of banking financing but to assets (i.e. Dexia shares) whose valuation had to be adjusted downward. Moreover, the cooperative guarantee scheme — which guarantees 100 % of a liability instrument — is not covered by any of the aid categories discussed in that framework under heading 4.3.

(120) As financial cooperatives are not financial institutions for the purposes of the 2008 Banking Communication ([84]), the aid will have to be evaluated directly under the Treaty. To comply with the general criteria for compatibility under Article 107(3) of the Treaty, the measure has to comply with the following conditions ([85]):

(a) *Appropriateness*: The aid has to be well targeted in order to be able to effectively achieve the objective of remedying a serious disturbance in the economy. It would not be the case if the measure were not appropriate to remedy the disturbance.

(b) *Necessity*: The aid measure must, in its amount and form, be necessary to achieve the objective. Thus, it must be of the minimum amount necessary to reach the objective, and take the most appropriate form to remedy the disturbance.

(c) *Proportionality*: The positive effects of the measure must be properly balanced against the distortions of competition, in order for the distortions to be limited to the minimum necessary to reach the measure's objectives.

(121) As to whether the measure is appropriate, the Commission observes that the impact of financial cooperatives on the broader economy is fundamentally different from that of traditional banks, which are exposed to 'bank runs'. If all holders of bank deposits were to decide to withdraw their money at the same time, a bank would be obliged to divest all its illiquid assets over a short period of time (thus triggering 'fire sales'), which would have grave consequences for lending to the real economy and might also create a downward spiral of asset prices. Financial cooperatives however do not lend to the real economy. They also have a statutory right to limit exits ([86]) so that any unorderly divestment of assets can in principle be avoided. That latter element highlights an important difference as regards systemic effects between deposits and cooperative shareholdings.

(122) It is also clear that from a legal standpoint shareholders of financial cooperatives are shareholders of a limited liability company. As a consequence of that status individual shareholders of financial cooperatives are legally exposed to the possibility of losing part or all of their initial capital outlay. In that regard, the Commission also takes note of the fact that the Governor of the NBB did not confirm that shares of financial cooperatives were similar to savings deposits in a credit institution ([87]).

(123) The Commission also observes that individual shareholders of financial cooperatives have a very different position in the 'waterfall structure' ([88]) in the event of liquidation or bankruptcy of those entities than is occupied by a holder of a savings deposit in a credit institution. Credit institutions are regulated entities for which the regulator ensures that there is a certain amount of capital available. That capital constitutes a first cushion in case of liquidation or bankruptcy. Shareholders of financial cooperatives however enjoy no such protection. In case of a liquidation or bankruptcy they are first in line to take a hit.

(124) Based on the arguments developed in recitals 121 to 123 the Commission concludes that the cooperative guarantee scheme merely protects financial cooperatives and their individual shareholders from the consequences of their past investments. However, it is not an appropriate measure to avoid a serious disturbance of the Belgian economy.

([83]) OJ C 83, 7.4.2009, p. 1.
([84]) Activities of financial institutions are for instance those listed in Annex I of the Directive 2006/48/EC of the European Parliament and of the Council (OJ L 177, 30.6.2006, p. 1).
([85]) See Case 730/79 *Philip Morris* [1980] ECR 2671.
([86]) See recital 41.
([87]) As indicated in recital 13.
([88]) When a company goes bankrupt, liability holders lose their exposure according to their seniority in the liability structure. That process is called the 'waterfall structure'.

(125) As to whether the measure is necessary, the Commission recalls that the Belgian State had already taken significant measures to prevent a disturbance in its economy. It had already put in place other measures to stabilise the Belgian financial system and in particular the banks and other financial institutions in which financial cooperatives were investing. The Belgian Deposit Guarantee Scheme protected deposits up to a limit of EUR 100 000 and the Belgian State helped Fortis, KBC, Dexia and Ethias with recapitalisation, liquidity measures, impaired asset measures and ad hoc measures. The Commission concludes that it was not necessary to protect some individual shareholders in the case of financial cooperatives, which ultimately are limited liability companies.

(126) As regards the letter of the Governor of the NBB to which the Belgian State referred, the Commission notes that it dates back to October 2011, long after 10 October 2008 when the measure was announced. Moreover the language of the letter does not say that the measure is necessary to avoid a serious disturbance of the Belgian economy. It merely says that the measure would allow ([89]) the negative effects of the (systemic) crisis to be limited. As regards the letter of the Financial Stability Board, the Commission observes that it merely discusses the increased coverage of the deposit guarantee scheme and the introduction of the guarantee scheme of 'branch 21' insurance products.

(127) As to whether the measure is proportionate, the Commission observes that the design of the measure does not sufficiently guard against adverse selection ([90]). The voluntary nature of the cooperative guarantee scheme in combination with the apparent lack of a viability test creates an incentive to enter only once it is clear that the guarantee will be triggered. In such a scenario, the beneficiary can use the guarantee while avoiding to a large extent a payment of guarantee fees until the very last moment before liquidation.

(128) The Commission also believes that the cooperative guarantee scheme creates undue distortions of the normal functioning of the market. The measure has allowed ARCO to protect its market position on the market for retail financial products and as a result competitors which could not rely on the cooperative guarantee scheme have or could have experienced a negative impact on their market share and profitability.

(129) In conclusion, the measure cannot be considered compatible with the internal market because it is neither appropriate nor necessary nor proportionate for the purposes of Article 107(3)(b) of the Treaty and it does not come within the scope of any other provision governing compatibility of State aid.

4.5. **Calculation of the aid**

(130) As regards the calculation of the advantage to be recovered from ARCO, the Commission takes into consideration the following parameters and facts ([91]):

— the maximum amount of capital outflow as per ARCO's articles of association, which is limited to 10 % of the total capital or to 10 % of its shareholders' base ([92]),

— the fact that only individual shareholders are covered by the cooperative guarantee scheme,

— the specific design of the cooperative guarantee scheme, which on the one hand was voluntary, leaving to the financial cooperatives the choice to participate or not, while on the other hand allowing even financial cooperatives in high risk of bankruptcy or liquidation to apply for the scheme (as happened when, on 8 December 2011, shortly after they were admitted to the scheme, the General Meetings of ARCOFIN, ARCOPAR and ARCOPLUS approved the proposals of their executive boards to go into voluntary liquidation,

([89]) The Commission notes that the letter indeed uses the conditional form 'permettrait' and not the more assertive future form 'permettra'.
([90]) See also the comments in the letter of the Governor of the NBB in recital 13.
([91]) For the sake of simplicity, the Commission has developed a one-period model, which assumes that individual shareholders can only exit in that one period. That is a conservative assumption.
([92]) See footnote 40.

— the fact that, long before it went into liquidation, ARCO was already in an unsound financial situation, as it had — as described in recitals 38, 44 and 82 — heavily invested in shares of Dexia, a bank that in the autumn of 2008 had to be rescued from bankruptcy by the Belgian, French and Luxembourg governments, with the result that any significant drop in the value of Dexia shares was still detrimental to the financial position of ARCO, in particular because ARCO had leveraged its participation in the rescue of Dexia by taking on debt,

— and the fact that in 2011 ARCO paid the entry fee and the annual guarantee premium.

(131) The advantage that ARCO obtained was a protection from capital outflows which ARCO could otherwise only have stopped by applying the provisions of its Articles of Association once it had either lost 10 % ([93]) of its capital or 10 % of its shareholder base. Outflows of such magnitude were likely to happen as soon as ARCO would have either objectively entered into a situation of over-indebtedness, bankruptcy proceedings, or liquidation proceedings, or — more subjectively as in some other cases of bank-runs ([94]) — as soon as its shareholders would have perceived ARCO to be no longer a safe investment, for example because of its heavy exposure to the financial situation and market value of Dexia.

(132) The Commission takes a conservative ([95]) approach in calculating the advantage that ARCO obtained, taking into account the potential outflow of just one annual period instead of multiple periods. By proceeding on that basis, the calculation should capture the minimum effect of the cooperative guarantee scheme, although in reality the guarantee may also have prevented ARCO from having had to cope several times with the maximum outflow of shareholders and capital. The Articles of Association allowed ARCO to stop an outflow of capital if either 10 % of capital or 10 % of the shareholder base had gone. For the purpose of calculating the aid amount, the Commission assumes that ARCO would have chosen the more effective alternative among those two options, namely the alternative which would have preserved the higher level of capital. With regard to the option that is linked to an outflow of the shareholder base, the Commission will refer to the lowest number of individual shareholders during the period when an advantage was created (starting from 10 October 2008) which is another conservative assumption, and attribute to those shareholders the average share of capital of that year. With regard to the option linked to the outflow of capital the Commission will also refer to the year with the lowest amount of capital.

(133) The Commission also takes into account that the advantage of the measure was partially diminished by the fact that ARCO, as constituted by the three legal entities ARCOPAR, ARCOFIN and ARCOPLUS, had to pay a one-off entry fee and a guarantee fee for one year, even though those payments only took place in the autumn of 2011, just before ARCO filed for liquidation.

(134) The advantage obtained by the measure is hence the lower amount resulting from the following two calculations: (a) 10 % of the capital of the year with the lowest capital in the period from 10 October 2008 until 8 December 2011 minus the total amount of fees already paid; and (b) 10 % of the lowest number of shareholders in the period of 10 October 2008 until 8 December 2011 multiplied by the average share of capital per shareholder of the same year minus the total amount of fees already paid.

(135) In absolute terms, the likelihood of investors withdrawing capital grows over time, making it more difficult to calculate the interest that has to be paid for the advantage received. In order to allow the entirety of the advantage obtained by ARCO to be eliminated while at the same time allowing the Member State to have a workable method by which the recovery interest can be calculated ([96]), the Commission considers that the entirety of the advantage was fully available at least as of 8 December 2011, and requests that the sums to be recovered bear interest from 8 December 2011 until their actual recovery.

(136) In order to be able to verify the aid calculations, the Commission requests Belgium to provide the Commission with a list of the numbers of shareholders of ARCOPAR, ARCOFIN and ARCOPLUS respectively for the period from 10 October 2008 until 8 December 2011, as registered at the end of each year.

([93]) The Commission observes that if the other shareholders of ARCO would not withdraw their money, individual shareholders would be able to withdraw a larger percentage. However, in order to take a conservative approach, the Commission for the purpose of these calculations has used a figure of 10 %.

([94]) For a typical case of a bank that suffered a bank run in the context of the recent financial crisis compare the case of Northern Rock (OJ C 149, 1.7.2009, p. 16).

([95]) i.e. it potentially underestimates the advantage.

([96]) See Case C-403/10 P *Mediaset* v *Commission* [2011] ECR I-117* Summ.pub., paragraphs 126 and 127, and the case-law cited there.

(137) In their additional comments submitted more than a year and a half after the deadline for submitting comments on the decision to open the procedure, the Belgian authorities did not provide any new information on the substance of the case. They claim that the Commission may not prohibit the payment of guarantees granted to individual shareholders, may not require the State to suspend any payment under the cooperative guarantee scheme and may not recover payments made under that scheme to individual shareholders

(138) In support of their arguments the Belgian authorities noted that the individual shareholders were not undertakings within the meaning of Article 107(1) of the Treaty and considered that the payment of the guarantee to individual shareholders would have no impact on ARCO or the likelihood of the Belgian State recovering the aid.

(139) In reply the Commission pointed out that the sums to be recovered under this Decision were indeed aid to ARCO.

(140) The Commission further stated that the fact of finding that aid granted by a State was incompatible with the single market under Article 108(2) of the Treaty was sufficient to justify ordering the State to abolish that aid ([97]). The Belgian authorities therefore could not claim that the prohibition on paying a guarantee deemed to be incompatible aid was contrary to Union law.

(141) They were therefore obliged to comply with the order contained in the decision to open the procedure to suspend implementation of the measure in question, and therefore not make any payment.

(142) It is therefore also justified that Belgium should continue to abstain from making any payment under the aid measure.

Conclusion

(143) The Commission finds that the cooperative guarantee scheme constitutes State aid in favour of ARCOPAR, ARCOFIN and ARCOPLUS that Belgium has unlawfully implemented in breach of Article 108(3) of the Treaty on the Functioning of the European Union. The Belgian State should withdraw the legislation underlying the cooperative guarantee scheme (in particular the Law of 14 April 2009 and the Royal Decree of 10 October 2011) and should recover the advantage from ARCOPAR, ARCOFIN and ARCOPLUS,

HAS ADOPTED THIS DECISION:

Article 1

The guarantee scheme unlawfully adopted by Belgium for the financial cooperatives of ARCO, and in particular ARCOFIN, ARCOPLUS and ARCOPAR, in breach of Article 108(3) of the Treaty on the Functioning of the European Union is incompatible with the internal market.

Article 2

1. Belgium shall recover the incompatible aid referred to in Article 1 from the beneficiaries at the lower amount resulting from the following two calculations:

(a) 10 % of the capital of the year with the lowest capital in the period from 10 October 2008 until 8 December 2011 minus the total amount of fees already paid; or

(b) 10 % of the lowest number of shareholders in the period from 10 October 2008 until 8 December 2011 multiplied by the average share of capital per shareholder of the same year minus the total amount of fees already paid.

2. The sums to be recovered shall bear interest from 8 December 2011 until their actual recovery.

([97]) See the ECJ judgment of 11 November 2011 in Case T-384/08, *Elliniki Nafpigokataskevastiki et al* v. *Commission* (ECR II, page 380, paragraph 133).

3. The interest shall be calculated on a compound basis in accordance with Chapter V of Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty ([98]).

4. Belgium shall continue to refrain from making any payments under the scheme referred to in Article 1 with effect from the date of notification of this decision.

Article 3

1. Belgium shall terminate the aid measure referred to in Article 1 as the measure is incompatible with the internal market.

2. Recovery of the aid referred to in Article 1 shall be immediate and effective.

3. Belgium shall ensure that this decision is implemented within four months following the date of notification of this Decision.

Article 4

1. Within two months following notification of this Decision, Belgium shall submit the following information to the Commission:

(a) a detailed description of the measures already taken and planned to ensure compliance with this Decision;

(b) documents demonstrating that the beneficiary has been ordered to repay the aid.

2. Belgium shall keep the Commission informed of the progress of the national measures taken to implement this Decision until recovery of the aid referred to in Article 1 has been completed. It shall immediately submit, on simple request by the Commission, information on the measures already taken and planned to comply with this Decision. It shall also provide detailed information concerning the amounts of aid and recovery interest already recovered from the beneficiary.

Article 5

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 3 July 2014.

For the Commission
Joaquín ALMUNIA
Vice-President

([98]) OJ L 140, 30.4.2004, p. 1.

COMMISSION IMPLEMENTING DECISION

of 26 September 2014

establishing the best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for the production of pulp, paper and board

(notified under document C(2014) 6750)

(Text with EEA relevance)

(2014/687/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) ([1]), and in particular Article 13(5) thereof,

Whereas:

(1) Article 13(1) of Directive 2010/75/EU requires the Commission to organise an exchange of information on industrial emissions between it and Member States, the industries concerned and non-governmental organisations promoting environmental protection in order to facilitate the drawing up of best available techniques (BAT) reference documents as defined in Article 3(11) of that Directive.

(2) In accordance with Article 13(2) of Directive 2010/75/EU, the exchange of information is to address the performance of installations and techniques in terms of emissions, expressed as short- and long-term averages, where appropriate, and the associated reference conditions, consumption and nature of raw materials, water consumption, use of energy and generation of waste and the techniques used, associated monitoring, cross-media effects, economic and technical viability and developments therein and best available techniques and emerging techniques identified after considering the issues mentioned in points (a) and (b) of Article 13(2) of that Directive.

(3) 'BAT conclusions' as defined in Article 3(12) of Directive 2010/75/EU are the key element of BAT reference documents and lay down the conclusions on best available techniques, their description, information to assess their applicability, the emission levels associated with the best available techniques, associated monitoring, associated consumption levels and, where appropriate, relevant site remediation measures.

(4) In accordance with Article 14(3) of Directive 2010/75/EU, BAT conclusions are to be the reference for setting permit conditions for installations covered by Chapter II of that Directive.

(5) Article 15(3) of Directive 2010/75/EU requires the competent authority to set emission limit values that ensure that, under normal operating conditions, emissions do not exceed the emission levels associated with the best available techniques as laid down in the decisions on BAT conclusions referred to in Article 13(5) of Directive 2010/75/EU.

(6) Article 15(4) of Directive 2010/75/EU provides for derogations from the requirement laid down in Article 15(3) only where the costs associated with the achievement of the emission levels associated with the BAT disproportionately outweigh the environmental benefits due to the geographical location, the local environmental conditions or the technical characteristics of the installation concerned.

(7) Article 16(1) of Directive 2010/75/EU provides that the monitoring requirements in the permit referred to in point (c) of Article 14(1) of the Directive are to be based on the conclusions on monitoring as described in the BAT conclusions.

(8) In accordance with Article 21(3) of Directive 2010/75/EU, within 4 years of publication of decisions on BAT conclusions, the competent authority is to reconsider and, if necessary, update all the permit conditions and ensure that the installation complies with those permit conditions.

([1]) OJ L 334, 17.12.2010, p. 17.

(9) Commission Decision of 16 May 2011 [1] establishes a forum, for the exchange of information pursuant to Article 13 of Directive 2010/75/EU on industrial emissions, which is composed of representatives of Member States, the industries concerned and non-governmental organisations promoting environmental protection.

(10) In accordance with Article 13(4) of Directive 2010/75/EU, the Commission obtained the opinion of that forum on the proposed content of the BAT reference document for the production of pulp, paper and board on 20 September 2013 and made it publicly available [2].

(11) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 75(1) of Directive 2010/75/EU,

HAS ADOPTED THIS DECISION:

Article 1

The BAT conclusions for the production of pulp, paper and board are set out in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 26 September 2014.

For the Commission
Janez POTOČNIK
Member of the Commission

[1] OJ C 146, 17.5.2011, p. 3.
[2] https://circabc.europa.eu/w/browse/6516b21a-7f84-4532-b0e1-52d411bd0309

ANNEX

BAT CONCLUSIONS FOR THE PRODUCTION OF PULP, PAPER AND BOARD

SCOPE

These BAT conclusions concern the activities specified in Sections 6.1.(a) and 6.1.(b) of Annex I to Directive 2010/75/EU, i.e. the integrated and non-integrated production in industrial installations of:

(a) pulp from timber or other fibrous materials;

(b) paper or cardboard with a production capacity exceeding 20 tonnes per day.

In particular, these BAT conclusions cover the following processes and activities:

(i) chemical pulping:

  (a) kraft (sulphate) pulping process

  (b) sulphite pulping process

(ii) mechanical and chemimechanical pulping

(iii) processing paper for recycling with and without deinking

(iv) papermaking and related processes

(v) all recovery boilers and lime kilns operated in pulp and paper mills

These BAT conclusions do not address the following activities:

(i) production of pulp from non-wood fibrous raw material (e.g. yearly plant pulp);

(ii) stationary internal combustion engines;

(iii) combustion plants for steam and power generation other than recovery boilers;

(iv) dryers with internal burners for paper machines and coaters.

Other reference documents which are relevant for the activities covered by these BAT conclusions are the following:

Reference documents	Activity
Industrial Cooling Systems (ICS)	Industrial cooling systems, e.g. cooling towers, plate heat exchangers
Economics and Cross-Media Effects (ECM)	Economics and cross-media effects of techniques

Reference documents	Activity
Emissions from Storage (EFS)	Emissions from tanks, pipework and stored chemicals
Energy Efficiency (ENE)	General energy efficiency
Large Combustion Plants (LCP)	Generation of steam and electricity in pulp and paper mills by combustion plants
General Principles of Monitoring (MON)	Emissions monitoring
Waste Incineration (WI)	On-site incineration and co-incineration of waste
Waste Treatments Industries (WT)	Preparation of waste as fuels

GENERAL CONSIDERATIONS

The techniques listed and described in these BAT conclusions are neither prescriptive nor exhaustive. Other techniques may be used that ensure at least an equivalent level of environmental protection.

Unless otherwise stated, the BAT conclusions are generally applicable.

EMISSION LEVELS ASSOCIATED WITH BAT

Where emission levels associated with the best available techniques (BAT-AELs) are given for the same averaging period in different units (e.g. as concentration and specific load values (that is per tonne of net production)), those different ways of expressing BAT-AELs are to be seen as equivalent alternatives.

For integrated and multi-product pulp and paper mills, the BAT-AELs defined for the individual processes (pulping, papermaking) and/or products need to be combined according to a mixing rule based on their additive shares of discharge.

AVERAGING PERIODS FOR EMISSIONS TO WATER

Unless stated otherwise, the averaging periods associated with the BAT-AELs for emissions to water are defined as follows.

Daily average	Average over a sampling period of 24 hours taken as a flow-proportional composite sample ([1]) or, provided that sufficient flow stability is demonstrated, from a time-proportional sample ([1])
Yearly average	Average of all daily averages taken within a year, weighted according to the daily production, and expressed as mass of emitted substances per unit of mass of products/materials generated or processed

([1]) In special cases, there may be a need to apply a different sampling procedure (e.g. grab sampling)

REFERENCE CONDITIONS FOR EMISSIONS TO AIR

The BAT-AELs for emissions to air refer to standard conditions: dry gas, temperature of 273,15 K, and pressure of 101,3 kPa. Where BAT-AELs are given as concentration values, the reference O_2 level (% by volume) is indicated.

Conversion to reference oxygen concentration

The formula for calculating the emissions concentration at a reference oxygen level is shown below.

$$E_R = \frac{21 - O_R}{21 - O_M} \times E_M$$

where:

E_R (mg/Nm³): emissions concentration referred to the reference oxygen level O_R

O_R (vol %): reference oxygen level

E_M (mg/Nm³): measured emissions concentration referred to the measured oxygen level O_M

O_M (vol %): measured oxygen level.

AVERAGING PERIODS FOR EMISSIONS TO AIR

Unless stated otherwise, the averaging periods associated with the BAT-AELs for emissions to air are defined as follows.

Daily average	Average over a period of 24 hours based on valid hourly averages from continuous measurement
Average over the sampling period	Average value of three consecutive measurements of at least 30 minutes each
Yearly average	In the case of continuous measurement: average of all valid hourly averages. In the case of periodic measurements: average of all 'averages over the sampling period' obtained during one year.

DEFINITIONS

For the purpose of these BAT conclusions, the following definitions apply:

Term used	Definition
New plant	A plant first permitted on the site of the installation following the publication of these BAT conclusions or a complete replacement of a plant on the existing foundations of the installation following the publication of these BAT conclusions.
Existing plant	A plant which is not a new plant.
Major refurbishment	A major change in design or technology of a plant/abatement system and with major adjustments or replacements of the process units and associated equipment.
New dust abatement system	A dust abatement system first operated on the site of the installation following the publication of these BAT conclusions.
Existing dust abatement system	A dust abatement system which is not a new dust abatement system.
Non-condensable odorous gases (NCG)	Non-condensable odorous gases, referring to malodorous gases of kraft pulping.
Concentrated non-condensable odorous gases (CNCG)	Concentrated non-condensable odorous gases (or 'strong odorous gases'): TRS-containing gases from cooking, evaporation and from stripping of condensates.

Term used	Definition
Strong odorous gases	Concentrated non-condensable odorous gases (CNCG).
Weak odorous gases	Diluted non-condensable odorous gases: TRS-containing gases which are not strong odorous gases (e.g. gases coming from tanks, washing filters, chip bins, lime mud filters, drying machines).
Residual weak gases	Weak gases that are emitted in ways other than through a recovery boiler, a lime kiln or a TRS-burner.
Continuous measurement	Measurements using an automated measuring system (AMS) permanently installed on site.
Periodic measurement	Determination of a measurand (particular quantity subject to measurement) at specified time intervals using manual or automated methods.
Diffuse emissions	Emissions arising from a direct (non-channelled) contact of volatile substances or dust with the environment under normal operating conditions.
Integrated production	Both pulp and paper/board are produced at the same site. The pulp is normally not dried before paper/board manufacture.
Non-integrated production	Either (a) production of market pulp (for sale) in mills that do not operate paper machines, or (b) production of paper/board using only pulp produced in other plants (market pulp).
Net production	(i) For paper mills: the unpacked, saleable production after the last slitter winder, i.e. before converting. (ii) For off-line coaters: production after coating. (iii) For tissue mills: saleable production after the tissue machine before any rewinding processes and excluding any core. (iv) For market pulp mills: production after packing (ADt). (v) For integrated mills: Net pulp, production refers to the production after packing (ADt) plus the pulp transferred to the paper mill (pulp calculated at 90 % dryness, i.e. air dry). Net paper production: same as (i)
Speciality paper mill	A mill producing numerous paper and board grades for special purposes (industrial and/or non-industrial) that are characterised by particular properties, relatively small end use market or niche applications that are often especially designed for a particular customer or end-user group. Examples of speciality papers include cigarette papers, filter papers, metallised paper, thermal paper, self-copy paper, sticking labels, cast coated paper, as well as gypsum liners and special papers for waxing, insulating, roofing, asphalting, and other specific applications or treatments. All of these grades fall outside of the standard paper categories.
Hardwood	Group of wood species including e.g. aspen, beech, birch and eucalyptus. The term hardwood is used as opposite to softwood.
Softwood	Wood from conifers including e.g. pine and spruce. The term softwood is used as opposite to hardwood.
Causticising	Process in the lime cycle in which hydroxide (white liquor) is regenerated by the reaction $Ca(OH)_2 + CO_3^{2-} \rightarrow CaCO_3\ (s) + 2\ OH^-$

ACRONYMS

Term used	Definition
ADt	Air Dry tonnes (of pulp) expressed as 90 % dryness.
AOX	Adsorbable organic halides measured according to the EN ISO: 9562 standard method for waste waters.
BOD	Biochemical oxygen demand. The quantity of dissolved oxygen required by microorganisms to decompose organic matter in waste water.
CMP	Chemimechanical pulp.
CTMP	Chemithermomechanical pulp.
COD	Chemical oxygen demand; the amount of chemically oxidisable organic matter in waste water (normally referring to analysis with dichromate oxidation).
DS	Dry solids, expressed as weight %.
DTPA	Diethlyene triamine pentaacetic acid (complexing/chelating agent used in peroxide bleaching).
ECF	Elemental Chlorine Free.
EDTA	Ethylene diamine tetraacetic acid (complexing/chelating agent).
H_2S	Hydrogen sulphide.
LWC	Light weight coated paper.
NO_X	The sum of nitrogen oxide (NO) and nitrogen dioxide (NO_2), expressed as NO_2.
NSSC	Neutral sulphite semi chemical.
RCF	Recycled fibres.
SO_2	Sulphur dioxide.
TCF	Totally Chlorine Free.
Total nitrogen (Tot-N)	Total nitrogen (Tot-N) given as N, includes organic nitrogen, free ammonia and ammonium (NH_4^+-N), nitrites (NO_2^--N) and nitrates (NO_3^--N).
Total phosphorus (Tot-P)	Total phosphorus (Tot-P) given as P, includes dissolved phosphorus plus any insoluble phosphorus carried over into the effluent in the form of precipitates or within microbes.
TMP	Thermomechanical pulp.
TOC	Total organic carbon.

Term used	Definition
TRS	Total reduced sulphur. The sum of the following reduced malodorous sulphur compounds generated in the pulping process: hydrogen sulphide, methyl mercaptan, dimethylsulphide and dimethyldisulphide, expressed as sulphur.
TSS	Total suspended solids (in waste water). Suspended solids consist of small fibre fragments, fillers, fines, non-settled biomass (agglomeration of microorganisms) and other small particles.
VOC	Volatile organic compounds as defined in Article 3(45) of Directive 2010/75/EU.

1.1. GENERAL BAT CONCLUSIONS FOR THE PULP AND PAPER INDUSTRY

The process specific BAT conclusions included in Sections 1.2 to 1.6 apply, in addition to the general BAT conclusions mentioned in this section.

1.1.1. **Environmental management system**

BAT 1. In order to improve the overall environmental performance of plants for the production of pulp, paper and board, BAT is to implement and adhere to an environmental management system (EMS) that incorporates all of the following features:

(a) commitment of the management, including senior management;

(b) definition of an environmental policy that includes the continuous improvement of the installation by the management;

(c) planning and establishing the necessary procedures, objectives and targets, in conjunction with financial planning and investment;

(d) implementation of procedures paying particular attention to:

  (i) structure and responsibility

  (ii) training, awareness and competence

  (iii) communication

  (iv) employee involvement

  (v) documentation

  (vi) efficient process control

  (vii) maintenance programmes

  (viii) emergency preparedness and response

  (ix) safeguarding compliance with environmental legislation;

(e) checking performance and taking corrective action, paying particular attention to:

  (i) monitoring and measurement (see also the Reference Document on the General Principles of Monitoring)

  (ii) corrective and preventive action

  (iii) maintenance of records

  (iv) independent (where practicable) internal and external auditing in order to determine whether or not the EMS conforms to planned arrangements and has been properly implemented and maintained;

(f) review of the EMS and its continuing suitability, adequacy and effectiveness by senior management;

(g) following the development of cleaner technologies;

(h) consideration for the environmental impacts from the eventual decommissioning of the installation at the stage of designing a new plant, and throughout its operating life;

(i) application of sectoral benchmarking on a regular basis.

Applicability

The scope (e.g. level of details) and nature of the EMS (e.g. standardised or non-standardised) will generally be related to the nature, scale and complexity of the installation, and the range of environmental impacts it may have.

1.1.2. **Materials management and good housekeeping**

BAT 2. BAT is to apply the principles of good housekeeping for minimising the environmental impact of the production process by using a combination of the techniques given below.

	Technique
a	Careful selection and control of chemicals and additives
b	Input-output analysis with a chemical inventory, including quantities and toxicological properties
c	Minimise the use of chemicals to the minimum level required by the quality specifications of the final product
d	Avoid the use of harmful substances (e.g. nonylphenol ethoxylate-containing dispersion or cleaning agents or surfactants) and substitution by less harmful alternatives
e	Minimise the input of substances into the soil by leakage, aerial deposition and the inappropriate storage of raw materials, products or residues
f	Establish a spill management programme and extend the containment of relevant sources, thus preventing the contamination of soil and groundwater
g	Proper design of the piping and storage systems to keep the surfaces clean and to reduce the need for washing and cleaning

BAT 3. In order to reduce the release of not readily biodegradable organic chelating agents such as EDTA or DTPA from peroxide bleaching, BAT is to use a combination of the techniques given below.

	Technique	Applicability
a	Determination of quantity of chelating agents released to the environment through periodic measurements	Not applicable for mills that do not use chelating agents
b	Process optimisation to reduce consumption and emission of not readily biodegradable chelating agents	Not applicable for plants that eliminate 70 % or more of EDTA/DTPA in their waste water treatment plant or process
c	Preferential use of biodegradable or eliminable chelating agents, gradually phasing out non-degradable products	Applicability depends on the availability of appropriate substitutes (biodegradable agents meeting e.g. brightness requirements of pulp)

1.1.3. **Water and waste water management**

BAT 4. In order to reduce the generation and the pollution load of waste water from wood storage and preparation, BAT is to use a combination of the techniques given below.

	Technique	Applicability
a	Dry debarking (description see Section 1.7.2.1)	Restricted applicability when high purity and brightness is required with TCF bleaching
b	Handling of wood logs in such a way as to avoid the contamination of bark and wood with sand and stones	Generally applicable
c	Paving of the wood yard area and particularly the surfaces used for the storage of chips	Applicability may be restricted due to the size of the wood yard and storage area
d	Controlling the flow of sprinkling water and minimising surface run-off water from the wood yard	Generally applicable
e	Collecting of contaminated run-off water from the wood yard and separating out suspended solids effluent before biological treatment	Applicability may be restricted by the degree of contamination of run-off water (low concentration) and/or the size of the waste water treatment plant (large volumes)

The BAT-associated effluent flow from dry debarking is 0,5 – 2,5 m^3/ADt.

BAT 5. In order to reduce fresh water use and generation of waste water, BAT is to close the water system to the degree technically feasible in line with the pulp and paper grade manufactured by using a combination of the techniques given below.

	Technique	Applicability
a	Monitoring and optimising water usage	Generally applicable
b	Evaluation of water recirculation options	
c	Balancing the degree of closure of water circuits and potential drawbacks; adding additional equipment if necessary	
d	Separation of less contaminated sealing water from pumps for vacuum generation and reuse	
e	Separation of clean cooling water from contaminated process water and reuse	
f	Reusing process water to substitute for fresh water (water recirculation and closing of water loops)	Applicable to new plants and major refurbishments. Applicability may be limited due to water quality and/or product quality requirements or due to technical constraints (such as precipitation/incrustation in water system) or increase odour nuisance
g	In-line treatment of (parts of) process water to improve water quality to allow for recirculation or reuse	Generally applicable

The BAT-associated waste water flow at the point of discharge after waste water treatment as yearly averages are:

Sector	BAT-associated waste water flow
Bleached kraft	25 – 50 m^3/ADt
Unbleached kraft	15 – 40 m^3/ADt
Bleached sulphite paper grade pulp	25 – 50 m^3/ADt
Magnefite pulp	45 – 70 m^3/ADt
Dissolving pulp	40 – 60 m^3/ADt
NSSC pulp	11 – 20 m^3/ADt
Mechanical pulp	9 – 16 m^3/t
CTMP and CMP	9 – 16 m^3/ADt
RCF paper mills without deinking	1,5 – 10 m^3/t (the higher end of the range is mainly associated with folding boxboard production)
RCF paper mills with deinking	8 – 15 m^3/t
RCF-based tissue paper mills with deinking	10 – 25 m^3/t
Non-integrated paper mills	3,5 – 20 m^3/t

1.1.4. **Energy consumption and efficiency**

BAT 6. In order to reduce fuel and energy consumption in pulp and paper mills, BAT is to use technique (a) and a combination of the other techniques given below.

	Technique	Applicability
a	Use an energy management system that includes all of the following features: (i) Assessment of the mill's overall energy consumption and production (ii) Locating, quantifying and optimising the potentials for energy recovery (iii) Monitoring and safeguarding the optimised situation for energy consumption	Generally applicable
b	Recover energy by incinerating those wastes and residues from the production of pulp and paper that have high organic content and calorific value, taking into account BAT 12	Only applicable if the recycling or reuse of wastes and residues from the production of pulp and paper with a high organic content and high calorific value is not possible

	Technique	Applicability
c	Cover the steam and power demand of the production processes as far as possible by the cogeneration of heat and power (CHP)	Applicable for all new plants and for major refurbishments of the energy plant. Applicability in existing plants may be limited due to the mill layout and available space
d	Use excess heat for the drying of biomass and sludge, to heat boiler feedwater and process water, to heat buildings, etc.	Applicability of this technique may be limited in cases where the heat sources and locations are far apart
e	Use thermo compressors	Applicable to both new and existing plants for all grades of paper and for coating machines, as long as medium pressure steam is available
f	Insulate steam and condensate pipe fittings	Generally applicable
g	Use energy efficient vacuum systems for dewatering	
h	Use high efficiency electrical motors, pumps and agitators	
i	Use frequency inverters for fans, compressors and pumps	
j	Match steam pressure levels with actual pressure needs	

Description

Technique (c): Simultaneous generation of heat and electrical and/or mechanical energy in a single process, referred to as a combined heat and power plant (CHP). CHP plants in the pulp and paper industry normally apply steam turbines and/or gas turbines. The economic viability (achievable savings and payback time) will depend mainly on the cost of electricity and fuels.

1.1.5. Emissions of odour

With regard to the emissions of malodorous sulphur-containing gases from kraft and sulphite pulp mills, see the process-specific BAT given in Sections 1.2.2 and 1.3.2.

BAT 7. In order to prevent and reduce the emission of odorous compounds originating from the waste water system, BAT is to use a combination of the techniques given below.

	Technique
I.	**Applicable for odours related to water systems closure**
a	Design paper mill processes, stock and water storage tanks, pipes and chests in such a way as to avoid prolonged retention times, dead zones or areas with poor mixing in water circuits and related units, in order to avoid uncontrolled deposits and the decay and decomposition of organic and biological matter.
b	Use biocides, dispersants or of oxidising agents (e.g. catalytic disinfection with hydrogen peroxide) to control odour and decaying bacteria growth.

	Technique
c	Install internal treatment processes ('kidneys') to reduce the concentrations of organic matter and consequently possible odour problems in the white water system.

II. **Applicable for odours related to waste water treatment and sludge handling, in order to avoid conditions where waste water or sludge becomes anaerobic**

a	Implement closed sewer systems with controlled vents, using chemicals in some cases to reduce the formation of and to oxidise hydrogen sulphide in sewer systems.
b	Avoid over-aeration in equalisation basins but maintain sufficient mixing.
c	Ensure sufficient aeration capacity and mixing properties in aeration tanks; revise the aeration system regularly.
d	Guarantee proper operation of secondary clarifier sludge collection and return sludge pumping
e	Limit the retention time of sludge in sludge storages by sending the sludge continuously to the dewatering units.
f	Avoid the storage of waste water in the spill basin longer than is necessary; keep the spill basin empty.
g	If sludge dryers are used, treatment of thermal sludge dryer vent gases by scrubbing and/or bio filtration (such as compost filters).
h	Avoid air cooling towers for untreated water effluent by applying plate heat exchangers.

1.1.6. **Monitoring of key process parameters and of emissions to water and air**

BAT 8. BAT is to monitor the key process parameters according to the table given below.

I. **Monitoring key process parameters relevant for emissions to air**

Parameter	Monitoring frequency
Pressure, temperature, oxygen, CO and water vapour content in flue-gas for combustion processes	Continuous

II. **Monitoring key process parameters relevant for emissions to water**

Parameter	Monitoring frequency
Water flow, temperature and pH	Continuous
P and N content in biomass, sludge volume index, excess ammonia and ortho-phosphate in the effluent, and microscopy checks of the biomass	Periodic
Volume flow and CH_4 content of biogas produced in anaerobic waste water treatment	Continuous
H_2S and CO_2 contents of biogas produced in anaerobic waste water treatment	Periodic

BAT 9. BAT is to carry out the monitoring and measurement of emissions to air, as indicated below, on a regular basis with the frequency indicated and according to EN standards. If EN standards are not available, BAT is to use ISO, national or other international standards which ensure the provision of data of an equivalent scientific quality.

	Parameter	Monitoring frequency	Emission source	Monitoring associated with
a	NO_x and SO_2	Continuous	Recovery boiler	BAT 21 BAT 22 BAT 36 BAT 37
		Periodic or continuous	Lime kiln	BAT 24 BAT 26
		Periodic or continuous	Dedicated TRS burner	BAT 28 BAT 29
b	Dust	Periodic or continuous	Recovery boiler (kraft) and lime kiln	BAT 23 BAT 27
		Periodic	Recovery boiler (sulphite)	BAT 37
c	TRS (including H_2S)	Continuous	Recovery boiler	BAT 21
		Periodic or continuous	Lime kiln and dedicated TRS burner	BAT 24 BAT 25 BAT 28
		Periodic	Diffuse emissions from different sources (e.g. the fibre line, tanks, chip bins, etc.) and residual weak gases	BAT 11 BAT 20
d	NH_3	Periodic	Recovery boiler equipped with SNCR	BAT 36

BAT 10. BAT is to carry out the monitoring of emissions to water, as indicated below, with the indicated frequency and according to EN standards. If EN standards are not available, BAT is to use ISO, national or other international standards that ensure the provision of data of an equivalent scientific quality.

	Parameter	Monitoring frequency	Monitoring associated with
a	Chemical oxygen demand (COD) or Total organic carbon (TOC) (1)	Daily (2) (3)	BAT 19 BAT 33 BAT 40 BAT 45 BAT 50
b	BOD_5 or BOD_7	Weekly (once a week)	
c	Total suspended solids (TSS)	Daily (2) (3)	
d	Total nitrogen	Weekly (once a week) (2)	
e	Total phosphorus	Weekly (once a week) (2)	
f	EDTA, DTPA (4)	Monthly (once a month)	

	Parameter	Monitoring frequency	Monitoring associated with
g	AOX (according to EN ISO 9562:2004) ([5])	Monthly (once a month)	BAT 19: bleached kraft
		Once every two months	BAT 33: except TCF and NSSC mills BAT 40: except CTMP and CMP mills BAT 45 BAT 50
h	Relevant metals (e.g. Zn, Cu, Cd, Pb, Ni)	Once a year	

([1]) There is a trend to replace COD by TOC for economic and environmental reasons. If TOC is already measured as a key process parameter, there is no need to measure COD; however, a correlation between the two parameters should be established for the specific emission source and waste water treatment step.
([2]) Rapid test methods can also be used. The results of rapid tests should be checked regularly (e.g. monthly) against EN standards or, if EN standards are not available, against ISO, national or other international standards which ensure the provision of data of an equivalent scientific quality.
([3]) For mills operating less than seven days a week, the monitoring frequency for COD and TSS may be reduced to cover the days the mill is in operation or to extend the sampling period to 48 or 72 hours.
([4]) Applicable where EDTA or DTPA (chelating agents) are used in the process.
([5]) Not applicable to plants that provide evidence that no AOX is generated or added via chemical additives and raw materials.

BAT 11. BAT is to regularly monitor and assess diffuse total reduced sulphur emissions from relevant sources.

Description

The assessment of diffuse total reduced sulphur emissions can be done by periodic measurement and assessment of diffuse emissions that are emitted from different sources (e.g. the fibre line, tanks, chip bins etc.) by direct measurements.

1.1.7. **Waste management**

BAT 12. In order to reduce the quantities of wastes sent for disposal, BAT is to implement a waste assessment (including waste inventories) and management system, so as to facilitate waste reuse, or failing that, waste recycling, or failing that, 'other recovery', including a combination of the techniques given below.

	Technique	Description	Applicability
a	Separate collection of different waste fractions (including separation and classification of hazardous waste)	See Section 1.7.3	Generally applicable
b	Merging of suitable fractions of residues to obtain mixtures that can be better utilised		Generally applicable
c	Pretreatment of process residues before reuse or recycling		Generally applicable
d	Material recovery and recycling of process residues on site		Generally applicable
e	Energy recovery on- or off-site from wastes with high organic content		For off-site utilisation, the applicability depends on the availability of a third party

	Technique	Description	Applicability
f	External material utilisation		Depending on the availability of a third party
g	Pretreatment of waste before disposal		Generally applicable

1.1.8. **Emissions to water**

Further information on waste water treatment in pulp and paper mills and process-specific BAT-AELs are given in Sections 1.2 to 1.6.

BAT 13. In order to reduce nutrient (nitrogen and phosphorus) emissions into receiving waters, BAT is to substitute chemical additives with high nitrogen and phosphorus contents by additives containing low nitrogen and phosphorus contents.

Applicability

Applicable if the nitrogen in the chemical additives is not bioavailable (i.e. it cannot serve as nutrient in biological treatment) or if the nutrient balance is in surplus.

BAT 14. In order to reduce emissions of pollutants into receiving waters, BAT is to use all of the techniques given below.

	Technique	Description
a	Primary (physico-chemical) treatment	See Section 1.7.2.2
b	Secondary (biological) treatment ([1])	

([1]) Not applicable to plants where the biological load of waste water after the primary treatment is very low, e.g. some paper mills producing speciality paper.

BAT 15. When further removal of organic substances, nitrogen or phosphorus is needed, BAT is to use tertiary treatment as described in Section 1.7.2.2.

BAT 16. In order to reduce emissions of pollutants into receiving waters from biological waste water treatment plants, BAT is to use all of the techniques given below.

	Technique
a	Proper design and operation of the biological treatment plant
b	Regularly controlling the active biomass
c	Adjustment of nutrition supply (nitrogen and phosphorus) to the actual need of the active biomass

1.1.9. **Emissions of noise**

BAT 17. In order to reduce the emissions of noise from pulp and paper manufacturing, BAT is to use a combination of the techniques given below.

	Technique	Description	Applicability
a	Noise-reduction programme	A noise-reduction programme includes identification of sources and affected areas, calculations and measurements of noise levels in order to rank sources according to noise levels, and identification of the most cost effective combination of techniques, their implementation and monitoring.	Generally applicable.
b	Strategic planning of the location of equipment, units and buildings	Noise levels can be reduced by increasing the distance between the emitter and the receiver and by using buildings as noise screens.	Generally applicable to new plants. In the case of existing plants, the relocation of equipment and production units may be restricted by the lack of space or by excessive costs.
c	Operational and management techniques in buildings containing noisy equipment	This includes: — improved inspection and maintenance of equipment to prevent failures — closing of doors and windows of covered areas — equipment operation by experienced staff — avoidance of noisy activities during night-time — provisions for noise control during maintenance activities	Generally applicable.
d	Enclosing noisy equipment and units	Enclosure of noisy equipment, such as wood handling, hydraulic units, and compressors in separate structures, such as buildings or soundproofed cabinets, where internal-external lining is made of impact-absorbent material.	
e	Use of low-noise equipment and noise-reducers on equipment and ducts.		
f	Vibration insulation	Vibration insulation of machinery and decoupled arrangement of noise sources and potentially resonant components.	
g	Soundproofing of buildings	This potentially includes use of: — sound-absorbing materials in walls and ceilings — sound-isolating doors — double-glazed windows	

	Technique	Description	Applicability
h	Noise abatement	Noise propagation can be reduced by inserting barriers between emitters and receivers. Appropriate barriers include protection walls, embankments and buildings. Suitable noise abatement techniques include fitting silencers and attenuators to noisy equipment such as steam releases and dryer vents.	Generally applicable to new plants. In the case of existing plants, the insertion of obstacles may be restricted by the lack of space.
i	Use of larger wood-handling machines to reduce lifting and transport times and noise from logs falling onto log piles or the feed table.		Generally applicable.
j	Improved ways of working, e.g. releasing logs from a lower height onto the log piles or the feed table; immediate feedback of the level of noise for the workers.		

1.1.10. **Decommissioning**

BAT 18. In order to prevent pollution risks when decommissioning a plant, BAT is to use the general techniques given below.

	Technique
a	Ensure that underground tanks and piping are either avoided in the design phase or that their location is well known and documented.
b	Establish instructions for emptying process equipment, vessels and piping.
c	Ensure a clean closure when the facility is shut down, e.g. to clean up and rehabilitate the site. Natural soil functions should be safeguarded, if feasible.
d	Use a monitoring programme, especially relative to groundwater, in order to detect possible future impacts on site or in neighbouring areas.
e	Develop and maintain a site closure or cessation scheme, based on risk analysis, that includes a transparent organisation of the shutdown work, taking into account relevant local specific conditions.

1.2. BAT CONCLUSIONS FOR KRAFT PULPING PROCESS

For integrated kraft pulp and paper mills, the process-specific BAT conclusions for papermaking given in Section 1.6 apply, in addition to the BAT conclusions in this section.

1.2.1. **Waste water and emissions to water**

BAT 19. In order to reduce emissions of pollutants into receiving waters from the whole mill, BAT is to use TCF or modern ECF bleaching (see description in Section 1.7.2.1), and a suitable combination of the techniques specified in BAT 13, BAT 14, BAT 15 and BAT 16 and of the techniques given below.

	Technique	Description	Applicability
a	Modified cooking before bleaching	See Section 1.7.2.1	Generally applicable
b	Oxygen delignification before bleaching		
c	Closed brown stock screening and efficient brown stock washing		
d	Partial process water recycling in the bleach plant		Water recycling may be limited due to incrustation in bleaching
e	Effective spill monitoring and containment with a suitable recovery system		Generally applicable
f	Maintaining sufficient black liquor evaporation and recovery boiler capacity to cope with peak loads		Generally applicable
g	Stripping the contaminated (foul) condensates and reusing the condensates in the process		

BAT-associated emission levels

See Table 1 and Table 2. These BAT-associated emission levels are not applicable to dissolving kraft pulp mills.

The reference waste water flow for kraft mills is set out in BAT 5.

Table 1

BAT-associated emission levels for the direct waste water discharge to receiving waters from a bleached kraft pulp mill

Parameter	Yearly average kg/ADt (1)
Chemical oxygen demand (COD)	7 – 20
Total suspended solids (TSS)	0,3 – 1,5
Total nitrogen	0,05 – 0,25 (2)
Total phosphorus	0,01 – 0,03 (2) Eucalyptus: 0,02 – 0,11 kg/ADt (3)
Adsorbable organically bound halogens (AOX) (4) (5)	0 – 0,2

(1) The BAT-AEL ranges refer to market pulp production and the pulp production part of integrated mills (emissions from papermaking are not included).
(2) A compact biological waste water treatment plant can result in slightly higher emission levels.
(3) The upper end of the range refers to mills using eucalyptus from regions with higher levels of phosphorus (e.g. Iberian eucalyptus).
(4) Applicable for mills using chlorine containing bleaching chemicals.
(5) For mills producing pulp with high strength, stiffness and high purity properties (e.g. for liquid packaging board and LWC), emissions level of AOX up to 0,25 kg/ADt may occur.

Table 2

BAT-associated emission levels for the direct waste water discharge to receiving waters from an unbleached kraft pulp mill

Parameter	Yearly average kg/ADt (1)
Chemical oxygen demand (COD)	2,5 – 8
Total suspended solids (TSS)	0,3 – 1,0
Total nitrogen	0,1 – 0,2 (2)
Total phosphorus	0,01 – 0,02 (2)

(1) The BAT-AEL ranges refer to market pulp production and the pulp production part of integrated mills (emissions from papermaking are not included).
(2) A compact biological waste water treatment plant can result in slightly higher emission levels.

The BOD concentration in the treated effluents is expected to be low (around 25 mg/l as a 24-hour composite sample).

1.2.2. **Emissions to air**

1.2.2.1. *Reduction of emissions in strong and weak odorous gases*

BAT 20. In order to reduce odour emissions and total reduced sulphur emissions due to strong and weak odorous gases, BAT is to prevent diffuse emissions by capturing all process-based sulphur containing off-gases, including all vents with sulphur-containing emissions, by applying all of the techniques given below.

	Technique	Description
a	Collection systems for strong and weak odorous gases, comprising the following features: — covers, suction hoods, ducts, and extraction system with sufficient capacity; — continuous leak detection system; — safety measures and equipment.	
b	Incineration of strong and weak non-condensable gases	Incineration can be carried out using: — recovery boiler — lime kiln (1) — dedicated TRS burner equipped with wet scrubbers for SO_x removal; or — power boiler (2) To ensure the constant availability of incineration for odorous strong gases, back-up systems are installed. Lime kilns can serve as back-up for recovery boilers; further back-up equipment are flares and package boiler
c	Recording unavailability of the incineration system and any resulting emissions (3)	

(1) The SO_x emission levels of the lime kiln increase significantly when strong non-condensable gases (NCG) are fed to the kiln and no alkaline scrubber is used.
(2) Applicable for the treatment of weak odorous gases.
(3) Applicable for the treatment of strong odorous gases.

Applicability

Generally applicable for new plants and for major refurbishments of existing plants. The installation of necessary equipment may be difficult for existing plants due to layout and space restrictions. The applicability of incineration might be limited for safety reasons, and in this case wet scrubbers could be used.

BAT-associated emission level of total reduced sulphur (TRS) in residual weak gases emitted is 0,05 – 0,2 kg S/ADt.

1.2.2.2. *Reduction of emissions from a recovery boiler*

SO_2 and TRS emissions

BAT 21. In order to reduce SO_2 and TRS emissions from a recovery boiler, BAT is to use a combination of the techniques given below.

	Technique	Description
a	Increasing the dry solids (DS) content of black liquor	The black liquor can be concentrated by an evaporation process before burning
b	Optimised firing	Firing conditions can be improved e.g. by good mixing of air and fuel, control of furnace load etc.
c	Wet scrubber	See Section 1.7.1.3

BAT-associated emission levels

See Table 3.

Table 3

BAT-associated emission levels for SO_2 and TRS emissions from a recovery boiler

Parameter		Daily average (1) (2) mg/Nm³ at 6 % O_2	Yearly average (1) mg/Nm³ at 6 % O_2	Yearly average (1) kg S/ADt
SO_2	DS < 75 %	10 – 70	5 – 50	—
	DS 75 – 83 % (3)	10 – 50	5 – 25	—
Total reduced sulphur (TRS)		1 – 10 (4)	1 – 5	—
Gaseous S (TRS-S + SO_2-S)	DS < 75 %	—	—	0,03 – 0,17
	DS 75 – 83 % (3)			0,03 – 0,13

(1) Increasing the DS content of the black liquor results in lower SO_2 emissions and higher NO_x emissions. Due to this, a recovery boiler with low emission levels for SO_2, may be on the higher end of the range for NO_x and vice versa.
(2) BAT-AELs do not cover periods during which the recovery boiler is run on a DS content much lower than the normal DS content due to shut down or maintenance of the black liquor concentration plant.
(3) If a recovery boiler were to burn black liquor with a DS > 83 %, then SO_2 and gaseous S emission levels should be reconsidered on a case-by-case basis.
(4) The range is applicable without the incineration of odorous strong gases.

DS = dry solid content of the black liquor.

NO_x emissions

BAT 22. In order to reduce NO_x emissions from a recovery boiler, BAT is to use an optimised firing system including all of the features given below.

	Technique
a	Computerised combustion control
b	Good mixing of fuel and air
c	Staged air feed systems, e.g. by using different air registers and air inlet ports

Applicability

Technique (c)is applicable to new recovery boilers and in the case of a major refurbishment of recovery boilers, as this technique requires considerable changes to the air feed systems and the furnace.

BAT-associated emission levels

See Table 4.

Table 4

BAT-associated emission levels for NO_x emissions from a recovery boiler

Parameter		Yearly average (1) mg/Nm³ at 6 % O_2	Yearly average (1) kg NO_x/ADt
NO_x	Softwood	120 – 200 (2)	DS < 75 %: 0,8 – 1,4 DS 75 – 83 % (3): 1,0 – 1,6
	Hardwood	120 – 200 (2)	DS < 75 %: 0,8 – 1,4 DS 75 – 83 % (3): 1,0 – 1,7

(1) Increasing the DS content of the black liquor results in lower SO_2 emissions and higher NO_x emissions. Due to this, a recovery boiler with low emission levels for SO_2, may be on the higher end of the range for NO_x and vice versa.

(2) The actual NO_x emission level of a recovery boiler depends on the DS content and the nitrogen content of the black liquor, and the amount and combination of NCG and other nitrogen containing flows (e.g. dissolving tank vent gas, methanol separated from the condensate, biosludge) burnt. The higher the DS content, the nitrogen content in the black liquor, and the amount of NCG and other nitrogen containing flows burnt, the closer the emissions will be to the upper end of the BAT-AEL range.

(3) If a recovery boiler were to burn black liquor with a DS > 83 %, then NO_x emission levels should be reconsidered on a case-by-case basis.

DS = dry solid content of black liquor.

Dust emissions

BAT 23. In order to reduce dust emissions from a recovery boiler, BAT is to use an electrostatic precipitator (ESP) or a combination of ESP and wet scrubber.

Description

SeeSection 1.7.1.1.

BAT-associated emission levels

See Table 5.

Table 5

BAT-associated emission levels for dust emissions from a recovery boiler

Parameter	Dust abatement system	Yearly average mg/Nm³ at 6 % O_2	Yearly average kg dust/ADt
Dust	New or major refurbishment	10 – 25	0,02 – 0,20
	Existing	10 – 40 (1)	0,02 — 0,3 (1)

(1) For an existing recovery boiler equipped with an ESP approaching the end of its operational life, emission levels may increase over time up to 50 mg/Nm³ (corresponding to 0,4 kg/ADt).

1.2.2.3. *Reduction of emissions from a lime kiln*

SO_2 emissions

BAT 24. In order to reduce SO_2 emissions from a lime kiln, BAT is to apply one or a combination of the techniques given below.

	Technique	Description
a	Fuel selection/low sulphur fuel	See Section 1.7.1.3
b	Limit incineration of sulphur-containing odorous strong gases in the lime kiln	
c	Control of Na_2S content in lime mud feed	
d	Alkaline scrubber	

BAT-associated emission levels

See Table 6.

Table 6

BAT-associated emission levels for SO_2 and sulphur emissions from a lime kiln

Parameter (1)	Yearly average mg SO_2/Nm³ at 6 % O_2	Yearly average kg S/ADt
SO_2 when strong gases are not burnt in the lime kiln	5 – 70	—

Parameter (1)	Yearly average mg SO_2/Nm³ at 6 % O_2	Yearly average kg S/ADt
SO_2 when strong gases are burnt in the lime kiln	55 – 120	—
Gaseous S (TRS-S + SO_2-S) when strong gases are not burnt in the lime kiln	—	0,005 – 0,07
Gaseous S (TRS-S + SO_2-S) when strong gases are burnt in the lime kiln	—	0,055 – 0,12

(1) 'strong gases' includes methanol and turpentine

TRS emissions

BAT 25. In order to reduce TRS emissions from a lime kiln, BAT is to apply one or a combination of the techniques given below.

	Technique	Description
a	Control of the excess oxygen	See Section 1.7.1.3
b	Control of Na_2S content in lime mud feed	
c	Combination of ESP and alkaline scrubber	See Section 1.7.1.1

BAT-associated emission levels

See Table 7.

Table 7

BAT-associated emission levels for TRS emissions from a lime kiln

Parameter	Yearly average mg S/Nm³ at 6 % O_2
Total reduced sulphur (TRS)	< 1 – 10 (1)

(1) For lime kilns burning strong gases (including methanol and turpentine), the upper end of the AEL range may be up to 40 mg/Nm³.

NO_x emissions

BAT 26. In order to reduce NO_x emissions from a lime kiln, BAT is to apply a combination of the techniques given below.

	Technique	Description
a	Optimised combustion and combustion control	See Section 1.7.1.2
b	Good mixing of fuel and air	
c	Low-NO_x burner	
d	Fuel selection/low-N fuel	

BAT-associated emission levels

See Table 8.

Table 8

BAT-associated emission levels for NO_x emissions from a lime kiln

Parameter		Yearly average mg/Nm³ at 6 % O_2	Yearly average kg NO_x/ADt
NO_x	Liquid fuels	100 – 200 (1)	0,1 – 0,2 (1)
	Gaseous fuels	100 – 350 (2)	0,1 – 0,3 (2)

(1) When using liquid fuels originating from vegetable matter (e.g. turpentine, methanol, tall-oil), including those obtained as by-products of the pulping process, emission levels up to 350 mg/Nm³ (corresponding to 0,35 kg NO_x/ADt) may occur.
(2) When using gaseous fuels originating from vegetable matter (e.g. non-condensable gases), including those obtained as by-products of the pulping process, emission levels up to 450 mg/Nm³ (corresponding to 0,45 kg NO_x/ADt) may occur.

Dust emissions

BAT 27. In order to reduce dust emissions from a lime kiln, BAT is to use an electrostatic precipitator (ESP) or a combination of ESP and wet scrubber.

Description

See Section 1.7.1.1.

BAT-associated emission levels

See Table 9.

Table 9

BAT-associated emission levels for dust emissions from a lime kiln

Parameter	Dust abatement system	Yearly average mg/Nm³ at 6 % O_2	Yearly average kg dust/ADt
Dust	New or major refurbishments	10 – 25	0,005 – 0,02
	Existing	10 – 30 (1)	0,005 – 0,03 (1)

(1) For an existing lime kiln equipped with an ESP approaching the end of its operational life, emission levels may increase over time up to 50 mg/Nm³ (corresponding to 0,05 kg/ADt).

1.2.2.4. *Reduction of emissions from a burner for strong odorous gases (dedicated TRS burner)*

BAT 28. In order to reduce SO_2 emissions from the incineration of strong odorous gases in a dedicated TRS burner, BAT is to use an alkaline SO_2 scrubber.

BAT-associated emission levels

See Table 10.

Table 10

BAT-associated emission levels for SO_2 and TRS emissions from the incineration of strong gases in a dedicated TRS burner

Parameter	Yearly average mg/Nm³ at 9 % O_2	Yearly average kg S/ADt
SO_2	20 – 120	—
TRS	1 – 5	
Gaseous S (TRS-S + SO_2-S)	—	0,002 – 0,05 (1)

(1) This BAT-AEL is based on a gas flow in the range of 100-200 Nm³/ADt.

BAT 29. In order to reduce NO_x emissions from the incineration of strong odorous gases in a dedicated TRS burner, BAT is to use one or a combination of the techniques given below.

	Technique	Description	Applicability
a	Burner/firing optimisation	See Section 1.7.1.2	Generally applicable
b	Staged incineration	See Section 1.7.1.2	Generally applicable for new plants and for major refurbishments. For existing mills, applicable only if space allows for the insertion of equipment

BAT-associated emission levels

See Table 11.

Table 11

BAT-associated emission levels for NO_x emissions from the incineration of strong gases in a dedicated TRS burner

Parameter	Yearly average mg/Nm³ at 9 % O_2	Yearly average kg NO_x/ADt
NO_x	50 – 400 (1)	0,01 – 0,1 (1)

(1) Where at existing plants a switch to staged incineration is not feasible, emissions levels up to 1 000 mg/Nm³ (corresponding to 0,2 kg/ADt) may occur.

1.2.3. **Waste generation**

BAT 30. In order to prevent waste generation and minimise the amount of solid waste to be disposed of, BAT is to recycle dust from black liquor recovery boiler ESPs to the process.

Applicability

Recirculation of dust may be limited due to non-process elements in the dust.

1.2.4. **Energy consumption and efficiency**

BAT 31. In order to reduce thermal energy consumption (steam), maximise the benefit of energy carriers used, and to reduce the consumption of electricity, BAT is to apply a combination of the techniques given below.

	Technique
a	High dry solid content of bark, by use of efficient presses or drying
b	High efficiency steam boilers, e.g. low flue-gas temperatures
c	Effective secondary heating systems
d	Closing water systems, including bleach plant
e	High pulp concentration (middle or high consistency technique)
f	High efficiency evaporation plant
g	Recovery of heat from dissolving tanks e.g. by vent scrubbers
h	Recovery and use of the low temperature streams from effluents and other waste heat sources to heat buildings, boiler feedwater and process water
i	Appropriate use of secondary heat and secondary condensate
j	Monitoring and control of processes, using advanced control systems
k	Optimise integrated heat exchanger network
l	Heat recovery from the flue-gas from the recovery boiler between the ESP and the fan
m	Ensuring as high a pulp consistency as possible in screening and cleaning
n	Use of speed control of various large motors
o	Use of efficient vacuum pumps
p	Proper sizing of pipes, pumps and fans
q	Optimised tank levels

BAT 32. In order to increase the efficiency of power generation, BAT is to apply a combination of the techniques given below.

	Technique
a	High black liquor dry solid content (increases boiler efficiency, steam generation and thus electricity generation)
b	High recovery boiler pressure and temperature; in new recovery boilers the pressure can be at least 100 bars and the temperature 510 °C

	Technique
c	Outlet steam pressure in the back-pressure turbine as low as technically feasible
d	Condensing turbine for power production from excess steam
e	High turbine efficiency
f	Preheating feedwater to a temperature close to the boiling temperature
g	Preheating the combustion air and fuel charged to the boilers

1.3. BAT CONCLUSIONS FOR THE SULPHITE PULPING PROCESS

For integrated sulphite pulp and paper mills, the process-specific BAT conclusions for papermaking given in Section 1.6 apply, in addition to the BAT in this section.

1.3.1. **Waste water and emissions to water**

BAT 33. In order to prevent and reduce emissions of pollutants into receiving waters from the whole mill, BAT is to use a suitable combination of the techniques specified in BAT 13, BAT 14, BAT 15 and BAT 16 and of the techniques given below.

	Technique	Description	Applicability
a	Extended modified cooking before bleaching.	See Section 1.7.2.1	Applicability may be limited due to pulp quality requirements (when high strength is required).
b	Oxygen delignification before bleaching.		
c	Closed brown stock screening and efficient brown stock washing.		Generally applicable.
d	Evaporation of effluents from the hot alkaline extraction stage and incineration of concentrates in a soda boiler.		Limited applicability for dissolving pulp mills, when multistage biological treatment of the effluents provides a more favourable overall environmental situation.
e	TCF bleaching.		Limited applicability for market paper pulp mills producing high brightness pulp and for mills manufacturing speciality pulp for chemical applications.
f	Closed-loop bleaching.		Only applicable to plants that use the same base for cooking and pH adjustment in bleaching.
g	MgO-based pre-bleaching and recirculation of washing liquids from pre-bleaching to brown stock washing.		Applicability may be limited by factors such as product quality (e.g. purity, cleanliness and brightness), kappa number after cooking, hydraulic capacity of the installation and capacity of tanks, evaporators and recovery boilers, and a possibility to clean the washing equipment.

	Technique	Description	Applicability
h	pH adjustment of weak liquor before/ inside the evaporation plant.		Generally applicable to magnesium-based plants. Spare capacity in the recovery boiler and ash circuit is needed.
i	Anaerobic treatment of the condensates from the evaporators.		Generally applicable.
j	Stripping and recovery of SO_2 from the condensates of evaporators.		Applicable if it is necessary to protect anaerobic effluent treatment.
k	Effective spill monitoring and containment, also with chemical and energy recovery system.		Generally applicable.

BAT-associated emission levels

See Table 12 and Table 13. These BAT-associated emission levels are not applicable to dissolving pulp mills and to the manufacturing of speciality pulp for chemical applications.

The reference waste water flow for sulphite mills is set out in BAT 5.

Table 12

BAT-associated emission levels for the direct waste water discharge to receiving waters from a pulp mill manufacturing bleached sulphite and magnefite paper grade pulp

Parameter	Bleached sulphite paper grade pulp [1]	Magnefite paper grade pulp [1]
	Yearly average kg/ADt [2]	Yearly average kg/ADt
Chemical oxygen demand (COD)	10 – 30 [3]	20 – 35
Total suspended solids (TSS)	0,4 – 1,5	0,5 – 2,0
Total nitrogen	0,15 – 0,3	0,1 – 0,25
Total phosphorus	0,01 – 0,05 [3]	0,01 – 0,07
	Yearly average mg/l	
Adsorbable organically bound halogens (AOX)	0,5 – 1,5 [4] [5]	

[1] The BAT-AEL ranges refer to market pulp production and the pulp production part of integrated mills (emissions from papermaking are not included).
[2] The BAT-AELs do not apply to natural greaseproof pulp mills).
[3] The BAT-AEL for COD and total phosphorus do not apply to eucalyptus based market pulp
[4] Sulphite market pulp mills may apply a gentle ClO_2 bleaching stage in order to meet product requirements, thus resulting in AOX emissions.
[5] Not applicable to TCF mills

Table 13

BAT-associated emission levels for the direct waste water discharge to receiving waters from a sulphite pulp mill manufacturing NSSC pulp

Parameter	Yearly average kg/ADt (1)
Chemical oxygen demand (COD)	3,2 – 11
Total suspended solids (TSS)	0,5 – 1,3
Total nitrogen	0,1 – 0,2 (2)
Total phosphorus	0,01 – 0,02

(1) The BAT-AEL ranges refer to market pulp production and the pulp production part of integrated mills (emissions from papermaking are not included).
(2) Due to process-specific higher emissions, the BAT-AEL for total nitrogen does not apply to ammonium-based NSSC pulping.

The BOD concentration in the treated effluents is expected to be low (around 25 mg/l as a 24-hour composite sample).

1.3.2. **Emissions to air**

BAT 34. In order to prevent and reduce SO_2 emissions, BAT is to collect all highly concentrated SO_2-gas streams from acid liquor production, digesters, diffusers, or blow tanks and to recover the sulphur components.

BAT 35. In order to prevent and reduce diffuse sulphur-containing and odorous emissions from washing, screening, and evaporators, BAT is to collect these weak gases and to apply one of the techniques given below.

	Technique	Description	Applicability
a	Incineration in a recovery boiler	See Section 1.7.1.3	Not applicable to sulphite pulp mills using calcium-based cooking. These mills do not operate a recovery boiler
b	Wet scrubber	See Section 1.7.1.3	Generally applicable

BAT 36. In order to reduce NO_x emissions from a recovery boiler, BAT is to use an optimised firing system including one or a combination of the techniques given below.

	Technique	Description	Applicability
a	Optimising the recovery boiler by controlling the firing conditions	See Section 1.7.1.2	Generally applicable
b	Staged injection of spent liquor		Applicable to new large recovery boilers and major recovery boilers refurbishments

	Technique	Description	Applicability
c	Selective non-catalytic reduction (SNCR)		Retrofitting of existing recovery boilers may be limited due to scaling problems and associated increased cleaning and maintenance requirements. For ammonium-based mills, no application was reported; but due to specific conditions in the waste gas, SNCR is expected to be without effect. Not applicable to sodium-based mills due to explosion risk

BAT-associated emission levels

See Table 14.

Table 14

BAT-associated emission levels for NO_x and NH_3 emissions from a recovery boiler

Parameter	Daily average mg/Nm³ at 5 % O_2	Yearly average mg/Nm³ at 5 % O_2
NO_x	100 – 350 (1)	100 – 270 (1)
NH_3 (ammonia slip for SNCR)		< 5

(1) For ammonium-based mills, higher emission levels of NO_x may occur: up to 580 mg/Nm³ as daily average and up to 450 mg/Nm³ as yearly average.

BAT 37. In order to reduce dust and SO_2 emissions from a recovery boiler, BAT is to use one of the techniques given below and to limit 'acid operation' of the scrubbers to the minimum required to ensure their proper functioning.

	Technique	Description
a	ESP or multicyclones with multistage venturi scrubbers	See Section 1.7.1.3
b	ESP or multicyclones with multistage double inlet downstream scrubbers	

BAT-associated emission levels

See Table 15.

Table 15

BAT-associated emission levels for dust and SO_2 emissions from a recovery boiler

Parameter	Average over the sampling period mg/Nm³ at 5 % O_2
Dust	5 – 20 (1) (2)

Parameter	Average over the sampling period mg/Nm³ at 5 % O_2	
	Daily average mg/Nm³ at 5 % O_2	Yearly average mg/Nm³ at 5 % O_2
SO_2	100 – 300 ([3]) ([4]) ([5])	50 – 250 ([3]) ([4])

([1]) For recovery boilers operated in mills using more than 25 % of hardwood (potassium-rich) in raw materials, higher dust emissions up to 30 mg/Nm³ may occur.
([2]) The BAT-AEL for dust does not apply for ammonium-based mills.
([3]) Due to process-specific higher emissions, the BAT-AEL for SO_2 does not apply for recovery boilers operated permanently under 'acidic' conditions, i.e. using sulphite liquor as wet-scrubber washing media as part of the sulphite recovery process.
([4]) For existing multistage venturi scrubbers, higher emissions of SO_2 up to 400 mg/Nm³ as a daily average value and up to 350 mg/Nm³ as a yearly average may occur.
([5]) Not applicable during 'acid operation', i.e. periods in which preventive flushing and cleaning of incrustation in the scrubbers takes place. During these periods emissions can be up to 300 – 500 mg SO_2/Nm³ (at 5 % O_2) for cleaning of one of the scrubbers and up to 1 200 mg SO_2/Nm³ (half-hourly mean values, at 5 % O_2) when cleaning the final washer.

The **BAT-associated environmental performance level** is a duration of acid operation of around 240 hours per year for the scrubbers, and less than 24 hours per month for the last monosulphite scrubber.

1.3.3. **Energy consumption and efficiency**

BAT 38. In order to reduce thermal energy consumption (steam), maximise the benefit of the energy carriers used and to reduce the consumption of electricity, BAT is to use a combination of the techniques given below.

	Technique
a	High dry solids content of bark, by use of efficient presses or drying
b	High efficiency steam boilers, e.g. low exhaust-gas temperatures
c	Effective secondary heating system
d	Closing water systems, including bleach plant
e	High pulp concentration (middle or high consistency techniques)
f	Recovery and use of the low temperature streams from effluents and other waste heat sources to heat buildings, boiler feedwater and process water
g	Appropriate use of secondary heat and secondary condensate
h	Monitoring and control of processes, using advanced control systems
i	Optimise integrated heat exchanger network
j	Ensuring as high pulp consistency as possible in screening and cleaning
k	Optimised tank levels

BAT 39. In order to increase the efficiency of power generation, BAT is to use a combination of the techniques given below.

	Technique
a	High recovery boiler pressure and temperature
b	Outlet steam pressure in the back-pressure turbine as low as technically feasible
c	Condensing turbine for power production from excess steam
d	High turbine efficiency
e	Preheating feedwater to a temperature close to the boiling temperature
f	Preheating the combustion air and fuel charged to the boilers

1.4. BAT CONCLUSIONS FOR MECHANICAL PULPING AND CHEMIMECHANICAL PULPING

The BAT conclusions in this section apply to all integrated mechanical pulp, paper and board mills and to mechanical pulp mills, CTMP and CMP pulp mills. **BAT 49, BAT 51, BAT 52c and BAT 53** also apply to papermaking in integrated mechanical pulp, paper and board mills, in addition to the BAT conclusions in this section.

1.4.1. **Waste water and emissions to water**

BAT 40. In order to reduce fresh water use, waste water flow, and the pollution load, BAT is to use a suitable combination of the techniques specified in BAT 13, BAT 14, BAT 15 and BAT 16 and of the techniques given below.

	Technique	Description	Applicability
a	Counter-current flow of process water and separation of water systems.	See Section 1.7.2.1	Generally applicable
b	High consistency bleaching.		
c	Washing stage before the refining of softwood mechanical pulp using chip pre-treatment.		
d	Substitution of NaOH by $Ca(OH)_2$ or $Mg(OH)_2$ as alkali in peroxide bleaching.		Applicability for the highest brightness levels may be restricted
e	Fibre and filler recovery and treatment of white water (papermaking).		Generally applicable
f	Optimum design and construction of tanks and chests (papermaking).		

BAT-associated emission levels

See Table 16. These BAT-AELs also apply to mechanical pulp mills. The reference waste water flow for integrated mechanical, CTM and CTMP pulp mills are set out in BAT 5.

Table 16

BAT-associated emission levels for the direct waste water discharge to receiving waters from the integrated production of paper and board from mechanical pulps produced on site

Parameter	Yearly average kg/t
Chemical oxygen demand (COD)	0,9 – 4,5 (1)
Total suspended solids (TSS)	0,06 – 0,45
Total nitrogen	0,03 – 0,1 (2)
Total phosphorus	0,001 – 0,01

(1) In the case of highly bleached mechanical pulp (70-100 % of fibre in final paper), emission levels of up to 8 kg/t may occur.
(2) When biodegradable or eliminable chelating agents cannot be used due to pulp quality requirements (e.g. high brightness), the emissions of total nitrogen might be higher than this BAT-AEL and should be assessed on a case-by-case basis.

Table 17

BAT-associated emission levels for the direct waste water discharge to receiving waters from a CTMP or CMP pulp mill

Parameter	Yearly average kg/ADt
Chemical oxygen demand (COD)	12 – 20
Total suspended solids (TSS)	0,5 – 0,9
Total nitrogen	0,15 – 0,18 (1)
Total phosphorus	0,001 – 0,01

(1) When biodegradable or eliminable chelating agents cannot be used due to pulp quality requirements (e.g. high brightness), the emissions of total nitrogen might be higher than this BAT- AEL and should be assessed on a case-by-case basis.

The BOD concentration in the treated effluents is expected to be low (around 25 mg/l as a 24-hour composite sample).

1.4.2. **Energy consumption and efficiency**

BAT 41. In order to reduce the consumption of thermal and electrical energy, BAT is to use a combination of the techniques given below.

	Technique	Applicability
a	Use of energy efficient refiners	Applicable when replacing, rebuilding or upgrading process equipment

	Technique	Applicability
b	Extensive recovery of secondary heat from TMP and CTMP refiners and reuse of recovered steam in paper or pulp drying	Generally applicable
c	Minimisation of fibre losses by using efficient reject refining systems (secondary refiners)	
d	Installation of energy saving equipment, including automated process control instead of manual systems	
e	Reduction of fresh water use by internal process water treatment and recirculation systems	
f	Reduction of the direct use of steam by careful process integration using e.g. pinch analysis	

1.5. BAT CONCLUSIONS FOR PROCESSING PAPER FOR RECYCLING

The BAT conclusions in this section apply to all integrated RCF mills and to RCF pulp mills. **BAT 49, BAT 51, BAT 52c and BAT 53** also apply to papermaking in integrated RCF pulp, paper and board mills, in addition to the BAT conclusions in this section.

1.5.1. **Materials management**

BAT 42. In order to prevent the contamination of soil and groundwater or to reduce the risk thereof and in order to reduce wind drift of paper for recycling and diffuse dust emissions from the paper for recycling yard, BAT is to use one or a combination of the techniques given below.

	Technique	Applicability
a	Hard surfacing of the storage area for paper for recycling	Generally applicable
b	Collection of contaminated run-off water from the paper for recycling storage area and treatment in a waste water treatment plant (uncontaminated rainwater e.g. from roofs can be discharged separately)	Applicability may be restricted by the degree of contamination of run-off water (low concentration) and/or the size of the waste water treatment plants (large volumes)
c	Surrounding the terrain of the paper for recycling yard with fences against wind drift	Generally applicable
d	Regularly cleaning the storage area and sweeping associated roadways and emptying gully pots to reduce diffuse dust emissions. This reduces wind-blown paper debris, fibres and the crushing of paper by on-site traffic, which can cause additional dust emission, especially in the dry season	Generally applicable
e	Storing of bales or loose paper under a roof to protect the material from weather influences (moisture, microbiological degradation processes, etc.)	Applicability may be restricted by the size of the area

1.5.2. **Waste water and emissions to water**

BAT 43. In order to reduce fresh water use, waste water flow, and the pollution load, BAT is to use a combination of the techniques given below.

	Technique	Description
a	Separation of the water systems	See Section 1.7.2.1
b	Counter-current flow of process water and water recirculation	
c	Partial recycling of treated waste water after biological treatment	Many RCF paper mills recycle a partial stream of biologically treated waste water back into the water circuit, especially mills producing corrugated medium or Testliner
d	Clarification of white water	See Section 1.7.2.1

BAT 44. In order to maintain advanced water circuit closure in mills processing paper for recycling and to avoid possible negative effects from the increased recycling of process water, BAT is to use one or a combination of the techniques given below.

	Technique	Description
a	Monitoring and continuous control of the process water quality	See Section 1.7.2.1
b	Prevention and elimination of biofilms by using methods that minimise emissions of biocides	
c	Removal of calcium from process water by a controlled precipitation of calcium carbonate	

Applicability

Techniques (a) – (c) are applicable to RCF paper mills with advanced water circuit closure.

BAT 45. In order to prevent and reduce the pollution load of waste water into receiving waters from the whole mill, BAT is to use a suitable combination of the techniques specified in BAT 13, BAT 14, BAT 15, BAT 16, BAT 43 and BAT 44.

For integrated RCF paper mills, the BAT-AELs include emissions from papermaking, since the white water circuits of the paper machine are closely connected with those of the stock preparation.

BAT-associated emission levels

See Table 18 and Table 19.

The BAT-associated emission levels in Table 18 apply also to RCF without deinking pulp mills, and the BAT-associated emission levels in Table 19 apply also to RCF with deinking pulp mills.

The reference waste water flow for RCF mills is set out in BAT 5.

Table 18

BAT-associated emission levels for the direct waste water discharge to receiving waters from the integrated production of paper and board from recycled fibres pulp, produced without deinking on site

Parameter	Yearly average kg/t
Chemical oxygen demand (COD)	0,4 (1) – 1,4
Total suspended solids (TSS)	0,02 – 0,2 (2)
Total nitrogen	0,008 – 0,09
Total phosphorus	0,001 – 0,005 (3)
Adsorbable organically bound halogens (AOX)	0,05 for wet strength paper

(1) For mills with completely closed water circuits, there are no emissions of COD.
(2) For existing plants, levels up to 0,45 kg/t may occur, due to the continuous decline in the quality of paper for recycling and the difficulty of continuously upgrading the effluent plant.
(3) For mills with a waste water flow between 5 and 10 m^3/t, the upper end of the range is 0,008 kg/t.

Table 19

BAT-associated emission levels for the direct waste water discharge to receiving waters from the integrated production of paper and board from recycled fibres pulp produced with deinking on site

Parameter	Yearly average kg/t
Chemical oxygen demand (COD)	0,9 – 3,0 0,9 – 4,0 for tissue paper
Total suspended solids (TSS)	0,08 – 0,3 0,1 – 0,4 for tissue paper
Total nitrogen	0,01 – 0,1 0,01 – 0,15 for tissue paper
Total phosphorus	0,002 – 0,01 0,002 – 0,015 for tissue paper
Adsorbable organically bound halogens (AOX)	0,05 for wet strength paper

The BOD concentration in the treated effluents is expected to be low (around 25 mg/l as a 24-hour composite sample).

1.5.3. **Energy consumption and efficiency**

BAT 46. BAT is to reduce electrical energy consumption within RCF processing paper mills by using a combination of the techniques given below.

	Technique	Applicability
a	High consistency pulping for disintegrating paper for recycling into separated fibres	Generally applicable for new plants and for existing plants in the case of a major refurbishment
b	Efficient coarse and fine screening by optimising rotor design, screens and screen operation, which allows the use of smaller equipment with lower specific energy consumption	
c	Energy saving stock preparation concepts extracting impurities as early as possible in the re-pulping process, using fewer and optimised machine components, thus restricting the energy intensive processing of the fibres	

1.6. BAT CONCLUSIONS FOR PAPERMAKING AND RELATED PROCESSES

The BAT conclusions in this section apply to all non-integrated paper mills and board mills and to the paper and board making part of integrated kraft, sulphite, CTMP and CMP mills.

BAT 49, BAT 51, BAT 52c and BAT 53 apply to all integrated pulp and paper mills.

For integrated kraft, sulphite, CTMP and CMP pulp and paper mills, the process-specific BAT for pulping also apply, in addition to the BAT conclusions in this section.

1.6.1. **Waste water and emissions to water**

BAT 47. In order to reduce the generation of waste water, BAT is to use a combination of the techniques given below.

	Technique	Description	Applicability
a	Optimum design and construction of tanks and chests	See Section 1.7.2.1	Applicable to new plants and to existing plants in the case of a major refurbishment
b	Fibre and filler recovery and treatment of white water		Generally applicable
c	Water recirculation		Generally applicable. Dissolved organic, inorganic, and colloidal materials may restrict the water reuse in the wire section
d	Optimisation of showers in the paper machine		Generally applicable

BAT 48. In order to reduce fresh water use and emissions to water from speciality paper mills, BAT is to use a combination of the techniques given below.

	Technique	Description	Applicability
a	Improvement of paper production planning	Improved planning to optimise production batch combinations and length	Generally applicable
b	Management of water circuits to fit changes	Adjust water circuits to be able to cope with changes of paper grades, colours and chemical additives used	
c	Waste water treatment plant ready to cope with changes	Adjust waste water treatment to be able to cope with variations of flows, low concentrations and varying types and amounts of chemical additives	
d	Adjustment of the broke system and of chest capacities		
e	Minimisation of release of chemical additives (e.g. grease-/water proof agents) containing per- or polyflourinated compounds or contributing to their formation		Applicable only for plants producing paper with grease- or water-repellent properties
f	Switch to low AOX-containing product aids (e.g. to substitute use of wet strength agents based on epichlorohydrin resins)		Applicable only for plants producing paper grades with high wet strength

BAT 49. In order to reduce emission loads of coating colours and binders which can disturb the biological waste water treatment plant, BAT is to use technique (a) given below or, in case this is technically not feasible, technique (b) given below.

	Technique	Description	Applicability
a	Recovery of coating colours/recycling of pigments	Effluents containing coating colours are collected separately. The coating chemicals are recovered by e.g.: (i) ultrafiltration; (ii) screening-flocculation-dewatering process with return of the pigments to the coating process. The clarified water could be reused in the process	For ultrafiltration, the applicability may be restricted when: — effluent volumes are very small — coating effluents are generated in various places of the mill — many changes in coating occur; or — different coating colour recipes are incompatible
b	Pretreatment of effluents which contain coating colours	Effluents which contain coating colours are treated e.g. by flocculation to protect the subsequent biological waste water treatment	Generally applicable

BAT 50. In order to prevent and reduce the pollution load of waste water into receiving waters from the whole mill, BAT is to use a suitable combination of the techniques specified in BAT 13, BAT 14, BAT 15, BAT 47, BAT 48 and BAT 49.

BAT-associated emission levels

See Table 20 and Table 21.

The BAT-AELs in Table 20 and Table 21 also apply to the paper and board making process of integrated kraft, sulphite, CTMP and CMP pulp and paper mills.

The reference waste water flow for non-integrated paper and board mills is set out in BAT 5.

Table 20

BAT-associated emission levels for the direct waste water discharge to receiving waters from a non-integrated paper and board mill (excluding speciality paper)

Parameter	Yearly average kg/t
Chemical oxygen demand (COD)	0,15 – 1,5 (1)
Total suspended solids (TSS)	0,02 – 0,35
Total nitrogen	0,01 – 0,1 0,01 – 0,15 for tissue paper
Total phosphorus	0,003 – 0,012
Adsorbable organically bound halogens (AOX)	0,05 for decor and wet strength paper

(1) For graphic paper mills, the upper end of the range refers to mills manufacturing paper that use starch for the coating process.

The BOD concentration in the treated effluents is expected to be low (around 25 mg/l as a 24-hour composite sample).

Table 21

BAT-associated emission levels for the direct waste water discharge to receiving waters from a non-integrated speciality paper mill

Parameter	Yearly average kg/t (1)
Chemical oxygen demand (COD)	0,3 – 5 (2)
Total suspended solids (TSS)	0,10 – 1
Total nitrogen	0,015 – 0,4
Total phosphorus	0,002 – 0,04
Adsorbable organically bound halogens (AOX)	0,05 for decor and wet strength paper

(1) Mills having special characteristics, such as a high number of grade changes (e.g. of ≥ 5 per day as a yearly average) or producing very light-weight speciality papers (≤ 30 g/m² as yearly average) might have higher emissions than the upper end of the range.

(2) The upper end of the BAT-AEL range refers to mills producing highly comminuted paper which requires intensive refining and to mills with frequent changes of paper grades (e.g. ≥ 1 – 2 changes/day as yearly average).

1.6.2. **Emissions to air**

BAT 51. In order to reduce VOC emissions from off-line or on-line coaters, BAT is to choose coating colour recipes (compositions) that reduce VOC emissions.

1.6.3. **Waste generation**

BAT 52. In order to minimise the amount of solid waste to be disposed of, BAT is to prevent waste generation and to carry out recycling operations by the use of a combination of the techniques given below (see general BAT 20).

	Technique	Description	Applicability
a	Fibre and filler recovery and treatment of white water	See Section 1.7.2.1	Generally applicable
b	Broke recirculation system	Broke from different locations/phases of paper making process is collected, re-pulped and returned to the fibre feed-stock	Generally applicable
c	Recovery of coating colours/recycling of pigments	See Section 1.7.2.1	
d	Reuse of fibre sludge from primary waste water treat-ment	Sludge with a high fibre content from the primary treatment of waste water can be reutilised in a production process	Applicability may be limited by product quality require-ments

1.6.4. **Energy consumption and efficiency**

BAT 53. In order to reduce the consumption of thermal and electrical energy, BAT is to use a combination of the techniques given below.

	Technique	Applicability
a	Energy saving screening techniques (optimised rotor design, screens and screen operation)	Applicable to new mills or major refurb-ishments
b	Best practice refining with heat recovery from the refiners	
c	Optimised dewatering in the press section of paper machine/wide nip press	Not applicable to tissue paper and many speciality papers grades
d	Steam condensate recovery and use of efficient exhaust air heat recovery systems	Generally applicable
e	Reduction of direct use of steam by careful process inte-gration using e.g. pinch analysis	
f	High efficient refiners	Applicable to new plants

	Technique	Applicability
g	Optimisation of the operating mode in existing refiners (e.g. reduction of 'no load power requirements)	Generally applicable
h	Optimised pumping design, variable speed drive control for pumps, gearless drives	
i	Cutting edge refining technologies	
j	Steam box heating of the paper web to improve the drainage properties/dewatering capacity	Not applicable to tissue paper and many speciality papers grades
k	Optimised vacuum system (e.g. turbo fans instead of water ring pumps)	Generally applicable
l	Generation optimisation and distribution network maintenance	
m	Optimisation of heat recovery, air system, insulation	
n	Use of high efficient motors (EFF1)	
o	Preheating of shower water with a heat exchanger	
p	Use of waste heat for sludge drying or upgrading of dewatered biomass	
q	Heat recovery from axial blowers (if used) for the supply air of the drying hood	
r	Heat recovery of exhaust air from the Yankee hood with a trickling tower	
s	Heat recovery from the infrared exhaust hot air	

1.7. DESCRIPTION OF TECHNIQUES

1.7.1. **Description of techniques for the prevention and control of emissions to air**

1.7.1.1. *Dust*

Technique	Description
Electrostatic precipitator (ESP)	Electrostatic precipitators operate such that particles are charged and separated under the influence of an electrical field. They are capable of operating over a wide range of conditions.
Alkaline scrubber	See Section 1.7.1.3 (wet scrubber).

1.7.1.2. *NO_x*

Technique	Description
Reduction of air/fuel ratio	The technique is mainly based on the following features: — careful control of air used for combustion (low excess oxygen), — minimisation of air leakages into the furnace, — modified design of the furnace combustion chamber.
Optimised combustion and combustion control	Based on permanent monitoring of appropriate combustion parameters (e.g. O_2, CO content, fuel/air ratio, un-burnt components), this technique uses control technology for achieving the best combustion conditions. NO_x formation and emissions can be decreased by adjusting the running parameters, the air distribution, excess oxygen, flame shaping and the temperature profile.
Staged incineration	Staged incineration is based on the use of two burning zones, with controlled air ratios and temperatures in a first chamber. The first burning zone operates at sub-stoichiometric conditions to convert ammonia compounds into elementary nitrogen at high temperature. In the second zone, additional air feed completes combustion at a lower temperature. After the two-stage incineration, the flue-gas flows to a second chamber to recover the heat from the gases, producing steam to the process.
Fuel selection/low-N fuel	The use of fuels with a low nitrogen content reduces the amount of NO_x emissions from the oxidation of nitrogen contained in the fuel during combustion. The combustion of CNCG or biomass-based fuels increases NO_x emissions compared to oil and natural gas, as CNCG and all wood-derived fuels contain more nitrogen than oil and natural gas. Due to higher combustion temperatures, gas firing leads to higher NO_x levels than oil firing.
Low-NO_x burner	Low-NO_x burners are based on the principles of reducing peak flame temperatures, delaying but completing the combustion and increasing the heat transfer (increased emissivity of the flame). It may be associated with a modified design of the furnace combustion chamber.
Staged injection of spent liquor	The injection of spent sulphite liquor into the boiler at various vertically staged levels prevents the formation of NO_x, and provides for complete combustion.
Selective non-catalytic reduction (SNCR)	The technique is based on the reduction of NO_x to nitrogen by reaction with ammonia or urea at a high temperature. Ammonia water (up to 25 % NH_3), ammonia precursor compounds or urea solution is injected into the combustion gas to reduce NO to N_2. The reaction has an optimum effect in a temperature window of about 830 °C to 1 050 °C, and sufficient retention time must be provided for the injected agents to react with NO. Dosing rates of ammonia or urea have to be controlled to keep NH_3 slip at low levels.

1.7.1.3. *SO_2/TRS emissions prevention and control*

Technique	Description
High dry solid black liquor	With a higher dry solid content of the black liquor, the combustion temperature increases. This vaporises more sodium (Na), which can bind the SO_2 forming Na_2SO_4 thus reducing SO_2 emissions from the recovery boiler. A drawback to the higher temperature is that emissions of NO_x may increase

Technique	Description
Fuel selection/low-S fuel	The use of low-sulphur content fuels with a sulphur content of about 0,02 – 0,05 % by weight (e.g. forest biomass, bark, low-sulphur oil, gas) reduces SO_2 emissions generated by the oxidation of sulphur in the fuel during combustion
Optimised firing	Techniques such as efficient firing rate control system (air-fuel, temperature, residence time), control of excess oxygen or good mixing of air and fuel
Control of Na_2S content in lime mud feed	Efficient washing and filtration of the lime mud reduces the concentration of Na_2S, thus reducing the formation of hydrogen sulphide in the kiln during the re-burning process
Collection and recovery of SO_2 emissions	Highly concentrated SO_2-gas streams from acid liquor production, digesters, diffusers or blow tanks are collected. SO_2 is recovered in absorption tanks with different pressure levels, both for economic and environmental reasons
Incineration of odorous gases and TRS	Collected strong gases can be destroyed by burning them in the recovery boiler, in dedicated TRS burners, or in the lime kiln. Collected weak gases are suitable for burning in the recovery boiler, lime kiln, power boiler or in the TRS burner. Dissolving tank vent gases can be burnt in modern recovery boilers
Collection and incineration of weak gases in a recovery boiler	Combustion of weak gases (large volume, low SO_2 concentrations) combined with a back-up system. Weak gases and other odorous components are simultaneously collected to be burnt in the recovery boiler. From the exhaust gas of the recovery boiler, the sulphur dioxide is then recovered by counter-current multistage scrubbers and reused as a cooking chemical. As a back-up system, scrubbers are used.
Wet scrubber	Gaseous compounds are dissolved in a suitable liquid (water or alkaline solution). Simultaneous removal of solid and gaseous compounds may be achieved. Downstream of the wet scrubber, the flue-gases are saturated with water and a separation of the droplets is required before discharging the flue-gases. The resulting liquid has to be treated by a waste water process and the insoluble matter is collected by sedimentation or filtration
ESP or multicyclones with multistage venturi scrubbers or multistage double inlet downstream scrubbers	The separation of dust is carried out in an electrostatic precipitator or multistage cyclone. For the magnesium sulphite process, the dust retained in the ESP consists mainly of MgO but also to a minor extent, K, Na or Ca compounds. The recovered MgO ash is suspended with water and cleaned by washing and slaking to form $Mg(OH)_2$ which is then used as an alkaline scrubbing solution in the multistage scrubbers in order to recover the sulphur component of the cooking chemicals. For the ammonium sulphite process, the ammonia base (NH_3) is not recovered, as it is decomposed in the combustion process in nitrogen. After the removal of dust, the flue-gas is cooled down by passing through a cooling scrubber operated with water and it then enters a three or more staged scrubber of the flue-gas where the SO_2 emissions are scrubbed with the $Mg(OH)_2$ alkaline solution in the case of the magnesium sulphite process, and with a 100 % fresh NH_3 solution in the case of the ammonium sulphite process.

1.7.2. **Description of techniques to reduce fresh water use/waste water flow and the pollution load in waste water**

1.7.2.1. *Process integrated techniques*

Technique	Description
Dry debarking	Dry debarking of wood logs in dry tumbling drums (water being used only in washing of the logs, and then recycled with only a minimum purge to the waste water treatment plant)
Totally chlorine free bleaching (TCF)	In TCF bleaching, the use of chlorine containing bleaching chemicals is completely avoided and thus so are the emissions of organic and organochlorinated substances from bleaching
Modern elemental chlorine free (ECF) bleaching	Modern ECF bleaching minimises the consumption of chlorine dioxide by using one or a combination of the following bleaching stages: oxygen, hot acid hydrolysis stage, ozone stage at medium and high consistency, stages with atmospheric hydrogen peroxide and pressurised hydrogen peroxide or the use of a hot chlorine dioxide stage
Extended delignification	Extended delignification by (a) modified cooking or (b) oxygen delignification enhances the degree of delignification of pulp (lowering the kappa number) before bleaching and thus reduces the use of bleaching chemicals and the COD load of waste water. Lowering the kappa number by one unit before bleaching can reduce the COD released in the bleach plant by approximately 2 kg COD/ADt. The lignin removed can be recovered and sent to the chemicals and energy recovery system
(a) Extended modified cooking	Extended cooking (batch or continuous systems) comprises longer cooking periods under optimised conditions (e.g. alkali concentration in the cooking liquor is adjusted to be lower at the beginning and higher at the end of the cooking process), to extract a maximum amount of lignin before bleaching, without undue carbohydrate degradation or excessive loss of pulp strength. Thus, the use of chemicals in the subsequent bleaching stage and the organic load of the waste water from the bleach plant can be reduced
(b) Oxygen delignification	Oxygen delignification is an option to remove a substantial fraction of the lignin remaining after cooking, in case the cooking plant has to be operated with higher kappa numbers. The pulp reacts under alkaline conditions with oxygen to remove some of the residual lignin
Closed and efficient brown stock screening and washing	Brown stock screening is carried out with slotted pressure screens in a multi-stage closed cycle. Impurities and shives are thus removed at an early stage in the process. Brown stock washing separates dissolved organic and inorganic chemicals from the pulp fibres. The brown stock pulp may be washed first in the digester, then in high-efficiency washers before and after oxygen delignification, i.e. before bleaching. Carry-over, chemical consumption in bleaching, and the emission load of waste water are all reduced. Additionally, it allows for recovery of the cooking chemicals from the washing water. Efficient washing is done by counter-current multistage washing, using filters and presses. The water system in the brown stock screening plant is completely closed

Technique	Description
Partial process water recycling in the bleach plant	Acid and alkaline filtrates are recycled within the bleach plant counter-currently to the pulp flow. Water is purged either to the waste water treatment plant or, in a few cases, to post-oxygen washing. Efficient washers in the intermediate washing stages are a prerequisite for low emissions. A bleach plant effluent flow of 12 – 25 m^3/ADt is achieved in efficient mills (Kraft)
Effective spill monitoring and containment, also with chemical and energy recovery	An effective spill control, catchment and recovery system that prevents accidental releases of high organic and sometimes toxic loads or peak pH values (to the secondary waste water treatment plant) comprises: — conductivity or pH monitoring at strategic locations to detect losses and spills; — collecting diverted or spilled liquor at the highest possible liquor solids concentration; — returning collected liquor and fibre to the process at appropriate locations; — preventing spills of concentrated or harmful flows from critical process areas (including tall oil and turpentine) from entering the biological effluent treatment; — adequately dimensioned buffer tanks for collecting and storing toxic or hot concentrated liquors
Maintaining sufficient black liquor evaporation and recovery boiler capacity to cope with peak loads	Sufficient capacity in the black liquor evaporation plant and in the recovery boiler ensure that additional liquor and dry solids loads due to the collection of spills or bleach plant effluents can be dealt with. This reduces losses of weak black liquor, other concentrated process effluents and potentially bleach plant filtrates. The multi-effect evaporator concentrates weak black liquor from brown stock washing and, in some cases, also biosludge from the effluent treatment plant and/or salt cake from the ClO_2 plant. Additional evaporation capacity above normal operation gives sufficient contingency to recover spills and to treat potential bleach filtrate recycle streams
Stripping the contaminated (foul) condensates and reusing the condensates in the process	Stripping of contaminated (foul) condensates and reuse of condensates in the process reduces the fresh water intake of a mill and the organic load to the waste water treatment plant. In a stripping column, steam is lead counter-currently through the previously filtered process condensates that contain reduced sulphur compounds, terpenes, methanol and other organic compounds. The volatile substances of the condensate accumulate in the overhead vapour as non-condensable gases and methanol and are withdrawn from the system. The purified condensates can be reused in the process, e.g. for washing in the bleach plant, in brown stock washing, in the causticising area (mud washing and dilution, mud filter showers), as TRS scrubbing liquor for lime kilns, or as white liquor make-up water. The stripped non-condensable gases from the most concentrated condensates are fed into the collection system for strong malodorous gases and are incinerated. Stripped gases from moderately contaminated condensates are collected into the low volume high concentration gas system (LVHC) and incinerated
Evaporating and incinerating effluents from the hot alkaline extraction stage	The effluents are first concentrated by evaporation and then combusted as biofuel in a recovery boiler. Sodium carbonate containing dust and melt from the furnace bottom are dissolved to recover soda solution

Technique	Description
Recirculation of washing liquids from pre-bleaching to brown stock washing and evaporation to reduce emissions from MgO-based pre-bleaching	Prerequisites for the use of this technique are a relatively low kappa number after cooking (e.g. 14 – 16), sufficient capacity of tanks, evaporators and recovery boiler to cope with additional flows, the possibility to clean the washing equipment from deposits, and a moderate brightness level of the pulp (≤ 87 % ISO) as this technique may lead to a slight loss of brightness in some cases. For market paper pulp producers or others that have to reach very high brightness levels (> 87 % ISO), it may be difficult to apply MgO pre-bleaching
Counter-current flow of process water	In integrated mills, fresh water is introduced mainly through the paper machine showers from which it is fed upstream towards the pulping department
Separation of water systems	Water systems of different process units (e.g. pulping unit, bleaching and paper machine) are separated by washing and dewatering the pulp (e.g. by wash presses). This separation prevents carry-over of pollutants to subsequent process steps and allows for removing disturbing substances from smaller volumes
High consistency (peroxide) bleaching	For high consistency bleaching, the pulp is dewatered e.g. by a twin wire or other press before bleaching chemicals are added. This allows for more efficient use of bleaching chemicals and results in a cleaner pulp, less carry-over of detrimental substances to the paper machine and generates less COD. Residual peroxide may be recirculated and reused
Fibre and filler recovery and treatment of white water	White water from the paper machine can be treated by the following techniques: a) 'Save-all' devices (typically drum or disc filter or dissolved air flotation units etc.) that separate solids (fibres and filler) from the process water. Dissolved air flotation in white water loops transforms suspended solids, fines, small-size colloidal material and anionic substances into flocks that are then removed. The recovered fibres and fillers are recirculated to the process. Clear white water can be reused in showers with less stringent requirements for water quality. b) Additional ultrafiltration of the pre-filtered white water results in super clear filtrate with a quality sufficient for use as high pressure shower water, sealing water and for the dilution of chemical additives
Clarification of white water	The systems for water clarification used almost exclusively in the paper industry are based on sedimentation, filtration (disc filter) and flotation. The most used technique is dissolved air flotation. Anionic trash and fines are agglomerated into physically treatable flocs by using additives. High-molecular, water-soluble polymers or inorganic electrolytes are used as flocculants. The generated agglomerates (flocs) are then floated off in the clarification basin. In dissolved air flotation (DAF), the suspended solid material is attached to air bubbles
Water recirculation	Clarified water is recirculated as process water within a unit or in integrated mills from the paper machine to the pulp mill and from the pulping to the debarking plant. Effluent is mainly discharged from the points with the highest pollution load (e.g. clear filtrate of the disc filter in pulping, debarking)

Technique	Description
Optimum design and construction of tanks and chests (papermaking)	Holding tanks for stock and white water storage are designed so that they can cope with process fluctuations and varying flows also during start-ups and shutdowns
Washing stage before refining softwood mechanical pulp	Some mills pretreat softwood chips by combining pressurised preheating, high compression and impregnation to improve pulp properties. A washing stage before refining and bleaching significantly reduces COD by removing a small, but highly concentrated effluent stream that can be treated separately
Substitution of NaOH by Ca $(OH)_2$ or Mg $(OH)_2$ as alkali in peroxide bleaching	The use of $Ca(OH)_2$ as alkali results in approximately 30 % lower COD emission loads; while keeping brightness levels high. Also $Mg(OH)_2$ is used to replace NaOH
Closed-loop bleaching	In sulphite pulp mills using sodium as a cooking base, the bleach plant effluent can be treated, e.g. by ultrafiltration, flotation and separation of resin and fatty acids which enables closed-loop bleaching. The filtrates from bleaching and washing are reused in the first washing stage after cooking and finally recycled back to the chemical recovery units
pH adjustment of weak liquor before/inside the evaporation plant	Neutralisation is done before evaporation or after the first evaporation stage, to keep organic acids dissolved in the concentrate, in order for them to be sent with the spent liquor to the recovery boiler
Anaerobic treatment of the condensates from the evaporators	See Section 1.7.2.2 (combined anaerobic/aerobic treatment)
Stripping and recovery of SO_2 from condensates of evaporators	SO_2 is stripped from the condensates; concentrates are treated biologically, while the stripped SO_2 is sent for recovery as a cooking chemical.
Monitoring and continuous control of the process water quality	Optimisation of the entire 'fibre-water-chemical additive-energy system' is necessary for advanced closed water systems. This requires a continuous monitoring of the water quality and staff motivation, knowledge and action related to the measures needed to ensure the required water quality
Prevention and elimination of biofilms by using methods that minimise emissions of biocides	A continuous input of microorganisms by water and fibres leads to a specific microbiological equilibrium in each paper plant. To prevent extensive growth of the microorganisms, deposits of agglomerated biomass or biofilms in water circuits and equipment, often bio-dispersants or biocides are used. When using catalytic disinfection with hydrogen peroxide, biofilms and free germs in process water and paper slurry are eliminated without using any biocides
Removal of calcium from process water by controlled precipitation of calcium carbonate	Lowering the calcium concentration by controlled removal of calcium carbonate (e.g. in a dissolved air flotation cell) reduces the risk of undesired precipitation of calcium carbonate or scaling in water systems and equipment, e.g. in section rolls, wires, felts and shower nozzles, pipes or biological waste water treatment plants
Optimisation of showers in paper machine	Optimising showers involves: a) the reuse of process water (e.g. clarified white water) to reduce fresh water use, and b) the application of special design nozzles for the showers

1.7.2.2. *Waste water treatment*

Technique	Description
Primary treatment	Physico-chemical treatment, such as equalisation, neutralisation or sedimentation. Equalisation (e.g. in equalising basins) is used to prevent large variations in flow rate, temperature and contaminant concentrations and thus to avoid overloading the waste water treatment system
Secondary (biological) treatment	For the treatment of waste water by means of microorganisms, the available processes are aerobic and anaerobic treatment. In a secondary clarification step, solids and biomass are separated from effluents by sedimentation, sometimes combined with flocculation
a) Aerobic treatment	In aerobic biological waste water treatment, biodegradable dissolved and colloidal material in the water is transformed in the presence of air by microorganisms partly into a solid cell substance (biomass) and partly into carbon dioxide and water. Processes used are: — one- or two-stage activated sludge; — biofilm reactor processes; — biofilm/activated sludge (compact biological treatment plant). This technique consists in combining moving bed carriers with activated sludge (BAS). The generated biomass (excess sludge) is separated from the effluent before the water is discharged
b) Combined anaerobic/aerobic treatment	Anaerobic waste water treatment converts the organic content of waste water by means of microorganisms in the absence of air, into methane, carbon dioxide, sulphide, etc. The process is carried out in an airtight tank reactor. The microorganisms are retained in the tank as biomass (sludge). The biogas formed by this biological process consists of methane, carbon dioxide and other gases such as hydrogen and hydrogen sulphide and is suitable for energy generation. Anaerobic treatment is to be seen as pretreatment before aerobic treatment, due to the remaining COD loads. Anaerobic pretreatment reduces the amount of sludge generated from biological treatment
Tertiary treatment	Advanced treatment comprises techniques, such as filtration for further solids removal, nitrification and denitrification for nitrogen removal or flocculation/precipitation followed by filtration for phosphorus removal. Tertiary treatment is normally used in cases where primary and biological treatment are not sufficient to achieve low levels of TSS, nitrogen or phosphorus, which may be required e.g. due to local conditions
Properly designed and operated biological treatment plant	A properly designed and operated biological treatment plant includes the appropriate design and dimensioning of treatment tanks/basins (e.g. sedimentation tanks) according to hydraulic and contaminant loads. Low TSS emissions are achieved by ensuring the good settling of the active biomass. Periodical revisions of the design, dimensioning and operation of the waste water treatment plant facilitate achieving these objectives

1.7.3. **Description of techniques for waste generation prevention and waste management**

Technique	Description
Waste assessment and waste management system	Waste assessment and waste management systems are used to identify feasible options for optimising prevention, reuse, recovery, recycling and final disposal of waste. Waste inventories allow for identifying and classifying type, characteristics, amount and origin of each waste fraction
Separate collection of different waste fractions	The separate collection of different waste fractions at the points of origin and, if appropriate, intermediate storage can enhance the options for reuse or recirculation. Separate collection also includes segregation and classification of hazardous waste fractions (e.g. oil and grease residues, hydraulic and transformer oils, waste batteries, scrap electrical equipment, solvents, paints, biocides or chemical residues)
Merging of suitable residue fractions	Merging of suitable fractions of residue depending on the preferred options for reuse/recycling, further treatment and disposal
Pretreatment of process residues before reuse or recycling	Pretreatment comprises techniques such as: — dewatering e.g. of sludge, bark or rejects and in some cases drying to enhance reusability before utilisation (e.g. increase calorific value before incineration); or — dewatering to reduce weight and volume for transport. For dewatering belt presses, screw presses, decanter centrifuges or chamber filter presses are used; — crushing/shredding of rejects e.g. from RCF processes and removal of metallic parts, to enhance combustion characteristics before incineration; — biological stabilisation before dewatering, in case agricultural utilisation is foreseen
Material recovery and recycling of process residues on site	Processes for material recovery comprise techniques such as: — separation of fibres from water streams and recirculation into feedstock; — recovery of chemical additives, coating pigments, etc.; — recovery of cooking chemicals by means of recovery boilers, causticising, etc.
Energy recovery on- or off-site from wastes with high organic content	Residues from debarking, chipping, screening etc. like bark, fibre sludge or other mainly organic residues are burnt due to their calorific value in incinerators or biomass power plants for energy recovery
External material utilisation	Material utilisation of suitable waste from pulp and paper production can be done in other industrial sectors, e.g. by: — firing in the kilns or mixing with feedstock in cement, ceramics or bricks production (includes also energy recovery); — composting paper sludge or land spreading suitable waste fractions in agriculture; — use of inorganic waste fractions (sand, stones, grits, ashes, lime) for construction, such as paving, roads, covering layers etc. The suitability of waste fractions for off-site utilisation is determined by the composition of the waste (e.g. inorganic/mineral content) and the evidence that the foreseen recycling operation does not cause harm to the environment or health
Pretreatment of waste fraction before disposal	Pretreatment of waste before disposal comprises measures (dewatering, drying etc.) reducing the weight and volume for transport or disposal

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