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EUROPEAN COMMISSION

Communication from the Commission on voluntary schemes and default values in the EU biofuels and bioliquids sustainability scheme

(2010/C 160/01)

1. INTRODUCTION

The EU introduced in 2009 the most comprehensive and advanced binding sustainability scheme of its kind anywhere in the world. The Renewable Energy Directive [1] sets out these sustainability criteria for biofuels and bioliquids. For biofuels, corresponding criteria are set out in the Fuel Quality Directive [2]. They apply to biofuels/bioliquids produced in the EU and to imported biofuels/bioliquids. Member States are responsible for making sure that the sustainability criteria are met by economic operators when biofuels/bioliquids are taken into account for the purposes [3] listed in the Renewable Energy Directive, the Fuel Quality Directive, the Community guidelines on state aid for environmental protection [4] and the Regulation on CO_2 from passenger cars [5].

The sustainability scheme contains two tools designed to reduce the administrative burden for economic operators:

1. The option to use recognised 'voluntary schemes' or 'bilateral and multilateral agreements' to show compliance with some or all of the sustainability criteria; and

2. The option to use 'default values' laid down in the Directive to show compliance with the sustainability criterion on greenhouse gas emissions savings.

The Commission can decide that voluntary schemes or bilateral and multilateral agreements concluded by the Union contain accurate data concerning the sustainability criteria. The Commission can add default values for new biofuel/bioliquid production methods and update the existing values. This communication sets out how the Commission intends to carry out its responsibilities leading to such decisions. It provides information for Member States, third countries, economic operators and non-governmental organisations.

Alongside this communication, the Commission has adopted a communication on the practical implementation of the EU biofuels and bioliquids sustainability scheme and on counting rules for biofuels [6] which aims to facilitate consistent implementation of the sustainability scheme.

This communication uses the article numbers of the Renewable Energy Directive to refer to specific provisions. The table indicates where corresponding provisions for biofuels are found in the Fuel Quality Directive. References in this communication to 'the Directive' refer to the Renewable Energy Directive. Where the Fuel Quality Directive contains a corresponding provision, they apply equally to that Directive.

Table 1: Articles and annexes referred to in this communication

Renewable Energy Directive	Fuel Quality Directive
Article 17: Sustainability criteria for biofuels and bioliquids	Article 7b: Sustainability criteria for biofuels

[1] Directive 2009/28/EC.
[2] Directive 98/70/EC as amended by Directive 2009/30/EC.
[3] Further detail is provided in http://ec.europa.eu/energy/renewables/transparency_platform_en.htm
[4] OJ C 82, 1.4.2008, p. 1.
[5] Regulation (EC) No 443/2009.

[6] See page 8 of this Official Journal.

Renewable Energy Directive	Fuel Quality Directive
Article 18: Verification of compliance with the sustainability criteria for biofuels and bioliquids	Article 7c: Verification of compliance with the sustainability criteria for biofuels
Article 19: Calculation of the greenhouse gas impact of biofuels and bioliquids	Article 7d: Calculation of life cycle greenhouse gas emissions from biofuels
Article 24: Transparency platform ([1])	not included ([2])
Article 25: Committees	not included
Annex V: Rules for calculating the greenhouse gas impact of biofuels, bioliquids and their fossil fuel comparators	Annex IV: Rules for calculating life cycle greenhouse emissions from biofuels

([1]) Online at: http://ec.europa.eu/energy/renewables/transparency_platform_en.htm
([2]) Where documents are relevant for the Fuel Quality Directive, the Commission intends to publish them also on the Fuel Quality Directive's website.

2. VOLUNTARY SCHEMES

Economic operators must show Member States that the sustainability criteria relating to greenhouse gas savings, land with high biodiversity value and land with high carbon stock ([1]) have been met ([2]). They can do this in three ways:

1. By providing the relevant national authority with data, in compliance with requirements that the Member State has laid down (a 'national system') ([3]);

2. By using a 'voluntary scheme' that the Commission has recognised for the purpose ([4]);

3. In accordance with the terms of a bilateral or multilateral agreement concluded by the Union with third countries and which the Commission has recognised for the purpose ([5]).

A voluntary scheme should cover some or all of the sustainability criteria in the Directive ([6]). It may also cover other sustainability issues ([7]) that are not covered by the Directive's criteria ([8]).

When the Commission receives a request for recognition of a voluntary scheme, it will assess whether the scheme fulfils the relevant requirements. The assessment procedure is set out below.

([1]) Article 17(2)-(5).
([2]) Article 18(1).
([3]) Article 18(3).
([4]) Article 18(4) second subparagraph; Article 18(7).
([5]) Article 18(4) first subparagraph; Article 18(7).
([6]) Voluntary schemes are not expected to cover the criterion related to agricultural and environmental requirements and standards for EU farmers (Article 17(6)). cf. Section 2.2 of the communication on the practical implementation of the sustainability scheme.
([7]) This could include the issues referred to in the second subparagraph of Article 18(4).
([8]) Member States may not, however, use the inclusion of such other sustainability issues in a voluntary scheme as grounds for a refusal to take into account biofuels/bioliquids that are not covered by the scheme if those biofuels/bioliquids meet the sustainability criteria laid down in the Directive.

2.1. Assessment and recognition process

For the assessment of schemes the Commission intends to:

— start the assessment process upon receipt of a request for recognition,

— assess a scheme regardless of its origin, whether e.g. developed by government or private organisations,

— assess a scheme regardless of whether another recognised scheme already covers the same type of feedstocks, area, etc.,

— assess a scheme against the sustainability criteria of the Directive ([9]) and the assessment and recognition requirements set out in the next section,

— assess whether the scheme can also serve as a source of accurate data on other sustainability issues ([10]) not covered by the sustainability criteria in the Directive ([11]).

If its assessment indicates that a scheme meets the sustainability criteria and the assessment and recognition requirements, the Commission intends to:

— initiate the process ([12]) leading to the adoption of a Commission decision,

([9]) Submitting organisations are requested to indicate for which criteria (or aspect related to it) in Articles 17(2)-(5) and for which information in the forthcoming Commission decision referred to in Article 18(3) third subparagraph they ask for recognition.
([10]) cf. Article 18(4) second subparagraph. Submitting organisations are requested to indicate whether such items are covered in the scheme they submit.
([11]) Depending on feasibility, the Commission may not do this immediately, but intends to do this as soon as possible.
([12]) Involving the Committee on the Sustainability of Biofuels and Bioliquids established under Article 25(2).

— recognise the scheme regardless of its origin, whether e.g. developed by government or private organisations,

— recognise the scheme regardless of whether another recognised scheme already covers the same type of feedstocks, area, etc.,

— as a general rule, recognise the scheme for the maximum permitted period of five years ([1]),

— specify in the decision what part(s) of the Directive's sustainability criteria are covered by a scheme,

— specify in the decision for what other sustainability issues, if any, the scheme contains accurate data ([2]),

— refer to the decision on the Commission's transparency platform once it is published in the Official Journal.

If the assessment indicates that a scheme does not meet the requirements, the Commission will inform the submitting organisation accordingly.

If a voluntary scheme, after it has been recognised, undergoes changes to its contents in a way that might affect the basis for the initial recognition, the Commission expects such changes be notified to the Commission. The Commission would then be able to assess whether the initial recognition remains valid.

2.2. **Assessment and recognition requirements**

A voluntary scheme should cover, in part or whole, the sustainability criteria laid down in the Directive ([3]). The scheme would need to include a verification ([4]) system for which requirements are laid down in this section.

2.2.1. *Documentation management*

It should be a condition of participation in voluntary schemes that economic operators:

— have an auditable system for the evidence related to the claims they make or rely on,

— keep any evidence for a minimum of five years, and

— accept responsibility for preparing any information related to the auditing of such evidence.

The auditable system should normally be a quality system drawing on points 2 and 5.2 of Module D1 ('Quality assurance of the production process') of Annex II of the Decision on a common framework for the marketing of products ([5]).

2.2.2. *Adequate standard of independent auditing*

As a general rule, a voluntary scheme should ensure that economic operators are audited before allowing them to participate in the scheme ([6]).

For such auditing, 'group auditing' — in particular for smallholder farmers, producer organisations and cooperatives — can be performed. In such cases, verification for all units concerned can be performed based on a sample of units ([7]), where appropriate taking into account a relevant standard developed for this purpose ([8]). Group auditing for compliance with the scheme's land related criteria is only acceptable when the areas concerned are near each other and have similar characteristics. Group auditing for the purpose of calculating greenhouse gas savings is only acceptable when the units have similar production systems and products.

In addition, the voluntary scheme should arrange for regular, at least yearly, retrospective auditing of a sample of claims made under the scheme ([9]). It is the responsibility of the verifiers to define the size of the sample that will permit them to reach the level of confidence necessary to issue a verification statement.

For both types of audit referred to above a verifier should be selected who:

— is external: the audit is not performed by the economic operator or the scheme itself,

— is independent: auditors are independent of the activity being audited and free from conflict of interest,

— has the generic skills: the verification body has the general skills for performing audits, and

— has the appropriate specific skills: auditors have the skills necessary for conducting the audit related to the scheme's criteria.

([1]) Article 18(6).
([2]) At least in relation to those mentioned in Article 18(4) second subparagraph.
([3]) Ibid, footnote [15].
([4]) The terms 'auditing'/'auditor' and 'verification'/'verifier' are considered interchangeable in this communication.
([5]) Decision No 768/2008/EC.
([6]) There may be exceptions to this rule due to the particular character of certain schemes (for example, schemes that consist only of standard values for greenhouse gas calculations); in these cases, this should be clearly explained when the scheme is put forward for recognition.
([7]) It is the responsibility of the verifiers to define the size of the sample needed to reach the necessary level of confidence.
([8]) e.g. International Social and Environmental Accreditation and Labelling Alliance (ISEAL) standard P035 establishing Common Requirements for the Certification of Producer Groups.
([9]) The economic operators included in the sample should vary from one period to another.

Voluntary schemes should show in their requests for recognition how they will ensure this in arranging for verifier(s) to be selected. Ways of showing this include those given in Table 2.

It is preferable but not essential that auditors should, whenever possible and where appropriate, be accredited for the kind of auditing tasks they are to undertake [1].

Table 2: Examples of ways of showing verifiers' compliance with requirements

Verifier attribute	Requirements covered
Experience of carrying out audits in conformity with standard ISO [1] 19011 establishing guidelines for quality and/or environmental management systems auditing.	— Independence — Generic skills — Specific skills related to the Directive's criteria and other environmental issues
Accreditation against standard ISO 14065 establishing requirements for greenhouse gas validation and verification bodies for use in accreditation or other forms of recognition [2].	— Independence — Generic skills — Specific skills related to greenhouse gas assertions.
Experience of carrying out audits in conformity with standard ISO 14064-3 establishing specification with guidance for the validation and verification of greenhouse gas assertions.	— Independence — Generic skills — Specific skills related to greenhouse gas assertions
Experience of carrying out audits in conformity with the International Standard on Assurance Engagements (ISAE) 3000 regarding assurance engagements other than audits or reviews of historical financial information.	— Independence — Generic skills
Accreditation against standard ISO Guide 65 [3] establishing general requirements for bodies operating product certification systems [4].	— Independence — Generic skills

[1] International Organisation for Standardisation.
[2] Accreditation against this standard often includes at the same time accreditation against a specific 'greenhouse gas programme', such as the European Emission Trading Scheme. In such case, any additional requirements of that programme do not have to be considered for the purposes in this table. They should not be considered when they conflict with the Directive.
[3] The equivalent European standard is EN 45011.
[4] Accreditation against this standard often includes at the same time accreditation against specific requirements related to e.g. a product. In such case, any additional requirements of that programme do not have to be considered for the purposes in this table. They should not be considered when they conflict with the Directive.

Requests to the Commission for recognition should demonstrate that audits will be properly planned, conducted and reported on. This would normally include that the auditor:

— identifies the activities undertaken by the economic operator which are relevant to the scheme's criteria,

— identifies the relevant systems of the economic operator and its overall organisation with respect to the scheme's criteria and checks the effective implementation of relevant control systems,

— establishes at least a 'limited assurance level' [2] in the context of the nature and complexity of the economic operator's activities,

— analyses the risks which could lead to a material misstatement, based on the verifier's professional knowledge and the information submitted by the economic operator,

[1] Such accreditation would be done by members of the International Accreditation Forum, by the bodies referred to in Article 4 of Regulation (EC) No 765/2008 or by bodies having a bilateral agreement with the European Cooperation for Accreditation.
[2] A 'limited assurance level' implies a reduction in risk to an acceptable level as the basis for a negative form of expression by the auditor such as 'based on our assessment nothing has come to our attention to cause us to believe that there are errors in the evidence', whereas a 'reasonable assurance level' implies a reduction in risk to an acceptably low level as the basis for a positive form of expression such as 'based on our assessment, the evidence is free from material misstatement' (cf. ISEA 3000).

— draws up a verification plan which corresponds to the risk analysis and the scope and complexity of the economic operator's activities, and which defines the sampling methods to be used with respect to that operator's activities,

— carries out the verification plan by gathering evidence in accordance with the defined sampling methods, plus all relevant additional evidence, upon which the verifier's verification conclusion will be based,

— requests the operator to provide any missing elements of audit trails, explain variations, or revise claims or calculations, before reaching a final verification conclusion.

2.2.3. *Mass balance system*

Typically, biofuels/bioliquids have a production chain with many links, from field to distribution of the fuel. Feedstock is often transformed into an intermediate product and then into a final product. It is in relation to the final product that compliance with the requirements of the Directive need to be shown. To show this, claims will need to be made about the raw material and/or intermediate products used.

The method by which a connection is made between information or claims concerning raw materials or intermediate products and claims concerning final products is known as the chain of custody. The chain of custody would normally include all the stages from the feedstock production up until the release of the fuels for consumption. The method laid down in the Directive for the chain of custody is the mass balance method ([1]).

The voluntary scheme should require verification of the mass balance system to be performed simultaneously with verification of correctness in respecting the scheme's criteria ([2]). This should include the verification of any evidence or systems used for the purpose of complying with the requirements of the mass balance system.

The mass balance system means ([3]) a system in which 'sustainability characteristics' remain assigned to 'consignments'. Sustainability characteristics could include for example:

— evidence showing compliance with the Directive's sustainability criteria, and/or

— a statement that the raw materials used were obtained in a way that complies with the Directive's land related sustainability criteria, and/or

— a greenhouse gas emission figure, and/or

— a description of the raw material used ([4]), and/or

— the statement 'production has been awarded a certificate of type X from recognised voluntary scheme Y', etc.

Sustainability characteristics would have to include information on the country of origin of the feedstock, except for bioliquids ([5]).

When consignments with different (or no) sustainability characteristics are mixed ([6]), the separate sizes ([7]) and sustainability characteristics of each consignment remain assigned to the mixture ([8]). If a mixture is split up, any consignment taken out of it can be assigned any of the sets of sustainability characteristics ([9]) (accompanied with sizes) as long as the combination of all consignments taken out of the mixture has the same sizes for each of the sets of sustainability characteristics that were in the mixture. A 'mixture' can have any form where consignments would normally be in contact, such as in a container, processing or logistical facility or site (defined as a geographical location with precise boundaries within which products can be mixed).

The balance in the system can be continuous in time, in which case a 'deficit', i.e. that at any point in time more sustainable material has been withdrawn than has been added, is required not to occur. Alternatively the balance could be achieved over an appropriate period of time and regularly verified. In both cases it is necessary for appropriate arrangements to be in place to ensure that the balance is respected.

2.3. **Non-typical voluntary schemes**

Section 2.2 describes the requirements the Commission intends to assess for recognition of 'typical' voluntary schemes that cover directly one or more of the Directive's criteria. 'Non-typical' schemes may have different forms such as maps showing that certain geographical areas are compliant or not compliant with the criteria, calculation tools for assessment of greenhouse gas savings or regional agricultural greenhouse gas values associated with a particular feedstock. For these schemes,

([1]) Article 18(1).
([2]) A voluntary scheme would not need to require this where it covers only a single link in the chain (e.g. the location of production of the raw material).
([3]) According to Article 18(1).
([4]) e.g. to claim a default value.
([5]) cf. Article 7a (1)(a) of the Fuel Quality Directive.
([6]) When consignments with the same sustainability characteristics are mixed only the size of the consignment is adjusted accordingly. Sustainability characteristics are likely to be the same where the same feedstocks are used and use is made of 'default values' or 'regional actual values'.
([7]) Where a processing step or losses are involved, appropriate conversion factors should be used to adjust the size of a consignment accordingly.
([8]) Thus, if the characteristics include different figures on greenhouse gas emissions they remain separate; these figures cannot be averaged for the purpose of showing compliance with the sustainability requirements.
([9]) This means that when a 'sustainability characteristic' would be the description of the feedstock, e.g. 'rapeseed', this characteristic can be different from what the consignment physically contains, e.g. a mix of rapeseed and sunflower oil.

the Commission will determine an appropriate assessment procedure when it receives a request for recognition of such a scheme. The Commission will consider whether the principles and requirements set out above need to be applied or whether different approaches are necessary.

2.4. **Updating**

As experience will only be gained once assessments have started, flexibility may be necessary. The Commission may review the procedure laid down here, based on the experience gathered or developments in the market, including work done by standardisation bodies. In such cases, the Commission intends to make appropriate reference on the transparency platform.

2.5. **Voluntary schemes for bioliquids**

For bioliquids, the Commission cannot explicitly recognise a voluntary scheme as a source of accurate data for the land related criteria ([1]). However, where the Commission decides that a voluntary scheme provides accurate data as far as biofuels are concerned, the Commission encourages Member States to accept such schemes equally for bioliquids.

2.6. **Recognition of bilateral or multilateral agreements**

The Union can conclude bilateral or multilateral agreements with third countries containing provisions on sustainability criteria that correspond to those of the Directive ([2]). Such an agreement would, after conclusion, still need to be recognised for the purposes of the Directive in a similar way as for voluntary schemes ([3]). This process could include taking into account relevant parts of Section 2.2.2.

3. **DEFAULT VALUES**

The Directive includes 'default values' which economic operators can use to show compliance with the sustainability criterion on greenhouse gas savings. This should reduce the administrative burden for economic operators, because companies will be able to choose to use these predetermined values instead of calculating an actual value ([4]). The default values are set at a conservative level to make it unlikely for economic operators — by using default values — to be claiming values that are better than their actual value. The default values can be updated to technical and scientific progress ([5]).

3.1 **Background on the calculation of the default values**

The default values in the Directive are constructed on the basis of three elements: a scientific data set, the methodology in the Directive ([6]); and a rule for transforming typical values into default values. The scientific data for a particular biofuel/bioliquid production pathway are processed in accordance with the methodology to produce a typical value for the pathway. A factor of + 40 % is then applied to the emissions from the 'processing' element to transform typical values into conservative default values. No such factor is applied to 'transport and distribution', because its contribution to the overall emissions is small ([7]). Nor is a factor applied to 'cultivation', because on this point the issue of conservatism is dealt with by certain restrictions on the use of default values ([8]).

3.2. **Future updates and addition of default values**

The scientific data are compiled by independent experts ([9]) and published on the JRC website ([10]). To comment on the data with scientifically justified claims, direct contact with the experts must be made in order that the data could be reviewed as appropriate during the next cycle of updates ([11]).

The Directive contains both:

— 'general pathways', i.e. pathways that are characterised by the type of feedstock and type of biofuel/bioliquid, such as 'sugar beet ethanol', and

— 'specific pathways', i.e. pathways that are characterised by more specific description than general pathways, such as 'wheat ethanol (straw as process fuel in CHP plant)'.

The Commission intends to include default values for additional general pathways if:

— these have significance in the EU market and at least one plant/pathway exists; or it is a general pathway reliably expected to come into use for the EU in the near future, and

— there are relevant data available of a satisfactory quality and certainty as judged by the independent experts.

For the introduction of specific pathways the Commission intends to take into account two additional criteria:

— whether the difference between the default values for the specific and general pathways is significant in size, and

([1]) Cf. Article 18(4) and the mention of Article 17(3)-17(5) therein.
([2]) The mechanism for the Union to conclude an international agreement is set out in Article 218 of the Treaty on the Functioning of the European Union.
([3]) Article 18(4).
([4]) Article 19(1).
([5]) Article 19(7).
([6]) Annex V, part C.
([7]) cf. Article 19(7)(a).
([8]) Article 19(2)-19(4).
([9]) The Institute for Environment and Sustainability of the Commission's Joint Research Centre (JRC), as part of the JEC Consortium (consortium composed of the Commission's Joint Research Centre, the automotive manufacturers' association for Research & Development in Europe (EUCAR) and the oil companies' European association of environment, health and safety in refining (CONCAWE)).
([10]) http://re.jrc.ec.europa.eu/biof/html/input_data_ghg.htm the Commission intends to publish on its transparency platform a spreadsheet showing the calculation of the default values from those data.
([11]) cf. Recital 83 of the Renewable Energy Directive.

— (in the case of specific pathways with default values of greenhouse gas savings less than that for the general pathway) whether it is estimated that at least a tenth of EU consumption of the general biofuel/bioliquid pathway concerned is produced using practices that lead to emissions that are greater than those depicted by the default value for that general pathway.

The Commission does not intend to introduce default values for specific pathways according to the geographical origin of where the feedstocks or biofuels/bioliquids are produced, but rather related to specific practices, technologies, etc.

The Commission intends to update/add default values, if appropriate, every two years starting in 2010 and subsequently along with the required report that the Commission has to prepare in 2012 and every two years thereafter on the default values for future biofuels ([1]). However, updates may take place in the intermediate period if circumstances require. In preparation for this, the Commission will assess whether the conditions for the inclusion of specific pathways, as set out above, are met.

The process for stakeholders to suggest amendment of the pathways or new pathways is the same as the process for comments on data (see above).

4. CONCLUSIONS

The EU introduced in 2009 the most comprehensive and advanced binding sustainability scheme of its kind anywhere in the world. In this communication the Commission has set out how it intends to deal in the coming years with two tools of the sustainability scheme designed to reduce the administrative burden for economic operators: the assessment and recognition of voluntary schemes and bilateral or multilateral agreements; and the adding and updating of default values. This should facilitate the operation of the sustainability scheme. Voluntary schemes may have an impact in commodity markets broader than biofuels and bioliquids, potentially enhancing sustainable production of agricultural raw materials as a side-effect. Bilateral or multilateral agreements could enhance this further. Apart from these processes set in motion by the EU's new renewable energy policy, the Commission will also work via international fora actively to promote sustainability criteria on a global level.

([1]) Those included in Annex V parts B and E; cf. Article 19(5).

Communication from the Commission on the practical implementation of the EU biofuels and bioliquids sustainability scheme and on counting rules for biofuels

(2010/C 160/02)

1. THE EU SUSTAINABILITY SCHEME FOR BIOFUELS AND BIOLIQUIDS

With the EU's new renewable energy policy the EU has introduced the most comprehensive and advanced binding sustainability scheme of its kind anywhere in the world. It will apply equally to domestically produced and imported biofuels and bioliquids. These sustainability criteria are set out in the Renewable Energy Directive, adopted in 2009 ([1]). For biofuels, corresponding criteria are set out in the Fuel Quality Directive ([2]).

This Communication sets out how Member States and economic operators can implement the sustainability criteria and the Renewable Energy Directive's counting rules for biofuels in practice. This Communication has no binding character. It is designed to assist Member States and to facilitate a consistent implementation of the sustainability criteria. It is accompanied by a Communication on voluntary schemes and default values and by Commission guidelines for the calculation of land carbon stocks.

1.1. Introduction to this Communication

The sustainability criteria apply to biofuels/bioliquids produced in the EU and to imported biofuels/bioliquids.

Member States are responsible for making sure that the sustainability criteria are met when biofuels/bioliquids:

1. are counted towards their renewable energy targets under the Renewable Energy Directive ([3]);
2. are used for compliance with renewable energy obligations ([4]);
3. receive financial support for their consumption ([5]);
4. are counted towards the target of the Fuel Quality Directive for reducing greenhouse gas emissions (biofuels only) ([6]);
5. receive investment and/or operating aid in accordance with the Community guidelines on State aid for environmental protection (biofuels only) ([7]);
6. are taken into account under the provisions for alternative-fuel vehicles of the Regulation on CO_2 from passenger cars ('E85' bioethanol only) ([8]).

This Communication is accompanied by Commission guidelines for the calculation of land carbon stocks ([9]) — a binding document adopted according to Annex V, point 10 of the Renewable Energy Directive; and by a Communication on voluntary schemes and default values ([10]).

This Communication uses the article numbers of the Renewable Energy Directive to refer to specific provisions. The table indicates where corresponding provisions for biofuels are found in the Fuel Quality Directive. References in this Communication to 'the Directive' refer to the Renewable Energy Directive. Where the Fuel Quality Directive contains a corresponding provision, they apply equally to that Directive.

Table: Articles and Annexes referred to in this Communication

Renewable Energy Directive	Fuel Quality Directive
Article 2: Definitions	not included
Article 5: Calculation of the share of energy from renewable sources	not included
Article 17: Sustainability criteria for biofuels and bioliquids	Article 7b: Sustainability criteria for biofuels

([1]) Article 17 of Directive 2009/28/EC.
([2]) Article 7b of Directive 98/70/EC as amended by Directive 2009/30/EC.
([3]) Article 17(1)(a). Following from the scope of 'final energy consumption' as in Regulation (EC) No 1099/2008 this includes biofuels used in international aviation (when sold in a Member State), but not in international maritime transport.
([4]) Article 17(1)(b). As defined in Article 2(l) of the Renewable Energy Directive.
([5]) Article 17(1)(c). Typically as part of a national support scheme.
([6]) Article 7a of the Fuel Quality Directive.
([7]) OJ C 82, 1.4.2008, p. 1.
([8]) Article 6 of Regulation (EC) No 443/2009.
([9]) OJ L 151, 17.6.2010, p. 19.
([10]) See page 1 of this Official Journal.

Renewable Energy Directive	Fuel Quality Directive
Article 18: Verification of compliance with the sustainability criteria for biofuels and bioliquids	Article 7c: Verification of compliance with the sustainability criteria for biofuels
Article 19: Calculation of the greenhouse gas impact of biofuels and bioliquids	Article 7d: Calculation of life cycle greenhouse gas emissions from biofuels
Article 21: Specific provisions related to energy from renewable sources in transport	*not included*
Article 24: Transparency platform ([1])	*not included* ([2])
Annex III: Energy content of transport fuels	*not included*
Annex V: Rules for calculating the greenhouse gas impact of biofuels, bioliquids and their fossil fuel comparators	Annex IV: Rules for calculating life cycle greenhouse emissions from biofuels

([1]) Online at: http://ec.europa.eu/energy/renewables/transparency_platform/transparency_platform_en.htm
([2]) Where documents are relevant for the Fuel Quality Directive, the Commission intends to publish them also on the Fuel Quality Directive's website.

2. SCOPE AND APPLICATION OF THE SUSTAINABILITY CRITERIA

The Directive contains sustainability criteria related to greenhouse gas savings ([1]), land with high biodiversity value ([2]), land with high carbon stock ([3]) and agro-environmental practices ([4]). These sustainability criteria have to be met for the purposes listed in Section 1. This means that the criteria do not apply to all biofuels/bioliquids, only those covered by these purposes — although currently this includes the vast majority.

2.1. Criteria related to greenhouse gas savings and land

Member States must require economic operators to show that the biofuels and bioliquids concerned comply with the sustainability criteria related to greenhouse gas savings and land ([5]). Economic operators have three methods to do this:

1. by providing the relevant national authority with data, in compliance with requirements that the Member State has laid down (a 'national system'; all Member States must provide one) ([6]);

2. by using a 'voluntary scheme' that the Commission has recognised for the purpose ([7]);

3. in accordance with the terms of a bilateral or multilateral agreement concluded by the Union and which the Commission has recognised for the purpose ([8]).

Different methods can be used to show compliance with different criteria.

Member States need to define which economic operators need to submit the information concerned. Most transport fuels are subject to excise duty, which is payable on release for consumption ([9]). The obvious choice is to place the responsibility for submitting information on biofuels on the economic operator who pays the duty. At this point information with regard to the sustainability criteria along the entire fuel chain should be available ([10]).

For bioliquids and for certain biofuels, e.g. those used in captive fleets or aviation, separate provisions to identify the responsible economic operator may be needed.

Member States have to require that economic operators arrange for an adequate standard of independent auditing of the information submitted ([11]). Where economic operators use a voluntary scheme or bilateral/multilateral agreement recognised by the Commission to show compliance with the sustainability criteria, this is already arranged for by the recognition. Where economic operators follow a procedure laid down in national legislation, Member States are invited to draw on the requirements in relation to the adequate standard of independent auditing and the mass balance system ([12]) in Section 2.2 of the Communication on voluntary schemes and default values ([13]).

([1]) Article 17(2).
([2]) Article 17(3).
([3]) Article 17(4) and (5).
([4]) Article 17(6).
([5]) Article 18(1).
([6]) Article 18(3).
([7]) Article 18(4) second subparagraph; Article 18(7).
([8]) Article 18(4) first subparagraph; Article 18(7).
([9]) Cf. Directive 2008/118/EC and Directive 2003/96/EC.
([10]) The one exception could be the greenhouse gas emissions from distribution of the fuel (if needed for the calculation of an actual value). It would be appropriate to use a standard coefficient for this.
([11]) Article 18(3).
([12]) Article 18(1).
([13]) An important difference is that under a voluntary scheme, as a general rule a voluntary scheme should ensure that economic operators are audited before allowing them to participate in the scheme. There is no need for such a requirement in national systems, under which it may well be appropriate to provide for ad hoc claims by economic operators.

2.2. **Agricultural and environmental requirements and standards for EU farmers** ([1])

The criterion related to agricultural and environmental requirements and standards for EU farmers applies only to biofuels/bioliquids produced from raw materials originating in the EU. Unlike the other criteria, verification of compliance for this criterion is not addressed in the Directive ([2]). Member States can be expected to rely on their existing control systems ([3]) for ensuring that farmers fulfil these requirements. If there are farmers on their territory who supply raw materials for biofuels/bioliquids but are not covered by these control systems, Member States will need to include them.

If a control system reveals breach of this criterion, the Member State will need to ensure that this is taken into account for the purposes listed in Section 1.

2.3. **Materials covered**

As laid down in the Directive, 'biofuels' means liquid or gaseous fuel for transport produced from biomass. 'Bioliquids' means liquid fuel produced from biomass for energy purposes other than transport ([4]). The latter includes only liquid fuels. This means that the sustainability criteria apply to biogas for transport and not to biogas used for heating or electricity.

Although many types of biofuel are mentioned in the Directive ([5]), these listings are to facilitate the implementation of the Directive and are not exhaustive. Biofuels and bioliquids that are not listed can also count towards the Directive's targets.

It is considered that the term 'bioliquids' includes viscous liquids such as waste cooking oil, animal fats, palm oil, crude tall oil and tall oil pitch.

For biofuels/bioliquids produced from waste, and from residues other than agricultural, aquaculture, fisheries and forestry residues, only the sustainability criterion relating to greenhouse gas savings applies ([6]). What constitutes a waste or residue is addressed in Section 5. Agricultural, aquaculture, fisheries and forestry residues are residues that are directly produced by agriculture, fisheries, aquaculture and forestry; they do not include residues from related industries or processing.

2.4. **Harmonisation of sustainability criteria**

The Directive's sustainability criteria are fully harmonised at Community level and were adopted under Article 95 (internal market) of the EC Treaty. Therefore, Member States may not set additional criteria of their own for the purposes 1 to 4 listed in Section 1 ([7]). This means that Member States may not for those purposes exclude biofuels/bioliquids on other sustainability grounds than the sustainability criteria laid down in the Directive ([8]). However, where certain biofuels/bioliquids are both more beneficial than others and more expensive to produce, national support schemes may take their higher production costs into account ([9]).

2.5. **Publication of sustainability information**

Member States will receive information from economic operators on compliance with the sustainability criteria. They will also receive information on the country of origin of all road transport fuels, fossil and renewable, and where they are purchased ([10]). Under the Renewable Energy Directive, there is no requirement on Member States to make information public, nor are they prohibited from doing so. The Commission encourages Member States that publish such information to do this in a consistent manner for all fuels. In the Commission's view, if a Member State decides to publish such information it should take into account the possible commercially sensitive character of a company's specific information in that respect.

The Commission will publish the aggregated information received from Member States for biofuels and bioliquids on its transparency platform in summary form ([11]).

3. **CALCULATING THE GREENHOUSE GAS IMPACT**

The Directive requires a greenhouse gas emission saving of 35 % (rising to 50 % in January 2017, and 60 % in January 2018 for installations in which production started from 2017 onwards) ([12]). It contains a methodology for calculating this saving ('actual value') as well as 'default values', including 'disaggregated default values', that can be used in certain cases to show compliance with the criterion.

3.1. **Exception concerning installations in operation on 23 January 2008**

Biofuels/bioliquids produced by installations that were in operation on 23 January 2008 are exempted from complying with the greenhouse gas saving criterion until 1 April 2013 ([13]), so that e.g. wheat ethanol plants with lignite as process fuel and palm oil mills without methane capture are given time to adapt their process. The term 'installation' includes any processing installation used in the production process. It should not be understood as including production facilities that might have been intentionally added to the production chain only to

([1]) Article 17(6).
([2]) Cf. Article 18(1).
([3]) Under Article 22 of Regulation (EC) No 73/2009.
([4]) Article 2.
([5]) E.g. in Annexes III and V.
([6]) Cf. Article 17(1).
([7]) For the purposes of 5 and 6 listed in Section 1 this question is not relevant.
([8]) Article 17(8).
([9]) Cf. recitals 89 and 95 of the Renewable Energy Directive as well as the Community guidelines on State aid for environmental protection.
([10]) Article 7a(1)(a) of the Fuel Quality Directive.
([11]) Article 18(3).
([12]) Article 17(2).
([13]) Article 17(2), last subparagraph.

qualify for the exemption foreseen in this provision. If at least one of such processing installations used in the production chain was in operation on 23 January 2008 at the latest the criterion of a minimum 35 % greenhouse gas saving starts to apply only from 1 April 2013.

3.2. **Default values**

The Directive contains 'default values' that economic operators can use to provide evidence of compliance with the greenhouse gas saving criterion ([1]). Annex I to this Communication gives guidance on when default values can be used, including when combinations of disaggregated default values and actual values can be used ([2]).

The default values can be updated by the Commission. The process of updating the default values is addressed in the Communication on voluntary schemes and default values.

The Directive also contains 'typical values' for greenhouse gas emissions from biofuels ([3]). These values cannot be used by economic operators. They can be used by Member States in their biennial reporting to the Commission on progress in the promotion and use of energy from renewable sources ([4]).

3.3. **Calculating an actual value**

Actual values for greenhouse gas savings can always be used regardless of whether there exists a default value for the biofuel/bioliquid in question. Annex V part C of the Directive contains the rules for the calculation of an actual value.

It would not seem necessary to include in the calculation inputs which will have little or no effect on the result, such as chemicals used in low amounts in processing ([5]).

For the calculation of emissions from 'cultivation', the method allows for the use of averages (for a particular geographical area) as an alternative to actual values ([6]). This could be particularly useful for feedstocks where no default value exists and for EU regions where the use of default values is not permitted for some feedstocks ([7]). Member States can draw up lists of such average values; they could also be incorporated in voluntary schemes that address greenhouse gas emission impact ([8]).

The Commission intends to publish on its transparency platform annotated examples of calculations of actual values as well as a set of standard values, derived from the datasets used to establish the default values, that could be used for some of the coefficients used in the calculation of actual values.

Further elements on the methodology for calculating the greenhouse gas impact are contained in Annex II to this Communication.

4. **COMPLYING WITH THE LAND-RELATED CRITERIA**

The Directive identifies categories of land with high biodiversity value ([9]). Raw material for biofuels/bioliquids should not be taken from this land.

The Directive identifies categories of land with high carbon stocks ([10]). If land fell into one of these categories in January 2008 and no longer does, raw material for biofuels/bioliquids should not be taken from the land.

For some of these criteria the Directive allows for exceptions, provided that certain evidence is provided.

If land belongs to more than one of these land categories, all the relevant criteria apply. Eligibility for an exception under one of the criteria would not confer an exception from other criteria that apply.

4.1. **Land with high biodiversity value**

Raw material should not be obtained from primary forest and other (primary) wooded land; designated nature protection areas; and highly biodiverse grassland ([11]). The Commission intends to establish in 2010 the criteria and geographic ranges to determine which grassland can be considered to be highly biodiverse grassland ([12]).

In the case of non-natural highly biodiverse grassland, an exception is possible where evidence is provided that the harvesting of the raw material is necessary to preserve the area's grassland status. In the case of nature protection areas, an exception is possible where evidence is provided that the production of raw material did not interfere with the nature protection purpose in question ([13]). The Commission is aware that CEN, the European Committee for Standardisation, is working on the issue of what kind of evidence should be provided.

([1]) Annex V.
([2]) It should be noted that the allocation of emissions to co-products has been taken into account in the calculation of the (disaggregated) default values.
([3]) Annex V.
([4]) Cf. Article 22(2).
([5]) It is relevant to note here that figures for greenhouse gas savings are rounded to the nearest percentage point.
([6]) Cf. Annex V part C point 6.
([7]) Cf. Article 19(2) and (3).
([8]) Cf. Article 18(4).
([9]) Article 17(3).
([10]) Article 17(4) and (5).
([11]) Article 17(3).
([12]) Public consultation documents available at: http://ec.europa.eu/energy/renewables/consultations/2010_02_08_biodiverse_grassland_en.htm
([13]) Article 17(3)(b); applies to both (i) and (ii) thereof.

The Directive includes a procedure under which new nature protection areas can be taken into account following a Commission decision [1]. At present there are no such areas recognised. When decisions are made to recognise areas, information on these decisions will be made available on the Commission's transparency platform.

4.2. **Land with high carbon stock**

Raw material should not be obtained from wetland; continuously forested areas; areas with 10-30 % canopy cover; and peatland — if the status of the land has changed compared to its status in January 2008 [2].

Thus if raw material is taken from land that was wetland [3] in January 2008 and is still wetland when the raw material is taken, using such material would not breach the criterion.

The term 'status' refers to the physical categories defined in the Directive.

Land use change that is not captured by this criterion still has to be taken into account in the calculation of the greenhouse gas impact (see Annex II).

4.2.1. *Continuously forested areas* [4]

Before considering the concept of 'continuously forested area', it should be recalled that any change in land use must be taken into account in the calculation of the greenhouse gas impact [5], as well as potentially needing to be taken into account under policy headings other than this Directive.

The term 'continuously forested area' is defined in the Directive as *land spanning more than one hectare with trees higher than five metres and a canopy cover of more than 30 %, or trees able to reach those thresholds in situ*. It does not include land that is predominantly under agricultural or urban land use [6].

4.2.2. *Areas with 10-30 % canopy cover* [7]

For land that is similar to continuously forested areas but has canopy cover between 10 % and 30 %, an exception is possible where evidence is provided that the greenhouse gas impact [8], including any changes since January 2008 in the carbon stock of the area concerned, meets the appropriate threshold for the greenhouse gas saving criterion.

4.2.3. *Peatland* [9]

For biofuels/bioliquids produced from biomass grown on land that was peatland in January 2008, an exception is possible if evidence is provided that:

— the soil was completely drained in January 2008, or

— there has not been draining of the soil since January 2008.

This means that for peatland that was partially drained in January 2008 a subsequent deeper drainage, affecting soil that was not already fully drained, would constitute a breach of the criterion.

Peat itself is not considered biomass [10].

4.3. **Providing evidence of compliance**

Evidence of compliance with the land-related criteria could take many forms, including aerial photographs, satellite images, maps, land register entries/databases [11] and site surveys.

Evidence can be 'positive' or 'negative'.

For example, compliance with the criterion on 'primary forest' could be shown by:

— an aerial photograph of the land, showing it to be planted with sugarcane (positive), or

— a map of all the primary forests in the region, showing the land to fall outside them (negative).

The criteria refer to the status of the land in January 2008. But the use of earlier evidence is not ruled out. For example, if it is shown that land was cropland a little earlier than 2008, e.g. in 2005, this may be enough to show compliance with some or all of the land-related criteria.

The Commission intends to publish on its transparency platform guidance for economic operators for identifying the land categories concerned.

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[1] Article 17(3)(b)(ii).
[2] Article 17(4) and 17(5).
[3] Article 17(4)(a).
[4] Article 17(4)(b).
[5] Cf. Annex II to this Communication.
[6] Land under agricultural use in this context refers to tree stands in agricultural production systems, such as fruit tree plantations, oil palm plantations and agroforestry systems when crops are grown under tree cover.
[7] Article 17(4)(c).
[8] Annex V part C.
[9] Article 17(5).
[10] Cf. Article 2.
[11] E.g. the Integrated Administration and Control System (IACS) for the EU's Common Agricultural Policy.

5. COUNTING RULES FOR BIOFUELS

5.1. Accounting for fuels that come partly from non-renewable sources

Certain fuels consist only partly of renewable material. For some of these, such as ETBE, Annex III to the Directive indicates what percentage of the fuel is renewable for the purpose of target accounting ([1]). For such fuels not listed in Annex III, including fuels produced in flexible processes that do not always deliver consignments with the same mix of sources, analogy can appropriately be drawn from the rule for electricity generated in multi-fuel plants: 'the contribution of each energy source is to be taken into account on the basis of its energy content' ([2]).

For the purposes of compliance with the sustainability criterion on greenhouse gas savings, the biomass-derived part of fuels referred to in the previous paragraph has to meet the appropriate threshold. For some, such as ETBE, the Directive gives default values.

The percentages in Annex III to the Directive also apply when determining whether fuels containing biofuels need to have specific indication at sales points ([3]). For example, petrol containing 20 % ETBE would not require specific indication because less than 10 % is from renewable sources.

5.2. Biofuels counting double

Certain biofuels count double for demonstrating compliance with the 10 % target for the share of energy in all forms of transport in 2020 and for compliance with national renewable energy obligations ([4]). All other biofuels must be counted singly. Where biofuels are produced only in part from materials that count double, the double counting only applies to that part of the biofuel ([5]).

The biofuels that count double include those from wastes and residues.

The Directive itself does not contain definitions of 'waste' and 'residues'. The Commission considers that these concepts should be interpreted in line with the objectives of the Directive:

— for the double counting: diversification of feedstocks ([6]),

— for the greenhouse gas methodology: no emissions are allocated to co-products which production did not aim for, such as straw in the case of wheat production ([7]).

In this context waste can be understood as any substance or object which the holder discards or intends or is required to discard ([8]). Raw materials that have been intentionally modified to count as waste (e.g. by adding waste material to a material that was not waste) should not be considered as qualifying.

In this context residues can include:

— agricultural, aquaculture, fisheries and forestry residues, and

— processing residues.

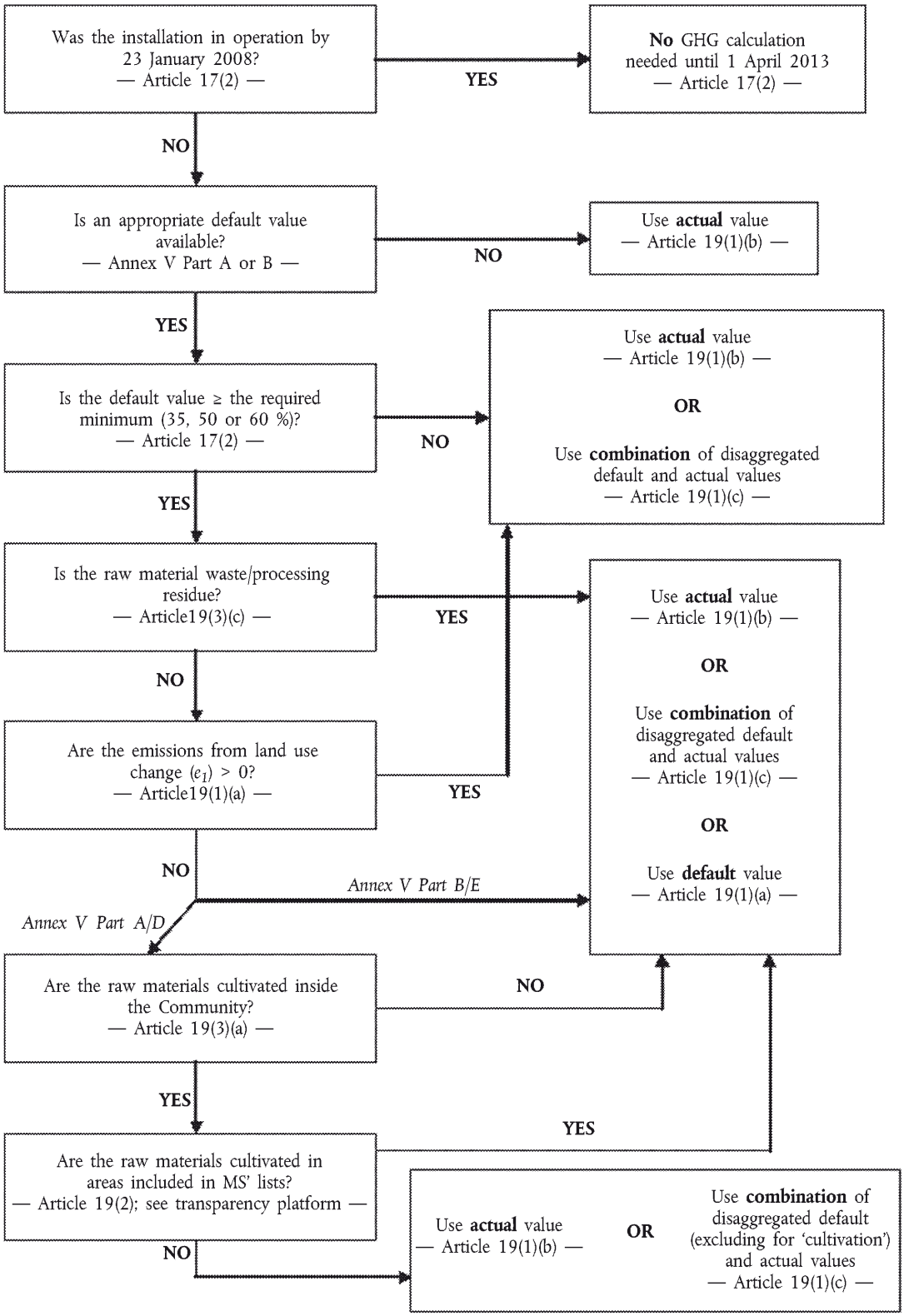
A processing residue is a substance that is not the end product(s) that a production process directly seeks to produce. It is not a primary aim of the production process and the process has not been deliberately modified to produce it.

Examples of residues include crude glycerine, tall oil pitch and manure.

([1]) Article 5(5).
([2]) Article 5(3).
([3]) Article 21(1).
([4]) Article 21(2).
([5]) That part being the physical share (the 'mass balance system' for the sustainability criteria does not apply to this provision).
([6]) Cf. recital 89 of the Renewable Energy Directive.
([7]) Cf. Annex V, part C, point 18.
([8]) Including materials that have to be withdrawn from the market for health or safety reasons.

ANNEX I

Methods for calculating the greenhouse gas impact



ANNEX II

Methodology to calculate greenhouse gas impact: further elements

Emission saving from soil carbon accumulation via improved agricultural management (Annex V, part C, point 1)

'Improved agricultural management' could include practices such as:

— shifting to reduced or zero-tillage;

— improved crop rotations and/or cover crops, including crop residue management;

— improved fertiliser or manure management;

— use of soil improver (e.g. compost).

Emission savings from such improvements can be taken into account if evidence is provided that the soil has carbon increased, or solid and verifiable evidence is provided that it can reasonably be expected to have increased, over the period in which the raw materials concerned were cultivated ([1]).

The emission savings in terms of g CO_2-eq/MJ can be calculated by using a formula as indicated in point 7 of the method, replacing the divisor '20' by the period (in years) of cultivation of the crops concerned.

Cultivation (point 6)

The inputs/variables that affect emissions from cultivation will typically include seeds, fuel, fertiliser, pesticide, yield, and N_2O emissions from the field. The short carbon cycle uptake of carbon dioxide in the plants is not taken into account here; to balance this, the emissions from the fuel in use are not taken into account in point 13.

The methodology for 'cultivation' allows — as an alternative to actual values — for the use of averages for smaller geographical areas than those used in the calculation of the default values. The default values were (with one exception) calculated for a global level. However, within the EU, the Directive places restrictions on their use. These restrictions operate at the level of NUTS 2 areas ([2]). It seems to follow that within the EU, the averages should be for NUTS 2 areas or for a more fine-grained level. A similar level would logically also be appropriate outside the EU.

N_2O emissions (point 6)

An appropriate way to take into account N_2O emissions from soils is the IPCC methodology, including what are described there as both 'direct' and 'indirect' N_2O emissions ([3]). All three IPCC tiers could be used by economic operators. Tier 3, which relies on detailed measurement and/or modelling, seems more relevant for the calculation of 'regional' cultivation values (cf. Section 3.3 of this Communication) than for other calculations of actual values.

Land use change (points 7 and 10)

Land-use change should be understood as referring to changes in terms of land cover between the six land categories used by the IPCC (forest land, grassland, cropland, wetlands, settlements and other land) plus a seventh category of perennial crops, i.e. multi-annual crops whose stem is usually not annually harvested such as short rotation coppice and oil palm ([4]). This means, for example, that a change from grassland to cropland is a land-use change, while a change from one crop (such as maize) to another (such as rapeseed) is not. Cropland includes fallow land (i.e. land set at rest for one or several years before being cultivated again). A change of management activities, tillage practice or manure input practice is not considered land-use change.

([1]) Measurements of soil carbon can constitute such evidence, e.g. by a first measurement in advance of the cultivation and subsequent ones at regular intervals several years apart. In such case, before the second measurement is available, increase in soil carbon would be estimated using a relevant scientific basis. From the second measurement onwards, the measurements would constitute the basis for determining the existence of an increase in soil carbon and its magnitude.

([2]) Article 19(2) and (3). These regions are specified in Annex I to Regulation (EC) No 1059/2003. Interactive maps of the regions are available at: http://ec.europa.eu/eurostat/ramon/nuts/home_regions_en.html

([3]) Cf. 2006 IPCC guidelines for National Greenhouse Gas Inventories, Volume 4, Chapter 11 (http://www.ipcc-nggip.iges.or.jp/public/2006gl/pdf/4_Volume4/V4_11_Ch11_N2O&CO2.pdf).

([4]) Because such land has features of both cropland and forest land.

The guidelines for the calculation of land carbon stocks [1] provide detail on the calculation. The Commission intends to publish on its transparency platform an annotated example for the calculation of emissions from carbon stock changes due to land use change.

Emission intensity of grid electricity (point 11)

The Directive requires the use of the average emission intensity for a 'defined region'. In the case of the EU the most logical choice is the whole EU. In the case of third countries, where grids are often less linked-up across borders, the national average could be the appropriate choice.

Energy allocation (points 17 and 18)

The lower heating value used in applying this rule should be that of the entire (co-)product, not of only the dry fraction of it. In many cases, however, notably in relation to nearly-dry products, the latter could give a result that is an adequate approximation.

Since heat does not have a lower heating value no emissions can be allocated to it on that basis.

No emissions should be allocated to agricultural crop residues and processing residues, since they are considered to have zero emissions until the point of their collection [2], nor to waste. Further detail on waste and residues is in Section 5.2.

Allocation should be applied directly after a co-product (a substance that would normally be storable or tradable) and biofuel/bioliquid/intermediate product are produced at a process step. This can be a process step within a plant after which further 'downstream' processing takes place, for either product. However, if downstream processing of the (co-) products concerned is interlinked (by material or energy feedback loops) with any upstream part of the processing, the system is considered a 'refinery' [3] and allocation is applied at the points where each product has no further downstream processing that is interlinked by material or energy feedback-loops with any upstream part of the processing.

Electricity from combined heat and power (CHP) (point 16)

The general allocation rule in point 17 does not apply for electricity from CHP when the CHP runs on (i) fossil fuels; (ii) bioenergy, where this is not a co-product from the same process; or (iii) agricultural crop residues, even if they are a co-product from the same process. Instead, the rule in point 16 applies as follows:

(a) Where the CHP supplies heat not only to the biofuel/bioliquid process but also for other purposes, the size of the CHP should be notionally reduced — for the calculation — to the size that is necessary to supply only the heat necessary for the biofuel/bioliquid process. The primary electricity output of the CHP should be notionally reduced in proportion.

(b) To the amount of electricity that remains — after this notional adjustment and after covering any actual internal electricity needs — a greenhouse gas credit should be assigned that should be subtracted from the processing emissions.

(c) The amount of this benefit is equal to the life cycle emissions attributable to the production of an equal amount of electricity from the same type of fuel in a power plant.

Fossil fuel comparator (point 19)

The fossil fuel comparator to be used at present for biofuels is 83,8 g CO_2-eq/MJ. This value will be superseded by 'the latest actual average emissions from the fossil part of petrol and diesel in the Community' when that information becomes available from the reports submitted under the Fuel Quality Directive [4].

That reporting has to be done yearly, starting with reporting for 2011. If it is possible to calculate it, the Commission will publish the new value for the fossil fuel comparator on its transparency platform accompanied by a date from which the figure can be considered 'available' and has to be used. The Commission will take into account the latest such update in its next amendment of the typical and default values in the Directive.

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[1] OJ L 151, 17.6.2010, p. 19.
[2] Similarly, when these materials are used as feedstock they start with zero emissions at the point of collection.
[3] cf. Annex V, part C, point, 18 last subparagraph.
[4] Under Article 7a of the Fuel Quality Directive (road) fuel/energy suppliers designated by Member States have to report to designated authorities on: (i) the total volume of each type of fuel/energy supplied, indicating where purchased and its origin; and (ii) the life cycle greenhouse gas emissions per unit of energy.

Non-opposition to a notified concentration

(Case COMP/M.5866 — Sun Capital/Beauty Business)

(Text with EEA relevance)

(2010/C 160/03)

On 15 June 2010, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

— in the merger section of the Competition website of the Commission (http://ec.europa.eu/competition/mergers/cases/). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,

— in electronic form on the EUR-Lex website (http://eur-lex.europa.eu/en/index.htm) under document number 32010M5866. EUR-Lex is the on-line access to the European law.

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN COMMISSION

Euro exchange rates [1]

18 June 2010

(2010/C 160/04)

1 euro =

	Currency	Exchange rate		Currency	Exchange rate
USD	US dollar	1,2372	AUD	Australian dollar	1,4249
JPY	Japanese yen	112,12	CAD	Canadian dollar	1,2723
DKK	Danish krone	7,4398	HKD	Hong Kong dollar	9,6309
GBP	Pound sterling	0,83570	NZD	New Zealand dollar	1,7588
SEK	Swedish krona	9,5599	SGD	Singapore dollar	1,7170
CHF	Swiss franc	1,3745	KRW	South Korean won	1 490,51
ISK	Iceland króna		ZAR	South African rand	9,3263
NOK	Norwegian krone	7,8615	CNY	Chinese yuan renminbi	8,4454
BGN	Bulgarian lev	1,9558	HRK	Croatian kuna	7,2010
CZK	Czech koruna	25,733	IDR	Indonesian rupiah	11 328,86
EEK	Estonian kroon	15,6466	MYR	Malaysian ringgit	4,0221
HUF	Hungarian forint	280,05	PHP	Philippine peso	56,783
LTL	Lithuanian litas	3,4528	RUB	Russian rouble	38,3840
LVL	Latvian lats	0,7076	THB	Thai baht	40,091
PLN	Polish zloty	4,0675	BRL	Brazilian real	2,2000
RON	Romanian leu	4,2400	MXN	Mexican peso	15,5454
TRY	Turkish lira	1,9290	INR	Indian rupee	57,1220

[1] *Source*: reference exchange rate published by the ECB.

NOTICES FROM MEMBER STATES

Decision on a reorganisation measure in respect of ARFIN Compagnia di Assicurazioni e Riassicurazioni SpA

(Publication in accordance with Article 6 of Directive 2001/17/EC of the European Parliament and of the Council of 19 March 2001 on the reorganisation and winding-up of insurance undertakings)

(2010/C 160/05)

Insurance undertaking	ARFIN Compagnia di Assicurazioni e Riassicurazioni SpA Viale Nazario Sauro 14 20124 Milano MI ITALIA
Date, entry into force and nature of the decision	ISVAP measure No 2795 of 14 April 2010 — Appointment of a Commissioner for interim management within the meaning of Article 230 of Legislative Decree No 209/2005
Competent authorities	ISVAP Via del Quirinale 21 00187 Roma RM ITALIA
Supervisory authority	ISVAP Via del Quirinale 21 00187 Roma RM ITALIA
Commissioner appointed	Dott. Angelo Cremonese Viale Nazario Sauro 14 20124 Milano MI ITALIA
Applicable law	Italy Article 230 of Legislative Decree No 209/2005

Under ISVAP measure No 2795 of 14 April 2010 Dott. Angelo Cremonese has been appointed within the meaning of Article 230 of Legislative Decree No 209 of 7 September 2005 as Commissioner for the interim management of ARFIN Compagnia di Assicurazioni e Riassicurazioni SpA, with head offices in Milan at Viale Nazario Sauro 14, for a maximum period of two months from the date of adoption of this measure. Consequently, the powers of the administrative and controlling bodies of the company are suspended.

V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON COMMERCIAL POLICY

EUROPEAN COMMISSION

Notice of initiation of an anti-dumping proceeding concerning imports of ceramic tiles originating in the People's Republic of China

(2010/C 160/06)

The Commission has received a complaint pursuant to Article 5 of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community [1] (the basic Regulation), alleging that imports of ceramic tiles, originating in the People's Republic of China, are being dumped and are thereby causing material injury to the Union industry.

1. **Complaint**

The complaint was lodged on 7 May 2010 by the European Ceramic Tile Manufacturers' Federation (CET) (the complainant) on behalf of producers representing a major proportion, in this case more than 30 % of the total Union production of ceramic tiles.

2. **Product under investigation**

The product subject to this investigation is glazed and unglazed ceramic flags and paving, hearth or wall tiles; glazed and unglazed ceramic mosaic cubes and the like, whether or not on a backing (the product under investigation).

3. **Allegation of dumping** [2]

The product allegedly being dumped is the product under investigation, originating in the People's Republic of China (the country concerned), currently falling within CN codes 6907 10 00, 6907 90 10, 6907 90 91, 6907 90 93, 6907 90 99, 6908 10 10, 6908 10 90, 6908 90 11, 6908 90 21, 6908 90 29, 6908 90 31, 6908 90 51, 6908 90 91, 6908 90 93, 6908 90 99. These CN codes are given for information only.

Since, in view of the provisions of Article 2(7) of the basic Regulation, the People's Republic of China is considered to be a non-market economy country, the complainant established normal value for the imports from the People's Republic of China on the basis of the price in a market economy third country, namely the United States of America. The allegation of dumping is based on a comparison of the normal value thus established with the export prices (at ex-works level) of the product under investigation when sold for export to the Union.

On this basis the dumping margins calculated are significant for the exporting country concerned.

4. **Allegation of injury**

The complainant has provided evidence that imports of the product under investigation from the country concerned have increased overall in absolute terms and have increased in terms of market share.

The prima facie evidence provided by the complainant shows that the volume and the prices of the imported product under investigation have, among other consequences, had a negative impact on the quantities sold and the market share held by the Union industry, resulting in substantial adverse effects on the overall performance of the Union industry.

5. **Procedure**

Having determined, after consulting the Advisory Committee, that the complaint has been lodged by or on behalf of the Union industry and that there is sufficient evidence to justify the initiation of a proceeding, the Commission hereby initiates an investigation pursuant to Article 5 of the basic Regulation.

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[1] OJ L 343, 22.12.2009, p. 51.

[2] Dumping is the practice of selling a product for export (the product concerned) at a price below its 'normal value'. The normal value is usually taken to be a comparable price for the 'like product' on the domestic market of the exporting country. The term 'like product' is interpreted to mean a product which is alike in all respects to the product concerned or, in the absence of such a product, a product which closely resembles the product.

The investigation will determine whether the product under investigation originating in the country concerned is being dumped and whether this dumping has caused injury to the Union industry. If the conclusions are affirmative, the investigation will examine whether the imposition of measures would not be against Union interest.

5.1. ***Procedure for the determination of dumping***

Exporting producers ([3]) of the product under investigation from the country concerned are invited to participate in the Commission investigation.

5.1.1. *Investigating exporting producers*

5.1.1.1. Countries for which sampling may apply, i.e. countries with a large number of exporting producers

(a) Sampling

In view of the potentially large number of exporting producers in the country concerned involved in this proceeding and in order to complete the investigation within the statutory time limits, the Commission may limit the exporting producers to be investigated to a reasonable number by selecting a sample (this process is also referred to as 'sampling'). The sampling will be carried out in accordance with Article 17 of the basic Regulation.

In order to enable the Commission to decide whether sampling is necessary, and if so, to select a sample, all exporting producers, or representatives acting on their behalf, are hereby requested to make themselves known to the Commission. These parties have to do so within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified, by providing the Commission with the following information on their company or companies:

— name, address, e-mail address, telephone and fax numbers and contact person,

— the turnover in local currency and the volume in m^2 of the product under investigation sold for export to the Union during the period 1 April 2009 till 31 March 2010 (Investigation Period or 'IP') for each of the 27 Member States ([4]) separately and in total;

— the turnover in local currency and the volume in m^2 of the product under investigation sold on the domestic market during the period 1 April 2009 till 31 March 2010;

— the precise activities of the company worldwide with regard to the product under investigation;

— the names and the precise activities of all related companies ([5]) involved in the production and/or sales (export and/or domestic) of the product under investigation;

— any other relevant information that would assist the Commission in the selection of the sample.

The exporting producers should also indicate whether, in the event that they are not selected to be in the sample, they would like to receive a questionnaire and other claim forms in order to fill these in and thus claim an individual dumping margin in accordance with section (b) below.

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is selected to be part of the sample, this will imply completing a questionnaire and accepting a visit at its premises in order to verify its response (on-spot verification). If the company indicates that it does not agree to its possible inclusion in the sample, it will be deemed not to have cooperated in the investigation. The Commission findings for non-cooperating exporting producers are based on facts available and the result may be less favourable to that party than if it had cooperated.

In order to obtain the information it deems necessary for the selection of the sample of exporting producers, the Commission will also contact the authorities of the county concerned and may contact any known associations of exporting producers.

All interested parties wishing to submit any other relevant information regarding the selection of the sample, excluding the information requested above, must do so within 21 days of the publication of this notice in the *Official Journal of the European Union*, unless otherwise specified.

([3]) An exporting producer is any company in the country concerned which produces and exports the product under investigation to the Union market, either directly or via third party, including any of its related companies involved in the production, domestic sales or exports of the product concerned. Non-producing exporters are normally not entitled to an individual duty rate.

([4]) The 27 Member States of the European Union are: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

([5]) In accordance with Article 143 of Commission Regulation (EEC) No 2454/93 concerning the implementation of the Community Customs Code, persons shall be deemed to be related only if: (a) they are officers or directors of one another's businesses; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) any person directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they directly or indirectly control a third person; or (h) they are members of the same family. Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another: (i) husband and wife, (ii) parent and child, (iii) brother and sister (whether by whole or half blood), (iv) grandparent and grandchild, (v) uncle or aunt and nephew or niece, (vi) parent-in-law and son-in-law or daughter-in-law, (vii) brother-in-law and sister-in-law. (OJ L 253, 11.10.1993, p. 1). In this context 'person' means any natural or legal person.

If a sample is necessary, the exporting producers may be selected based on the largest representative volume of exports to the Union which can reasonably be investigated within the time available. All known exporting producers, the authorities of the exporting country and associations of exporting producers will be notified by the Commission, via the authorities of the exporting country if appropriate, of the companies selected to be in the sample.

All exporting producers selected to be in the sample will have to submit a completed questionnaire within 37 days from the date of notification of the sample selection, unless otherwise specified.

Companies that had agreed to their possible inclusion in the sample but were not selected to be in the sample shall be considered to be cooperating (non-sampled cooperating exporting producers). Without prejudice to Section (b) below, the anti-dumping duty that may be applied to imports from the non-sampled cooperating exporting producers will not exceed the weighted average margin of dumping established for the exporting producers in the sample.

(b) Individual dumping margin for companies not included in the sample

Non-sampled cooperating exporting producers may request, pursuant to Article 17(3) of the basic Regulation, that the Commission establish their individual dumping margins (individual dumping margin). The exporting producers wishing to claim an individual dumping margin must request a questionnaire and other claim forms in accordance with Section (a) above and return them duly completed within the deadlines specified below. The completed questionnaire reply must be submitted within 37 days of the date of the notification of the sample selection, unless otherwise specified. It must be underlined that, in order for the Commission to be able to establish individual dumping margins for those exporting producers in the non-market economy country, it must be proven that they fulfil the criteria for being granted market economy treatment (MET) or at least individual treatment (IT) as specified in Section 5.1.2.2 below.

However, exporting producers claiming an individual dumping margin should be aware that the Commission may nonetheless decide not to determine their individual dumping margin if, for instance, the number of exporting producers is so large that such determination would be unduly burdensome and would prevent the timely completion of the investigation.

5.1.2. *Procedure with regard to exporting producers in non-market economy country concerned*

5.1.2.1. Selection of a Market Economy Country

Subject to the provisions of Section 5.1.2.2 below, in accordance with Article 2(7)(a) of the basic Regulation, in the case of imports from the People's Republic of China normal value shall be determined on the basis of the price or constructed value in a market economy third country. For this purpose the Commission shall select an appropriate market economy third country. The Commission has provisionally chosen the United States of America. Interested parties are hereby invited to comment on the appropriateness of this choice within 10 days of the date of publication of this notice in the *Official Journal of the European Union*.

5.1.2.2. Treatment of exporting producers in the non-market economy country concerned

In accordance with Article 2(7)(b) of the basic Regulation, individual exporting producers in the country concerned, which consider that market economy conditions prevail for them in respect of the manufacture and sale of the product under investigation, may submit a properly substantiated claim to this effect (MET claim). Market economy treatment (MET) will be granted if the assessment of the MET claim shows that criteria laid down in Article 2(7)(c) of the basic Regulation [6] are fulfilled. The dumping margin of the exporting producers granted MET will be calculated, to the extent possible and without prejudice to the use of facts available pursuant to Article 18 of the basic Regulation, by using their own normal value and export prices in accordance with Article 2(7)(b) of the basic Regulation.

Individual exporting producers in the country concerned may also, or as an alternative, claim individual treatment (IT). To be granted IT these exporting producers must provide evidence that they fulfil the criteria set out in Article 9(5) of the basic Regulation [7]. The dumping margin of the exporting producers granted IT will be calculated on the basis of their own export prices. The normal value for exporting producers granted IT will be based on the values established for the market economy third country selected as outlined above.

[6] The exporting producers have to demonstrate in particular that: (i) business decisions and costs are made in response to market conditions and without significant State interference; (ii) firms have one clear set of basic accounting records which are independently audited in line with international accounting standards and are applied for all purposes; (iii) there are no significant distortions carried over from the former non-market economy system; (iv) bankruptcy and property laws guarantee legal certainty and stability and (v) exchange rate conversions are carried out at market rates.

[7] The exporting producers have to demonstrate in particular that: (i) in the case of wholly or partly foreign owned firms or joint ventures, exporters are free to repatriate capital and profits; (ii) export prices and quantities and conditions and terms of sale are freely determined; (iii) the majority of the shares belong to private persons. State officials appearing on the Board of Directors or holding key management positions shall either be in a minority or it must be demonstrated that the company is nonetheless sufficiently independent from State interference; (iv) exchange rate conversions are carried out at the market rate and (v) State interference is not such as to permit circumvention of measures if individual exporters are given different rates of duty.

(a) Market economy treatment (MET)

The Commission will send MET claim forms to all the exporting producers in the country concerned selected to be in the sample and to non-sampled cooperating exporting producers that wish to apply for an individual dumping margin, to any known association of exporting producers, as well as to the authorities of the country concerned.

All exporting producers claiming MET should submit a completed MET claim form within 15 days of the date of the notification of the sample selection or of the decision not to select a sample, unless otherwise specified.

(b) Individual treatment (IT)

To apply for IT, exporting producers in the country concerned selected to be in the sample and non-sampled cooperating exporting producers that wish to apply for an individual dumping margin should submit the MET claim form with the sections relevant for IT duly completed within 15 days of the date of the notification of sample selection, unless otherwise specified.

5.1.3. *Investigating unrelated importers* ([8]) ([9])

In view of the potentially large number of unrelated importers involved in this proceeding and in order to complete the investigation within the statutory time limits, the Commission may limit to a reasonable number the unrelated importers that will be investigated by selecting a sample (this process is also referred to as 'sampling'). The sampling will be carried out in accordance with Article 17of the basic Regulation.

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all unrelated importers, or representatives acting on their behalf, are hereby requested to make themselves known to the Commission. These parties should do so within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified, by providing the Commission with the following information on their company or companies:

— name, address, e-mail address, telephone and fax numbers and contact person,

— the precise activities of the company with regard to the product under investigation,

— total turnover during the period 1 April 2009 till 31 March 2010,

— the volume in m^2 and value in euro of imports into and re-sales made on the Union market during the period 1 April 2009 till 31 March 2010 of the imported product under investigation originating in the People's Republic of China,

— the names and the precise activities of all related companies ([10]) involved in the production and/or sales of the product under investigation,

— any other relevant information that would assist the Commission in the selection of the sample.

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is selected to be part of the sample, this will imply completing a questionnaire and accepting a visit at its premises in order to verify its response (on-spot verification). If the company indicates that it does not agree to its possible inclusion in the sample, it will be deemed not to have cooperated in the investigation. The Commission findings for non-cooperating importers are based on the facts available and the result may be less favourable to that party than if it had cooperated.

In order to obtain the information it deems necessary for the selection of the sample of unrelated importers, the Commission may also contact any known associations of importers.

All interested parties wishing to submit any other relevant information regarding the selection of the sample, excluding the information requested above, must do so within 21 days of the publication of this notice in the *Official Journal of the European Union*, unless otherwise specified.

If a sample is necessary, the importers may be selected based on the largest representative volume of sales of the product under consideration in the Union which can reasonably be investigated within the time available. All known unrelated importers and associations of importers will be notified by the Commission of the companies selected to be in the sample.

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the sampled unrelated importers and to any known association of importers. These parties must submit a completed questionnaire within 37 days from the date of the notification of the sample selection, unless otherwise specified. The completed questionnaire will contain information on, inter alia, the structure of their company(ies), the activities of the company(ies) in relation to the product under investigation and on the re-sales of the product under investigation.

([8]) Only importers not related to exporting producers can be sampled. Importers that are related to exporting producers have to fill in Annex 1 to the questionnaire for these exporting producers. For the definition of a related party see footnote 5.

([9]) The data provided by unrelated importers may also be used in relation to aspects of this investigation other than the determination of dumping.

([10]) See footnote 5.

5.2. ***Procedure for the determination of injury***

Injury means material injury to the Union industry, or threat of material injury to the industry, or material retardation of the establishment of such an industry. A determination of injury is based on positive evidence and shall involve an objective examination of the volume of the dumped imports, their effect on prices in the Union market for like products and the consequent impact of those imports on the Union industry. In order to establish whether the Union industry is materially injured, Union producers of the product under investigation are invited to participate in the Commission investigation.

5.2.1. *Investigating Union producers*

In view of the potentially large number of Union producers involved in this proceeding and in order to complete the investigation within the set time limits, the Commission may limit to a reasonable number the Union producers that will be investigated by selecting a sample (this process is also referred to as 'sampling'). The sampling will be carried out in accordance with Article 17 of the basic Regulation.

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all Union producers, or representatives acting on their behalf, are hereby requested to make themselves known to the Commission. These parties should do so within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified, by providing the Commission with the following information on their company or companies:

— name, address, e-mail address, telephone and fax numbers and contact person,

— the precise activities of the company worldwide with regard to the product under investigation,

— the value in euro of sales of the product under investigation made on the Union market during the period 1 April 2009 till 31 March 2010,

— the volume in m^2 of sales of the product under investigation made on the Union market during the period 1 April 2009 till 31 March 2010,

— the volume in m^2 of the production of the product under investigation during the period 1 April 2009 till 31 March 2010,

— the volume in m^2 imported into the Union of the product under investigation produced in the country concerned during the period 1 April 2009 till 31 March 2010, if applicable,

— the names and the precise activities of all related companies [11] involved in the production and/or sales of the product under investigation (whether produced in the Union or in the country concerned),

— any other relevant information that would assist the Commission in the selection of the sample.

Should any of this information have already been provided to the Commission's Trade Defence Services, companies need not resubmit it. By making themselves known and providing the above information, the company agrees to its possible inclusion in the sample. If the company is selected to be part of the sample, this will imply completing a questionnaire and accepting a visit at its premises in order to verify its response (on-spot verification). If the company indicates that it does not agree to its possible inclusion in the sample, it will be deemed not to have cooperated in the investigation. The Commission findings for non-cooperating Union producers are based on the facts available and the result may be less favourable to that party than if it had cooperated.

In order to obtain the information it deems necessary for the selection of the sample of Union producers, the Commission may also contact any known associations of Union producers.

All interested parties wishing to submit any other relevant information regarding the selection of the sample, excluding the information listed above, must do so within 21 days of the publication of this notice in the *Official Journal of the European Union*, unless otherwise specified.

If a sample is necessary, the Union producers may be selected based on the largest representative volume of sales in the Union which can reasonably be investigated within the time available. All known Union producers and associations of Union producers will be notified by the Commission of the companies selected to be in the sample.

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the sampled Union producers and to any known association of Union producers. These parties must submit a completed questionnaire within 37 days from the date of the notification of the sample selection, unless otherwise specified. The completed questionnaire will contain information on, inter alia, the structure of their company(ies), the financial situation of the company(ies), the activities of the company(ies) in relation to the product under investigation, the cost of production and the sales of the product under investigation.

[11] See footnote 5.

5.3. ***Procedure for the assessment of Union interest***

Should the existence of dumping and injury caused thereby be established, a decision will be reached as to whether the adoption of anti-dumping measures would not be against the Union interest pursuant to Article 21 of the basic Regulation. Union producers, importers and their representative associations, users and their representative associations, suppliers and their representative associations and representative consumer organisations are invited to make themselves known within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified. In order to participate in the investigation, the representative consumer organisations have to demonstrate, within the same deadline, that there is an objective link between their activities and the product under investigation.

Parties that make themselves known within the above deadline may provide the Commission with information on whether the imposition of measures would not be against Union interest within 37 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified. This information may be provided either by completing a questionnaire prepared by the Commission or in a free format ideally covering issued covered by this questionnaire. In any case, information submitted pursuant to Article 21 will only be taken into account if supported by factual evidence at the time of submission.

5.4. ***Other written submissions***

Subject to the provisions of this notice, all interested parties are hereby invited to make their views known, submit information and provide supporting evidence. Unless otherwise specified, this information and supporting evidence should reach the Commission within 37 days of the date of publication of this notice in the *Official Journal of the European Union*.

5.5. ***Possibility to be heard by the Commission investigation services***

All interested parties may request to be heard by the Commission investigation services. Any request to be heard should be made in writing and should specify the reasons for the request. For hearings on issues pertaining to the initial stage of the investigation the request must be submitted within 15 days of the date of publication of this notice in the *Official Journal of the European Union*. Thereafter, a request to be heard should be submitted within the specific deadlines set by the Commission in its communication with the parties.

5.6. ***Procedure for making written submissions and sending completed questionnaires and correspondence***

All submissions, including information submitted for the selection of the sample, completed MET claim forms, completed questionnaires and updates thereof, made by interested parties must be made in writing in both paper and electronic format, and must indicate the name, address, e-mail address, telephone and fax numbers of the interested party. If an interested party cannot provide its submissions and requests in electronic format for technical reasons, it must immediately inform the Commission.

All written submissions, including the information requested in this notice, completed questionnaires and correspondence provided by interested parties for which confidential treatment is requested shall be labelled 'Limited' ([12]).

Interested parties providing 'Limited' information are required to furnish non-confidential summaries of it pursuant to Article 19(2) of the basic Regulation, which will be labelled 'For inspection by interested parties'. These summaries should be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence. If an interested party providing confidential information does not furnish a non-confidential summary of it in the requested format and quality, such confidential information may be disregarded.

Commission address for correspondence:

European Commission
Directorate-General for Trade
Directorate H
Office: N-105 04/092
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

Fax +32 22979805
E-mail: trade-ad-ceramic-tiles-china@ec.europa.eu

6. **Non-cooperation**

In cases where any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made on the basis of facts available, in accordance with Article 18 of the basic Regulation.

Where it is found that any interested party has supplied false or misleading information, the information may be disregarded and use may be made of facts available.

If an interested party does not cooperate or cooperates only partially and findings are therefore based on facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

([12]) This document is a confidential document pursuant to Article 19 of Council Regulation (EC) No 1225/2009 (OJ L 343, 22.12.2009, p. 51) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement). It is also a document protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43).

7. **Hearing Officer**

Interested parties may request the intervention of the Hearing Officer of the Directorate-General for Trade. The Hearing Officer acts as an interface between the interested parties and the Commission investigation services. The Hearing Officer reviews requests for access to the file, disputes on the confidentiality of documents, requests for extension of time limits and requests by third parties to be heard. The Hearing Officer may organise a hearing with an individual interested party and mediate to ensure that the interested parties' rights of defence are being fully exercised.

A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. For hearings on issues pertaining to the initial stage of the investigation the request must be submitted within 15 days of the date of publication of this notice in the *Official Journal of the European Union*. Thereafter, a request to be heard must be submitted within specific deadlines set by the Commission in its communication with the parties.

The Hearing Officer will also provide opportunities for a hearing involving parties to take place which would allow different views to be presented and rebuttal arguments offered on issues pertaining, among others, to dumping, injury, causal link and Union interest. Such a hearing would, as a rule, take place at the latest at the end of the fourth week following the disclosure of provisional findings.

For further information and contact details interested parties may consult the Hearing Officer's web pages on the Directorate-General for Trade's website: (http://ec.europa.eu/trade/issues/respectrules/ho/index_en.htm).

8. **Schedule of the investigation**

The investigation will be concluded, according to Article 6(9) of the basic Regulation within 15 months of the date of the publication of this notice in the *Official Journal of the European Union*. According to Article 7(1) of the basic Regulation, provisional measures may be imposed no later than nine months from the publication of this notice in the *Official Journal of the European Union*.

9. **Processing of personal data**

Any personal data collected in this investigation will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and the Council 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 ([13]).

([13]) OJ L 8, 12.1.2001, p. 1.

OTHER ACTS

EUROPEAN COMMISSION

Notice for the attention of the persons, entities and bodies added to the list referred to in Articles 7(1) and 7(3) of Council Regulation (EC) No 423/2007 concerning restrictive measures against Iran, by virtue of Commission Regulation (EU) No 532/2010

(2010/C 160/07)

1. Council Common Position 2007/140/CFSP [1] provides, amongst other measures, for the freezing of the funds and economic resources of natural or legal persons, entities and bodies designated in the Annex to UN Security Council Resolution (UNSCR) 1737 (2006) as well as those of additional persons, entities and bodies designated by the UN Security Council or by the relevant Security Council Committee in accordance with paragraph 12 of UNSCR 1737 (2006) and paragraph 7 of UNSCR 1803 (2008).

2. The UN Security Council decided on 9 June 2010 to designate one natural persons and 40 legal persons, entities or bodies pursuant to these paragraphs. The natural or legal persons, entities and bodies concerned may submit at any time a request to the UN, together with any supporting documentation, for the decision to designate them, to be reconsidered. Such request should be sent to the following address:

United Nations — Focal point for delisting
Security Council Subsidiary Organs Branch
Room S-3055 E
New York, NY 10017
UNITED STATES OF AMERICA

Further information is available: http://www.un.org/sc/committees/dfp.shtml

3. Further to the UN decisions referred to at point 2, the Commission has adopted Regulation (EU) No 532/2010 [2], which amends Annex IV to Council Regulation (EC) No 423/2007 [3] concerning restrictive measures against Iran.

Therefore, the following measures of Regulation (EC) No 423/2007 apply to the natural or legal persons, entities and bodies concerned:

(a) the freezing of funds and economic resources belonging to, or owned, held or controlled by, the persons, entities and bodies concerned, and the prohibition to make funds and economic resources available to them or for their benefit, whether directly or indirectly (Articles 7(1) and 7(3));

and

(b) the prohibition to participate, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to circumvent the measures referred to at point (a) above.

[1] OJ L 61, 28.2.2007, p. 49.
[2] OJ L 154, 18.6.2010, p. 5.
[3] OJ L 103, 20.4.2007, p. 1.

4. The natural or legal persons, entities and bodies added to Annex IV to Council Regulation (EC) No 423/2007, by means of Regulation (EU) No 532/2010, and further to the UN decisions of 9 June 2010, may make their views on their listing known to the Commission. This communication should be sent to:

European Commission
'Restrictive measures'
Rue de la Loi/Wetstraat 200
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

5. The attention of the natural or legal persons, entities and bodies concerned is also drawn to the possibility of challenging Regulation (EU) No 532/2010 before the General Court of the European Union, in accordance with the conditions laid down in Article 263 (4) and (6) of the Treaty on the Functioning of the European Union.

6. Personal data of the natural persons concerned by the listings of Regulation (EU) No 532/2010 will be handled in accordance with the rules of Regulation (EC) No 45/2001 of the European Parliament and of the Council 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 [1]. Any request, e.g. for further information or in order to exercise the rights under Regulation (EC) No 45/2001, should be sent to the Commission, under the address mentioned under point 4 above.

7. For good order, the attention of the natural or legal persons, entities and bodies listed in Annex IV is drawn to the possibility of making an application to the competent authorities of the relevant Member State(s), as indicated in the websites listed in Annex III to Council Regulation (EC) No 423/2007, in order to obtain an authorisation to use frozen funds and economic resources to satisfy their basic needs or to make certain specific payments in accordance with Article 10 of the Regulation, or an authorisation pursuant to Article 8 or 9 of the Regulation.

[1] OJ L 8, 12.1.2001, p. 1.

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