

Official Journal

of the European Union

L 81



English edition

Legislation

Volume 52

27 March 2009

Contents

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

REGULATIONS

Commission Regulation (EC) No 255/2009 of 26 March 2009 establishing the standard import values for determining the entry price of certain fruit and vegetables	1
★ Commission Regulation (EC) No 256/2009 of 23 March 2009 amending Annexes II and III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for azoxystrobin and fludioxonil in or on certain products ⁽¹⁾	3
★ Commission Regulation (EC) No 257/2009 of 24 March 2009 amending Regulation (EC) No 794/2004 as regards the supplementary information sheet for notification of aid to fisheries and aquaculture ⁽¹⁾	15
★ Commission Regulation (EC) No 258/2009 of 26 March 2009 amending Regulation (EC) No 595/2004 laying down detailed rules for applying Council Regulation (EC) No 1788/2003 establishing a levy in the milk and milk products sector	19

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

DECISIONS

Commission

2009/297/EC:

- ★ **Commission Decision of 26 March 2009 amending Decision 2008/866/EC as regards its period of application** (notified under document number C(2009) 1876) ⁽¹⁾ 22

2009/298/EC:

- ★ **Commission Decision of 26 March 2009 prolonging the validity of Decision 2006/502/EC requiring Member States to take measures to ensure that only lighters which are child-resistant are placed on the market and to prohibit the placing on the market of novelty lighters** (notified under document number C(2009) 2078) ⁽¹⁾ 23

III Acts adopted under the EU Treaty

ACTS ADOPTED UNDER TITLE VI OF THE EU TREATY

- ★ **Council Framework Decision 2009/299/JHA of 26 February 2009 amending Framework Decisions 2002/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial** 24



⁽¹⁾ Text with EEA relevance

I

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

REGULATIONS

COMMISSION REGULATION (EC) No 255/2009**of 26 March 2009****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 27 March 2009.

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

Done at Brussels, 26 March 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

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

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	IL	82,5
	JO	68,6
	MA	57,6
	TN	134,4
	TR	91,7
	ZZ	87,0
0707 00 05	JO	167,2
	MA	69,5
	TR	151,3
	ZZ	129,3
0709 90 70	MA	43,6
	TR	84,4
	ZZ	64,0
0709 90 80	EG	60,4
	ZZ	60,4
0805 10 20	EG	41,2
	IL	61,0
	MA	42,8
	TN	57,1
	TR	76,0
	ZZ	55,6
0805 50 10	TR	53,9
	ZZ	53,9
0808 10 80	AR	75,7
	BR	79,2
	CA	78,6
	CL	84,5
	CN	70,5
	MK	23,7
	US	112,0
	UY	57,1
	ZA	83,6
	ZZ	73,9
0808 20 50	AR	97,3
	CL	136,2
	CN	48,8
	US	194,4
	ZA	89,6
	ZZ	113,3

⁽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'.

COMMISSION REGULATION (EC) No 256/2009**of 23 March 2009****amending Annexes II and III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for azoxystrobin and fludioxonil in or on certain products****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC ⁽¹⁾, and in particular Article 14 (1) (a) thereof,

Whereas:

(1) For azoxystrobin and fludioxonil maximum residue levels (MRLs) were set in Annexes II and III to Regulation (EC) No 396/2005 respectively. As regards azoxystrobin, in the context of a new authorisation in accordance with Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽²⁾ for use of that plant protection product on turnips, an application has been made for a modification of the existing MRL in accordance with Article 6(1) of that Regulation. As regards fludioxonil an application for an import tolerance MRL in accordance with Article 6(2) and (4) of Regulation (EC) No 396/2005 was made by an applicant in a third country (the United States) in which the authorised use of that plant protection product leads to residues exceeding the MRL for pomegranates, as set out in Annex III to that Regulation.

(2) Both applications were evaluated in accordance with Article 8 of that Regulation and Portugal and Denmark forwarded evaluation reports to the Commission.

(3) The European Food Safety Authority, hereinafter 'the Authority', assessed the safety of the proposed MRLs taking into account the information in the applications and the evaluation reports and gave reasoned opinions. It forwarded these opinions [in accordance with Article 10 of the Regulation] to the Commission and the Member States and made them available to the public ⁽³⁾.

(4) The Authority concluded in its reasoned opinions that all requirements with respect to data were met and that the two modifications to the MRLs requested by the applicants were acceptable with regard to consumer safety on the basis of a consumer exposure assessment for 27 specific European consumer groups. It took into account the most recent information on the toxicological properties of the substances. Neither the lifetime exposure to both substances via consumption of all food products that may contain the two substances, nor the short-term exposure due to extreme consumption of turnips or pomegranates showed that there is a risk that the acceptable daily intake (ADI) or the acute reference dose (ARfD) is exceeded.

(5) Based on the reasoned opinion of the Authority and taking into account the factors relevant to the matter under consideration, the requested modifications to the MRLs fulfil the requirements of Article 14(2) of Regulation (EC) No 396/2005.

(6) Regulation (EC) No 396/2005 should therefore be amended accordingly.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health and neither the European Parliament nor the Council has opposed them,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes II and III to Regulation (EC) No 396/2005 are amended in accordance with the Annex to this Regulation.

Article 2

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

⁽¹⁾ OJ L 70, 16.3.2005, p. 1.

⁽²⁾ OJ L 230, 19.8.1991, p. 1.

⁽³⁾ EFSA scientific reports (2008) 199 and 200 on <http://efsa.europa.eu>

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

Done at Brussels, 23 March 2009.

For the Commission
Androulla VASSILIOU
Member of the Commission

ANNEX

Annexes II and III to Regulation (EC) No 396/2005 are amended as follows:

(1) Annex II is amended as follows:

The lines for **azoxystrobin** are replaced by the following:

'Pesticide residues and maximum residue levels (mg/kg)

Code number	Groups and examples of individual products to which the MRLs apply (a)	Azoxystrobin
100000	1. FRUIT FRESH OR FROZEN; NUTS	
110000	(i) Citrus fruit	1
110010	Grapefruit	
110020	Oranges	
110030	Lemons	
110040	Limes	
110050	Mandarins	
110990	Others	
120000	(ii) Tree nuts (shelled or unshelled)	0,1 (*)
120010	Almonds	
120020	Brazil nuts	
120030	Cashew nuts	
120040	Chestnuts	
120050	Coconuts	
120060	Hazelnuts	
120070	Macadamia	
120080	Pecans	
120090	Pine nuts	
120100	Pistachios	
120110	Walnuts	
120990	Others	
130000	(iii) Pome fruit	0,05 (*)
130010	Apples	(**)
130020	Pears	
130030	Quinces	
130040	Medlar	
130050	Loquat	
130990	Others	
140000	(iv) Stone fruit	0,05 (*)
140010	Apricots	
140020	Cherries	
140030	Peaches	
140040	Plums	
140990	Others	

Code number	Groups and examples of individual products to which the MRLs apply (a)	Azoxystrobin
150000	(v) Berries & small fruit	
151000	(a) <i>Table and wine grapes</i>	2
151010	Table grapes	
151020	Wine grapes	
152000	(b) <i>Strawberries</i>	2
153000	(c) <i>Cane fruit</i>	
153010	Blackberries	3
153020	Dewberries	0,05 (*)
153030	Raspberries	3
153990	Others	0,05 (*)
154000	(d) <i>Other small fruit & berries</i>	0,05 (*)
154010	Blueberries	(**)
154020	Cranberries	
154030	Currants	
154040	Gooseberries	
154050	Rose hips	
154060	Mulberries	
154070	Azarole	
154080	Elderberries	
154990	Others	
160000	(vi) Miscellaneous fruit	
161000	(a) <i>Edible peel</i>	0,05 (*)
161010	Dates	
161020	Figs	
161030	Table olives	
161040	Kumquats	
161050	Carambola	
161060	Persimmon	
161070	Jambolan	
161990	Others	

Code number	Groups and examples of individual products to which the MRLs apply (a)	Azoxystrobin
162000	(b) <i>Inedible peel, small</i>	0,05 (*)
162010	Kiwi	(**)
162020	Lychee	
162030	Passion fruit	
162040	Prickly pear	
162050	Star apple	
162060	American persimmon	
162990	Others	
163000	(c) <i>Inedible peel, large</i>	
163010	Avocados	0,05 (*)
163020	Bananas	2
163030	Mangoes	0,2
163040	Papaya	0,2
163050	Pomegranate	0,05 (*)
163060	Cherimoya	(**)
163070	Guava	(**)
163080	Pineapples	0,05 (*)
163090	Breadfruit	(**)
163100	Durian	(**)
163110	Soursop	(**)
163990	Others	0,05 (*)
200000	2. VEGETABLES FRESH OR FROZEN	
210000	(i) Root and tuber vegetables	
211000	(a) <i>Potatoes</i>	0,05 (*)
212000	(b) <i>Tropical root and tuber vegetables</i>	0,05 (*)
212010	Cassava	(**)
212020	Sweet potatoes	
212030	Yams	
212040	Arrowroot	
212990	Others	
213000	(c) <i>Other root and tuber vegetables except sugar beet</i>	
213010	Beetroot	0,05 (*)
213020	Carrots	0,2
213030	Celeriac	0,3
213040	Horseradish	0,2
213050	Jerusalem artichokes	0,05 (*)
213060	Parsnips	0,2
213070	Parsley root	0,2
213080	Radishes	0,2
213090	Salsify	0,2
213100	Swedes	0,05 (*)
213110	Turnips	0,2
213990	Others	0,05 (*)

Code number	Groups and examples of individual products to which the MRLs apply (a)	Azoxystrobin
220000	(ii) Bulb vegetables	
220010	Garlic	0,05 (*)
220020	Onions	0,05 (*)
220030	Shallots	0,05 (*)
220040	Spring onions	2
220990	Others	0,05 (*)
230000	(iii) Fruiting vegetables	
231000	(a) <i>Solanacea</i>	2
231010	Tomatoes	
231020	Peppers	
231030	Aubergines	
231040	Okra, lady's fingers	
231990	Others	
232000	(b) <i>Cucurbits — edible peel</i>	1
232010	Cucumbers	
232020	Gherkins	
232030	Courgettes	
232990	Others	
233000	(c) <i>Cucurbits — inedible peel</i>	0,5
233010	Melons	
233020	Pumpkins	
233030	Watermelons	
233990	Others	
234000	(d) <i>Sweetcorn</i>	0,05 (*)
239000	(e) <i>Other fruiting vegetables</i>	0,05 (*)
240000	(iv) Brassica vegetables	
241000	(a) <i>Flowering brassica</i>	0,5
241010	Broccoli	
241020	Cauliflower	
241990	Others	
242000	(b) <i>Head brassica</i>	0,3
242010	Brussels sprouts	
242020	Head cabbage	
242990	Others	
243000	(c) <i>Leafy brassica</i>	5
243010	Chinese cabbage	
243020	Kale, collards)	
243990	Others	
244000	(d) <i>Kohlrabi</i>	0,2

Code number	Groups and examples of individual products to which the MRLs apply (a)	Azoxystrobin
250000	(v) Leaf vegetables & fresh herbs	
251000	(a) <i>Lettuce and other salad plants including Brassicacea</i>	3
251010	Lamb's lettuce	(**)
251020	Lettuce	
251030	Scarole	
251040	Cress	
251050	Land cress	
251060	Rocket, Rucola	
251070	Red mustard	
251080	Leaves and sprouts of Brassica spp.	
251990	Others	
252000	(b) <i>Spinach & similar (leaves)</i>	
252010	Spinach	0,05 (*)
252020	Purslane	(**)
252030	Beet leaves	0,05 (*)
252990	Others	0,05 (*)
253000	(c) <i>Vine leaves</i>	(**)
254000	(d) <i>Watercress</i>	0,05 (*)
255000	(e) <i>Witloof</i>	0,2
256000	(f) <i>Herbs</i>	3
256010	Chervil	(**)
256020	Chives	
256030	Celery leaves	
256040	Parsley	
256050	Sage	
256060	Rosemary	
256070	Thyme	
256080	Basil	
256090	Bay leaves	
256100	Tarragon	
256990	Others	
260000	(vi) Legume vegetables (fresh)	
260010	Beans	1
260020	Beans	0,2
260030	Peas	0,5
260040	Peas	0,2
260050	Lentils	0,05 (*)
260990	Others	0,05 (*)
270000	(vii) Stem vegetables (fresh)	
270010	Asparagus	0,05 (*)
270020	Cardoons	0,05 (*)
270030	Celery	5

Code number	Groups and examples of individual products to which the MRLs apply (a)	Azoxystrobin
270040	Fennel	5
270050	Globe artichokes	1
270060	Leek	2
270070	Rhubarb	0,05 (*)
270080	Bamboo shoots	(**)
270090	Palm hearts	(**)
270990	Others	0,05 (*)
280000	(viii) Fungi	0,05 (*)
280010	Cultivated	(**)
280020	Wild	
280990	Others	
290000	(ix) Seaweeds	
300000	3. PULSES, DRY	0,1
300010	Beans	
300020	Lentils	
300030	Peas	
300040	Lupins	
300990	Others	
400000	4. OILSEEDS AND OILFRUITS	
401000	(i) Oilseeds	
401010	Linseed	0,05 (*)
401020	Peanuts	0,05 (*)
401030	Poppy seed	0,05 (*)
401040	Sesame seed	0,05 (*)
401050	Sunflower seed	0,05 (*)
401060	Rapeseed	0,5
401070	Soya bean	0,5
401080	Mustard seed	0,05 (*)
401090	Cotton seed	0,05 (*)
401100	Pumpkin seeds	0,05 (*)
401110	Safflower	(**)
401120	Borage	(**)
401130	Gold of pleasure	(**)
401140	Hempseed	0,05 (*)
401150	Castor bean	(**)
401990	Others	0,05 (*)
402000	(ii) Oilfruits	0,05 (*)
402010	Olives for oil production	(**)
402020	Palm nuts	
402030	Palmfruit	
402040	Kapok	
402990	Others	

Code number	Groups and examples of individual products to which the MRLs apply (a)	Azoxystrobin
500000	5. CEREALS	
500010	Barley	0,3
500020	Buckwheat	0,05 (*)
500030	Maize	0,05 (*)
500040	Millet	0,05 (*)
500050	Oats	0,3
500060	Rice	5
500070	Rye	0,3
500080	Sorghum	0,05 (*)
500090	Wheat	0,3
500990	Others	0,05 (*)
600000	6. TEA, COFFEE, HERBAL INFUSIONS AND COCOA	
610000	(i) Tea (dried leaves and stalks, fermented or otherwise of <i>Camellia sinensis</i>)	0,1 (*)
620000	(ii) Coffee beans	(**)
630000	(iii) Herbal infusions (dried)	(**)
631000	(a) Flowers	(**)
631010	Camomille flowers	(**)
631020	Hybiscus flowers	(**)
631030	Rose petals	(**)
631040	Jasmine flowers	(**)
631050	Lime	(**)
631990	Others	(**)
632000	(b) Leaves	(**)
632010	Strawberry leaves	(**)
632020	Rooibos leaves	(**)
632030	Maté	(**)
632990	Others	(**)
633000	(c) Roots	(**)
633010	Valerian root	(**)
633020	Ginseng root	(**)
633990	Others	(**)
639000	(d) Other herbal infusions	(**)
640000	(iv) Cocoa (fermented beans)	(**)
650000	(v) Carob (St Johns bread)	(**)
700000	7. HOPS (DRIED), INCLUDING HOP PELLETS AND UNCONCENTRATED POWDER	20
800000	8. SPICES	(**)
810000	(i) Seeds	(**)
810010	Anise	(**)
810020	Black caraway	(**)

Code number	Groups and examples of individual products to which the MRLs apply (a)	Azoxystrobin
810030	Celery seed	(**)
810040	Coriander seed	(**)
810050	Cumin seed	(**)
810060	Dill seed	(**)
810070	Fennel seed	(**)
810080	Fenugreek	(**)
810090	Nutmeg	(**)
810990	Others	(**)
820000	(ii) Fruits and berries	(**)
820010	Allspice	(**)
820020	Anise pepper	(**)
820030	Caraway	(**)
820040	Cardamom	(**)
820050	Juniper berries	(**)
820060	Pepper, black and white	(**)
820070	Vanilla pods	(**)
820080	Tamarind	(**)
820990	Others	(**)
830000	(iii) Bark	(**)
830010	Cinnamon	(**)
830990	Others	(**)
840000	(iv) Roots or rhizome	(**)
840010	Liquorice	(**)
840020	Ginger	(**)
840030	Turmeric	(**)
840040	Horseradish	(**)
840990	Others	(**)
850000	(v) Buds	(**)
850010	Cloves	(**)
850020	Capers	(**)
850990	Others	(**)
860000	(vi) Flower stigma	(**)
860010	Saffron	(**)
860990	Others	(**)
870000	(vii) Aril	(**)
870010	Mace	(**)
870990	Others	(**)
900000	9. SUGAR PLANTS	(**)
900010	Sugar beet	(**)
900020	Sugar cane	(**)
900030	Chicory roots	(**)
900990	Others	(**)

Code number	Groups and examples of individual products to which the MRLs apply (a)	Azoxystrobin
1000000	10. PRODUCTS OF ANIMAL ORIGIN-TERRESTRIAL ANIMALS	
1010000	(i) Meat, preparations of meat, offals, blood, animal fats fresh chilled or frozen, salted, in brine, dried or smoked or processed as flours or meals other processed products such as sausages and food preparations based on these	0,05 (*)
1011000	(a) <i>Swine</i>	
1011010	Meat	
1011020	Fat-free or lean meat	
1011030	Liver	
1011040	Kidney	
1011050	Edible offal	
1011990	Others	
1012000	(b) <i>Bovine</i>	
1012010	Meat	
1012020	Fat	
1012030	Liver	
1012040	Kidney	
1012050	Edible offal	
1012990	Others	
1013000	(c) <i>Sheep</i>	
1013010	Meat	
1013020	Fat	
1013030	Liver	
1013040	Kidney	
1013050	Edible offal	
1013990	Others	
1014000	(d) <i>Goat</i>	
1014010	Meat	
1014020	Fat	
1014030	Liver	
1014040	Kidney	
1014050	Edible offal	
1014990	Others	
1015000	(e) <i>Horses, asses, mules or hinnies</i>	(**)
1015010	Meat	(**)
1015020	Fat	(**)
1015030	Liver	(**)
1015040	Kidney	(**)
1015050	Edible offal	(**)
1015990	Others	(**)
1016000	(f) <i>Poultry - chicken, geese, duck, turkey and Guinea fowl, ostrich, pigeon</i>	

Code number	Groups and examples of individual products to which the MRLs apply (a)	Azoxystrobin
1016010	Meat	
1016020	Fat	
1016030	Liver	
1016040	Kidney	
1016050	Edible offal	
1016990	Others	
1017000	(g) <i>Other farm animals (Rabbit, Kangaroo)</i>	(**)
1017010	Meat	(**)
1017020	Fat	(**)
1017030	Liver	(**)
1017040	Kidney	(**)
1017050	Edible offal	(**)
1017990	Others	(**)
1020000	(ii) Milk and cream, not concentrated, nor containing added sugar or sweetening matter, butter and other fats derived from milk, cheese and curd	0,01 (*)
1020010	Cattle	
1020020	Sheep	
1020030	Goat	
1020040	Horse	
1020990	Others	
1030000	(iii) Birds' eggs, fresh preserved or cooked Shelled eggs and egg yolks fresh, dried, cooked by steaming or boiling in water, moulded, frozen or otherwise preserved whether or not containing added sugar or sweetening matter	0,05 (*)
1030010	Chicken	(**)
1030020	Duck	(**)
1030030	Goose	(**)
1030040	Quail	(**)
1030990	Others	(**)
1040000	(iv) Honey (Royal jelly, pollen)	(**)
1050000	(v) Amphibians and reptiles (Frog legs, crocodiles)	(**)
1060000	(vi) Snails	(**)
1070000	(vii) Other terrestrial animal products	(**)

(a) For the complete list of products of plant and animal origin to which MRLs apply, reference should be made to Annex I.

(*) Indicates lower limit of analytical determination.

(**) Pesticide-code combination for which the MRL as set in Annex III Part B applies.

(2) Annex III is amended as follows:

The lines for **fludioxonil** are replaced by the following:

'Pesticide residues and maximum residue levels (mg/kg)

Code number	Groups and examples of individual products to which the MRLs apply (a)	Fludioxonil
100000	1. FRUIT FRESH OR FROZEN; NUTS	
110000	(i) Citrus fruit	
110010	Grapefruit	10
110020	Oranges	7
110030	Lemons	7
110040	Limes	7
110050	Mandarins	7
110990	Others	7
120000	(ii) Tree nuts (shelled or unshelled)	0,05 (*)
120010	Almonds	
120020	Brazil nuts	
120030	Cashew nuts	
120040	Chestnuts	
120050	Coconuts	
120060	Hazelnuts	
120070	Macadamia	
120080	Pecans	
120090	Pine nuts	
120100	Pistachios	
120110	Walnuts	
120990	Others	
130000	(iii) Pome fruit	5
130010	Apples	
130020	Pears	
130030	Quinces	
130040	Medlar	
130050	Loquat	
130990	Others	
140000	(iv) Stone fruit	
140010	Apricots	5
140020	Cherries	5
140030	Peaches	5
140040	Plums	0,5
140990	Others	0,05 (*)

Code number	Groups and examples of individual products to which the MRLs apply (a)	Fludioxonil
150000	(v) Berries & small fruit	
151000	(a) Table and wine grapes	2
151010	Table grapes	2
151020	Wine grapes	2
152000	(b) Strawberries	3
153000	(c) Cane fruit	
153010	Blackberries	5
153020	Dewberries	0,05 (*)
153030	Raspberries	5
153990	Others	0,05 (*)
154000	(d) Other small fruit & berries	
154010	Blueberries	3
154020	Cranberries	1
154030	Currants	3
154040	Gooseberries	3
154050	Rose hips	1
154060	Mulberries	1
154070	Azarole	1
154080	Elderberries	2
154990	Others	1
160000	(vi) Miscellaneous fruit	
161000	(a) Edible peel	0,05 (*)
161010	Dates	
161020	Figs	
161030	Table olives	
161040	Kumquats	
161050	Carambola	
161060	Persimmon	
161070	Jambolan	
161990	Others	

Code number	Groups and examples of individual products to which the MRLs apply (a)	Fludioxonil
162000	(b) <i>Inedible peel, small</i>	
162010	Kiwi	20
162020	Lychee	0,05 (*)
162030	Passion fruit	0,05 (*)
162040	Prickly pear	0,05 (*)
162050	Star apple	0,05 (*)
162060	American persimmon	0,05 (*)
162990	Others	0,05 (*)
163000	(c) <i>Inedible peel, large</i>	
163010	Avocados	0,05 (*)
163020	Bananas	0,05 (*)
163030	Mangoes	0,05 (*)
163040	Papaya	0,05 (*)
163050	Pomegranate	3
163060	Cherimoya	0,05 (*)
163070	Guava	0,05 (*)
163080	Pineapples	0,05 (*)
163090	Breadfruit	0,05 (*)
163100	Durian	0,05 (*)
163110	Soursop	0,05 (*)
163990	Others	0,05 (*)
200000	2. VEGETABLES FRESH OR FROZEN	
210000	(i) Root and tuber vegetables	
211000	(a) <i>Potatoes</i>	1
212000	(b) <i>Tropical root and tuber vegetables</i>	0,05 (*)
212010	Cassava	
212020	Sweet potatoes	
212030	Yams	
212040	Arrowroot	
212990	Others	
213000	(c) <i>Other root and tuber vegetables except sugar beet</i>	0,05 (*)
213010	Beetroot	
213020	Carrots	
213030	Celeriac	
213040	Horseradish	
213050	Jerusalem artichokes	
213060	Parsnips	
213070	Parsley root	
213080	Radishes	
213090	Salsify	
213100	Swedes	
213110	Turnips	
213990	Others	

Code number	Groups and examples of individual products to which the MRLs apply (a)	Fludioxonil
220000	(ii) Bulb vegetables	
220010	Garlic	0,05 (*)
220020	Onions	0,1
220030	Shallots	0,05 (*)
220040	Spring onions	0,3
220990	Others	0,05 (*)
230000	(iii) Fruiting vegetables	
231000	(a) <i>Solanacea</i>	
231010	Tomatoes	1
231020	Peppers	2
231030	Aubergines	1
231040	Okra, lady's fingers	0,5
231990	Others	0,5
232000	(b) <i>Cucurbits — edible peel</i>	
232010	Cucumbers	1
232020	Gherkins	0,5
232030	Courgettes	1
232990	Others	0,5
233000	(c) <i>Cucurbits — inedible peel</i>	0,05 (*)
233010	Melons	
233020	Pumpkins	
233030	Watermelons	
233990	Others	
234000	(d) <i>Sweetcorn</i>	0,05 (*)
239000	(e) <i>Other fruiting vegetables</i>	0,05 (*)
240000	(iv) Brassica vegetables	0,05 (*)
241000	(a) <i>Flowering brassica</i>	0,05 (*)
241010	Broccoli	
241020	Cauliflower	
241990	Others	
242000	(b) <i>Head brassica</i>	0,05 (*)
242010	Brussels sprouts	
242020	Head cabbage	
242990	Others	
243000	(c) <i>Leafy brassica</i>	0,05 (*)
243010	Chinese cabbage	
243020	Kale, collards)	
243990	Others	
244000	(d) <i>Kohlrabi</i>	0,05 (*)

Code number	Groups and examples of individual products to which the MRLs apply (a)	Fludioxonil
250000	(v) Leaf vegetables & fresh herbs	
251000	(a) <i>Lettuce and other salad plants including Brassicacea</i>	10
251010	Lamb's lettuce	
251020	Lettuce	
251030	Scarole	
251040	Cress	
251050	Land cress	
251060	Rocket, Rucola	
251070	Red mustard	
251080	Leaves and sprouts of Brassica spp.	
251990	Others	
252000	(b) <i>Spinach & similar (leaves)</i>	
252010	Spinach	0,05 (*)
252020	Purslane	10
252030	Beet leaves	0,05 (*)
252990	Others	0,05 (*)
253000	(c) <i>Vine leaves</i>	0,05 (*)
254000	(d) <i>Watercress</i>	0,05 (*)
255000	(e) <i>Witloof</i>	0,05 (*)
256000	(f) <i>Herbs</i>	1
256010	Chervil	
256020	Chives	
256030	Celery leaves	
256040	Parsley	
256050	Sage	
256060	Rosemary	
256070	Thyme	
256080	Basil	
256090	Bay leaves	
256100	Tarragon	
256990	Others	
260000	(vi) Legume vegetables (fresh)	
260010	Beans	1
260020	Beans	0,2
260030	Peas	0,2
260040	Peas	0,05 (*)
260050	Lentils	0,05 (*)
260990	Others	0,05 (*)
270000	(vii) Stem vegetables (fresh)	
270010	Asparagus	0,05 (*)
270020	Cardoons	0,05 (*)
270030	Celery	0,05 (*)

Code number	Groups and examples of individual products to which the MRLs apply (a)	Fludioxonil
270040	Fennel	0,1
270050	Globe artichokes	0,05 (*)
270060	Leek	0,05 (*)
270070	Rhubarb	0,05 (*)
270080	Bamboo shoots	0,05 (*)
270090	Palm hearts	0,05 (*)
270990	Others	0,05 (*)
280000	(viii) Fungi	0,05 (*)
280010	Cultivated	
280020	Wild	
280990	Others	
290000	(ix) Seaweeds	0,05 (*)
300000	3. PULSES, DRY	0,05 (*)
300010	Beans	
300020	Lentils	
300030	Peas	
300040	Lupins	
300990	Others	
400000	4. OILSEEDS AND OILFRUITS	0,05 (*)
401000	(i) Oilseeds	
401010	Linseed	
401020	Peanuts	
401030	Poppy seed	
401040	Sesame seed	
401050	Sunflower seed	
401060	Rapeseed	
401070	Soya bean	
401080	Mustard seed	
401090	Cotton seed	
401100	Pumpkin seeds	
401110	Safflower	
401120	Borage	
401130	Gold of pleasure	
401140	Hempseed	
401150	Castor bean	
401990	Others	
402000	(ii) Oilfruits	
402010	Olives for oil production	
402020	Palm nuts	
402030	Palmfruit	
402040	Kapok	
402990	Others	

Code number	Groups and examples of individual products to which the MRLs apply (a)	Fludioxonil
500000	5. CEREALS	
500010	Barley	0,05 (*)
500020	Buckwheat	0,05 (*)
500030	Maize	0,1
500040	Millet	0,05 (*)
500050	Oats	0,05 (*)
500060	Rice	0,05 (*)
500070	Rye	0,05 (*)
500080	Sorghum	0,05 (*)
500090	Wheat	0,2
500990	Others	0,05 (*)
600000	6. TEA, COFFEE, HERBAL INFUSIONS AND COCOA	0,05 (*)
610000	(i) Tea (dried leaves and stalks, fermented or otherwise of <i>Camellia sinensis</i>)	
620000	(ii) Coffee beans	
630000	(iii) Herbal infusions (dried)	
631000	(a) <i>Flowers</i>	
631010	Camomille flowers	
631020	Hybiscus flowers	
631030	Rose petals	
631040	Jasmine flowers	
631050	Lime	
631990	Others	
632000	(b) <i>Leaves</i>	
632010	Strawberry leaves	
632020	Rooibos leaves	
632030	Maté	
632990	Others	
633000	(c) <i>Roots</i>	
633010	Valerian root	
633020	Ginseng root	
633990	Others	
639000	(d) <i>Other herbal infusions</i>	
640000	(iv) Cocoa (fermented beans)	
650000	(v) Carob (St Johns bread)	
700000	7. HOPS (DRIED), INCLUDING HOP PELLETS AND UNCONCENTRATED POWDER	0,05 (*)
800000	8. SPICES	0,05 (*)
810000	(i) Seeds	
810010	Anise	
810020	Black caraway	

Code number	Groups and examples of individual products to which the MRLs apply (a)	Fludioxonil
810030	Celery seed	
810040	Coriander seed	
810050	Cumin seed	
810060	Dill seed	
810070	Fennel seed	
810080	Fenugreek	
810090	Nutmeg	
810990	Others	
820000	(ii) Fruits and berries	
820010	Allspice	
820020	Anise pepper	
820030	Caraway	
820040	Cardamom	
820050	Juniper berries	
820060	Pepper, black and white	
820070	Vanilla pods	
820080	Tamarind	
820990	Others	
830000	(iii) Bark	
830010	Cinnamon	
830990	Others	
840000	(iv) Roots or rhizome	
840010	Liquorice	
840020	Ginger	
840030	Turmeric	
840040	Horseradish	
840990	Others	
850000	(v) Buds	
850010	Cloves	
850020	Capers	
850990	Others	
860000	(vi) Flower stigma	
860010	Saffron	
860990	Others	
870000	(vii) Aril	
870010	Mace	
870990	Others	
900000	9. SUGAR PLANTS	0,05 (*)
900010	Sugar beet	
900020	Sugar cane	
900030	Chicory roots	
900990	Others	

Code number	Groups and examples of individual products to which the MRLs apply (a)	Fludioxonil
1000000	10. PRODUCTS OF ANIMAL ORIGIN-TERRESTRIAL ANIMALS	0,05 (*)
1010000	(i) Meat, preparations of meat, offals, blood, animal fats fresh chilled or frozen, salted, in brine, dried or smoked or processed as flours or meals other processed products such as sausages and food preparations based on these	
1011000	(a) <i>Swine</i>	
1011010	Meat	
1011020	Fat-free or lean meat	
1011030	Liver	
1011040	Kidney	
1011050	Edible offal	
1011990	Others	
1012000	(b) <i>Bovine</i>	
1012010	Meat	
1012020	Fat	
1012030	Liver	
1012040	Kidney	
1012050	Edible offal	
1012990	Others	
1013000	(c) <i>Sheep</i>	
1013010	Meat	
1013020	Fat	
1013030	Liver	
1013040	Kidney	
1013050	Edible offal	
1013990	Others	
1014000	(d) <i>Goat</i>	
1014010	Meat	
1014020	Fat	
1014030	Liver	
1014040	Kidney	
1014050	Edible offal	
1014990	Others	
1015000	(e) <i>Horses, asses, mules or hinnies</i>	
1015010	Meat	
1015020	Fat	
1015030	Liver	
1015040	Kidney	
1015050	Edible offal	
1015990	Others	
1016000	(f) <i>Poultry - chicken, geese, duck, turkey and Guinea fowl, ostrich, pigeon</i>	

Code number	Groups and examples of individual products to which the MRLs apply (a)	Fludioxonil
1016010	Meat	
1016020	Fat	
1016030	Liver	
1016040	Kidney	
1016050	Edible offal	
1016990	Others	
1017000	(g) <i>Other farm animals (Rabbit, Kangaroo)</i>	
1017010	Meat	
1017020	Fat	
1017030	Liver	
1017040	Kidney	
1017050	Edible offal	
1017990	Others	
1020000	(ii) Milk and cream, not concentrated, nor containing added sugar or sweetening matter, butter and other fats derived from milk, cheese and curd	
1020010	Cattle	
1020020	Sheep	
1020030	Goat	
1020040	Horse	
1020990	Others	
1030000	(iii) Birds' eggs, fresh preserved or cooked Shelled eggs and egg yolks fresh, dried, cooked by steaming or boiling in water, moulded, frozen or otherwise preserved whether or not containing added sugar or sweetening matter	
1030010	Chicken	
1030020	Duck	
1030030	Goose	
1030040	Quail	
1030990	Others	
1040000	(iv) Honey (Royal jelly, pollen)	
1050000	(v) Amphibians and reptiles (Frog legs, crocodiles)	
1060000	(vi) Snails	
1070000	(vii) Other terrestrial animal products	

(a) For the complete list of products of plant and animal origin to which MRLs apply, reference should be made to Annex I.

(*) Indicates lower limit of analytical determination.

COMMISSION REGULATION (EC) No 257/2009**of 24 March 2009****amending Regulation (EC) No 794/2004 as regards the supplementary information sheet for notification of aid to fisheries and aquaculture****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽¹⁾, and in particular Article 27 thereof,

After consulting the Advisory Committee on State Aid,

Whereas:

- (1) Following the adoption by the Commission of new Community guidelines for the examination of State aids to fisheries and aquaculture ⁽²⁾, the supplementary information sheet contained in Part III.14 of Annex I to Commission Regulation (EC) No 794/2004 of 21 April

2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽³⁾ should be replaced by a new supplementary information sheet in line with the framework in force.

- (2) Regulation (EC) No 794/2004 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Part III.14 of Annex I to Regulation (EC) No 794/2004 is replaced by the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 24 March 2009.

For the Commission

Joe BORG

Member of the Commission

⁽¹⁾ OJ L 83, 27.3.1999, p. 1.

⁽²⁾ OJ C 84, 3.4.2008, p. 10.

⁽³⁾ OJ L 140, 30.4.2004, p. 1.

ANNEX

PART III.14

SUPPLEMENTARY INFORMATION SHEET FOR AID TO FISHERIES AND AQUACULTURE

This supplementary information sheet must be used for the notification of any aid scheme or individual aid covered by Guidelines for the examination of State aid to fisheries and aquaculture (the Guidelines).

OBJECTIVES OF THE SCHEME or AID (tick as appropriate and insert the required information):

This Section follows the order of the subparagraphs of paragraph 4 of the Guidelines: "Aid which may be declared compatible".

☐ *Point 4.1 of the Guidelines: Aid for measures of the same kind as those covered by a block exemption Regulation*

General remarks concerning this kind of aid

Two block exemption regulations are in force: Commission Regulation (EC) No 736/2008 ⁽¹⁾ which applies to the fisheries and aquaculture sector and Commission Regulation (EC) No 800/2008 ⁽²⁾ which is the general exemption regulation applying to all sectors.

Therefore, such aid should not in principle be notified.

However, according to recital 6 of Regulation No 736/2008 and recital 7 of Regulation No 800/2008, these regulations should be without prejudice to the possibility for Member States of notifying State aid, the objectives of which correspond to objectives covered by these Regulations.

In addition, the following kinds of aid cannot benefit from the exemption provided by Regulations (EC) No 736/2008 and (EC) No 800/2008: aid exceeding specified ceilings, as referred to in Article 1(3) of Regulation (EC) No 736/2008 or in Article 6 of Regulation (EC) No 800/2008, or having specific characteristics, in particular aid granted to undertakings other than SMEs, aid to undertakings in difficulty, non-transparent aid, aid for an undertaking which is subject to an outstanding recovery order following a Commission decision declaring an aid incompatible with the common market.

Characteristics of the aid notified

☐ Aid of the same kind as aid covered by Regulation (EC) No 736/2008

☐ Aid of the same kind as aid covered by Regulation (EC) No 800/2008

☐ Aid exceeding the ceiling specified

☐ Aid granted to undertakings other than SMEs

☐ Aid which is not transparent

☐ Aid for an undertaking which is subject to an outstanding recovery

☐ Other characteristics: specify it

Compatibility with the common market

The Member State is requested to provide detailed and reasoned justification as to why the aid can be considered compatible with the common market.

☐ *Point 4.2 of the Guidelines: Aid falling within the scope of certain horizontal Guidelines*

The Member State is requested to provide the reference to the relevant Guidelines which are considered to be applicable to the aid measure concerned as well as a detailed and reasoned justification as to why the aid is considered compatible with those Guidelines.

⁽¹⁾ OJ L 201, 30.7.2008, p. 16.

⁽²⁾ OJ L 214, 9.8.2008, p. 3.

The Member State is requested to complete also the other relevant summary information sheets annexed to this Regulation.

- training aid — sheet in part III.2,
- employment aid — sheet in part III.3,
- aid for research and development — sheet in parts III.6.A or III.6.B as appropriate,
- aid for rescuing and restructuring firms in difficulty — sheet in parts III.7 or III.8 as appropriate,
- environmental aid — sheet III.10.

☐ *Point 4.3 of the Guidelines: Aid for investment on board fishing vessels*

The Member State is requested to provide the information demonstrating the compatibility of the aid with the conditions set out in Article 25(2) and (6) of Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund ⁽¹⁾.

It is also requested to provide a justification why this aid is not part of the operational programme co-financed by this Fund.

☐ *Point 4.4 of the Guidelines: Aid to make good damage caused by natural disaster, exceptional occurrences or specific adverse climatic event*

The Member State is requested to provide the following information demonstrating the compatibility of the aid:

- detailed information on the existence of a natural disaster or exceptional occurrence, including technical and/or scientific reports,
- proof of a causal link between the event and the damages,
- method of calculation of damages,
- other means of justification.

☐ *Point 4.5 of the Guidelines: Tax relief and labour related costs concerning Community fishing vessels operating outside Community waters*

The Member State is requested to provide information demonstrating the compatibility of the aid with the conditions of point 4.5 of the Guidelines.

That information must in particular include details showing the risk of deregistration from the fishing fleet register of the vessels concerned by the scheme.

☐ *Point 4.6 of the Guidelines: Aid financed through Para fiscal charges*

The Member State is requested:

- to indicate how the funds acquired by means of the Para fiscal charges will be used and,
- to demonstrate how and on which basis their use is compatible with State aid rules.

In addition, it must show how the scheme will benefit both domestic and imported products.

⁽¹⁾ OJ L 223, 15.8.2006, p. 1.

☐ *Point 4.7 of the Guidelines: Aid for marketing of fishery products from the outermost regions*

The Member State is requested to provide the information demonstrating the compatibility of the aid with the conditions of this Point and the relevant conditions of Council Regulation (EC) No 791/2007 of 21 May 2007 introducing a scheme to compensate for the additional costs incurred in the marketing of certain fishery products from the outermost regions the Azores, Madeira, the Canary Islands, French Guiana and Réunion ⁽¹⁾.

☐ *Point 4.8 of the Guidelines: Aid concerning the fishing fleet in outermost regions*

The Member State is requested to provide the information demonstrating the compatibility of the aid with the conditions of this Point and the relevant conditions of Council Regulation (EC) No 639/2004 of 30 March 2004 on the management of fishing fleets registered in the Community outermost regions ⁽²⁾ and Council Regulation (EC) No 2792/1999 of 17 December 1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector ⁽³⁾.

☐ *Point 4.9 of the Guidelines: Aid for other measures*

The Member State is requested to describe very precisely the kind of aid and its objectives.

In addition, it is requested to provide a detailed and reasoned justification on the compatibility of the aid with the conditions of point 3 of the Guidelines and to demonstrate how this aid serves the objectives of the common fisheries policy.

GENERAL PRINCIPLES

The Member State is requested to declare that no aid will be granted in respect of operations that the beneficiary has already begun to implement and for aid for activities in which the beneficiary would already engage under market conditions alone.

The Member State is requested to declare that no aid will be granted in circumstances where Community law, and in particular the rules of the Common Fisheries Policy, are not complied with.

In that sense, the Member State is requested to declare that the aid measure explicitly provides that, during the grant period, the beneficiaries of the aid shall comply with the rules of the Common Fisheries Policy and that, if during this period it is found that the beneficiary does not comply with rules of the Common Fisheries Policy, the grant must be reimbursed in proportion to the gravity of the infringement.

The Member State is requested to declare that the aid is limited to a maximum of 10 years, or, if this is not the case, undertakes to re-notify the aid at least two months before the tenth anniversary of its entry into force.

OTHER REQUIREMENTS

The Member State is requested to provide a list of all supporting documents submitted with the notification as well as a summary of those documents (e.g. socioeconomic data on the recipient regions, scientific and economic justification).

The Member State is requested to indicate that this aid is not cumulated with another aid for the same eligible expenses or for the same compensation.

If such accumulation exists, the Member State is requested to indicate the references of the aid (aid scheme or individual aid) with which there is accumulation and to demonstrate that the whole aid granted remains compatible with the relevant rules. For that purpose, the Member State shall take into account every kind of State aid, including *de minimis* aid.

⁽¹⁾ OJ L 176, 6.7.2007, p. 1.

⁽²⁾ OJ L 102, 7.4.2004, p. 9.

⁽³⁾ OJ L 337, 30.12.1999, p. 10.

COMMISSION REGULATION (EC) No 258/2009**of 26 March 2009****amending Regulation (EC) No 595/2004 laying down detailed rules for applying Council Regulation (EC) No 1788/2003 establishing a levy in the milk and milk products sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾, and in particular Article 69(2), Article 80(1) and Article 85, in conjunction with Article 4 thereof,

Whereas:

- (1) Article 10 of Commission Regulation (EC) No 595/2004 ⁽²⁾ provides for the way the fat content of milk is taken into account when drawing up the definitive statement of deliveries.
- (2) The adjustment coefficients applied to milk deliveries where the fat content is greater or lower than the reference level have remained the same since 1989. In view of many changes in the nature of the support regime for the milk sector since then, it is appropriate to reduce the degree of adjustment applied to milk delivered with fat content greater than reference fat content. The coefficient to be applied when the real fat content of deliveries is less than the reference fat should remain unchanged.
- (3) In view of those differential adjustment rates, it is also appropriate to modify the information provided by Member States to the Commission in the annual questionnaire so that it shows details on both the upward and downward adjustments.
- (4) Article 2 of Regulation (EC) No 595/2004 requires that each year the Commission has to divide the national quota for each Member State between deliveries and direct sales, based on communications from the Member States. Those communications concern the requests for conversions made by producers. Additional quota allocated to Member States is allocated to the national reserve in the first instance and then divided by Member States between deliveries and direct sales according to foreseeable needs. However, there is no formal provision whereby the Commission is informed of this division. Therefore, it is appropriate to require the Commission to take this division into account in the annual adaptation and to provide Member States with the mechanism to inform the Commission of the division of such quota.
- (5) In a number of Member States, deliveries have been substantially lower than the deliveries part of the national quota for a number of years. The possibility of the quota being exceeded will be further reduced as national quotas are increased. Experience shows that as the risk of incurring a levy is reduced, the risk that operators would understate or conceal the quantity of deliveries would also fall. It is therefore appropriate to reduce accordingly the intensity of controls to take place in such Member States in order to optimise the use of control resources.
- (6) In accordance with the second subparagraph of Article 19(3) of Regulation (EC) No 595/2004, Member States are required to complete all control reports relating to a 12-month period within 18 months of the end of the period concerned. Where Member States avail themselves of the option now provided to implement a reduced rate of control intensity in certain circumstances, it is appropriate to reduce the maximum time allowed for the completion of all reports.
- (7) In order to allow the Member States to benefit from a less burdensome situation resulting from the adjusted intensity of control, and taking into account that according to Article 19(2) of Regulation (EC) No 595/2004 controls are carried out partly during the 12-month period in question, partly after the 12-month period, it is appropriate to apply the adjusted intensity of controls as from the 12-month period 2008/2009, i.e. the period starting on 1 April 2008 and finishing on 31 March 2009.
- (8) In order to support the Commission's supervision of the implementation of the quota system and in particular in the context of the reports to be provided by the Commission to the Council before the end of 2010 and 2012, it is appropriate to provide for more detailed information on the extent of quota utilisation, the distribution of the unused quota to producers, and where relevant, on the collection of levy due from producers.
- (9) Regulation (EC) No 595/2004 should therefore be amended accordingly.
- (10) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its Chairman,

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 94, 31.3.2004, p. 22.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 595/2004 is amended as follows:

1. in Article 2, first paragraph, 'Article 21' is replaced by 'Article 25';
2. Article 10 is amended as follows:

(a) paragraph 1 is amended as follows:

- (i) the second subparagraph is replaced by the following:

'If a positive difference is found, the quantity of milk delivered shall be increased by 0,09 % per 0,1 gram of additional fat per kilogram of milk.;

- (ii) the fifth subparagraph is replaced by the following:

'Where the quantity of milk delivered is expressed in litres, the adjustment shall be multiplied by the coefficient 0,971.;

(b) paragraph 2 is replaced by the following:

'2. The Member States shall establish the adjustment of deliveries at national level in accordance with Article 80(1) of Council Regulation (EC) No 1234/2007 (*).

(*) OJ L 299, 16.11.2007, p. 1.;

3. in Article 19(3), the following sentence is added in the second subparagraph:

'However the inspection reports shall be completed no later than 12 months after the end of the period concerned in Member States where Article 22(1), points (aa) and (ba) apply.;

4. in Article 22(1), points (a) and (b) are replaced by the following:

'(a) 2 % of producers for each 12-month period, or

(aa) 1 % of producers in Member States where the total adjusted deliveries have been less than 95 % of the deliveries part of the national quota in each of the three preceding 12-month periods; and

(b) 40 % of the quantity of milk declared after adjustment for the period concerned, or

(ba) 20 % of the quantity of milk declared after adjustment in Member States where the total adjusted deliveries have been less than 95 % of the deliveries part of the

national quota in each of the three preceding 12-month periods; and';

5. in Article 25, paragraph 2 is replaced by the following:

'2. In accordance with Article 69(2)(a) of Regulation (EC) No 1234/2007, the Member States shall notify to the Commission, before 1 February each year:

(a) the quantities which have been definitively converted between individual quotas for deliveries and direct sales at the request of individual producers;

(b) the division between deliveries and direct sales of the quota placed in the national reserve in accordance with Article 71(2) of Regulation (EC) No 1234/2007 with effect from 1 April of the 12-month period in question.;

6. in Article 27, the following paragraph 4 is added:

'4. Before 1 October each year, the Member States shall communicate to the Commission a report concerning quota utilisation and levy collection in respect of the 12-month period finishing on 31 March of the same calendar year. The report shall include information on the reallocation of unused quota including the number of producers to whom allocations were made and the basis for the allocations. Where relevant, the report shall state the number of producers contributing to the payment of the surplus levy and indicate the number of cases, if any, where the surplus levy has been deemed impossible to collect due to producers' definitive incapacity to pay or bankruptcy. Member States shall communicate an update of the report to the Commission before 1 December to include relevant newly available information. Each subsequent report shall update the position in respect of the collection of any surplus levy previously reported as outstanding.;

7. in Annex I, point 1.8 is replaced by the following:

'1.8 Adjustment of deliveries due to fat content:

(a) quantity of deliveries subject to upward adjustment (kilograms);

(b) total of upward adjustment (kilograms);

(c) quantity of deliveries subject to downward adjustment (kilograms);

(d) total of downward adjustment (kilograms).';

Article 2

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

It shall apply from 1 April 2009, except for points 3 and 4 of Article 1, which shall apply from 1 April 2008.

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

Done at Brussels, 26 March 2009.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

II

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

DECISIONS

COMMISSION

COMMISSION DECISION

of 26 March 2009

amending Decision 2008/866/EC as regards its period of application

(notified under document number C(2009) 1876)

(Text with EEA relevance)

(2009/297/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety ⁽¹⁾, and in particular Article 53(1)(b)(i) thereof,

Whereas:

- (1) Commission Decision 2008/866/EC of 12 November 2008 on emergency measures suspending imports from Peru of certain bivalve molluscs intended for human consumption ⁽²⁾ was adopted as a result of contamination with the hepatitis A virus (HAV) of certain bivalve molluscs imported from Peru which were identified as being at the origin of an outbreak of hepatitis A in humans. That Decision applies until 31 March 2009.
- (2) The Peruvian authorities have provided certain information concerning the corrective measures put in place to improve control of the production of bivalve molluscs intended for export to the Community.
- (3) That information is, however, insufficient and a Commission inspection is to be carried out in Peru.

(4) Pending the submission of all relevant information by the Peruvian authorities and the results of that inspection, it is appropriate to extend the application of Decision 2008/866/EC until 30 November 2009.

(5) Decision 2008/866/EC should therefore be amended accordingly.

(6) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

In Article 5 of Decision 2008/866/EC, '31 March 2009' is replaced by '30 November 2009'.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 26 March 2009.

For the Commission

Androulla VASSILIOU

Member of the Commission

⁽¹⁾ OJ L 31, 1.2.2002, p. 1.

⁽²⁾ OJ L 307, 18.11.2008, p. 9.

COMMISSION DECISION

of 26 March 2009

prolonging the validity of Decision 2006/502/EC requiring Member States to take measures to ensure that only lighters which are child-resistant are placed on the market and to prohibit the placing on the market of novelty lighters

*(notified under document number C(2009) 2078)***(Text with EEA relevance)**

(2009/298/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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 2006/502/EC ⁽²⁾ requires Member States to take measures to ensure that only lighters which are child-resistant are placed on the market and to prohibit the placing on the market of novelty lighters.
- (2) Decision 2006/502/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 one year, but allows it to be confirmed for additional periods none of which shall exceed one year.
- (3) Decision 2006/502/EC was amended twice, firstly by Decision 2007/231/EC ⁽³⁾ which prolonged the validity of the Decision until 11 May 2008 and secondly by Decision 2008/322/EC ⁽⁴⁾ which prolonged the validity of the Decision for a further year until 11 May 2009.
- (4) In the absence of other satisfactory measures addressing the child safety of lighters, it is necessary to prolong the validity of Decision 2006/502/EC for a further 12 months and to amend it accordingly.

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

HAS ADOPTED THIS DECISION:

Article 1

Article 6(2) of Decision 2006/502/EC is replaced by:

- ‘2. This Decision shall apply until 11 May 2010.’

Article 2

Member States shall take the necessary measures to comply with this Decision by 11 May 2009 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 March 2009.

For the Commission

Meglena KUNEVA

Member of the Commission

⁽¹⁾ OJ L 11, 15.1.2002, p. 4.

⁽²⁾ OJ L 198, 20.7.2006, p. 41.

⁽³⁾ OJ L 99, 14.4.2007, p. 16.

⁽⁴⁾ OJ L 109, 19.4.2008, p. 40.

III

(Acts adopted under the EU Treaty)

ACTS ADOPTED UNDER TITLE VI OF THE EU TREATY

COUNCIL FRAMEWORK DECISION 2009/299/JHA

of 26 February 2009

amending Framework Decisions 2002/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial

THE COUNCIL OF THE EUROPEAN UNION,

concerned did not appear in person. This diversity could complicate the work of the practitioner and hamper judicial cooperation.

Having regard to the Treaty on European Union, and in particular Article 31(1)(a) and Article 34(2)(b) thereof,

Having regard to the initiative of the Republic of Slovenia, the French Republic, the Czech Republic, the Kingdom of Sweden, the Slovak Republic, the United Kingdom of Great Britain and Northern Ireland and the Federal Republic of Germany ⁽¹⁾,

Having regard to the opinion of the European Parliament,

Whereas:

(1) The right of an accused person to appear in person at the trial is included in the right to a fair trial provided for in Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, as interpreted by the European Court of Human Rights. The Court has also declared that the right of the accused person to appear in person at the trial is not absolute and that under certain conditions the accused person may, of his or her own free will, expressly or tacitly but unequivocally, waive that right.

(2) The various Framework Decisions implementing the principle of mutual recognition of final judicial decisions do not deal consistently with the issue of decisions rendered following a trial at which the person

(3) Solutions provided by these Framework Decisions are not satisfactory as regards cases where the person could not be informed of the proceedings. Framework Decisions 2005/214/JHA on the application of the principle of mutual recognition to financial penalties ⁽²⁾, 2006/783/JHA on the application of the principle of mutual recognition to confiscation orders ⁽³⁾, 2008/909/JHA on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union ⁽⁴⁾ and 2008/947/JHA on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions ⁽⁵⁾ allow the executing authority to refuse the execution of such judgments. Framework Decision 2002/584/JHA on the European arrest warrant and the surrender procedures between Member States ⁽⁶⁾ allows the executing authority to require the issuing authority to give an assurance deemed adequate to guarantee the person who is the subject of the European arrest warrant that he or she will have an opportunity to apply for a retrial of the case in the issuing Member State and to be present when the judgment is given. The adequacy of such an assurance is a matter to be decided by the executing authority, and it is therefore difficult to know exactly when execution may be refused.

⁽²⁾ Framework Decision of 24 February 2005 (OJ L 76, 22.3.2005, p. 16).

⁽³⁾ Framework Decision of 6 October 2006 (OJ L 328, 24.11.2006, p. 59).

⁽⁴⁾ Framework Decision of 27 November 2008 (OJ L 327, 5.12.2008, p. 27).

⁽⁵⁾ Framework Decision of 27 November 2008 (OJ L 337, 16.12.2008, p. 102).

⁽⁶⁾ Framework Decision of 13 June 2002 (OJ L 190, 18.7.2002, p. 1).

⁽¹⁾ OJ C 52, 26.2.2008, p. 1.

- (4) It is therefore necessary to provide clear and common grounds for non-recognition of decisions rendered following a trial at which the person concerned did not appear in person. This Framework Decision is aimed at refining the definition of such common grounds allowing the executing authority to execute the decision despite the absence of the person at the trial, while fully respecting the person's right of defence. This Framework Decision is not designed to regulate the forms and methods, including procedural requirements, that are used to achieve the results specified in this Framework Decision, which are a matter for the national laws of the Member States.
- (5) Such changes require amendment of the existing Framework Decisions implementing the principle of mutual recognition of final judicial decisions. The new provisions should also serve as a basis for future instruments in this field.
- (6) The provisions of this Framework Decision amending other Framework Decisions set conditions under which the recognition and execution of a decision rendered following a trial at which the person concerned did not appear in person should not be refused. These are alternative conditions; when one of the conditions is satisfied, the issuing authority, by completing the corresponding section of the European arrest warrant or of the relevant certificate under the other Framework Decisions, gives the assurance that the requirements have been or will be met, which should be sufficient for the purpose of the execution of the decision on the basis of the principle of mutual recognition.
- (7) The recognition and execution of a decision rendered following a trial at which the person concerned did not appear in person should not be refused if either he or she was summoned in person and thereby informed of the scheduled date and place of the trial which resulted in the decision, or if he or she actually received, by other means, official information of the scheduled date and place of that trial in such a manner that it was unequivocally established that he or she was aware of the scheduled trial. In this context, it is understood that the person should have received such information 'in due time', meaning sufficiently in time to allow him or her to participate in the trial and to effectively exercise his or her right of defence.
- (8) The right to a fair trial of an accused person is guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms, as interpreted by the European Court of Human Rights. This right includes the right of the person concerned to appear in person at the trial. In order to exercise this right, the person concerned needs to be aware of the scheduled trial. Under this Framework Decision, the person's awareness of the trial should be ensured by each Member State in accordance with its national law, it being understood that this must comply with the requirements of that Convention. In accordance with the case law of the European Court of Human Rights, when considering whether the way in which the information is provided is sufficient to ensure the person's awareness of the trial, particular attention could, where appropriate, also be paid to the diligence exercised by the person concerned in order to receive information addressed to him or her.
- (9) The scheduled date of a trial may for practical reasons initially be expressed as several possible dates within a short period of time.
- (10) The recognition and execution of a decision rendered following a trial at which the person concerned did not appear in person should not be refused where the person concerned, being aware of the scheduled trial, was defended at the trial by a legal counsellor to whom he or she had given a mandate to do so, ensuring that legal assistance is practical and effective. In this context, it should not matter whether the legal counsellor was chosen, appointed and paid by the person concerned, or whether this legal counsellor was appointed and paid by the State, it being understood that the person concerned should deliberately have chosen to be represented by a legal counsellor instead of appearing in person at the trial. The appointment of the legal counsellor and related issues are a matter of national law.
- (11) Common solutions concerning grounds for non-recognition in the relevant existing Framework Decisions should take into account the diversity of situations with regard to the right of the person concerned to a retrial or an appeal. Such a retrial, or appeal, is aimed at guaranteeing the rights of the defence and is characterised by the following elements: the person concerned has the right to be present, the merits of the case, including fresh evidence are re-examined, and the proceedings can lead to the original decision being reversed.
- (12) The right to a retrial or appeal should be guaranteed when the decision has already been served as well as, in the case of the European arrest warrant, when it had not yet been served, but will be served without delay after the surrender. The latter case refers to a situation where the authorities failed in their attempt to contact the person, in particular because he or she sought to evade justice.

(13) In case a European arrest warrant is issued for the purpose of executing a custodial sentence or detention order and the person concerned has not previously received any official information about the existence of the criminal proceedings against him or her, nor has been served with the judgment, this person should, following a request in the executing Member State, receive a copy of the judgment for information purposes only. The issuing and executing judicial authorities should, where appropriate, consult each other on the need and existing possibilities to provide the person concerned with a translation of the judgment, or of essential parts thereof, in a language that the person understands. Such provision of the judgment should neither delay the surrender procedure nor delay the decision to execute the European arrest warrant.

(14) This Framework Decision is limited to refining the definition of grounds for non-recognition in instruments implementing the principle of mutual recognition. Therefore, provisions such as those relating to the right to a retrial have a scope which is limited to the definition of these grounds for non-recognition. They are not designed to harmonise national legislation. This Framework Decision is without prejudice to future instruments of the European Union designed to approximate the laws of the Member States in the field of criminal law.

(15) The grounds for non-recognition are optional. However, the discretion of Member States for transposing these grounds into national law is particularly governed by the right to a fair trial, while taking into account the overall objective of this Framework Decision to enhance the procedural rights of persons and to facilitate judicial cooperation in criminal matters,

HAS ADOPTED THIS FRAMEWORK DECISION:

Article 1

Objectives and scope

1. The objectives of this Framework Decision are to enhance the procedural rights of persons subject to criminal proceedings, to facilitate judicial cooperation in criminal matters and, in particular, to improve mutual recognition of judicial decisions between Member States.

2. This Framework Decision shall not have the effect of modifying the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the Treaty, including the right of defence of persons subject to criminal proceedings, and any obligations incumbent upon judicial authorities in this respect shall remain unaffected.

3. This Framework Decision establishes common rules for the recognition and/or execution of judicial decisions in one Member State (the executing Member State) issued by another Member State (the issuing Member State) following proceedings at which the person concerned was not present, pursuant to the provisions of Article 5(1) of Framework Decision 2002/584/JHA, of Article 7(2)(g) of Framework Decision 2005/214/JHA, of Article 8(2)(e) of Framework Decision 2006/783/JHA, of Article 9(1)(i) of Framework Decision 2008/909/JHA and of Article 11(1)(h) of Framework Decision 2008/947/JHA.

Article 2

Amendments to Framework Decision 2002/584/JHA

Framework Decision 2002/584/JHA is hereby amended as follows:

1. the following Article shall be inserted:

‘Article 4a

Decisions rendered following a trial at which the person did not appear in person

1. The executing judicial authority may also refuse to execute the European arrest warrant issued for the purpose of executing a custodial sentence or a detention order if the person did not appear in person at the trial resulting in the decision, unless the European arrest warrant states that the person, in accordance with further procedural requirements defined in the national law of the issuing Member State:

(a) in due time:

(i) either was summoned in person and thereby informed of the scheduled date and place of the trial which resulted in the decision, or by other means actually received official information of the scheduled date and place of that trial in such a manner that it was unequivocally established that he or she was aware of the scheduled trial;

and

(ii) was informed that a decision may be handed down if he or she does not appear for the trial;

or

(b) being aware of the scheduled trial, had given a mandate to a legal counsellor, who was either appointed by the person concerned or by the State, to defend him or her at the trial, and was indeed defended by that counsellor at the trial;

or

(c) after being served with the decision and being expressly informed about the right to a retrial, or an appeal, in which the person has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which may lead to the original decision being reversed:

(i) expressly stated that he or she does not contest the decision;

or

(ii) did not request a retrial or appeal within the applicable time frame;

or

(d) was not personally served with the decision but:

(i) will be personally served with it without delay after the surrender and will be expressly informed of his or her right to a retrial, or an appeal, in which the person has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which may lead to the original decision being reversed;

and

(ii) will be informed of the time frame within which he or she has to request such a retrial or appeal, as mentioned in the relevant European arrest warrant.

2. In case the European arrest warrant is issued for the purpose of executing a custodial sentence or detention order under the conditions of paragraph 1(d) and the person concerned has not previously received any official information about the existence of the criminal proceedings against him or her, he or she may, when being informed about the content of the European arrest warrant, request to receive a copy of the judgment before being surrendered. Immediately after having been informed about the request, the issuing authority shall provide the copy of the judgment via the executing authority to the person sought. The request of the person sought shall neither delay the surrender procedure nor delay the decision to execute the European arrest warrant. The provision of the judgment to the person concerned is for information purposes only; it shall neither be regarded as a formal service of the judgment nor actuate any time limits applicable for requesting a retrial or appeal.

3. In case a person is surrendered under the conditions of paragraph 1(d) and he or she has requested a retrial or appeal, the detention of that person awaiting such retrial or appeal shall, until these proceedings are finalised, be reviewed in accordance with the law of the issuing Member State, either on a regular basis or upon request of the person concerned. Such a review shall in particular include the possibility of suspension or interruption of the detention. The retrial or appeal shall begin within due time after the surrender.;

2. in Article 5, paragraph 1 shall be deleted;

3. in the Annex (EUROPEAN ARREST WARRANT), point (d) shall be replaced by the following:

‘(d) Indicate if the person appeared in person at the trial resulting in the decision:

1. ☐ Yes, the person appeared in person at the trial resulting in the decision.

2. ☐ No, the person did not appear in person at the trial resulting in the decision.

3. If you have ticked the box under point 2, please confirm the existence of one of the following:

☐ 3.1a. the person was summoned in person on ... (day/month/year) and thereby informed of the scheduled date and place of the trial which resulted in the decision and was informed that a decision may be handed down if he or she does not appear for the trial;

OR

☐ 3.1b. the person was not summoned in person but by other means actually received official information of the scheduled date and place of the trial which resulted in the decision, in such a manner that it was unequivocally established that he or she was aware of the scheduled trial, and was informed that a decision may be handed down if he or she does not appear for the trial;

OR

- ☐ 3.2. being aware of the scheduled trial, the person had given a mandate to a legal counsellor, who was either appointed by the person concerned or by the State, to defend him or her at the trial, and was indeed defended by that counsellor at the trial;

OR

- ☐ 3.3. the person was served with the decision on ... (day/month/year) and was expressly informed about the right to a retrial or appeal, in which he or she has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which may lead to the original decision being reversed, and

☐ the person expressly stated that he or she does not contest this decision,

OR

☐ the person did not request a retrial or appeal within the applicable time frame;

OR

- ☐ 3.4. the person was not personally served with the decision, but
- the person will be personally served with this decision without delay after the surrender, and
 - when served with the decision, the person will be expressly informed of his or her right to a retrial or appeal, in which he or she has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which may lead to the original decision being reversed, and
 - the person will be informed of the time frame within which he or she has to request a retrial or appeal, which will be ... days.

4. If you have ticked the box under points 3.1b, 3.2 or 3.3 above, please provide information about how the relevant condition has been met:

.....
,

Article 3

Amendments to Framework Decision 2005/214/JHA

Framework Decision 2005/214/JHA is hereby amended as follows:

1. Article 7(2) is hereby amended as follows:

- (a) point (g) shall be replaced by the following:

‘(g) according to the certificate provided for in Article 4, the person concerned, in case of a written procedure, was not, in accordance with the law of the issuing State, informed personally or via a representative, competent according to national law, of his/her right to contest the case and of the time limits for such a legal remedy’;

- (b) the following points shall be added:

‘(i) according to the certificate provided for in Article 4, the person did not appear in person at the trial resulting in the decision, unless the certificate states that the person, in accordance with further procedural requirements defined in the national law of the issuing State:

(i) in due time:

— either was summoned in person and thereby informed of the scheduled date and place of the trial which resulted in the decision, or by other means actually received official information of the scheduled date and place of that trial in such a manner that it was unequivocally established that he or she was aware of the scheduled trial,

and

— was informed that a decision may be handed down if he or she does not appear for the trial;

or

(ii) being aware of the scheduled trial, had given a mandate to a legal counsellor, who was either appointed by the person concerned or by the State, to defend him or her at the trial, and was indeed defended by that counsellor at the trial;

or

(iii) after being served with the decision and being expressly informed of the right to a retrial, or an appeal, in which he or she has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which may lead to the original decision being reversed:

— expressly stated that he or she does not contest the decision,

or

— did not request a retrial or appeal within the applicable time frame;

(j) according to the certificate provided for in Article 4, the person did not appear in person, unless the certificate states that the person, having been expressly informed about the proceedings and the possibility to appear in person in a trial, expressly waived his or her right to an oral hearing and has expressly indicated that he or she does not contest the case.’;

2. Article 7(3) shall be replaced by the following:

‘3. In the cases referred to in paragraphs 1 and 2(c), (g), (i) and (j), before deciding not to recognise and to execute a decision, either totally or in part, the competent authority in the executing State shall consult the competent authority in the issuing State, by any appropriate means, and shall, where appropriate, ask it to supply any necessary information without delay.’;

3. in point (h) of the Annex (CERTIFICATE), point 3 is replaced by the following:

‘3. Indicate if the person concerned appeared in person at the trial resulting in the decision:

1. ☐ Yes, the person appeared in person at the trial resulting in the decision.

2. ☐ No, the person did not appear in person at the trial resulting in the decision.

3. If you have ticked the box under point 2, please confirm the existence of one of the following:

☐ 3.1a. the person was summoned in person on ... (day/month/year) and thereby informed of the scheduled date and place of the trial which resulted in the decision and was informed that a decision may be handed down if he or she does not appear for the trial;

OR

- ☐ 3.1b. the person was not summoned in person but by other means actually received official information of the scheduled date and place of the trial which resulted in the decision, in such a manner that it was unequivocally established that he or she was aware of the scheduled trial, and was informed that a decision may be handed down if he or she does not appear for the trial;

OR

- ☐ 3.2. being aware of the scheduled trial, the person had given a mandate to a legal counsellor, who was either appointed by the person concerned or by the State, to defend him or her at the trial, and was indeed defended by that counsellor at the trial;

OR

- ☐ 3.3. the person was served with the decision on ... (day/month/year) and was expressly informed about the right to a retrial or appeal, in which he or she has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which may lead to the original decision being reversed, and

☐ the person expressly stated that he or she does not contest this decision,

OR

☐ the person did not request a retrial or appeal within the applicable time frame;

OR

- ☐ 3.4. the person, having been expressly informed about the proceedings and the possibility to appear in person in a trial, expressly waived his or her right to an oral hearing and has expressly indicated that he or she does not contest the case.

4. If you have ticked the box under points 3.1b, 3.2, 3.3 or 3.4 above, please provide information about how the relevant condition has been met:

.....

Article 4

Amendments to Framework Decision 2006/783/JHA

Framework Decision 2006/783/JHA is hereby amended as follows:

1. in Article 8(2), point (e) shall be replaced by the following:

‘(e) according to the certificate provided for in Article 4(2), the person did not appear in person at the trial resulting in the confiscation order, unless the certificate states that the person, in accordance with further procedural requirements defined in the national law of the issuing State:

(i) in due time:

- either was summoned in person and thereby informed of the scheduled date and place of the trial which resulted in the confiscation order, or by other means actually received official information of the scheduled date and place of that trial in such a manner that it was unequivocally established that he or she was aware of the scheduled trial,

and

- was informed that such a confiscation order may be handed down if he or she does not appear for the trial;

or

- (ii) being aware of the scheduled trial, had given a mandate to a legal counsellor, who was either appointed by the person concerned or by the State, to defend him or her at the trial, and was indeed defended by that counsellor at the trial;

or

- (iii) after being served with the confiscation order and being expressly informed of the right to a retrial, or an appeal, in which the person has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which may lead to the original decision being reversed:

- expressly stated that he or she does not contest the confiscation order,

or

- did not request a retrial or appeal within the applicable time frame.;

2. in the Annex (CERTIFICATE), point (j) shall be replaced by the following:

‘(j) Proceedings resulting in the confiscation order

Indicate if the person appeared in person at the trial resulting in the confiscation order:

1. ☐ Yes, the person appeared in person at the trial resulting in the confiscation order.
2. ☐ No, the person did not appear in person at the trial resulting in the confiscation order.
3. If you have ticked the box under point 2, please confirm the existence of one of the following:

- ☐ 3.1a. the person was summoned in person on ... (day/month/year) and thereby informed of the scheduled date and place of the trial which resulted in the confiscation order and was informed that a decision may be handed down if he or she does not appear for the trial;

OR

- ☐ 3.1b. the person was not summoned in person but by other means actually received official information of the scheduled date and place of the trial which resulted in the confiscation order, in such a manner that it was unequivocally established that he or she was aware of the scheduled trial, and was informed that a decision may be handed down if he or she does not appear for the trial;

OR

- ☐ 3.2. being aware of the scheduled trial, the person had given a mandate to a legal counsellor, who was either appointed by the person concerned or by the State, to defend him or her at the trial, and was indeed defended by that counsellor at the trial;

OR

☐ 3.3. the person was served with the confiscation order on ... (day/month/year) and was expressly informed about the right to a retrial or appeal, in which he or she has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which may lead to the original decision being reversed, and

☐ the person expressly stated that he or she does not contest the decision,

OR

☐ the person did not request a retrial or appeal within the applicable time frame.

4. If you have ticked the box under points 3.1b, 3.2, 3.3 or 3.4 above, please provide information about how the relevant condition has been met:

.....

Article 5

Amendments to Framework Decision 2008/909/JHA

Framework Decision 2008/909/JHA is hereby amended as follows:

1. in Article 9(1), point (i) shall be replaced by the following:

‘(i) according to the certificate provided for in Article 4, the person did not appear in person at the trial resulting in the decision, unless the certificate states that the person, in accordance with further procedural requirements defined in the national law of the issuing State:

(i) in due time:

— either was summoned in person and thereby informed of the scheduled date and place of the trial which resulted in the decision, or by other means actually received official information of the scheduled date and place of that trial in such a manner that it was unequivocally established that he or she was aware of the scheduled trial,

and

— was informed that a decision may be handed down if he or she does not appear for the trial;

or

(ii) being aware of the scheduled trial had given a mandate to a legal counsellor, who was either appointed by the person concerned or by the State, to defend him or her at the trial, and was indeed defended by that counsellor at the trial;

or

(iii) after being served with the decision and being expressly informed of the right to a retrial, or an appeal, in which the person has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which may lead to the original decision being reversed:

— expressly stated that he or she does not contest the decision,

or

— did not request a retrial or appeal within the applicable time frame.’;

2. in point (i) of Annex I (CERTIFICATE), point 1 shall be replaced by the following:

‘1. Indicate if the person appeared in person at the trial resulting in the decision:

1. ☐ Yes, the person appeared in person at the trial resulting in the decision.
2. ☐ No, the person did not appear in person at the trial resulting in the decision.

3. If you have ticked the box under point 2, please confirm the existence of one of the following:

- ☐ 3.1a. the person was summoned in person on ... (day/month/year) and thereby informed of the scheduled date and place of the trial which resulted in the decision and was informed that a decision may be handed down if he or she does not appear for the trial;

OR

- ☐ 3.1b. the person was not summoned in person but by other means actually received official information of the scheduled date and place of the trial which resulted in the decision, in such a manner that it was unequivocally established that he or she was aware of the scheduled trial, and was informed that a decision may be handed down if he or she does not appear for the trial;

OR

- ☐ 3.2. being aware of the scheduled trial the person had given a mandate to a legal counsellor, who was either appointed by the person concerned or by the State, to defend him or her at the trial, and was indeed defended by that counsellor at the trial;

OR

- ☐ 3.3. the person was served with the decision on ... (day/month/year) and was expressly informed about the right to a retrial or appeal, in which he or she has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which may lead to the original decision being reversed, and

- ☐ the person expressly stated that he or she does not contest this decision,

OR

- ☐ the person did not request a retrial or appeal within the applicable time frame.

4. If you have ticked the box under points 3.1b, 3.2 or 3.3 above, please provide information about how the relevant condition has been met:

.....
.....’

Article 6

Amendments to Framework Decision 2008/947/JHA

Framework Decision 2008/947/JHA is hereby amended as follows:

1. in Article 11(1), point (h) shall be replaced by the following:

‘(h) according to the certificate provided for in Article 6, the person did not appear in person at the trial resulting in the decision, unless the certificate states that the person, in accordance with further procedural requirements defined in the national law of the issuing State:

(i) in due time:

— either was summoned in person and thereby informed of the scheduled date and place of the trial which resulted in the decision, or by other means actually received official information of the scheduled date and place of that trial in such a manner that it was unequivocally established that he or she was aware of the scheduled trial,

and

— was informed that a decision may be handed down if he or she does not appear for the trial;

or

(ii) being aware of the scheduled trial had given a mandate to a legal counsellor, who was either appointed by the person concerned or by the State, to defend him or her at the trial, and was indeed defended by that counsellor at the trial;

or

(iii) after being served with the decision and being expressly informed about the right to a retrial, or an appeal, in which the person has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which may lead to the original decision being reversed:

— expressly stated that he or she does not contest the decision,

or

— did not request a retrial or appeal within the applicable time frame.’;

2. in Annex I (CERTIFICATE), point (h) shall be replaced by the following:

‘(h) Indicate if the person appeared in person at the trial resulting in the decision:

1. ☐ Yes, the person appeared in person at the trial resulting in the decision.

2. ☐ No, the person did not appear in person at the trial resulting in the decision.

3. If you have ticked the box under point 2, please confirm the existence of one of the following:

☐ 3.1a. the person was summoned in person on ... (day/month/year) and thereby informed of the scheduled date and place of the trial which resulted in the decision and was informed that a decision may be handed down if he or she does not appear for the trial;

OR

- ☐ 3.1b. the person was not summoned in person but by other means actually received official information of the scheduled date and place of the trial which resulted in the decision, in such a manner that it was unequivocally established that he or she was aware of the scheduled trial, and was informed that a decision may be handed down if he or she does not appear for the trial;

OR

- ☐ 3.2. being aware of the scheduled trial the person had given a mandate to a legal counsellor, who was either appointed by the person concerned or by the State, to defend him or her at the trial, and was indeed defended by that counsellor at the trial;

OR

- ☐ 3.3. the person was served with the decision on ... (day/month/year) and was expressly informed about the right to a retrial or appeal, in which he or she has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which may lead to the original decision being reversed, and

- ☐ the person expressly stated that he or she does not contest this decision,

OR

- ☐ the person did not request a retrial or appeal within the applicable time frame.

4. If you have ticked the box under points 3.1b, 3.2 or 3.3 above, please provide information about how the relevant condition has been met:

.....

Article 7

Territorial application

This Framework Decision shall apply to Gibraltar.

Article 8

Implementation and transitional provisions

1. Member States shall take the necessary measures to comply with the provisions of this Framework Decision by 28 March 2011.

2. This Framework Decision shall apply as from the date mentioned in paragraph 1 to the recognition and enforcement

of decisions rendered in the absence of the person concerned at the trial.

3. If a Member State has declared, on the adoption of this Framework Decision, to have serious reasons to assume that it will not be able to comply with the provisions of this Framework Decision by the date referred to in paragraph 1, this Framework Decision shall apply as from 1 January 2014 at the latest to the recognition and enforcement of decisions, rendered in the absence of the person concerned at the trial which are issued by the competent authorities of that Member State. Any other Member State may require that the Member State having made such a declaration shall apply the relevant provisions of the Framework Decisions referred to in Articles 2, 3, 4, 5 and 6 in the versions in which they were adopted originally to the recognition and enforcement of decisions, rendered in the absence of the person concerned at the trial, which were issued by such other Member State.

4. Until the dates mentioned in paragraphs 1 and 3, the relevant provisions of the Framework Decisions referred to in Articles 2, 3, 4, 5 and 6 shall continue to apply in the versions in which they were adopted originally.

5. A declaration made in accordance with paragraph 3 shall be published in the *Official Journal of the European Union*. It may be withdrawn at any time.

6. Member States shall transmit to the General Secretariat of the Council and to the Commission the text of the provisions transposing into their national law the obligations imposed on them under this Framework Decision.

Article 9

Review

1. By 28 March 2014, the Commission shall draw up a report on the basis of the information received from the Member States pursuant to Article 8(6).

2. On the basis of the report referred to in paragraph 1, the Council shall assess:

(a) the extent to which Member States have taken the necessary measures in order to comply with this Framework Decision; and

(b) the application of this Framework Decision.

3. The report referred to in paragraph 1 shall be accompanied, where necessary, by legislative proposals.

Article 10

Entry into force

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

Done at Brussels, 26 February 2009.

For the Council

The President

I. LANGER
