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## II

(Non-legislative acts)

## INTERNATIONAL AGREEMENTS

## COUNCIL DECISION

of 28 January 2014

**on the conclusion of the Protocol setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the European Community, on the one hand, and the Republic of Kiribati, on the other**

(2014/60/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43, in conjunction with Article 218(6)(a) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) On 23 July 2007 the Council adopted Regulation (EC) No 893/2007 on the conclusion of a Fisheries Partnership Agreement between the European Community, on the one hand, and the Republic of Kiribati, on the other<sup>(1)</sup> ('the Agreement'). A Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement expired on 15 September 2012.
- (2) The Union has negotiated a new Protocol with the Republic of Kiribati granting EU vessels fishing opportunities in the waters over which the Republic of Kiribati exercises its sovereignty or jurisdiction ('the Protocol').
- (3) The Protocol was signed in accordance with Council Decision 2012/669/EU<sup>(2)</sup> and has been applied provisionally since 16 September 2012.

(4) The Protocol should be approved,

HAS ADOPTED THIS DECISION:

*Article 1*

The Protocol setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the European Community, on the one hand, and the Republic of Kiribati, on the other, ('the Protocol'), is hereby approved on behalf of the Union<sup>(3)</sup>.

*Article 2*

The President of the Council shall give, on behalf of the Union, the notification provided for in Article 16 of the Protocol<sup>(4)</sup>.

*Article 3*

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

Done at Brussels, 28 January 2014.

*For the Council*  
*The President*  
G. STOURNARAS

<sup>(1)</sup> OJ L 205, 7.8.2007, p. 1.

<sup>(2)</sup> Council Decision 2012/669/EU of 9 October 2012 on the signing, on behalf of the European Union, and provisional application of the Protocol setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the European Community, on the one hand, and the Republic of Kiribati, on the other (OJ L 300, 30.10.2012, p. 2).

<sup>(3)</sup> The Protocol has been published in OJ L 300, 30.10.2012, p. 3, together with the decision on signature.

<sup>(4)</sup> The date of entry into force of the Protocol will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

# REGULATIONS

## COMMISSION DELEGATED REGULATION (EU) No 110/2014

of 30 September 2013

### on the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

account, universality, specification, sound financial management, which requires effective and efficient internal control, and transparency.

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

Having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 <sup>(1)</sup>, and in particular Article 209 thereof,

Whereas:

- (1) Regulation (EU, Euratom) No 966/2012, based on the experience of having public-private partnerships institutionalised as Union bodies under Article 185 of Council Regulation (EC, Euratom) No 1605/2002 <sup>(2)</sup>, introduced additional categories of public-private partnerships in order to increase the choice of instruments and include bodies whose rules are more flexible and accessible for private partners than those applicable to the Union institutions. Among those additional categories are the bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 which are entrusted with the implementation of a public-private partnership (hereinafter 'PPP bodies').
- (2) In order to ensure sound financial management of Union funds and to enable PPP bodies to adopt their own financial rules, it is necessary to adopt a model financial regulation for those bodies.
- (3) PPP bodies should establish and implement their budget in accordance with the budgetary principles of unity, budgetary accuracy, annuality, equilibrium, unit of

- (4) In order to ensure the overall implementation of the tasks and activities of the PPP body, it should be able to enter the unused appropriations for a given year in the estimate of revenue and expenditure of up to the following three financial years.
- (5) Since the Union funds put at the disposal of the PPP body are to be implemented under indirect management provided for in Article 60 of Regulation (EU, Euratom) No 966/2012, the provisions on financial planning and reporting should be consistent with the indirect management method of budget implementation. The discharge of the budget implementation with regard to the Union contribution to the PPP bodies is to be part of the discharge given by the European Parliament to the Commission in respect of the implementation of the budget of the Union. Therefore, adequate annual reporting, including the submission of a management declaration, should be provided in accordance with Regulation (EU, Euratom) No 966/2012, allowing the Commission to better assume its responsibilities in relation to the discharge.
- (6) It is necessary to define the powers and responsibilities of the accounting officer and of the authorising officers taking into account the public-private nature of the PPP bodies. The authorising officers should be fully responsible for all revenue and expenditure operations executed under their authority and should be held accountable for their actions, including, where necessary, through disciplinary proceedings.
- (7) It is necessary to clarify the internal audit and internal control functions and to streamline the reporting requirements. The internal audit function within the PPP bodies should be performed by the Commission's internal auditor who should carry out audits when justified by the risks involved. Provisions on the establishment and functioning of internal audit capabilities should be introduced.

<sup>(1)</sup> OJ L 298, 26.10.2012, p. 1.

<sup>(2)</sup> Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248, 16.9.2002, p. 1).

- (8) In order to guarantee that each body is accountable for the implementation of its budget and adheres to the objectives assigned to it at its establishment, PPP bodies should be allowed, for the performance of the tasks entrusted to them, to employ external private sector bodies only where necessary and not for tasks involving any public service mission or any use of discretionary powers of judgement.
- (9) The principles to be followed as to the revenue and expenditure operations of the PPP body should be laid down.
- (10) Given the public-private nature of the PPP bodies and in particular the private sector contribution to the budget of the PPP body, flexible procedures for the award of procurement contracts should be allowed. The relevant procedures should respect the principles of transparency, proportionality, equality of treatment and non-discrimination and partly depart from the relevant provisions laid down in Commission Delegated Regulation (EU) No 1268/2012<sup>(1)</sup>. It is necessary to ensure better and cheaper supply of goods and services, as well as the avoidance of excessive costs in managing procurement procedures through reinforced cooperation among the members of PPP bodies. The PPP bodies should therefore also have the possibility to conclude contracts without having recourse to a procurement procedure with their members other than the Union for the supply of products, provision of services or performance of work that those members provide directly, without having recourse to third parties.
- (11) In order to improve cost-efficiency, the possibility of sharing services or transferring them to another body or the Commission should be provided, in particular by allowing that the accounting officer of the Commission is entrusted with all or part of the tasks of the accounting officer of the PPP body.
- (12) For the evaluation of grant applications, projects and tenders and for providing opinions and advice in specific cases, the PPP bodies should be able to use external experts. These experts should be selected in accordance with the principles of non-discrimination, equal treatment and absence of conflict of interests.
- (13) In the award of grants and prizes, the relevant provisions of Regulation (EU, Euratom) No 966/2012 and Delegated Regulation (EU) No 1268/2012 should apply, subject to any specific provision of the constituent instrument of the PPP body or of the basic act of the programme the implementation of which is entrusted to the PPP body in order to ensure a coherent implementation with the actions directly managed by the Commission.
- (14) Where the accounts of the PPP bodies need to be consolidated in accordance with the accounting rules referred to in Article 143 of Regulation (EU, Euratom) No 966/2012, the accounting rules applied by the PPP bodies should allow for such consolidation.
- (15) This Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union* in order to allow for the timely adoption of the revised financial regulations of the PPP bodies as of 1 January 2014 in order to ensure coherent rules for the next multiannual financial framework,

HAS ADOPTED THIS REGULATION:

#### CHAPTER 1

##### SCOPE

##### Article 1

##### Subject matter

This Regulation lays down the essential principles on the basis of which the Public-Private Partnership body (hereinafter 'PPP body') shall adopt its own financial rules. The financial rules of the PPP body shall not depart from this Regulation except where its specific needs so require and with the Commission's prior consent in accordance with the fourth paragraph of Article 209 of Regulation (EU, Euratom) No 966/2012.

Each PPP body shall adopt detailed provisions implementing these principles in its financial rules.

##### Article 2

##### Definitions

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

- 'governing board' means the main internal body of the PPP body that is responsible for taking decisions on financial and budgetary matters, irrespective of the name given to it in the constituent instrument of the PPP body,
- 'director' means the person responsible for implementing the decisions of the governing board and the PPP body's budget as authorising officer, irrespective of the title given to him in the constituent instrument of the PPP body,
- 'member' means a member of the PPP body in accordance with its constituent instrument,
- 'constituent instrument' means the instrument of Union law governing the main aspects of the creation and operation of the PPP body,

<sup>(1)</sup> Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

— 'budget of the PPP body' means the instrument which, for each financial year, forecasts and authorises the revenue and expenditure considered necessary for the PPP body.

#### Article 3

##### Scope of the budget

The budget of the PPP body shall consist of:

- (a) the revenue of the PPP body, comprising:
  - (i) its members' financial contribution to the administrative costs;
  - (ii) its members' financial contribution to the operational costs;
  - (iii) revenue assigned to specific items of expenditure;
  - (iv) any revenue generated by the PPP body;
- (b) the expenditure of the PPP body, including administrative expenditure.

#### CHAPTER 2

##### BUDGETARY PRINCIPLES

#### Article 4

##### Respect for budgetary principles

The budget of the PPP body shall be established and implemented in accordance with the principles of unity, budgetary accuracy, annuality, equilibrium, unit of account, universality, specification, sound financial management which requires effective and efficient internal control, and transparency as set out in this Regulation.

#### Article 5

##### Principles of unity and of budgetary accuracy

1. No revenue shall be collected and no expenditure effected unless booked to a line in the budget of the PPP body.
2. No expenditure may be committed or authorised in excess of the appropriations authorised by the budget of the PPP body.
3. An appropriation may be entered in the budget of the PPP body only if it is for an item of expenditure considered necessary.
4. Interests generated by pre-financing payments made from the budget of the PPP body shall not be due to the PPP body.

#### Article 6

##### Principle of annuality

1. The appropriations entered in the budget of the PPP body shall be authorised for a financial year which shall run from 1 January to 31 December.
2. Commitment appropriations shall cover the total cost of the legal commitments entered into during the financial year.

3. Payment appropriations shall cover payments made to honour the legal commitments entered into in the financial year or preceding financial years.

4. For administrative appropriations, expenditure shall not exceed the revenue expected for the year as referred in Article 3(a)(i).

5. Given the needs of the PPP body, the unused appropriations may be entered in the estimate of revenue and expenditure of up to the following three financial years. These appropriations must be used first.

6. Paragraphs 1 to 5 shall not prevent budget commitments for actions extending over more than one financial year being broken down over several years into annual instalments where the constituent instrument so provides or where they relate to administrative expenditure.

#### Article 7

##### Principle of equilibrium

1. Revenue and payment appropriations shall be in balance.
2. Commitment appropriations shall not exceed the relevant annual Union contribution as set out in the annual transfer of funds agreement with the Commission, plus annual contributions from other members than the Union, any other revenue referred to in Article 3 and the amount of the unused appropriations referred to in Article 6(5).
3. The PPP body may not raise loans within the framework of the budget of the PPP body.
4. If the budget result is positive, it shall be entered in the budget of the following financial year as revenue.

If the budget result is negative, it shall be entered in the budget for the following financial year as payment appropriations.

#### Article 8

##### Principle of unit of account

The budget of the PPP body shall be drawn up and implemented in euro and the accounts shall be presented in euro. However, for cash-flow purposes, the accounting officer shall be authorised to carry out operations in other currencies as laid down in the financial rules of the PPP body.

#### Article 9

##### Principle of universality

1. Without prejudice to paragraph 2, total revenue shall cover total payment appropriations. All revenue and expenditure shall be entered in full without any adjustment against each other, subject to any specific provision in the financial rules of the PPP body on cases where certain deductions may be made from payment requests, which shall then be passed for payment of the net amount.

2. Revenue earmarked for a specific purpose, such as income from foundations, subsidies, gifts and bequests, shall be used to finance specific items of expenditure.

3. The director may accept any donation made to the PPP body, such as foundations, subsidies, gifts and bequests.

Acceptance of donations which may involve a significant financial charge shall be subject to the prior authorisation of the governing board, which shall take a decision within two months of the date on which the request is submitted to it. If the governing board fails to take a decision within that period, the donation shall be deemed to be accepted.

The amount above which the financial charge involved is considered significant shall be set by a decision of the governing board.

#### Article 10

##### Principle of specification

1. Appropriations shall be earmarked for specific purposes at least by title and chapter.

2. The director may transfer appropriations from one chapter to another without limit and from one title to another up to a maximum of 10 % of the appropriations for the year shown on the line from which the transfer is made.

Beyond the limit referred to in the first subparagraph, the director may propose to the governing board transfers of appropriations from one title to another. The governing board shall have three weeks to oppose such transfers. After that time-limit they shall be deemed to be adopted.

The director shall inform the governing board as soon as possible of all transfers carried out under the first subparagraph.

#### Article 11

##### Principle of sound financial management

1. Appropriations shall be used in accordance with the principle of sound financial management, namely in accordance with the principles of economy, efficiency and effectiveness.

2. The principle of economy requires that the resources used by the PPP body in the pursuit of its activities are made available in due time, in appropriate quantity and quality and at the best price.

The principle of efficiency concerns the best relationship between resources employed and results achieved.

The principle of effectiveness concerns the attainment of the specific objectives set and the achievement of the intended results.

3. Specific, measurable, achievable, relevant and timed objectives shall be set for all sectors of activity covered by the budget of the PPP body. The achievement of those objectives shall be monitored by performance indicators for each activity, and the information shall be provided to the governing board

by the director annually and at the latest in the documents accompanying the draft budget of the PPP body.

4. Unless the constituent instrument provides for evaluations to be conducted by the Commission, the PPP body, in order to improve decision-making, shall undertake evaluations, including *ex post* evaluations, of its programmes and activities which entail significant spending and evaluation results shall be sent to the governing board.

#### Article 12

##### Internal control of budget implementation

1. The budget of the PPP body shall be implemented in compliance with effective and efficient internal control.

2. For the purposes of the implementation of the budget of the PPP body, internal control is defined as a process applicable at all levels of management and designed to provide reasonable assurance of achieving the following objectives:

- (a) effectiveness, efficiency and economy of operations;
- (b) reliability of reporting;
- (c) safeguarding of assets and information;
- (d) prevention, detection, correction and follow-up of fraud and irregularities;
- (e) adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multi-annual character of programmes as well as the nature of the payments concerned.

3. Effective and efficient internal control shall be based on best international practices and include, in particular, the elements laid down in Article 32(3) and (4) of Regulation (EU, Euratom) No 966/2012, taking into account the structure and size of the PPP body, the nature of the tasks entrusted to it and the amounts and financial and operational risks involved.

#### Article 13

##### Principle of transparency

1. The budget of the PPP body shall be established and implemented and the accounts presented in accordance with the principle of transparency.

2. The budget of the PPP body including the establishment plan and amending budgets, as adopted, including any adaptations as provided in Article 15(1), shall be published on the internet site of the PPP body within four weeks of their adoption and shall be transmitted to the Commission and the Court of Auditors.

3. The PPP body shall make available on its internet site no later than 30 June of the following financial year information on the recipients of funds deriving from its budget, in accordance with paragraphs 2, 3 and 4 of Article 21 of Delegated Regulation (EU) No 1268/2012, following a standard presentation.

The published information shall be easily accessible, transparent and comprehensive. The information shall be made available with due observance of the requirements of confidentiality and security, in particular the protection of personal data laid down in Regulation (EC) No 45/2001 of the European Parliament and of the Council <sup>(1)</sup>.

4. The experts contracted pursuant to Article 34 of this Regulation shall be published on an internet site of the Union.

#### CHAPTER 3

### FINANCIAL PLANNING

#### Article 14

#### Estimate of revenue and expenditure

1. The PPP body shall send to the Commission and to the other members no later than 31 January of the year preceding that in which the budget of the PPP body is to be implemented an estimate of its revenue and expenditure and the general guidelines underlying that estimate, together with its draft work programme referred to in Article 31(4).

2. The estimate of revenue and expenditure of the PPP body shall include:

- (a) an estimate of the number of permanent and temporary posts, by function group and by grade, as well as of the contract staff and seconded national experts expressed in full-time equivalents, within the limits of the budget appropriations;
- (b) where there is a change in the number of persons in post, a statement justifying the request for new posts;
- (c) a quarterly estimate of cash payments and receipts;
- (d) information on the achievement of all previously set objectives for the various activities;
- (e) the targets set for the financial year to which the estimate relates, indicating any specific budgetary needs dedicated to achieving these targets;
- (f) the administrative costs and the implemented budget of the PPP body in the preceding financial year;
- (g) the amount of financial contributions made by the members and the value of contributions in kind made by the members, other than the Union;
- (h) information on the unused appropriations that are entered in the estimate of revenue and expenditure per year in accordance with Article 6(5).

#### Article 15

#### Establishment of the budget

1. The budget of the PPP body and the staff establishment plan, including the number of permanent and temporary posts by function group and by grade and complemented with the number of contract staff and of seconded national experts expressed in full-time equivalents, shall be adopted by the governing board in accordance with the constituent instrument

of the PPP body. Detailed provisions may be laid down in the financial rules of the PPP body. Any amendment to the budget of the PPP body, including the establishment plan, shall be the subject of an amending budget of the PPP body adopted by the same procedure as the initial budget of the PPP body. The budget of the PPP body and, where appropriate, the amending budgets of the PPP body shall be adapted in order to take into account the amount of the Union contribution as laid down in the budget of the Union.

2. The budget of the PPP body shall consist of a statement of revenue and a statement of expenditure.

3. The budget of the PPP body shall show:

(a) in the statement of revenue:

- (i) the estimated revenue of the PPP body for the financial year concerned ('year n');
- (ii) the estimated revenue for the preceding financial year and the revenue for year n-2;
- (iii) appropriate remarks on each revenue line;

(b) in the statement of expenditure:

- (i) the commitment and payment appropriations for year n;
- (ii) the commitment and payment appropriations for the preceding financial year and the expenditure committed and the expenditure paid in year n-2, the latter also expressed as a percentage of the budget of the PPP body of year n;
- (iii) a summary statement of the schedule of payments due in subsequent financial years to meet budget commitments entered into in earlier financial years;
- (iv) appropriate remarks on each subdivision.

4. The establishment plan shall show next to the number of posts authorised for the financial year, the number authorised for the preceding year and the number of posts actually filled. The same information shall be shown for the contract staff and seconded national experts.

#### CHAPTER 4

### FINANCIAL ACTORS

#### Article 16

#### Budget implementation in accordance with the principle of sound financial management

1. The director shall perform the duties of authorising officer. The director shall implement the revenue and expenditure of the budget of the PPP body in accordance with the financial rules of the PPP body and the principle of sound financial management under his or her own responsibility and within the limits of the appropriations authorised. The director shall be responsible for ensuring compliance with the requirements of legality and regularity.

<sup>(1)</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).



Without prejudice to the responsibilities of the authorising officer as regards prevention and detection of fraud and irregularities, the PPP body shall participate in fraud prevention activities of the European Anti-fraud Office (OLAF).

2. The director may delegate the powers of budget implementation to staff of the PPP body covered by the Staff Regulations, where those apply to the staff of the PPP body, in accordance with the conditions laid down in the financial rules of the PPP body. Those so empowered may act only within the limits of the powers expressly conferred upon them.

#### Article 17

##### **Powers and duties of the authorising officer**

1. The budget of the PPP body shall be implemented by the director in the departments placed under his or her authority.

2. Technical expertise tasks and administrative, preparatory or ancillary tasks not involving the exercise of public authority or the use of discretionary powers of judgement may be entrusted by contract to external private-sector entities or bodies, where this proves to be indispensable.

3. The director shall, in accordance with the minimum standards adopted by the governing board, and having due regard to the risks associated with the management environment and the nature of the action financed, put in place the organisational structure and the internal control systems suited to the performance of duties of the director. The establishment of such structure and systems shall be supported by a risk analysis which takes into account their cost-effectiveness.

The director may establish within his or her departments an expertise and advice function designed to help him or her control the risks involved in his or her activities.

4. The authorising officer shall conserve the supporting documents relating to operations carried out for a period of five years from the date of the decision granting discharge to the Commission in respect of implementation of the budget of the Union for the year concerned. Personal data contained in supporting document shall be deleted where possible when those data are not necessary for control and audit purposes. In any event, as regards the conservation of traffic data, Article 37(2) of Regulation (EC) No 45/2001 shall apply.

#### Article 18

##### **Ex ante controls**

1. Each operation shall be subject at least to an *ex ante* control based on a desk review of documents and on the available results of controls already carried out relating to the operational and financial aspects of the operation.

*Ex ante* controls shall comprise the initiation and the verification of an operation.

Initiation and verification of an operation shall be separate functions.

2. Initiation of an operation shall be understood as all the operations which are preparatory to the adoption of the acts

implementing the budget of the PPP body by the authorising officer responsible.

3. *Ex ante* verification of an operation shall be understood as all the *ex ante* checks put in place by the authorising officer responsible in order to verify the operational and financial aspects.

4. *Ex ante* controls shall verify the coherence among supporting documents requested and any other information available.

The extent in terms of frequency and intensity of the *ex ante* controls shall be determined by the authorising officer responsible taking into account risk-based and cost-effectiveness considerations. In case of doubt, the authorising officer responsible for validating the relevant payment shall request complementary information or perform an on-the-spot control in order to obtain reasonable assurance as part of the *ex ante* control.

The purpose of the *ex ante* controls shall be to ascertain that:

- (a) the expenditure is in order and complies with the provisions applicable;
- (b) the principle of sound financial management set out in Article 11 has been applied.

For the purpose of controls, a series of similar individual transactions relating to routine expenditure on salaries, pensions, reimbursement of mission expenses and medical expenses may be considered by the authorising officer responsible to constitute a single operation.

#### Article 19

##### **Ex post controls**

1. The authorising officer responsible may put in place *ex post* controls to verify operations already approved following *ex ante* controls. Such controls may be organised on a sample basis according to risk.

The *ex post* controls may be carried out on the basis of documents and, where appropriate, on the spot.

2. The *ex post* controls shall be carried out by staff other than that responsible for the *ex ante* controls. The staff responsible for the *ex post* controls shall not be subordinate to the members of the staff responsible for the *ex ante* controls.

Staff responsible for controlling the management of financial operations shall have the necessary professional skills.

#### Article 20

##### **Annual reporting**

The authorising officer shall report annually to the governing board on the performance of his or her duties. For this purpose, the authorising officer shall submit no later than 15 February of the following financial year to the governing board and to the Commission:

- (a) a report on the implementation of the PPP body's annual work programme, budget of the PPP body and staff resources;

- (b) the provisional accounts of the PPP body, including the report on budgetary and financial management referred to in Article 39;
- (c) a management declaration stating that, unless otherwise specified in any reservations, the authorising officer has reasonable assurance that:
- (i) the information is properly presented, complete and accurate (true and fair view);
  - (ii) the expenditure was used for its intended purpose;
  - (iii) the control systems put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions;
- (d) a summary of the final audit reports and of controls carried out, including an analysis of the nature and extent of errors and weaknesses identified in systems, as well as corrective action taken or planned.

The report shall indicate the results of the operations by reference to the objectives set, the risks associated with these operations, the use made of the resources provided and the efficiency and effectiveness of the internal control systems and be proportionate to the nature of the entrusted tasks and the amounts involved.

No later than 1 July each year the documents mentioned under points c) and d) of the first paragraph and their assessment by the governing board, the approved annual activity report and the final accounts together with their approval by the governing board pursuant to Article 43(2) shall be sent by the director to the Commission. The Commission shall send these documents to the European Parliament and to the Council.

#### Article 21

##### Protection of the financial interests of the Union

1. If a member of staff involved in the financial management and control of transactions considers that a decision he or she is required by his or her superior to apply or to agree to is irregular or contrary to the principles of sound financial management or the professional rules which that member of staff is required to observe, he or she shall inform the director in writing who shall reply in writing. If the director fails to take action or confirms the initial decision or instruction and the member of staff believes that such confirmation does not constitute a reasonable response to his or her concern, the member of staff shall inform the relevant panel referred to in Article 23(3) in writing. The panel referred to in Article 23(3) shall immediately inform the governing board.

2. In the event of any illegal activity, fraud or corruption which may harm the interests of the PPP body or of its members, the member of staff shall inform the authorities and bodies designated by the applicable legislation. Contracts with external auditors carrying out audits of the financial management of the PPP body shall provide for an obligation

of the external auditor to inform the authorising officer of any suspected illegal activity, fraud or corruption which may harm the interests of the PPP body or of its members.

#### Article 22

##### Accounting officer

1. The governing board shall appoint an accounting officer covered by the Staff Regulations, where those apply to the staff of the PPP body, who shall be totally independent in the performance of his or her duties. The accounting officer shall be responsible in the PPP body for:

- (a) properly implementing payments, collecting revenue and recovering amounts established as being receivable;
- (b) keeping, preparing and presenting the accounts in accordance with Chapter 8;
- (c) implementing, in accordance with Chapter 8, the accounting rules and the chart of accounts;
- (d) laying down and validating the accounting systems and, where appropriate, validating systems laid down by the authorising officer to supply or justify accounting information; in this respect, the accounting officer shall be empowered to verify at any time compliance with validation criteria;
- (e) treasury management.

2. Two or more PPP bodies may appoint the same accounting officer.

PPP bodies may also agree with the Commission that the accounting officer of the Commission shall also act as accounting officer of the PPP body.

They may also entrust the accounting officer of the Commission with part of the tasks of the accounting officer of the PPP body taking into account cost-benefit considerations.

In the case referred to in this paragraph, they shall make necessary arrangements in order to avoid any conflict of interests.

3. The accounting officer shall obtain from the authorising officer all the information necessary for the production of accounts which give a true and fair view of the PPP body's financial situation and of budgetary implementation. The authorising officer shall guarantee the reliability of that information.

4. Before the adoption of the accounts by the director, the accounting officer shall sign them off, thereby certifying that he or she has a reasonable assurance that the accounts present a true and fair view of the financial situation of the PPP body.

For the purpose of the first subparagraph, the accounting officer shall verify that the accounts have been prepared in accordance with the accounting rules referred to in Article 38 and that all revenue and expenditure is entered in the accounts.

The accounting officer shall be empowered to check the information received as well as to carry out any further checks he or she deems necessary in order to sign off the accounts.

The accounting officer shall make reservations, if necessary, explaining exactly the nature and scope of such reservations.

Subject to paragraph 5, only the accounting officer shall be empowered to manage cash and cash equivalents. The accounting officer shall be responsible for their safekeeping.

5. The accounting officer may, in the performance of his or her duties, delegate certain tasks to staff members subject to the Staff Regulations, where those apply to the staff of the PPP body, where this is indispensable for the performance of his or her duties in accordance with the financial rules of the PPP body.

6. Without prejudice to any disciplinary action, the accounting officer may at any time be suspended temporarily or definitively from his or her duties by the governing board. In such a case, the governing board shall appoint an interim accounting officer.

#### Article 23

##### Liability of the financial actors

1. Articles 16 to 25 are without prejudice to any liability under criminal law which the financial actors may incur as provided for in the applicable national law and in the provisions in force concerning the protection of the Union's financial interests and the fight against corruption involving Union officials or officials of Member States.

2. Each authorising officer and accounting officer shall be liable to disciplinary action and payment of compensation as laid down in the Staff Regulations. In the event of illegal activity, fraud or corruption which may harm the interests of the PPP body or of its members, the matter shall be submitted to the authorities and bodies designated by the applicable legislation, in particular to OLAF.

3. The specialised financial irregularities panel set up by the Commission or in which the Commission participates in accordance with Article 73(6) of Regulation (EU, Euratom) No 966/2012, shall exercise the same powers in respect of the PPP body as it does in respect of Commission departments, unless the governing board decides to set up a functionally independent panel, or to participate in a joint panel established by several bodies. For cases submitted by PPP bodies, the specialised financial irregularities panel set up by the Commission or in which the Commission participates shall include one staff member of a PPP body.

On the basis of the opinion of the panel referred to in the first subparagraph, the director shall decide whether to initiate proceedings for disciplinary action or for the payment of compensation. If the panel detects systemic problems, it shall send a report with recommendations to the authorising officer. If the opinion implicates the director, the panel shall send it to the governing board and to the Commission's internal auditor. The director shall refer, in anonymous form, to opinions of the panel in his or her report under Article 20 and indicate the follow-up measures taken.

4. Any member of the staff may be required to compensate, in whole or in part, any damage suffered by the PPP body as a result of a serious misconduct on his or her part in the course of or in connection with the performance of his or her duties. The appointing authority shall take a reasoned decision after completing the formalities laid down by the applicable legislation with regard to disciplinary matters.

#### Article 24

##### Conflict of interests

1. Financial actors within the meaning of Articles 16 to 25 and other persons involved in budget implementation and management, including acts preparatory thereto, audit or control shall not take any action which may bring their own interests into conflict with those of the PPP body.

Where such a risk exists, the person in question shall refrain from such actions and shall refer the matter to the director who shall confirm in writing whether a conflict of interests exists. The person in question shall also inform his or her immediate supervisor. If the actor is the director, he or she must refer the matter to the governing board.

Where a conflict of interests is found to exist, the person in question shall cease all activities in the matter. The director or the governing board, in the case of the director, shall take any further appropriate action.

2. For the purposes of paragraph 1, a conflict of interests exists where the impartial and objective exercise of the functions of a financial actor or other person, as referred to in paragraph 1, is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with a recipient.

#### Article 25

##### Segregation of duties

The duties of authorising officer and accounting officer shall be segregated and mutually exclusive.

#### CHAPTER 5

##### INTERNAL AUDIT

#### Article 26

##### Appointment, powers and duties of the internal auditor

1. The PPP body shall have an internal audit function which shall be performed in compliance with the relevant international standards.

2. The internal audit function shall be performed by the Commission's internal auditor. The internal auditor may be neither authorising officer nor accounting officer.

3. The internal auditor shall advise the PPP body on dealing with risks, by issuing independent opinions on the quality of management and control systems and by issuing recommendations for improving the conditions of implementation of operations and promoting sound financial management.

The internal auditor shall be responsible in particular for:

- (a) assessing the suitability and effectiveness of internal management systems and the performance of departments in implementing programmes and actions by reference to the risks associated with them;
- (b) assessing the efficiency and effectiveness of the internal control and audit systems applicable to each budget implementation operation.

4. The internal auditor shall perform his or her duties in relation to all the PPP body's activities and departments. The internal auditor shall enjoy full and unlimited access to all information required to perform his or her duties.

5. The internal auditor shall take note of the report of the authorising officer under Article 20 and of any other pieces of information identified.

6. The internal auditor shall report to the governing board and the director on his or her findings and recommendations.

The internal auditor shall also report in any of the following cases:

- critical risks and recommendations have not been addressed,
- there are significant delays in the implementation of the recommendations made in the previous years.

The governing board and the director shall ensure the regular monitoring of the implementation of audit recommendations. The governing board shall examine the information referred to in Article 20 and whether the recommendations have been fully and timely implemented.

7. The PPP body shall make available the contact details of the internal auditor to any natural or legal person involved in expenditure operations, for the purposes of confidentially contacting the internal auditor.

8. The reports and findings of the internal auditor shall be accessible to the public only after validation by the internal auditor of the action taken for their implementation.

#### *Article 27*

##### **Independence of the internal auditor**

The independence of the internal auditor, the liability of the internal auditor for action taken in the performance of his or her duties and the right for the internal auditor to bring an action before the Court of Justice of the European Union shall be determined in accordance with Article 100 of Regulation (EU, Euratom) No 966/2012.

#### *Article 28*

##### **Establishment of an internal audit capability**

1. The governing board may establish with due regard to cost effectiveness and added value, an internal audit capability which shall perform its duties in compliance with the relevant international standards.

The purpose, authority and responsibility of the internal audit capability shall be provided for in the internal audit charter and shall be subject to the approval of the governing board.

The annual audit plan of an internal audit capability shall be drawn up by the Head of internal audit capability taking into consideration, inter alia, the director's assessment of risk in the PPP body.

It shall be reviewed and approved by the governing board.

The internal audit capability shall report to the governing board and the director on his or her findings and recommendations.

If the internal audit capability of a single PPP body is not cost-effective or is not able to meet international standards, the PPP body may decide to share an internal audit capability with other PPP bodies functioning in the same policy area.

In such cases the governing board of the concerned PPP bodies shall agree on the practical modalities of the shared internal audit capabilities.

The internal audit actors shall cooperate efficiently through exchanging information and audit reports and, when appropriate, establishing joint risk assessments and carrying out joint audits.

2. The governing board and the director shall ensure the regular monitoring of the implementation of internal audit capability's recommendation.

#### CHAPTER 6

##### **REVENUE AND EXPENDITURE OPERATIONS**

#### *Article 29*

##### **Implementation of revenue**

1. Implementation of revenue shall comprise drawing up estimates of amounts receivable, establishing entitlements to be recovered and recovering undue amounts. It shall also include the possibility of waiving established entitlements, where appropriate.

2. Amounts wrongly paid shall be recovered.

If actual recovery has not taken place by the due date stipulated in the debit note, the accounting officer shall inform the authorising officer responsible and immediately launch the procedure for effecting recovery by any means offered by the law, including, where appropriate, by offsetting and, if this is not possible, by enforced recovery.

Where the authorising officer responsible plans to waive or partially waive recovery of an established amount receivable, he or she shall ensure that the waiver is in order and is in accordance with the principles of sound financial management and proportionality. The waiver decision shall be substantiated. The waiver decision shall state that action has been taken to secure recovery and the points of law and fact on which it is based.

The accounting officer shall keep a list of amounts due to be recovered. The PPP body's entitlements shall be grouped in the list according to the date of issue of the recovery order. The accounting officer shall also indicate decisions to waive or partially waive recovery of established amounts. The list shall be added to the PPP body's report on budgetary and financial management.

3. Any debt not repaid on the due date laid down in the debit note shall bear interest in accordance with Delegated Regulation (EU) No 1268/2012.

4. Entitlements of the PPP body in respect of third parties and entitlements of third parties in respect of the PPP body shall be subject to a limitation period of five years.

#### Article 30

##### Members' contribution

1. The PPP body shall present to its members requests for payment of all or part of their contribution under terms and at intervals set out in the constituent instrument or agreed with them.

2. The funds paid to the PPP body by its members by way of a contribution shall bear interest for the benefit of the budget of the PPP body.

#### Article 31

##### Implementation of expenditure

1. To implement expenditure, the authorising officer shall make budgetary commitments and legal commitments, shall validate expenditure and authorise payments and shall undertake the preliminary steps for the implementation of appropriations.

2. Every item of expenditure shall be committed, validated, authorised and paid.

Validation of expenditure is the act whereby the authorising officer responsible confirms a financial operation.

Authorisation of expenditure is the act by which the authorising officer responsible, having verified that the appropriations are available, instructs the accounting officer to pay the validated expenditure.

3. In respect of any measure which may give rise to expenditure chargeable to the budget of the PPP body, the authorising officer responsible shall make a budgetary commitment before entering into a legal commitment with third parties.

4. The annual work programme of the PPP body shall provide the authorisation by the governing board for the operational expenditure of the PPP body on the activities it covers, provided that the elements set out in this paragraph are clearly identified.

The annual work programme shall comprise detailed objectives and expected results including performance indicators. It shall also contain a description of the action(s) to be financed and an indication of the amount allocated to each action.

Any substantial amendment to the annual work programme shall be adopted by the same procedure as the initial work

programme, in accordance with the provisions of the constituent instrument.

The governing board may delegate the power to make non-substantial amendments to the work programme to the authorising officer of the PPP body.

#### Article 32

##### Time limits

The payment of expenditure must be carried out within the time limits specified in and in accordance Regulation (EU, Euratom) No 966/2012 and Delegated Regulation (EU) No 1268/2012.

#### CHAPTER 7

##### IMPLEMENTATION OF THE BUDGET OF THE PPP BODY

#### Article 33

##### Procurement

1. As regards procurement, Title V of Regulation (EU, Euratom) No 966/2012 and Delegated Regulation (EU) No 1268/2012 shall apply subject to paragraphs 3 to 6 of this Article.

2. The PPP body shall participate in the central exclusion database set up and operated by the Commission pursuant to Article 108 of the general Financial Regulation.

3. For contracts with a value between EUR 60 000 and the thresholds laid down in Article 118 of Regulation (EU, Euratom) No 966/2012 the procedure set out Delegated Regulation (EU) No 1268/2012 for contracts with a low value not exceeding EUR 60 000 may be used.

4. The PPP body may be associated, at its request, as contracting authority, in the award of Commission or interinstitutional contracts and with the award of contracts of other Union or PPP bodies.

5. The PPP body may conclude a contract, without having recourse to a public procurement procedure, with the Commission, the interinstitutional offices, the Translation Centre for bodies of the European Union established by Council Regulation (EC) No 2965/94<sup>(1)</sup> and other PPP bodies for the supply of goods, provision of services or performance of work that the latter provide.

The PPP body may conclude a contract, without having recourse to a public procurement procedure, with its members other than the Union for the supply of goods, provision of services or performance of work that those members directly provide without having recourse to third parties.

The goods, services or work provided under the first and second subparagraph shall not be considered part of the contribution of the members to the budget of the PPP body.

<sup>(1)</sup> Council Regulation (EC) No 2965/94 of 28 November 1994 setting up a Translation Centre for bodies of the European Union (OJ L 314, 7.12.1994, p. 1).

6. The PPP body may use joint procurement procedures with contracting authorities of the host Member State to cover its administrative needs or with contracting authorities of Member States, the European Free Trade Association States or Union candidate countries which participate in it as members. In such cases, Article 133 of Delegated Regulation (EU) No 1268/2012 shall apply *mutatis mutandis*.

The PPP body may use joint procurement procedures with its private members or with contracting authorities of countries participating in Union programmes which participate in it as members. In such cases, the first paragraph of Article 133 of Delegated Regulation (EU) No 1268/2012 shall apply *mutatis mutandis*.

#### Article 34

##### Experts

Article 287 of Delegated Regulation (EU) No 1268/2012 shall apply *mutatis mutandis* for the selection of experts subject to any specific procedure laid down in the basic act of the programme the implementation of which is entrusted to the PPP body. Such experts shall be paid on the basis of a fixed amount announced in advance and shall be chosen on the basis of their professional capacity.

The PPP body may use the lists drawn up by the Commission or by other Union or PPP bodies.

The PPP body may, if deemed appropriate and in duly justified cases, select any individual with the appropriate skills from outside the lists.

External experts shall be selected on the basis of skills, experience and knowledge appropriate to carry out the tasks assigned to them and in accordance with the principles of non-discrimination, equal treatment and absence of conflict of interests.

#### Article 35

##### Grants

As regards grants, Title VI of Regulation (EU, Euratom) No 966/2012 and Delegated Regulation (EU) No 1268/2012 shall apply subject to any specific provisions of the constituent instrument.

#### Article 36

##### Prizes

1. As regards prizes, Title VII of Regulation (EU, Euratom) No 966/2012 and Delegated Regulation (EU) No 1268/2012 shall apply subject to paragraph 2 of this Article.

2. Contests for prizes with a unit value of EUR 1 000 000 or more may only be published if they are provided for in the draft work programme referred to in Article 14(1).

#### Article 37

##### Indication of means of redress

1. Where a procedural act of an authorising officer adversely affects the rights of an applicant or tenderer, beneficiary or

contractor, it shall contain an indication of the available means of administrative and/or judicial redress for challenging this act.

2. In particular, the nature of the redress, the body or bodies before which it can be brought, as well as time limits for their exercise shall be indicated

3. Paragraphs 1 and 2 shall be subject to any specific procedure laid down in the basic acts of the programme the implementation of which is entrusted to the PPP body.

#### CHAPTER 8

#### ACCOUNTING

##### Article 38

##### Rules governing the accounts

The PPP body shall set up an accounting system providing accurate, complete and reliable information in a timely manner.

The accounting of the PPP body shall conform to the accounting rules referred to in Article 143 of Regulation (EU, Euratom) No 966/2012.

##### Article 39

##### Structure of the accounts

The accounts of the PPP body shall comprise:

- (a) the financial statements of the PPP body;
- (b) the reports on implementation of the budget of the PPP body (report on budgetary and financial management).

The PPP body shall prepare a report on budgetary and financial management for the financial year. This report shall give an account, both in absolute terms and expressed as a percentage, at least, of the rate of implementation of appropriations together with summary information on the transfers of appropriations among the various budget items.

Where the accounts of the PPP body are required to be consolidated in accordance with the accounting rules referred to in Article 143 of Regulation (EU, Euratom) No 966/2012, the PPP body shall send the report on budgetary and financial management to the European Parliament, the Council and the Court of Auditors by 31 March of the following financial year.

##### Article 40

##### Accounting principles

The financial statements shall present information, including information on accounting policies, in a manner that ensures it is relevant, reliable, comparable and understandable. The financial statements shall be drawn in accordance with generally accepted accounting principles as outlined in the accounting rules according to Article 143 of Regulation (EU, Euratom) No 966/2012 or the accrual based International Public Sector Accounting Standards (hereafter 'IPSAS').

*Article 41***Financial statements**

1. The financial statements shall be presented in euro and shall comprise:

- (a) the balance sheet and the statement of financial performance, which represent all assets and liabilities, the financial situation and the economic result at 31 December of the preceding year; they shall be presented in accordance with the accounting rules referred to in Article 143 of Regulation (EU, Euratom) No 966/2012 or the accrual based IPSAS;
- (b) the cash-flow statement showing amounts collected and disbursed during the year and the final treasury position;
- (c) the statement of changes in net assets presenting an overview of the movements during the year in reserves and accumulated results.

2. The notes to the financial statements shall supplement and comment on the information presented in the statements referred to in paragraph 1 and shall supply all the additional information prescribed by internationally accepted accounting practice where such information is relevant to the PPP body's activities.

*Article 42***Budgetary implementation reports**

The budgetary implementation reports shall be presented in euro. They shall consist of:

- (a) reports which aggregate all budgetary operations for the year in terms of revenue and expenditure;
- (b) explanatory notes, which shall supplement and comment on the information given in the reports.

The structure of the budgetary implementation reports shall be the same as that of the budget itself.

*Article 43***Provisional accounts and approval of the final accounts**

1. Where the accounts of the PPP body are required to be consolidated in accordance with the accounting rules referred to in Article 143 of Regulation (EU, Euratom) No 966/2012, the accounting officer of the PPP body shall send the provisional accounts to the Court of Auditors by 15 February of the following year.

In the case referred to in the first subparagraph, the accounting officer of the PPP body shall also send by 15 February of the following year a reporting package to the accounting officer of the Commission, in a standardised format as laid down by the

accounting officer of the Commission for consolidation purposes.

2. The accounting officer shall draw up the final accounts of the PPP body. The director shall send them by 15 March, together with the opinion of the external auditor referred to in Article 46, to the governing board for approval.

Where the accounts of the PPP body are required to be consolidated in accordance with the accounting rules referred to in Article 143 of Regulation (EU, Euratom) No 966/2012, the accounting officer shall send the final accounts, together with the opinion of the external auditor referred to in Article 46 and the approval of the governing board to the Court of Auditors, the European Parliament and the Council, by 1 July of the following financial year. In such case the accounting officer of the PPP body shall also send by 1 July a reporting package to the accounting officer of the Commission in a standardised format as laid down by the accounting officer of the Commission for consolidation purposes.

Where the accounts of the PPP body are required to be consolidated in accordance with the accounting rules referred to in Article 143 of Regulation (EU, Euratom) No 966/2012, the accounting officer of the PPP body shall also send to the Court of Auditors, with a copy to the accounting officer of the Commission, at the same date as the transmission of the final accounts, a representation letter covering those final accounts.

The final accounts shall be accompanied by a note drawn up by the accounting officer in which the latter declares that the final accounts were prepared in accordance with this chapter and with the applicable accounting principles, rules and methods.

The final approved accounts of the PPP body shall be published on its internet site within one month from their approval.

*Article 44***Accounting system**

1. Where the accounts of the PPP body are required to be consolidated in accordance with the accounting rules referred to in Article 143 of Regulation (EU, Euratom) No 966/2012, the harmonised chart of accounts to be applied by the PPP body shall be adopted by the Commission's accounting officer in accordance with Article 152 of Regulation (EU, Euratom) No 966/2012.

2. The accounting system shall consist of general accounts and budgetary accounts. The accounts shall be kept in euro on the basis of the calendar year.

3. The general accounts shall record, in chronological order using the double entry method, all events and operations which affect the economic and financial situation and the assets and liabilities of the PPP body.

4. The budgetary accounts shall provide a detailed record of the implementation of the budget of the PPP body. They shall record all budgetary revenue and expenditure operations.

#### Article 45

##### **Inventories**

The PPP body shall keep inventories showing the quantity and value of all the tangible, intangible and financial assets constituting its or Union property. Where the accounts of the PPP body are required to be consolidated in accordance with the accounting rules referred to in Article 143 of Regulation (EU, Euratom) No 966/2012, the PPP body shall keep those inventories in accordance with a model drawn up by the accounting officer of the Commission. The PPP body shall check that entries in the inventory correspond to the actual situation.

#### CHAPTER 9

##### **EXTERNAL AUDIT AND COMBATTING FRAUD**

#### Article 46

##### **External audit**

The PPP body shall be subject to an independent external audit, performed in accordance with internationally accepted auditing standards by an independent audit body. The opinion of the external auditor shall establish whether the accounts give a true and fair view, whether the control systems put in place function properly, and whether the underlying transactions are legal and regular. The opinion shall also state whether the audit work puts in doubt the assertions made in the management declaration referred to in Article 20. The opinion shall be submitted to the governing board. It shall be transmitted to the Commission together with the final accounts of the PPP body by 15 March at the latest.

#### Article 47

##### **Examination of the accounts by the Court of Auditors**

1. Unless otherwise provided for in the constituent instrument of the PPP body, the Court of Auditors shall scrutinise the accounts of the PPP body in accordance with Article 287 of the Treaty on the Functioning of the European Union. In its examination, the Court of Auditors may consider the audit work performed by the independent external auditor referred to in Article 46 of this Regulation and the action taken in response to his or her findings.

2. The scrutiny carried out by the Court of Auditors shall be governed by Articles 158 to 163 of Regulation (EU, Euratom) No 966/2012.

#### Article 48

##### **On-the-spot checks by the Commission, the Court of Auditors and OLAF**

1. Without prejudice to Article 47(1), the PPP body shall grant Commission staff and other persons authorised by it, as

well as the Court of Auditors, access to its sites and premises and to all the information, including information in electronic format, needed in order to conduct their audits.

2. OLAF may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013<sup>(1)</sup> of the European Parliament and of the Council and Council Regulation (Euratom, EC) No 2185/96<sup>(2)</sup> with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant or contract funded by the PPP body.

3. Without prejudice to paragraphs 1 and 2, contracts, agreements and decisions of the PPP body shall contain provisions expressly empowering the European Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

#### CHAPTER 10

##### **FINAL AND TRANSITIONAL PROVISIONS**

#### Article 49

##### **Information requests**

The Commission and the members of the PPP body other than the Union may request any necessary information or explanations from the PPP body regarding budgetary matters within their fields of competence.

#### Article 50

##### **Adoption of the PPP body's financial rules**

Each body referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 shall adopt new financial rules in view of their entry into force on 1 January 2014 or, in any event, within nine months of the date on which a PPP body falls within the scope of Article 209 of that Regulation.

#### Article 51

##### **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*.

<sup>(1)</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

<sup>(2)</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).



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

Done at Brussels, 30 September 2013.

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

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**COMMISSION IMPLEMENTING REGULATION (EU) No 111/2014**  
**of 4 February 2014**  
**concerning the classification of certain goods in the Combined Nomenclature**

THE EUROPEAN COMMISSION,

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

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

Whereas:

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

(4) It is appropriate to provide that binding tariff information issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 12(6) of Council Regulation (EEC) No 2913/92<sup>(2)</sup>. That period should be set at three months.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 12(6) of Regulation (EEC) No 2913/92 for a period of three months from the date of entry into force of this Regulation.

*Article 3*

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

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

Done at Brussels, 4 February 2014.

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

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

<sup>(2)</sup> Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

## ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>An apparatus combining a colour monitor of the liquid crystal display (LCD) type and a touch-sensitive surface (so-called 'monitor with touch screen') with a diagonal measurement of the screen of approximately 38 cm (15 inches) with:</p> <ul style="list-style-type: none"> <li>— a native resolution of 1 024 × 768 pixels,</li> <li>— supported resolutions of 640 × 350, 720 × 400, 640 × 480, 800 × 600 and 1 024 × 768 pixels,</li> <li>— an aspect ratio of 4:3,</li> <li>— a pixel pitch of 0,297 mm,</li> <li>— a brightness of 250 cd/m<sup>2</sup>,</li> <li>— a horizontal viewing angle of 120° and a vertical viewing angle of 100°,</li> <li>— a response time of 17 ms,</li> <li>— a contrast ratio of 400:1,</li> <li>— power and control buttons.</li> </ul> <p>It is equipped with the following interfaces:</p> <ul style="list-style-type: none"> <li>— a D-Sub,</li> <li>— a USB and a RS-232 for connecting the touch-sensitive surface to an automatic data-processing (ADP) machine.</li> </ul> <p>It has a stand with a tilt and swivel mechanism and a glare free surface.</p> <p>The monitor is presented for use, for example, in point of sale/customer information point terminals. The touch-sensitive surface enables the users to input data into these terminals. The monitor is capable of displaying signals from ADP machines.</p>	8528 51 00	<p>Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature, note 3 to Section XVI and by the wording of CN codes 8528 and 8528 51 00.</p> <p>The apparatus is a composite machine performing the function of an X-Y coordinate input device of heading 8471 and of a monitor of heading 8528. Apart from displaying information, the apparatus enables users to input data. Given the design, concept and objective characteristics of the apparatus, namely the monitors' ability to perform its function independently of the input device, the displaying function constitutes the apparatus' principal function within the meaning of note 3 to Section XVI. Given its objective characteristics, such as the aspect ratio, the pixel pitch suitable for prolonged close viewing, the brightness, the interfaces commonly used in ADP systems, the tilt and swivel mechanisms and glare free surface, the monitor is considered to be of a kind solely or principally used in an ADP system of heading 8471.</p> <p>The apparatus is therefore to be classified under CN code 8528 51 00 as other monitors of a kind solely or principally used in an automatic data-processing system of heading 8471.</p>

**COMMISSION IMPLEMENTING REGULATION (EU) No 112/2014**  
**of 4 February 2014**  
**concerning the classification of certain goods in the Combined Nomenclature**

THE EUROPEAN COMMISSION,

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

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

Whereas:

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

(4) It is appropriate to provide that binding tariff information issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 12(6) of Council Regulation (EEC) No 2913/92<sup>(2)</sup>. That period should be set at three months.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 12(6) of Regulation (EEC) No 2913/92 for a period of three months from the date of entry into force of this Regulation.

*Article 3*

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

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

Done at Brussels, 4 February 2014.

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

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

<sup>(2)</sup> Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

## ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>A colour monitor of the liquid crystal display (LCD) type with a diagonal measurement of the screen of approximately 75 cm (30 inches) with dimensions of approximately 71 × 45 × 11 cm with:</p> <ul style="list-style-type: none"> <li>— a native resolution of 1 280 × 768 pixels,</li> <li>— supported resolutions of 640 × 480, 800 × 600, 1 024 × 768 and 1 280 × 768 pixels,</li> <li>— supported TV standards: NTSC, PAL and SECAM,</li> <li>— supported video modes: 480i, 480p, 576i, 576p, 720p and 1 080i,</li> <li>— an aspect ratio of 15:9,</li> <li>— a pixel pitch of 0,5025 mm,</li> <li>— a response time of 25 ms,</li> <li>— a brightness of 450 cd/m<sup>2</sup>,</li> <li>— a contrast ratio of 350:1,</li> <li>— a horizontal and vertical viewing angle of 170°,</li> <li>— picture-in-picture (PIP) capability,</li> <li>— a built-in audio amplifier,</li> <li>— power and control buttons.</li> </ul> <p>It is equipped with the following interfaces:</p> <ul style="list-style-type: none"> <li>— a DVI-D,</li> <li>— a D-Sub mini,</li> <li>— BNC (analogue RGB),</li> <li>— composite RCA or S-Video,</li> <li>— component BNC,</li> <li>— 2 sets RCA stereo and 1 mini stereo,</li> <li>— external speaker jacks,</li> <li>— a RS-232 for control input.</li> </ul> <p>It has a fixed stand without a tilt and swivel mechanism and is presented with a remote control.</p> <p>The monitor does not incorporate a video tuner or other electronics for processing television signals.</p> <p>The monitor is presented for use in information display applications, such as public information access points, retail signage, financial exchanges, airports and trade show exhibits. For performing this function, the monitor is capable of displaying signals from both automatic data-processing (ADP) machines and other video sources.</p>	8528 59 31	<p>Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8528, 8528 59 and 8528 59 31.</p> <p>Given its objective characteristics, such as the size of the screen, the supported TV standards and video modes, a pixel pitch not suitable for prolonged close viewing, the high brightness, the presence of a remote control, the audio circuits with amplification, the PIP function and the fixed stand without tilt and swivel mechanisms, the monitor is not considered to be of a kind solely or principally used in an ADP system of heading 8471. Classification under subheading 8528 51 00 is therefore excluded.</p> <p>As the monitor is capable of displaying signals from an ADP machine at a level sufficient for practical use with the ADP machine, it is considered to be capable of displaying signals from automatic data-processing machines with an acceptable level of functionality.</p> <p>The monitor is therefore to be classified under CN code 8528 59 31 as flat panel displays able to display signals from automatic data-processing machines with an acceptable level of functionality with a screen of the liquid crystal display (LCD) technology.</p>

**COMMISSION IMPLEMENTING REGULATION (EU) No 113/2014**  
**of 4 February 2014**  
**concerning the classification of certain goods in the Combined Nomenclature**

THE EUROPEAN COMMISSION,

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

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

Whereas:

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

(4) It is appropriate to provide that binding tariff information issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 12(6) of Council Regulation (EEC) No 2913/92<sup>(2)</sup>. That period should be set at three months.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 12(6) of Regulation (EEC) No 2913/92 for a period of three months from the date of entry into force of this Regulation.

*Article 3*

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

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

Done at Brussels, 4 February 2014.

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

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

<sup>(2)</sup> Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

## ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>A rectangular shaped apparatus (so-called 'high speed camera') comprising a lens and electronic circuitry with dimensions of approximately 12 × 12 × 11 cm.</p> <p>It incorporates a volatile internal memory of 2 GB able to temporarily store images in a sequence with a maximum duration of 1,54 seconds at 1 000 frames per second (fps) at full resolution. The captured images are lost when the camera is switched off.</p> <p>Connection by a cable to an automatic data-processing (ADP) machine is necessary for operating the camera and recording the images into the ADP machine.</p> <p>It is equipped with a CMOS sensor with a global electronic snapshot shutter, also known as 'short duration flash' or 'stroboscopic imaging'.</p> <p>The camera is designed to capture a sequence of images at a shutter rate from 60 up to 1 000 fps at a full resolution of 1 024 × 1 024 pixels or 109 500 fps at a lower resolution of 128 × 16 pixels. The captured images may be viewed individually or played back as video, for example, in slow motion.</p> <p>The images may be subject to analysis in a laboratory or a similar environment for studying, for example, ultra-high speed phenomena such as automotive crash tests.</p>	8525 80 19	<p>Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8525, 8525 80 and 8525 80 19.</p> <p>Temporary storage onto volatile memory is not considered recording in the camera as the images are lost after switching off the camera. Consequently, classification either as digital cameras under subheading 8525 80 30 or as video camera recorders only able to record sound and images taken by the television camera under subheading 8525 80 91 is excluded (see also the Harmonized System Explanatory Notes (HSEN) to heading 8525, the first and fifth paragraphs of group (B)).</p> <p>The apparatus is therefore to be classified under CN code 8525 80 19 as other television cameras (see also the HSEN to heading 8525, the fourth paragraph of group (B)).</p>

**COMMISSION IMPLEMENTING REGULATION (EU) No 114/2014**  
**of 4 February 2014**  
**concerning the classification of certain goods in the Combined Nomenclature**

THE EUROPEAN COMMISSION,

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

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

Whereas:

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

(4) It is appropriate to provide that binding tariff information issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 12(6) of Council Regulation (EEC) No 2913/92<sup>(2)</sup>. That period should be set at three months.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 12(6) of Regulation (EEC) No 2913/92 for a period of three months from the date of entry into force of this Regulation.

*Article 3*

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

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

Done at Brussels, 4 February 2014.

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

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

<sup>(2)</sup> Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).



## ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>A colour monitor of the liquid crystal display (LCD) type with a diagonal measurement of the screen of approximately 54 cm (21 inches) with dimensions (without stand) of approximately 37 × 47 × 7 cm with:</p> <ul style="list-style-type: none"> <li>— a resolution of 1 200 × 1 600 pixels,</li> <li>— an aspect ratio of 3:4,</li> <li>— a pixel pitch of 0,270 mm,</li> <li>— a horizontal scanning frequency of 31 to 76 kHz,</li> <li>— a vertical scanning frequency of 49 to 61 Hz,</li> <li>— a maximum brightness of 250 cd/m<sup>2</sup> which can be calibrated,</li> <li>— a total viewing angle, horizontal and vertical, of 170°,</li> <li>— a contrast ratio of 550:1,</li> <li>— a response time of 30 ms,</li> <li>— power and control buttons, including calibration mode selection.</li> </ul> <p>It is equipped with the following interfaces:</p> <ul style="list-style-type: none"> <li>— a DVI-I,</li> <li>— a D-Sub mini,</li> <li>— 1 upstream USB and 2 downstream USB.</li> </ul> <p>It has a pivot function of 90°.</p> <p>It has a stand with a tilt and swivel mechanism and a glare-free surface. It can also be mounted on a wall.</p> <p>The product conforms to 'Digital Imaging and Communications in Medicine' (DICOM) standards, including Part 14, allowing the user to set extremely precise gamma, brightness and colour temperature values and enabling the monitor to display colour and greyscale gradations of images with the accuracy required for medical diagnostics.</p> <p>The monitor is presented for use in medical systems for displaying radiographic images for clinical diagnostics.</p>	8528 59 31	<p>Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8528, 8528 59 and 8528 59 31.</p> <p>Given its objective characteristics, such as the conformity to DICOM standards allowing the user to set extremely precise gamma, brightness and colour temperature values and enabling the monitor to display colour and greyscale gradations of images with the accuracy required for medical diagnostics, the intended use of the monitor is that of a medical display used in medical systems for displaying radiographic images for clinical diagnostics. The monitor is not considered to be of a kind solely or principally used in an automatic data-processing (ADP) system of heading 8471. Classification under subheading 8528 51 00 is therefore excluded.</p> <p>As the monitor is capable of displaying signals from an ADP machine at a level sufficient for practical use with the ADP machine, it is considered to be capable of displaying signals from automatic data-processing machines with an acceptable level of functionality.</p> <p>The monitor is therefore to be classified under CN code 8528 59 31 as flat panel displays able to display signals from automatic data-processing machines with an acceptable level of functionality with a screen of the liquid crystal display (LCD) technology.</p>

**COMMISSION IMPLEMENTING REGULATION (EU) No 115/2014**  
**of 4 February 2014**  
**concerning the classification of certain goods in the Combined Nomenclature**

THE EUROPEAN COMMISSION,

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

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

Whereas:

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

(4) It is appropriate to provide that binding tariff information issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 12(6) of Council Regulation (EEC) No 2913/92<sup>(2)</sup>. That period should be set at three months.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 12(6) of Regulation (EEC) No 2913/92 for a period of three months from the date of entry into force of this Regulation.

*Article 3*

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

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

Done at Brussels, 4 February 2014.

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

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

<sup>(2)</sup> Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

## ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>An electric control apparatus for a voltage not exceeding 1 000 V incorporating a liquid crystal display (LCD) with a touch screen. The display has a diagonal measurement of the screen of 30,5 cm (12 inches) and a resolution of 800 × 600 pixels in a housing with dimensions of approximately 30 × 23 × 6 cm.</p> <p>The apparatus incorporates an automatic data processing (ADP) machine presented with an operating system.</p> <p>The apparatus is equipped with the following interfaces:</p> <ul style="list-style-type: none"> <li>— a compact flash memory slot,</li> <li>— two USB connectors,</li> <li>— two RJ-45 connectors,</li> <li>— a RS-232 connector,</li> <li>— a RS-485 connector,</li> <li>— a memory expansion slot,</li> <li>— an expansion bus for expansion cards for controlling, for example, proprietary input/output (I/O) units.</li> </ul> <p>It is also equipped with several built-in drivers for connecting with different types of automation devices and is able to execute and display desktop software programs, such as word processor and spreadsheet applications.</p> <p>The apparatus is presented to be used for electric control of machines in industrial processes in applications using programmable automation controllers or programmable logic controllers.</p>	8537 10 10	<p>Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8537, 8537 10 and 8537 10 10.</p> <p>Given its objective characteristics, namely the presence of built-in drivers for different types of automation devices and an expansion bus for controlling input/output units, the apparatus is intended to be used for electric control of machines in industrial processes. Classification under heading 8471 as an automatic data-processing machine is therefore excluded.</p> <p>As the apparatus incorporates an ADP machine it is to be classified under CN code 8537 10 10 as numerical control panels with built-in automatic data-processing machine for a voltage not exceeding 1 000 V.</p>

## COMMISSION IMPLEMENTING REGULATION (EU) No 116/2014

of 6 February 2014

concerning the non-approval of the active substance potassium iodide, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 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 <sup>(1)</sup>, and in particular Article 13(2) thereof,

Whereas:

- (1) In accordance with Article 80(1)(a) of Regulation (EC) No 1107/2009, Council Directive 91/414/EEC <sup>(2)</sup> is to apply, with respect to the procedure and the conditions for approval, to active substances for which a decision has been adopted in accordance with Article 6(3) of that Directive before 14 June 2011. For potassium iodide the conditions of Article 80(1)(a) of Regulation (EC) No 1107/2009 are fulfilled by Commission Decision 2005/751/EC <sup>(3)</sup>.
- (2) In accordance with Article 6(2) of Directive 91/414/EEC the Netherlands received on 6 September 2004 an application from Koppert Beheer BV for the inclusion of the active substance potassium iodide in Annex I to Directive 91/414/EEC. Decision 2005/751/EC confirmed that the dossier was 'complete' in the sense that it could be considered as satisfying, in principle, the data and information requirements of Annexes II and III to Directive 91/414/EEC.
- (3) For that active substance, the effects on human and animal health and the environment have been assessed, in accordance with the provisions of Article 6(2) and (4) of Directive 91/414/EEC, for the uses proposed by the

applicant. The designated rapporteur Member State submitted a draft assessment report on 27 July 2007. In accordance with Article 11(6) of Commission Regulation (EU) No 188/2011 <sup>(4)</sup> additional information was requested from the applicant. The applicant informed on 30 May 2011 that no additional information was available.

- (4) The draft assessment report was reviewed by the Member States and the European Food Safety Authority (hereinafter 'the Authority'). The Authority presented to the Commission its conclusion on the pesticide risk assessment of the active substance potassium iodide <sup>(5)</sup> on 22 October 2012. The Authority identified several data gaps that would have required further contributions from the applicant. By letter of 27 September 2013 Koppert BV withdrew its application for the approval of potassium iodide.
- (5) In accordance with Article 8(1)(b) of Directive 91/414/EEC, Member States were given the possibility to grant provisional authorisations for plant protection products containing potassium iodide for an initial period of 3 years. Commission Decision 2010/457/EU <sup>(6)</sup> allowed Member States to extend provisional authorisations for potassium iodide for a period ending on 31 August 2012 at the latest. Commission Implementing Decision 2012/363/EU <sup>(7)</sup> allowed Member States to extend provisional authorisations for potassium iodide for a period ending on 31 July 2014 at the latest.
- (6) Due to the withdrawal of the application, potassium iodide should therefore not be approved pursuant to Article 13(2) of Regulation (EC) No 1107/2009.

<sup>(1)</sup> OJ L 309, 24.11.2009, p. 1.

<sup>(2)</sup> Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ L 230, 19.8.1991, p. 1).

<sup>(3)</sup> Commission Decision 2005/751/EC of 21 October 2005 recognising in principle the completeness of the dossiers submitted for detailed examination in view of the possible inclusion of ascorbic acid, potassium iodide and potassium thiocyanate in Annex I to Council Directive 91/414/EEC (OJ L 282, 26.10.2005, p. 18).

<sup>(4)</sup> Commission Regulation (EU) No 188/2011 of 25 February 2011 laying down detailed rules for the implementation of Council Directive 91/414/EEC as regards the procedure for the assessment of active substances which were not on the market 2 years after the date of notification of that Directive (OJ L 53, 26.2.2011, p. 51).

<sup>(5)</sup> EFSA Journal 2013;11(6):2923. Available online: [www.efsa.europa.eu](http://www.efsa.europa.eu)

<sup>(6)</sup> Commission Decision 2010/457/EU of 17 August 2010 allowing Member States to extend provisional authorisations granted for the new active substances *Candida oleophila* strain O, potassium iodide and potassium thiocyanate (OJ L 218, 19.8.2010, p. 24).

<sup>(7)</sup> Commission Implementing Decision 2012/363/EU of 4 July 2012 allowing Member States to extend provisional authorisations granted for the new active substances bixafen, *Candida oleophila* strain O, fluopyram, halosulfuron, potassium iodide and potassium thiocyanate and spirotetramat (OJ L 176, 6.7.2012, p. 70).

(7) Existing provisional authorisations should, consequently, be withdrawn and no new authorisations be granted.

HAS ADOPTED THIS REGULATION:

*Article 1*

**Non-approval of active substance**

(8) Member States should be provided with time to withdraw authorisations for plant protection products containing potassium iodide.

The active substance potassium iodide is not approved.

*Article 2*

**Transitional measures**

(9) For plant protection products containing potassium iodide, where Member States grant any grace period in accordance with Article 46 of Regulation (EC) No 1107/2009, this period should expire at the latest 18 months after the entry into force of this Regulation.

Member States shall withdraw existing authorisations for plant protection products containing potassium iodide as active substance by 27 August 2014 at the latest.

*Article 3*

**Grace period**

(10) This Regulation does not prejudice the submission of a further application for potassium iodide pursuant to Article 7 of Regulation (EC) No 1107/2009.

Any grace period granted by Member States in accordance with Article 46 of Regulation (EC) No 1107/2009 shall be as short as possible and shall expire by 27 August 2015 at the latest.

*Article 4*

**Entry into force**

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

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

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

Done at Brussels, 6 February 2014.

*For the Commission*

*The President*

José Manuel BARROSO

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**COMMISSION IMPLEMENTING REGULATION (EU) No 117/2014****of 6 February 2014****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

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

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

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

Whereas:

- (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, 6 February 2014.

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

Jerzy PLEWA  
*Director-General for Agriculture and  
Rural Development*

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

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

## ANNEX

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

<i>(EUR/100 kg)</i>		
CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	IL	85,7
	MA	48,7
	TN	89,6
	TR	85,7
	ZZ	77,4
0707 00 05	TR	151,0
	ZZ	151,0
0709 91 00	EG	91,5
	ZZ	91,5
0709 93 10	MA	48,3
	TR	101,7
	ZZ	75,0
0805 10 20	EG	47,6
	MA	54,9
	TN	65,7
	TR	71,6
	ZZ	60,0
0805 20 10	IL	123,4
	MA	73,9
	ZZ	98,7
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	60,3
	EG	21,7
	IL	134,7
	JM	113,2
	KR	144,2
	MA	146,4
	PK	55,3
	TR	98,6
	ZZ	96,8
	0805 50 10	TR
ZZ		66,6
0808 10 80	CN	127,8
	MK	35,4
	US	161,6
	ZZ	108,3
0808 30 90	CL	123,5
	CN	46,0
	TR	131,9
	US	135,9
	ZA	93,1
	ZZ	106,1

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

# DIRECTIVES

## COMMISSION IMPLEMENTING DIRECTIVE 2014/19/EU

of 6 February 2014

### amending Annex I to Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community <sup>(1)</sup>, and in particular point (d) of the second paragraph of Article 14 thereof,

Whereas:

- (1) From information supplied by the Member States it has become apparent that *Diabrotica virgifera virgifera* Le Conte has already spread and established in a large part of the Union territory. From an impact assessment carried out by the European Commission it was concluded that no measures are feasible to eradicate it or to effectively prevent its further spread.
- (2) In addition, effective and sustainable means of control minimizing the impact of this organism on maize yield exist, in particular the implementation of a crop rotation scheme.
- (3) Therefore no further protective measures should be set out under Directive 2000/29/EC with respect to *Diabrotica virgifera virgifera* Le Conte. Consequently that organism should no more be listed as a harmful organism under that Directive.
- (4) Annex I to Directive 2000/29/EC should therefore be amended accordingly.
- (5) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DIRECTIVE:

#### Article 1

Annex I to Directive 2000/29/EC is amended in accordance with the Annex to this Directive.

#### Article 2

Member States shall adopt and publish, by 31 May 2014 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 1 June 2014.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

#### Article 3

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

#### Article 4

This Directive is addressed to the Member States.

Done at Brussels, 6 February 2014.

For the Commission

The President

José Manuel BARROSO

<sup>(1)</sup> OJ L 169, 10.7.2000, p. 1.



## ANNEX

Annex I to Directive 2000/29/EC is amended as follows:

In heading (a) of Section II of Part A, point 0.1 is deleted.

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## COMMISSION IMPLEMENTING DIRECTIVE 2014/20/EU

of 6 February 2014

**determining Union grades of basic and certified seed potatoes, and the conditions and designations applicable to such grades**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 2002/56/EC of 13 June 2002 on the marketing of seed potatoes <sup>(1)</sup>, and in particular the first subparagraph of Article 3(3) thereof,

Whereas:

- (1) Commission Directive 93/17/EEC <sup>(2)</sup> introduced rules concerning Union grades of basic seed potatoes.
- (2) Rapid technical and scientific developments in seed potato production systems and increased trade with seed potatoes in the internal market make it desirable that those rules are adapted. In view of the developments of the sector, such rules should also apply to certified seed potatoes.
- (3) Those rules should concern the designation of uniform Union grade names. They should also include conditions for the placing on the market of seed potatoes and lots of seed potatoes as any of the respective Union grades. Those conditions should concern, as appropriate, the presence of pests, potatoes belonging to other varieties, and potatoes with blemishes, shrivelling, soil or extraneous matter.
- (4) The requirement that the growing plant is raised in a production ground where three years have elapsed since potatoes were last grown, and that it is subject to a least two official inspections, is no longer necessary in view of the more stringent requirements for the Union grades set out in this Directive.
- (5) Since the adoption of Directive 2002/56/EC, scientific knowledge has developed concerning the link between the number of generations and the level of presence of pests of seed potatoes. Limiting the number of generations is a necessary way of mitigating the phytosanitary risk posed by pests in latent form. That limitation is necessary for the mitigation of that risk, and no other

less stringent measures are available to replace it. Experience has shown that for the Union grades S, SE and E maximum numbers of generations should be allowed for each of those Union grades. In order to ensure compliance with the substantive requirements, those requirements should only be considered to be fulfilled on the basis of an official inspection.

- (6) Directive 93/17/EEC should therefore be repealed.
- (7) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DIRECTIVE:

*Article 1***Union grades of basic seed potatoes**

1. Member States shall ensure that basic seed potatoes may be marketed as 'Union grade S' if they fulfil the following conditions:
  - (a) the potatoes have been found by official inspection to fulfil the conditions, as set out in point (1)(a) of Annex I; and
  - (b) their lots have been found by official inspection to fulfil the conditions, as set out in point (1)(b) of that Annex.
2. Member States shall ensure that basic seed potatoes may be marketed as 'Union grade SE' if they fulfil the following conditions:
  - (a) the potatoes have been found by official inspection to fulfil the conditions, as set out in point (2)(a) of Annex I; and
  - (b) their lots have been found by official inspection to fulfil the conditions, as set out in point (2)(b) of that Annex.
3. Member States shall ensure that basic seed potatoes may be marketed as 'Union grade E' if they fulfil the following conditions:
  - (a) the potatoes have been found by official inspection to fulfil the conditions, as set out in point 3(a) of Annex I; and
  - (b) their lots have been found by official inspection to fulfil the conditions, as set out in point (3)(b) of that Annex.

<sup>(1)</sup> OJ L 193, 20.7.2002, p. 60.

<sup>(2)</sup> Commission Directive 93/17/EEC of 30 March 1993 determining Community grades of basic seed potatoes, together with the conditions and designations applicable to such grades (OJ L 106, 30.4.1993, p. 7).

*Article 2***Union grades of certified seed potatoes**

1. Member States shall ensure that certified seed potatoes may be marketed as 'Union grade A' if they fulfil the following conditions:

- (a) the potatoes have been found by official inspection to fulfil the conditions, as set out in point (1)(a) of Annex II; and
- (b) their lots have been found by official inspection to fulfil the conditions, as set out in point (1)(b) of that Annex.

2. Member States shall ensure that certified seed potatoes may be marketed as 'Union grade B' if they fulfil the following conditions:

- (a) the potatoes have been found by official inspection to fulfil the conditions, as set out in point (2)(a) of Annex II; and
- (b) their lots have been found by official inspection to fulfil the conditions, as set out in point (2)(b) of that Annex.

*Article 3***Information to the Commission**

Member States shall inform the Commission of the extent to which they apply the respective Union grades in certifying their own production.

*Article 4***Transposition**

1. Member States shall adopt and publish, by 31 December 2015 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 1 January 2016.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

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

*Article 5***Repeal**

Directive 93/17/EEC is repealed with effect from 1 January 2016.

*Article 6***Entry into force**

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

*Article 7***Addressees**

This Directive is addressed to the Member States.

Done at Brussels, 6 February 2014.

*For the Commission*  
*The President*

José Manuel BARROSO

## ANNEX I

**Conditions for basic seed potatoes**

- (1) The conditions for basic seed potatoes of 'Union grade S' shall be as follows:
- (a) conditions concerning seed potatoes:
- (i) the number of plants not breeding true to the variety and the number of plants of a different variety shall, together, not exceed 0,1 %;
  - (ii) the number of growing plants affected by blackleg shall not exceed 0,1 %;
  - (iii) in the direct progeny, the number of plants with symptoms of virus infection shall not exceed 1,0 %;
  - (iv) the number of growing plants with mosaic symptoms and the number of plants with symptoms caused by leaf roll virus shall, together, not exceed 0,2 %;
  - (v) the number of generations, including pre-basic in the field and basic generations, shall be restricted to five;
  - (vi) if the generation is not indicated on the official label, the potatoes concerned shall be considered as belonging to the fifth generation;
- (b) tolerances applicable to lots, as regards the following impurities, blemishes and diseases:
- (i) seed potatoes affected by rots, other than ring rot or brown rot, shall not exceed 0,5 % by mass, of which seed potatoes affected by wet rot shall not exceed 0,2 % by mass;
  - (ii) seed potatoes affected by black scurf over more than 10 % of their surface shall not exceed 5,0 % by mass;
  - (iii) seed potatoes affected by common scab over more than one third of their surface shall not exceed 5,0 % by mass;
  - (iv) seed potatoes affected by powdery scab over more than 10 % of their surface shall not exceed 3,0 % by mass;
  - (v) shrivelled tubers due to excessive dehydration or dehydration caused by silver scurf shall not exceed 1,0 % by mass;
  - (vi) seed potatoes with external blemishes, including misshapen or damaged tubers, shall not exceed 3,0 % by mass;
  - (vii) presence of earth and extraneous matter shall not exceed 1,0 % by mass;
  - (viii) the total percentage of seed potatoes covered by tolerances, as referred to in points (i) to (vi), shall not exceed 6,0 % by mass.
- (2) The conditions for basic seed potatoes of 'Union grade SE' shall be as follows:
- (a) conditions concerning seed potatoes:
- (i) the number of plants not breeding true to the variety and the number of plants of a different variety shall, together, not exceed 0,1 %;
  - (ii) the number of growing plants affected by blackleg shall not exceed 0,5 %;
  - (iii) in the direct progeny the number of plants with symptoms of virus infection shall not exceed 2,0 %;
  - (iv) the number of growing plants with mosaic symptoms or symptoms caused by leaf roll virus shall not exceed 0,5 %;

- (v) the number of generations, including pre-basic in the field and basic generations, shall be restricted to six;
  - (vi) if the generation is not indicated on the official label, the potatoes concerned shall be considered as belonging to the sixth generation;
- (b) tolerances applicable to lots, as regards the following impurities, blemishes and diseases:
- (i) seed potatoes affected by rots, other than ring rot or brown rot, shall not exceed 0,5 % by mass, of which seed potatoes affected by wet rot shall not exceed 0,2 % by mass;
  - (ii) seed potatoes affected by black scurf over more than 10 % of their surface shall not exceed 5,0 % by mass;
  - (iii) seed potatoes affected by common scab over more than one third of their surface shall not exceed 5,0 % by mass;
  - (iv) seed potatoes affected by powdery scab over more than 10 % of their surface shall not exceed 3,0 % by mass;
  - (v) shrivelled tubers due to excessive dehydration or dehydration caused by silver scurf shall not exceed 1,0 % by mass;
  - (vi) seed potatoes with external blemishes, including misshapen or damaged tubers, shall not exceed 3,0 % by mass;
  - (vii) presence of earth and extraneous matter shall not exceed 1,0 % by mass;
  - (viii) the total percentage of seed potatoes covered by tolerances, as referred to in points (i) to (vi), shall not exceed 6,0 % by mass.
- (3) The conditions for basic seed potatoes of 'Union grade E' shall be as follows:
- (a) conditions concerning seed potatoes:
- (i) the number of growing plants not breeding true to the variety and the number of plants of a different variety shall, together, not exceed 0,1 %;
  - (ii) the number of growing plants affected by blackleg shall not exceed 1,0 %;
  - (iii) in the direct progeny the number of plants with symptoms of virus infection shall not exceed 4,0 %;
  - (iv) the number of growing plants with mosaic symptoms or symptoms caused by leaf roll virus shall not exceed 0,8 %;
  - (v) the number of generations, including pre-basic in the field and basic generations, shall be restricted to seven;
  - (vi) if the generation is not indicated on the official label, the potatoes concerned shall be considered as belonging to the seventh generation;
- (b) tolerances applicable to lots, as regards the following impurities, blemishes and diseases:
- (i) seed potatoes affected by rots, other than ring rot or brown rot, shall not exceed 0,5 % by mass, of which seed potatoes affected by wet rot shall not exceed 0,2 % by mass;
  - (ii) seed potatoes affected by black scurf over more than 10 % of their surface shall not exceed 5,0 % by mass;

- (iii) seed potatoes affected by common scab over more than one third of their surface shall not exceed 5,0 % by mass;
  - (iv) seed potatoes affected by powdery scab over more than 10 % of their surface shall not exceed 3,0 % by mass;
  - (v) shrivelled tubers due to excessive dehydration or dehydration caused by silver scurf shall not exceed 1,0 % by mass;
  - (vi) seed potatoes with external blemishes, including misshapen or damaged tubers, shall not exceed 3,0 % by mass;
  - (vii) presence of earth and extraneous matter shall not exceed 1,0 % by mass;
  - (viii) the total percentage of seed potatoes covered by tolerances, as referred to in points (i) to (vi), shall not exceed 6,0 % by mass.
-

## ANNEX II

**Minimum Conditions for certified seed potatoes**

- (1) The conditions for certified seed potatoes of 'Union grade A' shall be as follows:
- (a) conditions concerning seed potatoes:
    - (i) the number of plants not breeding true to the variety and the number of plants of a different variety shall, together, not exceed 0,2 %;
    - (ii) the number of growing plants affected by blackleg shall not exceed 2,0 %;
    - (iii) in the direct progeny the number of plants with symptoms of virus infection shall not exceed 8,0 %;
    - (iv) the number of growing plants with mosaic symptoms or symptoms caused by leaf roll virus shall not exceed 2,0 %;
  - (b) tolerances applicable to lots, as regards the following impurities, blemishes and diseases:
    - (i) seed potatoes affected by rots, other than ring rot or brown rot, shall not exceed 0,5 % by mass, of which seed potatoes affected by wet rot shall not exceed 0,2 % by mass;
    - (ii) seed potatoes affected by black scurf over more than 10 % of their surface shall not exceed 5,0 % by mass;
    - (iii) seed potatoes affected by common scab over more than one third of their surface shall not exceed 5,0 % by mass;
    - (iv) seed potatoes affected by powdery scab over more than 10 % of their surface shall not exceed 3,0 % by mass;
    - (v) shrivelled tubers due to excessive dehydration or dehydration caused by silver scurf shall not exceed 1,0 % by mass;
    - (vi) seed potatoes with external blemishes, including misshapen or damaged tubers, shall not exceed 3,0 % by mass;
    - (vii) presence of earth and extraneous matter shall not exceed 2,0 % by mass;
    - (viii) the total percentage of seed potatoes covered by tolerances, as referred to in points (i) to (vi), shall not exceed 8,0 % by mass.
- (2) The conditions for certified seed potatoes of 'Union grade B' shall be as follows:
- (a) conditions concerning seed potatoes:
    - (i) the number of plants not breeding true to the variety and the number of plants of a different variety shall, together, not exceed 0,5 %;
    - (ii) the number of growing plants affected by blackleg shall not exceed 4,0 %;
    - (iii) in the direct progeny the number of plants with symptoms of virus infection shall not exceed 10,0 %;
    - (iv) the number of growing plants with mosaic symptoms or symptoms caused by leaf roll virus shall not exceed 6,0 %;
  - (b) tolerances applicable to lots, as regards the following impurities, blemishes and diseases:
    - (i) seed potatoes affected by rots, other than ring rot or brown rot, shall not exceed 0,5 % by mass, of which seed potatoes affected by wet rot shall not exceed 0,2 % by mass;
    - (ii) seed potatoes affected by black scurf over more than 10 % of their surface shall not exceed 5,0 % by mass;
    - (iii) seed potatoes affected by common scab over more than one third of their surface shall not exceed 5,0 % by mass;

- (iv) seed potatoes affected by powdery scab over more than 10 % of their surface shall not exceed 3,0 % by mass;
  - (v) shrivelled tubers due to excessive dehydration or dehydration caused by silver scurf shall not exceed 1,0 % by mass;
  - (vi) seed potatoes with external blemishes, including misshapen or damaged tubers, shall not exceed 3,0 % by mass;
  - (vii) presence of earth and extraneous matter shall not exceed 2,0 % by mass;
  - (viii) the total percentage of seed potatoes covered by tolerances, as referred to in points (i) to (vi), shall not exceed 8,0 % by mass.
-



**COMMISSION IMPLEMENTING DIRECTIVE 2014/21/EU**  
**of 6 February 2014**  
**determining minimum conditions and Union grades for pre-basic seed potatoes**  
**(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 2002/56/EC of 13 June 2002 on the marketing of seed potatoes <sup>(1)</sup>, and in particular Article 18(c) thereof,

Whereas:

- (1) Seed potatoes progressively accumulate diseases with each cycle of multiplication. Properly functioning seed potato production systems thus require healthy starting material that is multiplied with a minimal rate of degeneration.
- (2) Different national standards on the production of pre-basic seed potatoes have obstructed the marketing of those potatoes throughout the Union, and have impeded the functioning of the internal market. Therefore it is appropriate to establish minimum conditions under which pre-basic seed potatoes may be marketed throughout the Union. Those conditions should concern diseases, symptoms, defects and production requirements for pre-basic seed potatoes, and lots of those potatoes, to ensure the production and marketing of healthy and high quality pre-basic seed potatoes.
- (3) Those conditions should take into account the standard of United Nations Economic Commission for Europe (UNECE), concerning the marketing and commercial quality control of seed potatoes, as well as the relevant standards of the International Plant Protection Convention (IPPC) and the European and Mediterranean Plant Protection Organization (EPPO), in view of technical and scientific developments. Those standards aim at helping facilitate international trade, encouraging high quality production, improving profitability and protecting consumer interests.
- (4) In view of the production practices of suppliers, and the demand of the users of pre-basic seed potatoes, it is appropriate that the minimum conditions for pre-basic seed potatoes also include the possibility for marketing them as Union grades. Two Union grades should apply for pre-basic seed potatoes ('Union grade PBTC' and 'Union grade PB'), in line with the existing production practices concerning pre-basic seed potatoes of grade PBTC, and pre-basic seed potatoes of grade PB.

Different conditions per grade should thus be adopted concerning diseases, symptoms, defects, production requirements and generations for those grades.

- (5) In order to be effective, those rules should also set out provisions concerning official testing and official field inspections.
- (6) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

**Definitions**

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

- (1) 'mother plant' means an identified plant from which material is taken for propagation;
- (2) 'micro-propagation' means the practice of rapidly multiplying plant material to produce a large number of plants, using culture *in vitro* of differentiated vegetative buds or meristem taken from a plant.

*Article 2*

**Minimum conditions for pre-basic seed potatoes**

1. Member States shall ensure that pre-basic seed potatoes satisfy the following minimum conditions:
  - (a) they derive from mother plants which are free from the following harmful organisms: *Pectobacterium* spp., *Dickeya* spp., Potato leaf roll virus, Potato virus A, Potato virus M, Potato virus S, Potato virus X, and Potato virus Y;
  - (b) they are free from symptoms of blackleg;
  - (c) the number of growing plants not breeding true to the variety and the number of plants of a different variety together, shall not exceed 0,01 %;
  - (d) in the direct progeny, the number of plants showing symptoms of virus infection shall not exceed 0,5 %;
  - (e) the number of growing plants with mosaic symptoms or symptoms caused by leaf roll virus shall not exceed 0,1 %;
  - (f) the maximum number of field generations shall be four.

<sup>(1)</sup> OJ L 193, 20.7.2002, p. 60.

2. Member States shall provide that pre-basic seed potatoes may be marketed as 'Union grades PBTC' and 'Union grade PB', in accordance with the conditions set out in the Annex.

3. Compliance with the requirements of paragraph 1(b), (c) and (e) shall be established through official field inspections. In case of doubt, those inspections shall be supplemented by official tests on leaves.

Where methods of micro-propagation are used, compliance with point 1(a) shall be established by official testing, or testing under official supervision, of the mother plant.

Where methods of clonal selection are used, compliance with point 1(a) shall be established by official testing, or testing under official supervision, of the clonal stock.

#### Article 3

##### **Minimum conditions for lots of pre-basic seed potatoes**

Member States shall provide that lots of pre-basic seed potatoes shall satisfy the following minimum conditions:

- (a) presence of earth and extraneous matter shall not exceed 1,0 % by mass;
- (b) the number of potatoes affected by rots, other than ring rot or brown rot, shall not be present in a quantity exceeding 0,2 % by mass;
- (c) the number of potatoes with external blemishes, including misshapen or damaged tubers, shall not exceed 3,0 % by mass;
- (d) the number of potatoes affected by common scab over more than one third of their surface, shall not exceed 5,0 % by mass;
- (e) the number of potatoes affected by black scurf over more than 10,0 % of their surface, shall not exceed 1,0 % by mass;
- (f) the number of potatoes affected by powdery scab over more than 10,0 % of their surface, shall not exceed 1,0 % by mass;

(g) shrivelled tubers due to excessive dehydration or dehydration caused by silver scurf, shall not exceed 0,5 % by mass;

(h) the total number of potatoes, as referred to in points (b) to (g), shall not exceed 6,0 % by mass.

#### Article 4

##### **Transposition**

1. Member States shall adopt and publish, by 31 December 2015 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 1 January 2016.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

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

#### Article 5

##### **Entry into force**

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

#### Article 6

##### **Addressees**

This Directive is addressed to the Member States.

Done at Brussels, 6 February 2014.

For the Commission  
The President

José Manuel BARROSO

## ANNEX

**Conditions for placing on the market of pre-basic seed potatoes as Union grades PBTC and PB**

- (1) The conditions for pre-basic seed potatoes of Union grade PBTC shall be as follows:
- (a) conditions concerning seed potatoes:
    - (i) plants not breeding true to the variety, or plants of a different variety, shall not be present in the crop;
    - (ii) plants affected by blackleg shall not be present in the crop;
    - (iii) in the direct progeny, virus infection shall not be present in the crop;
    - (iv) plants with mosaic symptoms or symptoms caused by leaf roll virus shall not be present in the crop;
    - (v) the plants, including tubers, are produced through micro-propagation;
    - (vi) the plants, including tubers, are produced in a protected facility and in a growing medium which is free from pests;
    - (vii) tubers shall not be multiplied beyond the first generation.
  - (b) lots shall be free from seed potatoes falling under any of the following points:
    - (i) they are affected by rots;
    - (ii) they are affected by black scurf;
    - (iii) they are affected by common scab;
    - (iv) they are affected by powdery scab;
    - (v) they have become excessively shrivelled due to dehydration;
    - (vi) they have external blemishes, including misshapen or damaged tubers.
- (2) The conditions for pre-basic seed potatoes of Union grade PB shall be as follows:
- (a) conditions concerning seed potatoes:
    - (i) the number of plants not breeding true to the variety and the number of plants of a different variety together, shall not exceed 0,01 %;
    - (ii) plants shall be free from symptoms of blackleg;
    - (iii) the number of growing plants with mosaic symptoms or symptoms caused by leaf roll virus shall not exceed 0,1 %;
    - (iv) in the direct progeny, the number of plants with symptoms caused by any virus, shall not exceed 0,5 %.
  - (b) tolerances applicable to lots, as regards the following impurities, blemishes and diseases:
    - (i) seed potatoes affected by rots, other than ring rot or brown rot, shall not exceed 0,2 % by mass;
    - (ii) seed potatoes affected by black scurf over more than 10,0 % of their surface, shall not exceed 1,0 % by mass;
    - (iii) seed potatoes affected by common scab over more than one third of their surface, shall not exceed 5,0 % by mass;

- (iv) seed potatoes affected by powdery scab over more than 10,0 % of their surface, shall not exceed 1,0 % by mass;
  - (v) shrivelled tubers due to excessive dehydration or dehydration caused by silver scurf, shall not exceed 0,5 % by mass;
  - (vi) seed potatoes with external blemishes, including misshapen or damaged tubers, shall not exceed 3,0 % by mass;
  - (vii) the presence of earth and extraneous matter shall not exceed 1,0 % by mass;
  - (viii) the total percentage of seed potatoes covered by tolerances, as referred to in points (i) to (vi), shall not exceed 6,0 % by mass.
-

## DECISIONS

## COMMISSION IMPLEMENTING DECISION

of 5 February 2014

**extending 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 C(2014) 493)

(Text with EEA relevance)

(2014/61/EU)

THE EUROPEAN COMMISSION,

2012/53/EU <sup>(8)</sup> until 11 May 2013 and seventhly by Commission Implementing Decision 2013/113/EU <sup>(9)</sup> until 11 May 2014.

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

(4) Lighters that are not child-resistant are still being placed on the market. Reinforced market surveillance activities, from targeted sampling to effective restrictive measures, should further decrease their presence.

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

(5) In the absence of other satisfactory measures addressing the child safety of lighters, it is necessary to extend the validity of Decision 2006/502/EC for a further 12 months.

Whereas:

(1) Commission Decision 2006/502/EC <sup>(2)</sup> 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.

(6) Therefore, Decision 2006/502/EC should be amended accordingly.

(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 extended for additional periods none of which shall exceed one year.

(7) 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*

(3) The validity of Decision 2006/502/EC was extended by one-year periods, firstly by Commission Decision 2007/231/EC <sup>(3)</sup> until 11 May 2008, secondly by Commission Decision 2008/322/EC <sup>(4)</sup> until 11 May 2009, thirdly by Commission Decision 2009/298/EC <sup>(5)</sup> until 11 May 2010, fourthly by Commission Decision 2010/157/EU <sup>(6)</sup> until 11 May 2011, fifthly by Commission Decision 2011/176/EU <sup>(7)</sup> until 11 May 2012, sixthly by Commission Implementing Decision

In Article 6 of Decision 2006/502/EC, paragraph 2 is replaced by the following:

‘2. This Decision shall apply until 11 May 2015.’

*Article 2*

Member States shall take the necessary measures to comply with this Decision by 11 May 2014 at the latest and shall publish those measures. They shall forthwith inform the Commission thereof.

<sup>(1)</sup> OJ L 11, 15.1.2002, p. 4.

<sup>(2)</sup> OJ L 198, 20.7.2006, p. 41.

<sup>(3)</sup> OJ L 99, 14.4.2007, p. 16.

<sup>(4)</sup> OJ L 109, 19.4.2008, p. 40.

<sup>(5)</sup> OJ L 81, 27.3.2009, p. 23.

<sup>(6)</sup> OJ L 67, 17.3.2010, p. 9.

<sup>(7)</sup> OJ L 76, 22.3.2011, p. 99.

<sup>(8)</sup> OJ L 27, 31.1.2012, p. 24.

<sup>(9)</sup> OJ L 61, 5.3.2013, p. 11.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 5 February 2014.

*For the Commission*  
Neven MIMICA  
*Member of the Commission*

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**COMMISSION IMPLEMENTING DECISION****of 6 February 2014****repealing Decision 2003/766/EC on emergency measures to prevent the spread within the Community of *Diabrotica virgifera* Le Conte**

(notified under document C(2014) 467)

(2014/62/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community <sup>(1)</sup>, and in particular the fourth sentence of Article 16(3) thereof,

Whereas:

- (1) Commission Decision 2003/766/EC <sup>(2)</sup> has failed to prevent the spread of *Diabrotica virgifera virgifera* Le Conte as appears from the yearly surveys carried out by the Member States pursuant to that Decision. Those surveys further show that *Diabrotica virgifera virgifera* Le Conte has now established in a large part of the Union territory. In addition, it is not feasible to block its further spread and effective and sustainable means of control minimising the impact of that organism on maize yield exist, in particular the implementation of a crop rotation scheme.

(2) Decision 2003/766/EC should therefore be repealed.

(3) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

*Article 1*

Decision 2003/766/EC is repealed.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 6 February 2014.

*For the Commission*

Tonio BORG

*Member of the Commission*

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<sup>(1)</sup> OJ L 169, 10.7.2000, p. 1.

<sup>(2)</sup> Commission Decision 2003/766/EC of 24 October 2003 on emergency measures to prevent the spread within the Community of *Diabrotica virgifera* Le Conte (OJ L 275, 25.10.2003, p. 49).

# RECOMMENDATIONS

## COMMISSION RECOMMENDATION

of 6 February 2014

on measures to control *Diabrotica virgifera virgifera* Le Conte in Union areas where its presence is confirmed

(2014/63/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

Whereas:

- (1) *Diabrotica virgifera virgifera* Le Conte (hereinafter: '*Diabrotica*') is a non-native insect pest of maize. It has spread and established in over half of the Union maize growing area.
- (2) The measures to prevent the spread of *Diabrotica* within the Union carried out pursuant to Commission Decision 2003/766/EC<sup>(1)</sup> did not prove to be successful. Moreover, according to an impact assessment carried out by the Commission it is neither feasible to pursue an eradication of this pest from the Union territory nor to prevent its further spread into the areas which are currently free from that harmful organism. Therefore the Commission has decided by Implementing Directive 2014/19/EU<sup>(2)</sup> and Implementing Decision 2014/62/EU<sup>(3)</sup> to withdraw the recognition of *Diabrotica* as a regulated harmful organism with quarantine status, by deleting it from Annex I to Council Directive 2000/29/EC<sup>(4)</sup>, and to repeal Decision 2003/766/EC, respectively.
- (3) Under Decision 2003/766/EC crop rotation was compulsory only for the eradication of isolated outbreaks of *Diabrotica*. Nevertheless, scientific studies have shown that crop rotation is the most effective technique to also slow down the spread of *Diabrotica* and to reduce its impact. In addition to being an effective method to control *Diabrotica*, crop rotation has several other advantages from an environmental point of view. These include the improvement or maintenance of soil fertility and structure, and the breaking of pest and weed cycles with the potential to reduce the farmers' reliance on chemical inputs of fertilisers and plant protection products. Consequently, crop rotation has also a positive impact on water and air quality, and on biodiversity. However, from other studies carried out on this pest, it became clear that with its further spread there is a potential for increased reliance on insecticides, since in some cases it may be difficult to find an economically attractive alternative crop to maize in the rotation.
- (4) Therefore, an effective and sustainable control of *Diabrotica* should be envisaged by Member States, also after the withdrawal of the recognition of *Diabrotica* as a regulated harmful organism with quarantine status. Article 14 of Directive 2009/128/EC of the European Parliament and of the Council<sup>(5)</sup> provides for Member States to establish appropriate incentives to encourage professional users to implement, on a voluntary basis, crop or sector specific guidelines for integrated pest management, which should be drawn up by public authorities or organisations representing particular professional users. Pursuant to the general principles of integrated pest management, prevention of the occurrence of pests has a key role in reducing the need of intervention with plant protection products. Moreover, sustainable biological, physical and other non-chemical methods should be preferred to chemical methods, if they provide adequate pest control.
- (5) In accordance with these general principles of integrated pest management, application of crop rotation, of appropriate monitoring of *Diabrotica* populations and other

<sup>(1)</sup> Commission Decision 2003/766/EC of 24 October 2003 on emergency measures to prevent the spread within the Community of *Diabrotica virgifera* Le Conte (OJ L 275, 25.10.2003, p. 49).

<sup>(2)</sup> Commission Implementing Directive 2014/19/EU of 6 February 2014 amending Annex I to Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community. See page 30 of this Official Journal.

<sup>(3)</sup> Commission Implementing Decision 2014/62/EU of 6 February 2014 repealing Decision 2003/766/EC on emergency measures to prevent the spread within the Community of *Diabrotica virgifera* Le Conte. See page 45 of this Official Journal.

<sup>(4)</sup> Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (OJ L 169, 10.7.2000, p. 1).

<sup>(5)</sup> Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides (OJ L 309, 24.11.2009, p. 71).



relevant measures preventing spreading of harmful organisms, such as hygiene measures as cleansing the agricultural machinery, should be included in crop or sector-specific guidelines.

- (6) Furthermore, in order to enhance the respect by users of Article 55 of Regulation (EC) No 1107/2009 of the European Parliament and of the Council <sup>(1)</sup> where insecticides are used to control *Diabrotica*, crop or sector specific guidelines for integrated pest management concerning this pest should be in line with the rules on proper use of plant protection products as set out in that provision.
- (7) Professional users of plant protection products should have at their disposal information and tools for monitoring *Diabrotica*, as well as advisory services on integrated pest management, including specific prevention and control methods for *Diabrotica*. The results of the monitoring should help farmers to decide whether and when there is still need to apply plant protection measures. It is relevant that robust and scientifically sound *Diabrotica* population threshold values are defined for a region, since these are essential components for decision making.
- (8) Member States ensuring, in compliance with Article 5 of Directive 2009/128/EC, that all professional users have access to training on specific subjects should therefore include also the provisions of this Recommendation in the respective training programme.
- (9) Research and technological development on tools for the sustainable control of *Diabrotica* should be promoted to ensure more cost effective and environmentally sustainable measures against that harmful organism,

HAS ADOPTED THIS RECOMMENDATION:

1. Member States should take into account the general principles of integrated pest management laid down in Annex III to Directive 2009/128/EC for the control of *Diabrotica virgifera virgifera* Le Conte (hereinafter '*Diabrotica*') in Union areas where its presence is confirmed. For the purposes of this Recommendation 'control' means the suppression of the population density of the pest to a level not causing significant economic losses, with a view to ensuring an economically sustainable production of maize.
2. Member States should ensure that the crop or sector specific guidelines for integrated pest management, drawn up by

<sup>(1)</sup> 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 (OJ L 309, 24.11.2009, p. 1).

public authorities or organisations representing particular professional users, concerning *Diabrotica* addressed to farmers of maize and professional users of plant protection products are in line with the rules on proper use of plant protection products as set out in Article 55 of Regulation (EC) No 1107/2009.

3. Sustainable biological, physical and other non-chemical methods should be preferred to chemical methods, if the former provide satisfactory pest control. Therefore, control of *Diabrotica* by the professional users should be achieved or supported by the following actions:

- (a) crop rotation;
- (b) use of biocontrol agents;
- (c) adaptation of maize sowing date to avoid that germination coincides with larval hatching;
- (d) cleansing of agricultural machinery and removal of volunteer maize plants and other hygiene measures.

Crop rotation should be preferred in view of its high effectiveness to control *Diabrotica* and its environmental and longer term agronomical benefits.

4. All measures set out in point 3 should be accompanied by monitoring of the presence of *Diabrotica* to identify the need and proper timing for protective actions. Member States should ensure that effective monitoring of the population of *Diabrotica* is carried out using adequate methods and tools. Scientifically sound *Diabrotica* population threshold values should be established regionally, since these are essential components for decision making on the application of any control measures.
5. Member States should ensure, in accordance with Article 14(2) of Directive 2009/128/EC, that professional users of plant protection products have at their disposal information and tools for monitoring *Diabrotica*.
6. Member States should ensure that advisory services on integrated pest management, as provided for in Article 14(2) of Directive 2009/128/EC, provide also specific advice on *Diabrotica* control to all professional users of plant protection products. Member States should also establish appropriate incentives to encourage professional users to implement the crop or sector-specific guidelines referred to in point 2.

7. Member States should ensure that all professional users of plant protection products have access to training concerning the sustainable control of *Diabrotica*. The provisions of this Recommendation should become part of the training ensured by the Member States pursuant to Article 5 of Directive 2009/128/EC.
8. Member States should promote research and technological development on tools for the sustainable control of *Diabrotica*.

Done at Brussels, 6 February 2014.

*For the Commission*  
Tonio BORG  
*Member of the Commission*

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RECOMMENDATIONS

2014/63/EU:

- ★ **Commission Recommendation of 6 February 2014 on measures to control *Diabrotica virgifera virgifera* Le Conte in Union areas where its presence is confirmed** ..... 46

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