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I

(Legislative acts)

DIRECTIVES

DIRECTIVE 2011/92/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 13 December 2011****on the assessment of the effects of certain public and private projects on the environment****(codification)****(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

(1) Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment ⁽³⁾ has been substantially amended several times ⁽⁴⁾. In the interests of clarity and rationality the said Directive should be codified.

(2) Pursuant to Article 191 of the Treaty on the Functioning of the European Union, Union policy on the environment is based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should, as a priority,

be rectified at source and that the polluter should pay. Effects on the environment should be taken into account at the earliest possible stage in all the technical planning and decision-making processes.

(3) The principles of the assessment of environmental effects should be harmonised, in particular with reference to the projects which should be subject to assessment, the main obligations of the developers and the content of the assessment. The Member States may lay down stricter rules to protect the environment.

(4) In addition, it is necessary to achieve one of the objectives of the Union in the sphere of the protection of the environment and the quality of life.

(5) The environmental legislation of the Union includes provisions enabling public authorities and other bodies to take decisions which may have a significant effect on the environment as well as on personal health and well-being.

(6) General principles for the assessment of environmental effects should be laid down with a view to supplementing and coordinating development consent procedures governing public and private projects likely to have a major effect on the environment.

(7) Development consent for public and private projects which are likely to have significant effects on the environment should be granted only after an assessment of the likely significant environmental effects of those projects has been carried out. That assessment should be conducted on the basis of the appropriate information supplied by the developer, which may be supplemented by the authorities and by the public likely to be concerned by the project in question.

⁽¹⁾ OJ C 248, 25.8.2011, p. 154.

⁽²⁾ Position of the European Parliament of 13 September 2011 (not yet published in the Official Journal) and decision of the Council of 15 November 2011.

⁽³⁾ OJ L 175, 5.7.1985, p. 40.

⁽⁴⁾ See Annex VI, Part A.

- (8) Projects belonging to certain types have significant effects on the environment and those projects should, as a rule, be subject to a systematic assessment.
- (9) Projects of other types may not have significant effects on the environment in every case and those projects should be assessed where the Member States consider that they are likely to have significant effects on the environment.
- (10) Member States may set thresholds or criteria for the purpose of determining which of such projects should be subject to assessment on the basis of the significance of their environmental effects. Member States should not be required to examine projects below those thresholds or outside those criteria on a case-by-case basis.
- (11) When setting such thresholds or criteria or examining projects on a case-by-case basis, for the purpose of determining which projects should be subject to assessment on the basis of their significant environmental effects, Member States should take account of the relevant selection criteria set out in this Directive. In accordance with the subsidiarity principle, the Member States are in the best position to apply those criteria in specific instances.
- (12) For projects which are subject to assessment, a certain minimal amount of information should be supplied, concerning the project and its effects.
- (13) It is appropriate to lay down a procedure in order to enable the developer to obtain an opinion from the competent authorities on the content and extent of the information to be elaborated and supplied for the assessment. Member States, in the framework of this procedure, may require the developer to provide, inter alia, alternatives for the projects for which it intends to submit an application.
- (14) The effects of a project on the environment should be assessed in order to take account of concerns to protect human health, to contribute by means of a better environment to the quality of life, to ensure maintenance of the diversity of species and to maintain the reproductive capacity of the ecosystem as a basic resource for life.
- (15) It is desirable to lay down strengthened provisions concerning environmental impact assessment in a transboundary context to take account of developments at international level. The European Community signed the Convention on Environmental Impact Assessment in a Transboundary Context on 25 February 1991, and ratified it on 24 June 1997.
- (16) Effective public participation in the taking of decisions enables the public to express, and the decision-maker to take account of, opinions and concerns which may be relevant to those decisions, thereby increasing the accountability and transparency of the decision-making process and contributing to public awareness of environmental issues and support for the decisions taken.
- (17) Participation, including participation by associations, organisations and groups, in particular non-governmental organisations promoting environmental protection, should accordingly be fostered, including, inter alia, by promoting environmental education of the public.
- (18) The European Community signed the UN/ECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention) on 25 June 1998 and ratified it on 17 February 2005.
- (19) Among the objectives of the Aarhus Convention is the desire to guarantee rights of public participation in decision-making in environmental matters in order to contribute to the protection of the right to live in an environment which is adequate for personal health and well-being.
- (20) Article 6 of the Aarhus Convention provides for public participation in decisions on the specific activities listed in Annex I thereto and on activities not so listed which may have a significant effect on the environment.
- (21) Article 9(2) and (4) of the Aarhus Convention provides for access to judicial or other procedures for challenging the substantive or procedural legality of decisions, acts or omissions subject to the public participation provisions of Article 6 of that Convention.
- (22) However, this Directive should not be applied to projects the details of which are adopted by a specific act of national legislation, since the objectives of this Directive, including that of supplying information, are achieved through the legislative process.
- (23) Furthermore, it may be appropriate in exceptional cases to exempt a specific project from the assessment procedures laid down by this Directive, subject to appropriate information being supplied to the Commission and to the public concerned.
- (24) Since the objectives of this Directive cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

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

HAVE ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive shall apply to the assessment of the environmental effects of those public and private projects which are likely to have significant effects on the environment.

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

(a) 'project' means:

— the execution of construction works or of other installations or schemes,

— other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources;

(b) 'developer' means the applicant for authorisation for a private project or the public authority which initiates a project;

(c) 'development consent' means the decision of the competent authority or authorities which entitles the developer to proceed with the project;

(d) 'public' means one or more natural or legal persons and, in accordance with national legislation or practice, their associations, organisations or groups;

(e) 'public concerned' means the public affected or likely to be affected by, or having an interest in, the environmental decision-making procedures referred to in Article 2(2). For the purposes of this definition, non-governmental organisations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest;

(f) 'competent authority or authorities' means that authority or those authorities which the Member States designate as responsible for performing the duties arising from this Directive.

3. Member States may decide, on a case-by-case basis if so provided under national law, not to apply this Directive to projects serving national defence purposes, if they deem that such application would have an adverse effect on those purposes.

4. This Directive shall not apply to projects the details of which are adopted by a specific act of national legislation, since the objectives of this Directive, including that of supplying information, are achieved through the legislative process.

Article 2

1. Member States shall adopt all measures necessary to ensure that, before consent is given, projects likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location are made subject to a requirement for development consent and an assessment with regard to their effects. Those projects are defined in Article 4.

2. The environmental impact assessment may be integrated into the existing procedures for consent to projects in the Member States, or, failing this, into other procedures or into procedures to be established to comply with the aims of this Directive.

3. Member States may provide for a single procedure in order to fulfil the requirements of this Directive and the requirements of Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control ⁽¹⁾.

4. Without prejudice to Article 7, Member States may, in exceptional cases, exempt a specific project in whole or in part from the provisions laid down in this Directive.

In that event, the Member States shall:

(a) consider whether another form of assessment would be appropriate;

(b) make available to the public concerned the information obtained under other forms of assessment referred to in point (a), the information relating to the decision granting exemption and the reasons for granting it;

(c) inform the Commission, prior to granting consent, of the reasons justifying the exemption granted, and provide it with the information made available, where applicable, to their own nationals.

The Commission shall immediately forward the documents received to the other Member States.

The Commission shall report annually to the European Parliament and to the Council on the application of this paragraph.

⁽¹⁾ OJ L 24, 29.1.2008, p. 8.

Article 3

The environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case and in accordance with Articles 4 to 12, the direct and indirect effects of a project on the following factors:

- (a) human beings, fauna and flora;
- (b) soil, water, air, climate and the landscape;
- (c) material assets and the cultural heritage;
- (d) the interaction between the factors referred to in points (a), (b) and (c).

Article 4

1. Subject to Article 2(4), projects listed in Annex I shall be made subject to an assessment in accordance with Articles 5 to 10.

2. Subject to Article 2(4), for projects listed in Annex II, Member States shall determine whether the project shall be made subject to an assessment in accordance with Articles 5 to 10. Member States shall make that determination through:

- (a) a case-by-case examination;

or

- (b) thresholds or criteria set by the Member State.

Member States may decide to apply both procedures referred to in points (a) and (b).

3. When a case-by-case examination is carried out or thresholds or criteria are set for the purpose of paragraph 2, the relevant selection criteria set out in Annex III shall be taken into account.

4. Member States shall ensure that the determination made by the competent authorities under paragraph 2 is made available to the public.

Article 5

1. In the case of projects which, pursuant to Article 4, are to be made subject to an environmental impact assessment in accordance with this Article and Articles 6 to 10, Member States shall adopt the necessary measures to ensure that the developer supplies in an appropriate form the information specified in Annex IV inasmuch as:

- (a) the Member States consider that the information is relevant to a given stage of the consent procedure and to the specific characteristics of a particular project or type of project and of the environmental features likely to be affected;

- (b) the Member States consider that a developer may reasonably be required to compile this information having regard, *inter alia*, to current knowledge and methods of assessment.

2. Member States shall take the necessary measures to ensure that, if the developer so requests before submitting an application for development consent, the competent authority shall give an opinion on the information to be supplied by the developer in accordance with paragraph 1. The competent authority shall consult the developer and authorities referred to in Article 6(1) before it gives its opinion. The fact that the authority has given an opinion under this paragraph shall not preclude it from subsequently requiring the developer to submit further information.

Member States may require the competent authorities to give such an opinion, irrespective of whether the developer so requests.

3. The information to be provided by the developer in accordance with paragraph 1 shall include at least:

- (a) a description of the project comprising information on the site, design and size of the project;
- (b) a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
- (c) the data required to identify and assess the main effects which the project is likely to have on the environment;
- (d) an outline of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects;
- (e) a non-technical summary of the information referred to in points (a) to (d).

4. Member States shall, if necessary, ensure that any authorities holding relevant information, with particular reference to Article 3, make this information available to the developer.

Article 6

1. Member States shall take the measures necessary to ensure that the authorities likely to be concerned by the project by reason of their specific environmental responsibilities are given an opportunity to express their opinion on the information supplied by the developer and on the request for development consent. To that end, Member States shall designate the authorities to be consulted, either in general terms or on a case-by-case basis. The information gathered pursuant to Article 5 shall be forwarded to those authorities. Detailed arrangements for consultation shall be laid down by the Member States.

2. The public shall be informed, whether by public notices or by other appropriate means such as electronic media where available, of the following matters early in the environmental decision-making procedures referred to in Article 2(2) and, at the latest, as soon as information can reasonably be provided:

- (a) the request for development consent;
- (b) the fact that the project is subject to an environmental impact assessment procedure and, where relevant, the fact that Article 7 applies;
- (c) details of the competent authorities responsible for taking the decision, those from which relevant information can be obtained, those to which comments or questions can be submitted, and details of the time schedule for transmitting comments or questions;
- (d) the nature of possible decisions or, where there is one, the draft decision;
- (e) an indication of the availability of the information gathered pursuant to Article 5;
- (f) an indication of the times and places at which, and the means by which, the relevant information will be made available;
- (g) details of the arrangements for public participation made pursuant to paragraph 5 of this Article.

3. Member States shall ensure that, within reasonable time-frames, the following is made available to the public concerned:

- (a) any information gathered pursuant to Article 5;
- (b) in accordance with national legislation, the main reports and advice issued to the competent authority or authorities at the time when the public concerned is informed in accordance with paragraph 2 of this Article;
- (c) in accordance with the provisions of Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information⁽¹⁾, information other than that referred to in paragraph 2 of this Article which is relevant for the decision in accordance with Article 8 of this Directive and which only becomes available after the time the public concerned was informed in accordance with paragraph 2 of this Article.

4. The public concerned shall be given early and effective opportunities to participate in the environmental decision-making procedures referred to in Article 2(2) and shall, for that purpose, be entitled to express comments and opinions

when all options are open to the competent authority or authorities before the decision on the request for development consent is taken.

5. The detailed arrangements for informing the public (for example by bill posting within a certain radius or publication in local newspapers) and for consulting the public concerned (for example by written submissions or by way of a public inquiry) shall be determined by the Member States.

6. Reasonable time-frames for the different phases shall be provided, allowing sufficient time for informing the public and for the public concerned to prepare and participate effectively in environmental decision-making subject to the provisions of this Article.

Article 7

1. Where a Member State is aware that a project is likely to have significant effects on the environment in another Member State or where a Member State likely to be significantly affected so requests, the Member State in whose territory the project is intended to be carried out shall send to the affected Member State as soon as possible and no later than when informing its own public, *inter alia*:

- (a) a description of the project, together with any available information on its possible transboundary impact;
- (b) information on the nature of the decision which may be taken.

The Member State in whose territory the project is intended to be carried out shall give the other Member State a reasonable time in which to indicate whether it wishes to participate in the environmental decision-making procedures referred to in Article 2(2), and may include the information referred to in paragraph 2 of this Article.

2. If a Member State which receives information pursuant to paragraph 1 indicates that it intends to participate in the environmental decision-making procedures referred to in Article 2(2), the Member State in whose territory the project is intended to be carried out shall, if it has not already done so, send to the affected Member State the information required to be given pursuant to Article 6(2) and made available pursuant to points (a) and (b) of Article 6(3).

3. The Member States concerned, each insofar as it is concerned, shall also:

- (a) arrange for the information referred to in paragraphs 1 and 2 to be made available, within a reasonable time, to the authorities referred to in Article 6(1) and the public concerned in the territory of the Member State likely to be significantly affected; and

⁽¹⁾ OJ L 41, 14.2.2003, p. 26.

(b) ensure that the authorities referred to in Article 6(1) and the public concerned are given an opportunity, before development consent for the project is granted, to forward their opinion within a reasonable time on the information supplied to the competent authority in the Member State in whose territory the project is intended to be carried out.

4. The Member States concerned shall enter into consultations regarding, inter alia, the potential transboundary effects of the project and the measures envisaged to reduce or eliminate such effects and shall agree on a reasonable time-frame for the duration of the consultation period.

5. The detailed arrangements for implementing this Article may be determined by the Member States concerned and shall be such as to enable the public concerned in the territory of the affected Member State to participate effectively in the environmental decision-making procedures referred to in Article 2(2) for the project.

Article 8

The results of consultations and the information gathered pursuant to Articles 5, 6 and 7 shall be taken into consideration in the development consent procedure.

Article 9

1. When a decision to grant or refuse development consent has been taken, the competent authority or authorities shall inform the public thereof in accordance with the appropriate procedures and shall make available to the public the following information:

- (a) the content of the decision and any conditions attached thereto;
- (b) having examined the concerns and opinions expressed by the public concerned, the main reasons and considerations on which the decision is based, including information about the public participation process;
- (c) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects.

2. The competent authority or authorities shall inform any Member State which has been consulted pursuant to Article 7, forwarding to it the information referred to in paragraph 1 of this Article.

The consulted Member States shall ensure that that information is made available in an appropriate manner to the public concerned in their own territory.

Article 10

The provisions of this Directive shall not affect the obligation on the competent authorities to respect the limitations imposed

by national laws, regulations and administrative provisions and accepted legal practices with regard to commercial and industrial confidentiality, including intellectual property, and the safeguarding of the public interest.

Where Article 7 applies, the transmission of information to another Member State and the receipt of information by another Member State shall be subject to the limitations in force in the Member State in which the project is proposed.

Article 11

1. Member States shall ensure that, in accordance with the relevant national legal system, members of the public concerned:

- (a) having a sufficient interest, or alternatively;
- (b) maintaining the impairment of a right, where administrative procedural law of a Member State requires this as a precondition;

have access to a review procedure before a court of law or another independent and impartial body established by law to challenge the substantive or procedural legality of decisions, acts or omissions subject to the public participation provisions of this Directive.

2. Member States shall determine at what stage the decisions, acts or omissions may be challenged.

3. What constitutes a sufficient interest and impairment of a right shall be determined by the Member States, consistently with the objective of giving the public concerned wide access to justice. To that end, the interest of any non-governmental organisation meeting the requirements referred to in Article 1(2) shall be deemed sufficient for the purpose of point (a) of paragraph 1 of this Article. Such organisations shall also be deemed to have rights capable of being impaired for the purpose of point (b) of paragraph 1 of this Article.

4. The provisions of this Article shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.

Any such procedure shall be fair, equitable, timely and not prohibitively expensive.

5. In order to further the effectiveness of the provisions of this Article, Member States shall ensure that practical information is made available to the public on access to administrative and judicial review procedures.

Article 12

1. The Member States and the Commission shall exchange information on the experience gained in applying this Directive.

2. In particular, Member States shall inform the Commission of any criteria and/or thresholds adopted for the selection of the projects in question, in accordance with Article 4(2).

3. On the basis of that exchange of information, the Commission shall if necessary submit additional proposals to the European Parliament and to the Council, with a view to ensuring that this Directive is applied in a sufficiently coordinated manner.

Article 13

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

Article 14

Directive 85/337/EEC, as amended by the Directives listed in Annex V, Part A, is repealed, without prejudice to the

obligations of the Member States relating to the time limits for transposition into national law of the Directives set out in Annex V, Part B.

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

Article 15

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

Article 16

This Directive is addressed to the Member States.

Done at Strasbourg, 13 December 2011.

For the European Parliament

The President

J. BUZEK

For the Council

The President

M. SZPUNAR

ANNEX I

PROJECTS REFERRED TO IN ARTICLE 4(1)

1. Crude-oil refineries (excluding undertakings manufacturing only lubricants from crude oil) and installations for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.
2. (a) Thermal power stations and other combustion installations with a heat output of 300 megawatts or more;

(b) Nuclear power stations and other nuclear reactors including the dismantling or decommissioning of such power stations or reactors ⁽¹⁾ (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load).
3. (a) Installations for the reprocessing of irradiated nuclear fuel;

(b) Installations designed:
 - (i) for the production or enrichment of nuclear fuel;
 - (ii) for the processing of irradiated nuclear fuel or high-level radioactive waste;
 - (iii) for the final disposal of irradiated nuclear fuel;
 - (iv) solely for the final disposal of radioactive waste;
 - (v) solely for the storage (planned for more than 10 years) of irradiated nuclear fuels or radioactive waste in a different site than the production site.
4. (a) Integrated works for the initial smelting of cast iron and steel;

(b) Installations for the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes.
5. Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos: for asbestos-cement products, with an annual production of more than 20 000 tonnes of finished products, for friction material, with an annual production of more than 50 tonnes of finished products, and for other uses of asbestos, utilisation of more than 200 tonnes per year.
6. Integrated chemical installations, i.e. those installations for the manufacture on an industrial scale of substances using chemical conversion processes, in which several units are juxtaposed and are functionally linked to one another and which are:
 - (a) for the production of basic organic chemicals;
 - (b) for the production of basic inorganic chemicals;
 - (c) for the production of phosphorous-, nitrogen- or potassium-based fertilisers (simple or compound fertilisers);
 - (d) for the production of basic plant health products and of biocides;
 - (e) for the production of basic pharmaceutical products using a chemical or biological process;
 - (f) for the production of explosives.

⁽¹⁾ Nuclear power stations and other nuclear reactors cease to be such an installation when all nuclear fuel and other radioactively contaminated elements have been removed permanently from the installation site.

7. (a) Construction of lines for long-distance railway traffic and of airports ⁽¹⁾ with a basic runway length of 2 100 m or more;
- (b) Construction of motorways and express roads ⁽²⁾;
- (c) Construction of a new road of four or more lanes, or realignment and/or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new road or realigned and/or widened section of road would be 10 km or more in a continuous length.
8. (a) Inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1 350 tonnes;
- (b) Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1 350 tonnes.
9. Waste disposal installations for the incineration, chemical treatment as defined in Annex I to Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste ⁽³⁾ under heading D9, or landfill of hazardous waste, as defined in point 2 of Article 3 of that Directive.
10. Waste disposal installations for the incineration or chemical treatment as defined in Annex I to Directive 2008/98/EC under heading D9 of non-hazardous waste with a capacity exceeding 100 tonnes per day.
11. Groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres.
12. (a) Works for the transfer of water resources between river basins where that transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres/year;
- (b) In all other cases, works for the transfer of water resources between river basins where the multi-annual average flow of the basin of abstraction exceeds 2 000 million cubic metres/year and where the amount of water transferred exceeds 5 % of that flow.
- In both cases transfers of piped drinking water are excluded.
13. Waste water treatment plants with a capacity exceeding 150 000 population equivalent as defined in point 6 of Article 2 of Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment ⁽⁴⁾.
14. Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes/day in the case of petroleum and 500 000 cubic metres/day in the case of gas.
15. Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.
16. Pipelines with a diameter of more than 800 mm and a length of more than 40 km:
 - (a) for the transport of gas, oil, chemicals;
 - (b) for the transport of carbon dioxide (CO₂) streams for the purposes of geological storage, including associated booster stations.
17. Installations for the intensive rearing of poultry or pigs with more than:
 - (a) 85 000 places for broilers, 60 000 places for hens;
 - (b) 3 000 places for production pigs (over 30 kg); or
 - (c) 900 places for sows.

⁽¹⁾ For the purposes of this Directive, 'airport' means an airport which complies with the definition in the 1944 Chicago Convention setting up the International Civil Aviation Organisation (Annex 14).

⁽²⁾ For the purposes of this Directive, 'express road' means a road which complies with the definition in the European Agreement on Main International Traffic Arteries of 15 November 1975.

⁽³⁾ OJ L 312, 22.11.2008, p. 3.

⁽⁴⁾ OJ L 135, 30.5.1991, p. 40.

18. Industrial plants for the production of:
 - (a) pulp from timber or similar fibrous materials;
 - (b) paper and board with a production capacity exceeding 200 tonnes per day.
 19. Quarries and open-cast mining where the surface of the site exceeds 25 hectares, or peat extraction, where the surface of the site exceeds 150 hectares.
 20. Construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km.
 21. Installations for storage of petroleum, petrochemical, or chemical products with a capacity of 200 000 tonnes or more.
 22. Storage sites pursuant to Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide ⁽¹⁾.
 23. Installations for the capture of CO₂ streams for the purposes of geological storage pursuant to Directive 2009/31/EC from installations covered by this Annex, or where the total yearly capture of CO₂ is 1,5 megatonnes or more.
 24. Any change to or extension of projects listed in this Annex where such a change or extension in itself meets the thresholds, if any, set out in this Annex.
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⁽¹⁾ OJ L 140, 5.6.2009, p. 114.

ANNEX II

PROJECTS REFERRED TO IN ARTICLE 4(2)**1. AGRICULTURE, SILVICULTURE AND AQUACULTURE**

- (a) Projects for the restructuring of rural land holdings;
- (b) Projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes;
- (c) Water management projects for agriculture, including irrigation and land drainage projects;
- (d) Initial afforestation and deforestation for the purposes of conversion to another type of land use;
- (e) Intensive livestock installations (projects not included in Annex I);
- (f) Intensive fish farming;
- (g) Reclamation of land from the sea.

2. EXTRACTIVE INDUSTRY

- (a) Quarries, open-cast mining and peat extraction (projects not included in Annex I);
- (b) Underground mining;
- (c) Extraction of minerals by marine or fluvial dredging;
- (d) Deep drillings, in particular:
 - (i) geothermal drilling;
 - (ii) drilling for the storage of nuclear waste material;
 - (iii) drilling for water supplies;with the exception of drillings for investigating the stability of the soil;
- (e) Surface industrial installations for the extraction of coal, petroleum, natural gas and ores, as well as bituminous shale.

3. ENERGY INDUSTRY

- (a) Industrial installations for the production of electricity, steam and hot water (projects not included in Annex I);
- (b) Industrial installations for carrying gas, steam and hot water; transmission of electrical energy by overhead cables (projects not included in Annex I);
- (c) Surface storage of natural gas;
- (d) Underground storage of combustible gases;
- (e) Surface storage of fossil fuels;
- (f) Industrial briquetting of coal and lignite;
- (g) Installations for the processing and storage of radioactive waste (unless included in Annex I);
- (h) Installations for hydroelectric energy production;
- (i) Installations for the harnessing of wind power for energy production (wind farms);

- (j) Installations for the capture of CO₂ streams for the purposes of geological storage pursuant to Directive 2009/31/EC from installations not covered by Annex I to this Directive.

4. PRODUCTION AND PROCESSING OF METALS

- (a) Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting;
- (b) Installations for the processing of ferrous metals:
 - (i) hot-rolling mills;
 - (ii) smitheries with hammers;
 - (iii) application of protective fused metal coats;
- (c) Ferrous metal foundries;
- (d) Installations for the smelting, including the alloyage, of non-ferrous metals, excluding precious metals, including recovered products (refining, foundry casting, etc.);
- (e) Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process;
- (f) Manufacture and assembly of motor vehicles and manufacture of motor-vehicle engines;
- (g) Shipyards;
- (h) Installations for the construction and repair of aircraft;
- (i) Manufacture of railway equipment;
- (j) Swaging by explosives;
- (k) Installations for the roasting and sintering of metallic ores.

5. MINERAL INDUSTRY

- (a) Coke ovens (dry coal distillation);
- (b) Installations for the manufacture of cement;
- (c) Installations for the production of asbestos and the manufacture of asbestos products (projects not included in Annex I);
- (d) Installations for the manufacture of glass including glass fibre;
- (e) Installations for smelting mineral substances including the production of mineral fibres;
- (f) Manufacture of ceramic products by burning, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain.

6. CHEMICAL INDUSTRY (PROJECTS NOT INCLUDED IN ANNEX I)

- (a) Treatment of intermediate products and production of chemicals;
- (b) Production of pesticides and pharmaceutical products, paint and varnishes, elastomers and peroxides;
- (c) Storage facilities for petroleum, petrochemical and chemical products.

7. FOOD INDUSTRY

- (a) Manufacture of vegetable and animal oils and fats;
- (b) Packing and canning of animal and vegetable products;

- (c) Manufacture of dairy products;
- (d) Brewing and malting;
- (e) Confectionery and syrup manufacture;
- (f) Installations for the slaughter of animals;
- (g) Industrial starch manufacturing installations;
- (h) Fish-meal and fish-oil factories;
- (i) Sugar factories.

8. TEXTILE, LEATHER, WOOD AND PAPER INDUSTRIES

- (a) Industrial plants for the production of paper and board (projects not included in Annex I);
- (b) Plants for the pre-treatment (operations such as washing, bleaching, mercerisation) or dyeing of fibres or textiles;
- (c) Plants for the tanning of hides and skins;
- (d) Cellulose-processing and production installations.

9. RUBBER INDUSTRY

Manufacture and treatment of elastomer-based products.

10. INFRASTRUCTURE PROJECTS

- (a) Industrial estate development projects;
- (b) Urban development projects, including the construction of shopping centres and car parks;
- (c) Construction of railways and intermodal transshipment facilities, and of intermodal terminals (projects not included in Annex I);
- (d) Construction of airfields (projects not included in Annex I);
- (e) Construction of roads, harbours and port installations, including fishing harbours (projects not included in Annex I);
- (f) Inland-waterway construction not included in Annex I, canalisation and flood-relief works;
- (g) Dams and other installations designed to hold water or store it on a long-term basis (projects not included in Annex I);
- (h) Tramways, elevated and underground railways, suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport;
- (i) Oil and gas pipeline installations and pipelines for the transport of CO₂ streams for the purposes of geological storage (projects not included in Annex I);
- (j) Installations of long-distance aqueducts;
- (k) Coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example, of dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works;
- (l) Groundwater abstraction and artificial groundwater recharge schemes not included in Annex I;
- (m) Works for the transfer of water resources between river basins not included in Annex I.

11. OTHER PROJECTS

- (a) Permanent racing and test tracks for motorised vehicles;
- (b) Installations for the disposal of waste (projects not included in Annex I);
- (c) Waste-water treatment plants (projects not included in Annex I);
- (d) Sludge-deposition sites;
- (e) Storage of scrap iron, including scrap vehicles;
- (f) Test benches for engines, turbines or reactors;
- (g) Installations for the manufacture of artificial mineral fibres;
- (h) Installations for the recovery or destruction of explosive substances;
- (i) Knackers' yards.

12. TOURISM AND LEISURE

- (a) Ski runs, ski lifts and cable cars and associated developments;
- (b) Marinas;
- (c) Holiday villages and hotel complexes outside urban areas and associated developments;
- (d) Permanent campsites and caravan sites;
- (e) Theme parks.

13. (a) Any change or extension of projects listed in Annex I or this Annex, already authorised, executed or in the process of being executed, which may have significant adverse effects on the environment (change or extension not included in Annex I);
- (b) Projects in Annex I, undertaken exclusively or mainly for the development and testing of new methods or products and not used for more than two years.
-

ANNEX III

SELECTION CRITERIA REFERRED TO IN ARTICLE 4(3)**1. CHARACTERISTICS OF PROJECTS**

The characteristics of projects must be considered having regard, in particular, to:

- (a) the size of the project;
- (b) the cumulation with other projects;
- (c) the use of natural resources;
- (d) the production of waste;
- (e) pollution and nuisances;
- (f) the risk of accidents, having regard in particular to substances or technologies used.

2. LOCATION OF PROJECTS

The environmental sensitivity of geographical areas likely to be affected by projects must be considered, having regard, in particular, to:

- (a) the existing land use;
- (b) the relative abundance, quality and regenerative capacity of natural resources in the area;
- (c) the absorption capacity of the natural environment, paying particular attention to the following areas:
 - (i) wetlands;
 - (ii) coastal zones;
 - (iii) mountain and forest areas;
 - (iv) nature reserves and parks;
 - (v) areas classified or protected under Member States' legislation; special protection areas designated by Member States pursuant to Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds ⁽¹⁾ and to Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora ⁽²⁾;
 - (vi) areas in which the environmental quality standards laid down in Union legislation have already been exceeded;
 - (vii) densely populated areas;
 - (viii) landscapes of historical, cultural or archaeological significance.

3. CHARACTERISTICS OF THE POTENTIAL IMPACT

The potential significant effects of projects must be considered in relation to criteria set out in points 1 and 2, and having regard in particular to:

- (a) the extent of the impact (geographical area and size of the affected population);
- (b) the transfrontier nature of the impact;
- (c) the magnitude and complexity of the impact;
- (d) the probability of the impact;
- (e) the duration, frequency and reversibility of the impact.

⁽¹⁾ OJ L 20, 26.1.2010, p. 7.

⁽²⁾ OJ L 206, 22.7.1992, p. 7.

ANNEX IV

INFORMATION REFERRED TO IN ARTICLE 5(1)

1. A description of the project, including in particular:
 - (a) a description of the physical characteristics of the whole project and the land-use requirements during the construction and operational phases;
 - (b) a description of the main characteristics of the production processes, for instance, the nature and quantity of the materials used;
 - (c) an estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the operation of the proposed project.
2. An outline of the main alternatives studied by the developer and an indication of the main reasons for this choice, taking into account the environmental effects.
3. A description of the aspects of the environment likely to be significantly affected by the proposed project, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the interrelationship between the above factors.
4. A description ⁽¹⁾ of the likely significant effects of the proposed project on the environment resulting from:
 - (a) the existence of the project;
 - (b) the use of natural resources;
 - (c) the emission of pollutants, the creation of nuisances and the elimination of waste.
5. The description by the developer of the forecasting methods used to assess the effects on the environment referred to in point 4.
6. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.
7. A non-technical summary of the information provided under headings 1 to 6.
8. An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the developer in compiling the required information.

⁽¹⁾ This description should cover the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the project.

ANNEX V

PART A

Repealed Directive with list of its successive amendments

(referred to in Article 14)

Council Directive 85/337/EEC
(OJ L 175, 5.7.1985, p. 40)

Council Directive 97/11/EC
(OJ L 73, 14.3.1997, p. 5)

Directive 2003/35/EC of the European Parliament and of the Council
(OJ L 156, 25.6.2003, p. 17)

Article 3 only

Directive 2009/31/EC of the European Parliament and of the Council
(OJ L 140, 5.6.2009, p. 114)

Article 31 only

PART B

List of time limits for transposition into national law

(referred to in Article 14)

Directive	Time limit for transposition
85/337/EEC	3 July 1988
97/11/EC	14 March 1999
2003/35/EC	25 June 2005
2009/31/EC	25 June 2011

ANNEX VI

Correlation table

Directive 85/337/EEC	This Directive
Article 1(1)	Article 1(1)
Article 1(2), first subparagraph	Article 1(2), introductory wording
Article 1(2), second subparagraph, introductory wording	Article 1(2)(a), introductory wording
Article 1(2), second subparagraph, first indent	Article 1(2), point (a), first indent
Article 1(2), second subparagraph, second indent	Article 1(2), point (a), second indent
Article 1(2), third subparagraph	Article 1(2), point (b)
Article 1(2), fourth subparagraph	Article 1(2), point (c)
Article 1(2), fifth subparagraph	Article 1(2), point (d)
Article 1(2), sixth subparagraph	Article 1(2), point (e)
Article 1(3)	Article 1(2), point (f)
Article 1(4)	Article 1(3)
Article 1(5)	Article 1(4)
Article 2(1)	Article 2(1)
Article 2(2)	Article 2(2)
Article 2(2a)	Article 2(3)
Article 2(3)	Article 2(4)
Article 3, introductory wording	Article 3, introductory wording
Article 3, first indent	Article 3, point (a)
Article 3, second indent	Article 3, point (b)
Article 3, third indent	Article 3, point (c)
Article 3, fourth indent	Article 3, point (d)
Article 4	Article 4
Article 5(1)	Article 5(1)
Article 5(2)	Article 5(2)
Article 5(3), introductory wording	Article 5(3), introductory wording
Article 5(3), first indent	Article 5(3), point (a)
Article 5(3), second indent	Article 5(3), point (b)
Article 5(3), third indent	Article 5(3), point (c)
Article 5(3), fourth indent	Article 5(3), point (d)
Article 5(3), fifth indent	Article 5(3), point (e)
Article 5(4)	Article 5(4)
Article 6	Article 6
Article 7(1), introductory wording	Article 7(1), first subparagraph, introductory wording

Directive 85/337/EEC	This Directive
Article 7(1), point (a)	Article 7(1), first subparagraph, point (a)
Article 7(1), point (b)	Article 7(1), first subparagraph, point (b)
Article 7(1), final wording	Article 7(1), second subparagraph
Article 7(2)-7(5)	Article 7(2)-7(5)
Article 8	Article 8
Article 9(1), introductory wording	Article 9, introductory wording
Article 9(1), first indent	Article 9(1), point (a)
Article 9(1), second indent	Article 9(1), point (b)
Article 9(1), third indent	Article 9(1), point (c)
Article 9(2)	Article 9(2)
Article 10	Article 10
Article 10a, first paragraph	Article 11(1)
Article 10a, second paragraph	Article 11(2)
Article 10a, third paragraph	Article 11(3)
Article 10a, fourth and fifth paragraphs	Article 11(4), first and second subparagraphs
Article 10a, sixth paragraph	Article 11(5)
Article 11(1)	Article 12(1)
Article 11(2)	Article 12(2)
Article 11(3)	—
Article 11(4)	Article 12(3)
Article 12(1)	—
Article 12(2)	Article 13
—	Article 14
—	Article 15
Article 14	Article 16
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Annex I, point 2, first indent	Annex I, point 2(a)
Annex I, point 2, second indent	Annex I, point 2(b)
Annex I, point 3(a)	Annex I, point 3(a)
Annex I, point 3(b), introductory wording	Annex I, point 3(b), introductory wording
Annex I, point 3(b), first indent	Annex I, point 3(b)(i)
Annex I, point 3(b), second indent	Annex I, point 3(b)(ii)
Annex I, point 3(b), third indent	Annex I, point 3(b)(iii)
Annex I, point 3(b), fourth indent	Annex I, point 3(b)(iv)
Annex I, point 3(b), fifth indent	Annex I, point 3(b)(v)
Annex I, point 4, first indent	Annex I, point 4(a)

Directive 85/337/EEC	This Directive
Annex I, point 4, second indent	Annex I, point 4(b)
Annex I, point 5	Annex I, point 5
Annex I, point 6, introductory wording	Annex I, point 6, introductory wording
Annex I, point 6(i)	Annex I, point 6(a)
Annex I, point 6(ii)	Annex I, point 6(b)
Annex I, point 6(iii)	Annex I, point 6(c)
Annex I, point 6(iv)	Annex I, point 6(d)
Annex I, point 6(v)	Annex I, point 6(e)
Annex I, point 6(vi)	Annex I, point 6(f)
Annex I, points 7-15	Annex I, points 7-15
Annex I, point 16, introductory wording	Annex I, point 16, introductory wording
Annex I, point 16, first indent	Annex I, point 16(a)
Annex I, point 16, second indent	Annex I, point 16(b)
Annex I, points 17-21	Annex I, points 17-21
Annex I, point 22	Annex I, point 24
Annex I, point 23	Annex I, point 22
Annex I, point 24	Annex I, point 23
Annex II, point 1	Annex II, point 1
Annex II, point 2(a), (b) and (c)	Annex II, point 2(a), (b) and (c)
Annex II, point 2(d), introductory wording	Annex II, point 2(d), introductory wording
Annex II, point 2(d), first indent	Annex II, point 2(d)(i)
Annex II, point 2(d), second indent	Annex II, point 2(d)(ii)
Annex II, point 2(d), third indent	Annex II, point 2(d)(iii)
Annex II, point 2(d), final wording	Annex II, point 2(d), final wording
Annex II, point 2(e)	Annex II, point 2(e)
Annex II, points 3-12	Annex II, points 3-12
Annex II, point 13, first indent	Annex II, point 13(a)
Annex II, point 13, second indent	Annex II, point 13(b)
Annex III, point 1, introductory wording	Annex III, point 1, introductory wording
Annex III, point 1, first indent	Annex III, point 1(a)
Annex III, point 1, second indent	Annex III, point 1(b)
Annex III, point 1, third indent	Annex III, point 1(c)
Annex III, point 1, fourth indent	Annex III, point 1(d)
Annex III, point 1, fifth indent	Annex III, point 1(e)
Annex III, point 1, sixth indent	Annex III, point 1(f)
Annex III, point 2, introductory wording	Annex III, point 2, introductory wording

Directive 85/337/EEC	This Directive
Annex III, point 2, first indent	Annex III, point 2(a)
Annex III, point 2, second indent	Annex III, point 2(b)
Annex III, point 2, third indent, introductory wording	Annex III, point 2(c), introductory wording
Annex III, point 2, third indent, point (a)	Annex III, point 2(c)(i)
Annex III, point 2, third indent, point (b)	Annex III, point 2(c)(ii)
Annex III, point 2, third indent, point (c)	Annex III, point 2(c)(iii)
Annex III, point 2, third indent, point (d)	Annex III, point 2(c)(iv)
Annex III, point 2, third indent, point (e)	Annex III, point 2(c)(v)
Annex III, point 2, third indent, point (f)	Annex III, point 2(c)(vi)
Annex III, point 2, third indent, point (g)	Annex III, point 2(c)(vii)
Annex III, point 2, third indent, point (h)	Annex III, point 2(c)(viii)
Annex III, point 3, introductory wording	Annex III, point 3, introductory wording
Annex III, point 3, first indent	Annex III, point 3(a)
Annex III, point 3, second indent	Annex III, point 3(b)
Annex III, point 3, third indent	Annex III, point 3(c)
Annex III, point 3, fourth indent	Annex III, point 3(d)
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Annex IV, point 1, introductory wording	Annex IV, point 1, introductory wording
Annex IV, point 1, first indent	Annex IV, point 1(a)
Annex IV, point 1, second indent	Annex IV, point 1(b)
Annex IV, point 1, third indent	Annex IV, point 1(c)
Annex IV, points 2 and 3	Annex IV, points 2 and 3
Annex IV, point 4, introductory wording	Annex IV, point 4, first subparagraph, introductory wording
Annex IV, point 4, first indent	Annex IV, point 4, first subparagraph, point (a)
Annex IV, point 4, second indent	Annex IV, point 4, first subparagraph, point (b)
Annex IV, point 4, third indent	Annex IV, point 4, first subparagraph, point (c)
Annex IV, point 4, final wording	Annex IV, point 5
Annex IV, point 5	Annex IV, point 6
Annex IV, point 6	Annex IV, point 7
Annex IV, point 7	Annex IV, point 8
—	Annex V
—	Annex VI

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

Information on the date of entry into force of the Protocol setting out the fishing opportunities and financial contribution provided for in the Partnership Agreement in the fisheries sector between the European Community and the Republic of Cape Verde

On 10 October 2011, the European Union notified the Republic of Cape Verde of the completion by the Council, on behalf of the European Union, of the procedures necessary for the entry into force of the above Protocol, signed at Brussels on 27 July 2011.

Likewise, the Republic of Cape Verde notified on 17 January 2012 the European Union of the completion of its conclusion procedures.

The Protocol accordingly entered into force on 17 January 2012 pursuant to Article 16 thereof.

REGULATIONS

COMMISSION REGULATION (EU) No 71/2012

of 27 January 2012

amending Annex I to Regulation (EC) No 689/2008 of the European Parliament and of the Council concerning the export and import of dangerous chemicals

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 689/2008 of the European Parliament and of the Council of 17 June 2008 concerning the export and import of dangerous chemicals ⁽¹⁾, and in particular Article 22(4) thereof,

Whereas:

- (1) Regulation (EC) No 689/2008 implements the Rotterdam Convention on the Prior Informed Consent Procedure for certain hazardous chemicals and pesticides in international trade, signed on 11 September 1998 and approved, on behalf of the Community, by Council Decision 2003/106/EC ⁽²⁾.
- (2) Annex I to Regulation (EC) No 689/2008 should be amended to take into account regulatory action in respect of certain chemicals taken pursuant to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ⁽³⁾, Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market ⁽⁴⁾ and Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC ⁽⁵⁾.

- (3) The substances dichlobenil, dicloran, ethoxyquin and propisochlor have not been included as active substances in Annex I to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽⁶⁾, with the effect that those substances are banned for pesticide use and thus should be added to the lists of chemicals contained in Parts 1 and 2 of Annex I to Regulation (EC) No 689/2008. The addition of dichlobenil, dicloran, ethoxyquin and propisochlor to Annex I was suspended due to a new application for inclusion in Annex I to Directive 91/414/EEC submitted pursuant to Article 13 of Commission Regulation (EC) No 33/2008 of 17 January 2008 laying down detailed rules for the application of Council Directive 91/414/EEC as regards a regular and an accelerated procedure for the assessment of active substances which were part of the programme of work referred to in Article 8(2) of that Directive but have not been included into its Annex I ⁽⁷⁾. That new application resulted again in the decision not to include the substances dichlobenil, dicloran, ethoxyquin and propisochlor as active substances in Annex I to Directive 91/414/EEC with the effect that dichlobenil, dicloran, ethoxyquin and propisochlor remain banned for pesticide use and that the reason for suspending the addition to Annex I disappeared. Therefore, the substances dichlobenil, dicloran, ethoxyquin and propisochlor should be added to the lists of chemicals contained in Parts 1 and 2 of Annex I to Regulation (EC) No 689/2008.

- (4) The substance methyl bromide has not been included as an active substance in Annex I to Directive 91/414/EEC and methyl bromide has not been included as an active substance in Annex I, IA or IB to Directive 98/8/EC, with the effect that methyl bromide is banned for pesticide use and thus should be added to the lists of chemicals contained in Parts 1 and 2 of Annex I to Regulation (EC) No 689/2008. The addition of methyl bromide to Annex I was suspended due to a new application for inclusion in Annex I to Directive 91/414/EEC submitted pursuant to Article 13 of Regulation (EC) No 33/2008. That new application resulted again in the decision not to include the substance methyl bromide as an active substance in Annex I to Directive 91/414/EEC with the effect that methyl bromide remains banned for pesticide use and that the reason

⁽¹⁾ OJ L 204, 31.7.2008, p. 1.

⁽²⁾ OJ L 63, 6.3.2003, p. 27.

⁽³⁾ OJ L 309, 24.11.2009, p. 1.

⁽⁴⁾ OJ L 123, 24.4.1998, p. 1.

⁽⁵⁾ OJ L 396, 30.12.2006, p. 1.

⁽⁶⁾ OJ L 230, 19.8.1991, p. 1.

⁽⁷⁾ OJ L 15, 18.1.2008, p. 5.

for suspending the addition to Annex I disappeared. Therefore, the substance methyl bromide should be added to the lists of chemicals contained in Parts 1 and 2 of Annex I to Regulation (EC) No 689/2008.

- (5) The substance cyanamide has not been included as an active substance in Annex I to Directive 91/414/EEC, with the effect that cyanamide is severely restricted for pesticide use and thus should be added to the lists of chemicals contained in Parts 1 and 2 of Annex I to Regulation (EC) No 689/2008 because virtually all use is prohibited despite the fact that cyanamide has been identified and notified for evaluation under Directive 98/8/EC and may thus continue to be authorised by Member States until a decision under that Directive is taken. The addition of cyanamide to Annex I was suspended due to a new application for inclusion in Annex I to Directive 91/414/EEC submitted pursuant to Article 13 of Regulation (EC) No 33/2008. That new application has been withdrawn by the applicant with the effect that the reason for suspending the addition to Annex I disappeared. Therefore, the substance cyanamide should be added to the lists of chemicals contained in Parts 1 and 2 of Annex I to Regulation (EC) No 689/2008.
- (6) The substance flurprimidol has not been included as an active substance in Annex I to Directive 91/414/EEC, with the effect that flurprimidol is banned for pesticide use and thus should be added to the lists of chemicals contained in Parts 1 and 2 of Annex I to Regulation (EC) No 689/2008. The addition of flurprimidol to Part 2 of Annex I was suspended due to a new application for inclusion in Annex I to Directive 91/414/EEC submitted pursuant to Article 13 of Regulation (EC) No 33/2008. That new application resulted again in the decision not to include the substance flurprimidol as an active substance in Annex I to Directive 91/414/EEC with the effect that flurprimidol remains banned for

pesticide use and that the reason for suspending the addition to Part 2 of Annex I disappeared. Therefore, the substance flurprimidol should be added to the list of chemicals contained in Part 2 of Annex I to Regulation (EC) No 689/2008.

- (7) The substance triflumuron has been included as an active substance in Annex I to Directive 91/414/EEC, with the effect that triflumuron is no longer banned for pesticide use. Consequently the active substance triflumuron should be deleted from Part 1 of Annex I to Regulation (EC) No 689/2008.
- (8) The substance triazoxide has been approved as an active substance in accordance with Regulation (EC) No 1107/2009, with the effect that triazoxide is no longer banned for pesticide use. Consequently the active substance triazoxide should be deleted from Part 1 of Annex I to Regulation (EC) No 689/2008.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 133 of Regulation (EC) No 1907/2006,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 689/2008 is amended in accordance with the Annex to this Regulation.

Article 2

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

It shall apply from 1 April 2012.

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

Done at Brussels, 27 January 2012.

For the Commission

The President

José Manuel BARROSO

ANNEX

Annex I to Regulation (EC) No 689/2008 is amended as follows:

(1) Part 1 is amended as follows:

(a) the following entries are added:

Chemical	CAS No	Einecs No	CN code	Subcategory (*)	Use limitation (**)	Countries for which no notification is required
'Cyanamide +	420-04-2	206-992-3	2853 00 90	p(1)	b	
Dichlobenil +	1194-65-6	214-787-5	2926 90 95	p(1)	b	
Dicloran +	99-30-9	202-746-4	2921 42 00	p(1)	b	
Ethoxyquin +	91-53-2	202-075-7	2933 49 90	p(1)	b	
Methyl bromide +	74-83-9	200-813-2	2903 39 11	p(1)-p(2)	b-b	
Propisochlor +	86763-47-5	n.a.	2924 29 98	p(1)	b'	

(b) the entry for flurprimidol is replaced by the following:

Chemical	CAS No	Einecs No	CN code	Subcategory (*)	Use limitation (**)	Countries for which no notification is required
'Flurprimidol +	56425-91-3	n.a.	2933 59 95	p(1)	b'	

(c) the following entry is deleted:

Chemical	CAS No	Einecs No	CN code	Subcategory (*)	Use limitation (**)	Countries for which no notification is required
'Triflumuron	64628-44-0	264-980-3	2924 29 98	p(1)	b'	

(d) the following entry is deleted:

Chemical	CAS No	Einecs No	CN code	Subcategory (*)	Use limitation (**)	Countries for which no notification is required
'Triazoxide	72459-58-6	276-668-4	2933 29 90	p(1)	b'	

(2) in Part 2, the following entries are added:

Chemical	CAS RN	Einecs No	CN code	Category (*)	Use limitation (**)
'Cyanamide	420-04-2	206-992-3	2853 00 90	p	sr
Dichlobenil	1194-65-6	214-787-5	2926 90 95	p	b
Dicloran	99-30-9	202-746-4	2921 42 00	p	b
Ethoxyquin	91-53-2	202-075-7	2933 49 90	p	b
Flurprimidol	56425-91-3	n.a.	2933 59 95	p	b
Methyl bromide	74-83-9	200-813-2	2903 39 11	p	b
Propisochlor	86763-47-5	n.a.	2924 29 98	p	b'

COMMISSION IMPLEMENTING REGULATION (EU) No 72/2012**of 27 January 2012****amending and derogating from Implementing Regulation (EU) No 543/2011 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**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾, and in particular Article 103h(b) in conjunction with Article 4 thereof,

Whereas:

- (1) Regulation (EC) No 1234/2007 establishes a common organisation of agricultural markets which includes the fruit and vegetables and processed fruit and vegetables sectors. Article 103e(1) of Regulation (EC) No 1234/2007 provides that in regions of the Member States where the degree of organisation of producers in the fruit and vegetable sector is particularly low, Member States may be authorised by the Commission, on a duly substantiated request, to pay producer organisations national financial assistance equal to a maximum of 80% of the financial contributions referred to in Article 103b(1)(a) of that Regulation.
- (2) Article 91(1) of Commission Implementing Regulation (EU) No 543/2011 ⁽²⁾ provides that for the purposes of Article 103e(1) of Regulation (EC) No 1234/2007, the degree of organisation of producers in a region of a Member State is to be calculated as the value of fruit and vegetable production that was obtained in the region and marketed by producer organisations, associations of producer organisations and producer groups divided by the total value of the fruit and vegetable production that was obtained in that region. In order to ensure the correct use of the national assistance, it is appropriate to clarify the rules on the calculation of the degree of organisation.
- (3) Pursuant to the second subparagraph of Article 91(2) of Implementing Regulation (EU) No 543/2011 a region is to be considered as a distinct part of the territory of a Member State, as a result of its administrative, geographical or economic characteristics. For the purposes of consistency and verifiability, it is appropriate to clarify the definition of a region and to lay down a minimum period of time during which changes to the definition of a region are not allowed, unless objectively justified.

(4) Implementing Regulation (EU) No 543/2011 should therefore be amended accordingly.

(5) The first subparagraph of Article 92(1) of Implementing Regulation (EU) No 543/2011 provides that requests to the Commission for the authorisation to grant national financial assistance for operational programmes to be implemented in any given calendar year are to be submitted by 31 January of that year. In order to allow the amended Article 91 of Implementing Regulation (EU) No 543/2011 to be applied in 2012, it is appropriate to provide for a derogation from the deadline provided for in the first subparagraph of Article 92(1) of that Implementing Regulation. Furthermore, a correction of requests sent before the entry into force of this Regulation should be provided for.

(6) In order to ensure that requests for authorisation to grant national financial assistance for operational programmes to be implemented in 2012 can be submitted in accordance with the new rules, this Regulation should enter into force on the day following that of its publication. However, Article 95(1) of Implementing Regulation (EU) No 543/2011 also requires a request for Union reimbursement to be accompanied by evidence showing the degree of organisation of producers in the region concerned. This Regulation should therefore be without prejudice to requests for Union reimbursement in accordance with Article 95(1) of Implementing Regulation (EU) No 543/2011 of national financial assistance authorised by the Commission before the date of entry into force of this Regulation.

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

HAS ADOPTED THIS REGULATION:

*Article 1***Amendment of Implementing Regulation (EU) No 543/2011**

Article 91 of Implementing Regulation (EU) No 543/2011 is replaced by the following:

*"Article 91***Degree of organisation of producers and definition of a region**

1. For the purposes of Article 103e(1) of Regulation (EC) No 1234/2007, the degree of organisation of producers in a

⁽¹⁾ OJ L 299, 16.11.2007, p. 1

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

region of a Member State shall be calculated as the value of fruit and vegetable production that was obtained in the region concerned and marketed by producer organisations, associations of producer organisations and producer groups, divided by the total value of the fruit and vegetable production that was obtained in that region.

The value of fruit and vegetable production that was obtained in the region concerned and marketed by producer organisations, associations of producer organisations and producer groups referred to in the first subparagraph shall only include the products for which those producer organisations, associations of producer organisations and producer groups are recognised. Articles 42 and 50 shall apply *mutatis mutandis*. Only the production of producer organisations, associations of producer organisations, producer groups and their members obtained in the region concerned which has been marketed by producer organisations, associations of producer organisations and producer groups shall be included in the calculation of that value.

For the calculation of the total value of the fruit and vegetable production that was obtained in that region, the methodology set out in Annex I to Regulation (EC) No 138/2004 of the European Parliament and of the Council (*) shall apply *mutatis mutandis*.

2. The degree of organisation of producers in a region of a Member State shall be considered as particularly low where the average of the degrees, calculated as provided for in paragraph 1 for the last three years for which the data are available, is less than 20 %.

3. Only fruit and vegetable production generated in the region referred to in this Article may benefit from national financial assistance.

4. For the purposes of this Chapter, Member States shall define the regions as a distinct part of their territory in accordance with objective and non-discriminatory criteria such as their agronomic and economic characteristics and their regional agricultural/fruit and vegetable potential, or their institutional or administrative structure and for which data are available in order to calculate the degree of organisation in accordance with paragraph 1.

The regions defined by a Member State for the purposes of this Chapter shall not be altered for at least 5 years unless such alteration is objectively justified by substantive reasons unconnected with the calculation of the degree of organisation of producers in the region or regions concerned.

(*) OJ L 33, 5.2.2004, p. 1."

Article 2

Derogation from Article 92(1) of Implementing Regulation (EU) No 543/2011

By way of derogation from the first subparagraph of Article 92(1) of Implementing Regulation (EU) No 543/2011, Member States shall submit their request for authorisation to grant national financial assistance pursuant to Article 103e(1) of Regulation (EC) No 1234/2007 for operational programmes to be implemented in 2012 by 29 February 2012.

Member States shall identify the regions, including their geographic delimitation as provided for in Article 91(4) of Implementing Regulation (EU) No 543/2011 as amended by this Regulation, in their first request for authorisation submitted after the date of entry into force of this Regulation. Where appropriate, Member States shall correct requests for authorisation for 2012 sent to the Commission before the date of entry into force of this Regulation by 29 February 2012.

Article 3

Entry into force

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

It shall be without prejudice to requests for Union reimbursement in accordance with Article 95(1) of Implementing Regulation (EU) No 543/2011 of national financial assistance authorised by the Commission before the date of entry into force of this Regulation.

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

Done at Brussels, 27 January 2012.

For the Commission

The President

José Manuel BARROSO

COMMISSION IMPLEMENTING REGULATION (EU) No 73/2012**of 27 January 2012****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 multi-lateral 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, 27 January 2012.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
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	IL	160,4
	MA	53,0
	TN	74,2
	TR	101,9
	ZZ	97,4
0707 00 05	EG	217,9
	JO	241,9
	MA	148,6
	TR	182,3
	ZZ	197,7
0709 91 00	EG	143,2
	ZZ	143,2
0709 93 10	MA	130,8
	TR	161,9
	ZZ	146,4
0805 10 20	EG	52,2
	MA	54,0
	TN	62,6
	TR	61,4
	ZZ	57,6
0805 20 10	MA	98,4
	ZZ	98,4
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	61,5
	EG	81,0
	IL	96,6
	JM	118,0
	KR	92,2
	MA	52,0
	PK	50,1
	TR	89,4
	ZZ	80,1
0805 50 10	TR	55,8
	ZZ	55,8
0808 10 80	CA	123,7
	CL	78,5
	CN	107,9
	US	157,9
	ZZ	117,0
0808 30 90	CN	98,4
	TR	95,1
	US	120,5
	ZA	99,3
	ZZ	103,3

⁽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'.

DECISIONS

DECISION OF THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION

of 23 January 2012

appointing the members of the Supervisory Committee of the European Anti-Fraud Office (OLAF)

(2012/45/EU, Euratom)

THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE EUROPEAN COMMISSION,

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

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 establishing the European Anti-Fraud Office (OLAF) ⁽¹⁾, and in particular Article 4 thereof,

Having regard to Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 ⁽²⁾ and Council Regulation (Euratom) No 1074/1999 of 25 May 1999 ⁽³⁾ concerning investigations conducted by the European Anti-Fraud Office (OLAF), and in particular Article 11(2) of each of those Regulations.

Whereas:

- (1) Articles 11(2) of Regulations (EC) No 1073/1999 and (Euratom) No 1074/1999 provide that the Supervisory Committee of the European Anti-Fraud Office (OLAF) shall be composed of five independent outside persons who possess the qualifications required for appointment in their respective countries to senior posts relating to the Office's areas of activity and that those persons shall be appointed by common accord of the European Parliament, the Council and the Commission;
- (2) According to Article 11(3), the term of office of the members of the Supervisory Committee shall be three years and shall be renewable once;
- (3) The members of the Supervisory Committee appointed with effect from 30 November 2005 have reached their maximum term of office. In accordance with Article 11(4) of Regulations (EC) No 1073/1999 and (Euratom) No 1074/1999, these members remained in office after the expiry of their term of office, pending completion of the process of appointment of new members of the Supervisory Committee. New members should therefore be appointed as soon as possible,

HAVE DECIDED AS FOLLOWS:

Article 1

1. The following persons are hereby appointed as members of the Supervisory Committee of the European Anti-Fraud Office (OLAF) as from 23 January 2012:

- Mr Herbert BÖSCH,
- Mr Johan DENOLF,
- Ms Catherine PIGNON,
- Ms Rita SCHEMBRI,
- Mr Christiaan TIMMERMANS.

⁽¹⁾ OJ L 136, 31.5.1999, p. 20.

⁽²⁾ OJ L 136, 31.5.1999, p. 1.

⁽³⁾ OJ L 136, 31.5.1999, p. 8.

2. Should any of the above persons resign from the Supervisory Committee, die or become permanently incapacitated, they shall immediately be replaced by the first named person on the following list who has not yet been appointed to the Supervisory Committee:

- Mr Jens MADSEN,
- Ms Cristina NICOARĂ,
- Mr Tuomas Henrik PÖYSTI,
- Mr Dimitrios ZIMIANITIS.

Article 2

In carrying out their duties, the Members of the Supervisory Committee shall neither seek nor take instructions from any government or any institution, body, office or agency.

They shall not deal with a matter in which, directly or indirectly, they have any personal interest such as to impair their independence, and, in particular, family and financial interests.

They shall treat the files submitted to them and their deliberations concerning them in strict secrecy.

Article 3

Members of the Supervisory Committee shall be reimbursed for expenses they may incur in the course of their duties, and shall receive a daily payment for each day spent on those duties. The amount of that payment and the procedure for reimbursement shall be determined by the Commission.

Article 4

The Commission shall inform the above persons of this Decision, and shall immediately inform any person subsequently appointed to the Supervisory Committee pursuant to Article 1(2).

This appointment is made pursuant to Article 11(2) and (3) of Regulation (EC) No 1073/1999. It is without prejudice to any future amendments to these provisions which may be adopted by the European Parliament and the Council, especially the potential modification of the duration of their mandate in order to ensure the possible introduction of a staggered renewal of the members of the Committee.

Article 5

The Decision shall enter into force on 23 January 2012.

Done at Brussels, 23 January 2012.

For the European Parliament

The President

Martin SCHULZ

For the Council

The President

Jeppe TRANHOLM-MIKKELSEN

For the Commission

Algirdas ŠEMETA

Member of the Commission

COUNCIL DECISION**of 23 January 2012****on the launch of automated data exchange with regard to dactyloscopic data in the Netherlands**

(2012/46/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime ⁽¹⁾, in particular Article 25 thereof,

Having regard to Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA ⁽²⁾, in particular Article 20 thereof and Chapter 4 of the Annex thereto,

Whereas:

(1) According to the Protocol on Transitional Provisions annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community, the legal effects of the acts of the institutions, bodies, offices and agencies of the Union adopted prior to the entry into force of the Treaty of Lisbon are preserved until those acts are repealed, annulled or amended in implementation of the Treaties.

(2) Accordingly, Article 25 of Decision 2008/615/JHA is applicable and the Council must unanimously decide whether the Member States have implemented the provisions of Chapter 6 of that Decision.

(3) Article 20 of Decision 2008/616/JHA provides that decisions referred to in Article 25(2) of Decision 2008/615/JHA are to be taken on the basis of an evaluation report based on a questionnaire. With respect to automated data exchange in accordance with Chapter 2 of Decision 2008/615/JHA, the evaluation report is to be based on an evaluation visit and a pilot run.

(4) According to Chapter 4, point 1.1, of the Annex to Decision 2008/616/JHA, the questionnaire drawn up by the relevant Council Working Group concerns each of the automated data exchanges and has to be answered by

a Member State as soon as it believes it fulfils the prerequisites for sharing data in the relevant data category.

(5) The Netherlands has completed the questionnaire on data protection and the questionnaire on dactyloscopic data exchange.

(6) A successful pilot run has been carried out by the Netherlands with Germany.

(7) An evaluation visit has taken place in the Netherlands and a report on the evaluation visit has been produced by the German evaluation team and forwarded to the relevant Council Working Group.

(8) An overall evaluation report, summarising the results of the questionnaire, the evaluation visit and the pilot run concerning dactyloscopic data exchange has been presented to the Council,

HAS ADOPTED THIS DECISION:

Article 1

For the purposes of automated searching of dactyloscopic data, the Netherlands has fully implemented the general provisions on data protection of Chapter 6 of Decision 2008/615/JHA and is entitled to receive and supply personal data pursuant to Article 9 of that Decision as from the day of the entry into force of this Decision.

Article 2

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

Done at Brussels, 23 January 2012.

For the Council
The President
M. GJERSKOV

⁽¹⁾ OJ L 210, 6.8.2008, p. 1.

⁽²⁾ OJ L 210, 6.8.2008, p. 12.

COUNCIL IMPLEMENTING DECISION**of 24 January 2012****authorising Sweden to apply a reduced rate of taxation to electricity consumed by households and service sector companies situated in certain areas in the north of Sweden in accordance with****Article 19 of Directive 2003/96/EC**

(2012/47/EU)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity ⁽¹⁾, and in particular Article 19(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Council Decision 2005/231/EC ⁽²⁾ authorises Sweden to apply, until 31 December 2011, a reduced rate of excise duty to electricity consumed by households and service sector companies in certain areas in the north of Sweden pursuant to Article 19 of Directive 2003/96/EC.
- (2) By letter of 8 June 2011, Sweden requested authorisation to continue to apply a reduced rate of excise duty to electricity consumed by the same beneficiaries for a further period of 6 years, that is until 31 December 2017. The reduction is to be limited to SEK 96 per MWh.
- (3) In the areas concerned, the costs of heating are on average 25 % higher than in the rest of the country, due to the longer heating period. Reducing the costs of electricity for households and service sector companies in these areas therefore narrows the gap between overall costs of heating for consumers in the north of Sweden and those borne by consumers in the rest of the country. The measure therefore contributes to achieving regional and cohesion policy objectives. The measure moreover allows Sweden to apply an overall tax rate on electricity that is higher than what would otherwise be possible and therefore indirectly contributes to the achievement of environmental policy objectives.
- (4) The tax reduction should not exceed what is necessary to compensate for the additional costs of heating for households and service sector companies in the north of Sweden.
- (5) The reduced rates of taxation will be above the minimum rates laid down in Article 10 of Directive 2003/96/EC.
- (6) In view of the remote nature of the areas to which it applies, the fact that the reduction should not exceed the additional costs of heating in the north of Sweden and the limitation of the measure to households and service sector companies, the measure is not expected to lead to significant distortions of competition or changes in trade between Member States.
- (7) Consequently, the measure is acceptable from the point of view of the proper functioning of the internal market and of the need to ensure fair competition and it is compatible with the European Union's health, environment, energy and transport policies.
- (8) In order to provide the businesses and consumers concerned with a sufficient degree of certainty, it is appropriate to authorise Sweden to apply a reduced rate of taxation to electricity for consumption in the north of Sweden until 31 December 2017.
- (9) It should be ensured that the authorisation under Decision 2005/231/EC, which was granted for reasons similar to those referred to in this Decision, continues to apply, without creating a gap between the expiry of that Decision and the taking effect of this Decision.

HAS ADOPTED THIS DECISION:

Article 1

1. Sweden is hereby authorised to apply a reduced rate of taxation to electricity consumed by households and service sector companies situated in the municipalities listed in the Annex.

The reduction of the standard national rate of taxation for electricity shall not exceed what is necessary to compensate for the extra heating costs due to the northern location, in comparison with the rest of Sweden, and shall not exceed SEK 96 per MWh.

2. The reduced rates must comply with the requirements of Directive 2003/96/EC, and in particular with the minimum rates laid down in Article 10 thereof.

⁽¹⁾ OJ L 283, 31.10.2003, p. 51.

⁽²⁾ OJ L 72, 18.3.2005, p. 27.

Article 2

This Decision shall take effect on the day of its notification.

It shall apply from 1 January 2012 until 31 December 2017.

Article 3

This Decision is addressed to the Kingdom of Sweden.

Done at Brussels, 24 January 2012.

For the Council
The President
M. VESTAGER

ANNEX

Regions	Municipalities
Norrbottnens län	All municipalities
Västerbottens län	All municipalities
Jämtlands län	All municipalities
Västernorrlands län	Sollefteå, Ånge, Örnköldsvik
Gävleborgs län	Ljusdal
Dalarnas län	Malung, Mora, Orsa, Älvdalen
Värmlands län	Torsby

COMMISSION IMPLEMENTING DECISION

of 26 January 2012

extending the validity of Decision 2009/251/EC requiring Member States to ensure that products containing the biocide dimethylfumarate are not placed or made available on the market

*(notified under document C(2012) 321)***(Text with EEA relevance)**

(2012/48/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety ⁽¹⁾, and in particular Article 13 thereof,

Whereas:

- (1) Commission Decision 2009/251/EC ⁽²⁾ requires Member States to ensure that products containing the biocide dimethylfumarate (DMF) are not placed or made available on the market.
- (2) Decision 2009/251/EC was adopted in accordance with the provisions of Article 13 of Directive 2001/95/EC, which restricts the validity of the Decision to a period not exceeding 1 year, but allows it to be confirmed for additional periods none of which shall exceed 1 year.
- (3) The validity of Decision 2009/251/EC was extended by Commission Decisions 2010/153/EU ⁽³⁾ and 2011/135/EU ⁽⁴⁾ for additional periods of 1 year each. A permanent restriction on DMF in articles is currently being considered to be incorporated in Regulation (EC) No 1907/2006 of the European Parliament and of the Council ⁽⁵⁾. As that measure will address the same concerns as Decision 2009/251/EC, for legal certainty, Decision 2009/251/EC should apply until the permanent restriction under Regulation (EC) No 1907/2006 enters into force.
- (4) In the light of the experience acquired so far and the absence of a permanent measure addressing consumer products containing DMF, it is necessary to extend the validity of Decision 2009/251/EC for a further 12 months.

(5) Decision 2009/251/EC should be amended accordingly.

(6) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 15 of Directive 2001/95/EC,

HAS ADOPTED THIS DECISION:

Article 1

Article 4 of Decision 2009/251/EC is replaced by the following:

*'Article 4***Period of application**

This Decision shall apply until entry into force of the Commission Regulation amending Annex XVII to Regulation (EC) No 1907/2006 concerning DMF or 15 March 2013, whichever is the earlier.'

Article 2

Member States shall take the necessary measures to comply with this Decision by 15 March 2012 at the latest and shall publish those measures. They shall forthwith inform the Commission thereof.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 26 January 2012.

For the Commission

John DALLI

Member of the Commission⁽¹⁾ OJ L 11, 15.1.2002, p. 4.⁽²⁾ OJ L 74, 20.3.2009, p. 32.⁽³⁾ OJ L 63, 12.3.2010, p. 21.⁽⁴⁾ OJ L 57, 2.3.2011, p. 43.⁽⁵⁾ OJ L 396, 30.12.2006, p. 1.

COMMISSION DECISION

of 26 January 2012

amending Decisions 2011/263/EU and 2011/264/EU in order to take account of developments in enzymes classification in accordance with Annex I to Council Directive 67/548/EEC and Annex VI to Regulation (EC) No 1272/2008 of the European Parliament and of the Council

*(notified under document C(2012) 323)***(Text with EEA relevance)**

(2012/49/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel ⁽¹⁾, and in particular Article 8(2) thereof,

After consulting the European Union Eco-Labeling Board,

Whereas:

(1) According to Article 6(6) of Regulation (EC) No 66/2010 the EU Ecolabel may not be awarded to goods containing substances or preparations/mixtures meeting the criteria for classification as toxic, hazardous to the environment, carcinogenic, mutagenic or toxic for reproduction in accordance with Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 ⁽²⁾. The EU Ecolabel may also not be awarded to goods containing substances referred to in Article 57 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC ⁽³⁾. According to Article 6(7) of Regulation (EC) No 66/2010, where it is not technically feasible to substitute those goods as such or via the use of alternative materials or designs, or in the case of products which have a significantly higher overall environmental performance compared with other goods of the same category, the Commission may adopt measures to grant derogations from Article 6(6) of that Regulation.

(2) The Commission has adopted Decision 2011/263/EU of 28 April 2011 on establishing the ecological criteria for the award of the EU Ecolabel to detergents for dishwashers ⁽⁴⁾ and Decision 2011/264/EU of 28 April 2011 on establishing the ecological criteria for the award of the EU Ecolabel for laundry detergents ⁽⁵⁾. After the adoption of those Decisions the important enzyme subtilisin, which is used in laundry detergents and detergents for dishwashers, was classified as R50 (Very toxic to aquatic life) in accordance with Annex I to Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances ⁽⁶⁾ and Annex VI to Regulation (EC) No 1272/2008, which prevents those laundry detergents and detergents for dishwashers from obtaining the EU Ecolabel.

(3) This is new information that was not considered during the review of the EU Ecolabel criteria for laundry detergents and detergents for dishwashers and the considerations of derogations for enzymes. Decisions 2011/263/EU and 2011/264/EU should therefore be amended in order to take account of developments in enzymes classification in accordance with Annex I to Directive 67/548/EEC and Annex VI to Regulation (EC) No 1272/2008.

(4) A transitional period should be provided for in order to give producers whose products have been awarded the Ecolabel for laundry detergents and detergents for dishwashers on the basis of the criteria set out in Commission Decisions 2003/31/EC ⁽⁷⁾ and 2003/200/EC ⁽⁸⁾ sufficient time to adapt their products to comply with the revised criteria and requirements and in order to compensate for suspension caused by this amendment.

(5) Decisions 2011/263/EU and 2011/264/EU should therefore be amended accordingly,

⁽¹⁾ OJ L 27, 30.1.2010, p. 1.

⁽²⁾ OJ L 353, 31.12.2008, p. 1.

⁽³⁾ OJ L 396, 30.12.2006, p. 1.

⁽⁴⁾ OJ L 111, 30.4.2011, p. 22.

⁽⁵⁾ OJ L 111, 30.4.2011, p. 34.

⁽⁶⁾ OJ 196, 16.8.1967, p. 1.

⁽⁷⁾ OJ L 9, 15.1.2003, p. 11.

⁽⁸⁾ OJ L 76, 22.3.2003, p. 25.

HAS ADOPTED THIS DECISION:

2003/31/EC and 2003/200/EC, that Ecolabel may be used until 28 September 2012.

Article 1

The Annex to Decision 2011/263/EU is amended as set out in the Annex to this Decision.

Article 4

This Decision is addressed to the Member States.

Article 2

The Annex to Decision 2011/264/EU is amended as set out in the Annex to this Decision.

Done at Brussels, 26 January 2012.

Article 3

Where the Ecolabel is awarded on the basis of an application evaluated according to the criteria set out in Decisions

For the Commission

Janez POTOČNIK

Member of the Commission

ANNEX

1. In the Annex to Decision 2011/263/EU, in criterion 2, point (b), fifth paragraph, the following substance is added to the table of derogations:

'Subtilisin	H400 Very toxic to aquatic life	R 50'
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2. In the Annex to Decision 2011/264/EU, in criterion 4, point (b), fifth paragraph, the following substance is added to the table of derogations:

'Subtilisin	H400 Very toxic to aquatic life	R 50'
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CORRIGENDA

Corrigendum to Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances

(Official Journal of the European Union L 153 of 11 June 2011)

In Part A of the Annex, the following entry is added:

No	Common name, identification numbers	IUPAC name	Purity	Date of approval	Expiration of approval	Specific provisions
354	Flurochloridone CAS No 61213-25-0 CIPAC No 430	(3RS,4RS;3RS,4SR)-3-chloro-4-chloromethyl-1-(α,α,α -trifluoro-m-tolyl)-2-pyrrolidone	≥ 940 g/kg. Relevant impurities: Toluene: max 8 g/kg	1 June 2011	31 May 2021	<p>PART A</p> <p>Only uses as herbicide may be authorised.</p> <p>PART B</p> <p>For the implementation of the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the review report on flurochloridone, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 4 February 2011 shall be taken into account.</p> <p>In this overall assessment Member States shall pay particular attention to:</p> <ol style="list-style-type: none"> 1. the risk for non-target plants and aquatic organisms; 2. the protection of the groundwater, when the active substance is applied in regions with vulnerable soil and/or climatic conditions. <p>Conditions of authorisation shall include risk mitigation measures, where appropriate.</p> <p>The Member States concerned shall ensure that the applicant submits to the Commission further confirmatory information as regards:</p> <ol style="list-style-type: none"> 1. the relevance of impurities other than toluene; 2. the compliance of ecotoxicological test material with the technical specifications; 3. the relevance of the groundwater metabolite R42819 ⁽¹⁾; 4. the potential endocrine disrupting properties of flurochloridone. <p>The Member States concerned shall ensure that the applicant submits to the Commission the information set out in points (1) and (2) by 1 December 2011, the information set out in point (3) by 31 May 2013 and the information set out in point (4) within two years after the adoption of the OECD test guidelines on endocrine disruption.</p>

⁽¹⁾ R42819: (4RS)-4-(chloromethyl)-1-[3-(trifluoromethyl)phenyl]pyrrolidin-2-one.'

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