

Official Journal

of the European Union

L 76

Volume 51

19 March 2008

English edition

Legislation

Contents

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

REGULATIONS

- ★ **Council Regulation (EC) No 247/2008 of 17 March 2008 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)** 1
- ★ **Council Regulation (EC) No 248/2008 of 17 March 2008 amending Regulation (EC) No 1234/2007 as regards the national quotas for milk** 6
- ★ **Council Regulation (EC) No 249/2008 of 17 March 2008 amending Regulation (EC) No 1425/2006 imposing a definitive anti-dumping duty on imports of certain plastic sacks and bags originating in the People's Republic of China and Thailand** 8
- Commission Regulation (EC) No 250/2008 of 18 March 2008 establishing the standard import values for determining the entry price of certain fruit and vegetables
- Commission Regulation (EC) No 251/2008 of 18 March 2008 on the issuing of import licences for applications lodged during the first seven days of March 2008 under tariff quotas opened by Regulation (EC) No 533/2007 for poultrymeat
- Commission Regulation (EC) No 252/2008 of 18 March 2008 on the issuing of import licences for applications lodged during the first seven days of March 2008 under tariff quotas opened by Regulation (EC) No 539/2007 for certain products in the egg sector and for egg albumin
- Commission Regulation (EC) No 253/2008 of 18 March 2008 on the issuing of import licences for applications lodged during the first seven days of March 2008 under the tariff quota opened by Regulation (EC) No 1385/2007 for poultrymeat

Commission Regulation (EC) No 254/2008 of 18 March 2008 on the issuing of import licences for applications lodged during the first seven days of March 2008 under the tariff quota opened by Regulation (EC) No 1384/2007 for poultrymeat	21
Commission Regulation (EC) No 255/2008 of 18 March 2008 on the issuing of import licences for applications lodged during the first seven days of March 2008 under the tariff quota opened by Regulation (EC) No 1383/2007 for poultrymeat	23
Commission Regulation (EC) No 256/2008 of 18 March 2008 on the issuing of import licences for applications lodged during the first seven days of March 2008 under the tariff quota opened by Regulation (EC) No 1399/2007 for meat products originating in Switzerland	24
Commission Regulation (EC) No 257/2008 of 18 March 2008 on the issuing of import licences for applications lodged during the first seven days of March 2008 under the tariff quota opened by Regulation (EC) No 1382/2007 for pigmeat	25
Commission Regulation (EC) No 258/2008 of 18 March 2008 amending the representative prices and additional duties for the import of certain products in the sugar sector fixed by Regulation (EC) No 1109/2007 for the 2007/08 marketing year	26
★ Commission Regulation (EC) No 259/2008 of 18 March 2008 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the publication of information on the beneficiaries of funds deriving from the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD)	28
★ Commission Regulation (EC) No 260/2008 of 18 March 2008 amending Regulation (EC) No 396/2005 of the European Parliament and of the Council by establishing Annex VII listing active substance/product combinations covered by a derogation as regards post harvest treatments with a fumigant ⁽¹⁾	31

DIRECTIVES

★ Directive 2008/10/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2004/39/EC on markets in financial instruments, as regards the implementing powers conferred on the Commission	33
★ Directive 2008/11/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading, as regards the implementing powers conferred on the Commission ⁽¹⁾	37
★ Directive 2008/12/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators, as regards the implementing powers conferred on the Commission	39
★ Directive 2008/13/EC of the European Parliament and of the Council of 11 March 2008 repealing Council Directive 84/539/EEC on the approximation of the laws of the Member States relating to electro-medical equipment used in veterinary medicine ⁽¹⁾	41



⁽¹⁾ Text with EEA relevance

★ Directive 2008/18/EC of the European Parliament and of the Council of 11 March 2008 amending Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), as regards the implementing powers conferred on the Commission	42
★ Directive 2008/19/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2002/83/EC concerning life assurance, as regards the implementing powers conferred on the Commission	44
★ Directive 2008/20/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, as regards the implementing powers conferred on the Commission ⁽¹⁾	46
★ Directive 2008/21/EC of the European Parliament and of the Council of 11 March 2008 amending Council Directive 91/675/EEC setting up a European insurance and occupational pensions committee, as regards the implementing powers conferred on the Commission	48
★ Directive 2008/22/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market, as regards the implementing powers conferred on the Commission	50
★ Directive 2008/23/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2006/49/EC on the capital adequacy of investment firms and credit institutions, as regards the implementing powers conferred on the Commission	54

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

DECISIONS

Commission

2008/233/EC:

★ Commission Decision of 17 March 2008 amending Decision 2004/558/EC implementing Council Directive 64/432/EEC as regards additional guarantees for intra-Community trade in bovine animals relating to infectious bovine rhinotracheitis and the approval of the eradication programme presented by certain Member States (notified under document number C(2008) 1004) ⁽¹⁾	56
---	----

2008/234/EC:

★ Commission Decision of 18 March 2008 amending Decision 2003/467/EC as regards the declaration that certain administrative regions of Poland are officially free of enzootic bovine leucosis (notified under document number C(2008) 974) ⁽¹⁾	58
---	----



⁽¹⁾ Text with EEA relevance

I

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

REGULATIONS

COUNCIL REGULATION (EC) No 247/2008

of 17 March 2008

amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

(1) The processing aid for short flax fibre and hemp fibre containing not more than 7,5 % impurities and shives applies until the end of 2007/2008 marketing year. Nevertheless, in view of the favourable trends on the market for this kind of fibre under the current aid scheme and in order to contribute to consolidating innovative products and their market outlets, application of this aid should be extended until the end of the 2008/2009 marketing year.

(2) Council Regulation (EC) No 1673/2000 of 27 July 2000 on the common organisation of the markets in flax and hemp grown for fibre⁽¹⁾ provided for an increase in the level of processing aid for long flax fibre from the 2008/2009 marketing year onwards. Regulation (EC) No 1673/2000 has been replaced by Council Regulation (EC) No 1234/2007 as of the marketing year 2008/2009. The provisions of Regulation (EC) No 1234/2007 were drafted in view of the provisions of Regulation (EC) No 1673/2000 as they would have applied as of that marketing year, therefore fixing the aid at the level foreseen. Since the processing aid for

short fibres is maintained till the end of the 2008/2009 marketing year, the processing aid for long flax fibre for that additional marketing year should be maintained at the level that has so far been foreseen in Regulation (EC) No 1673/2000 until the end of the 2007/2008 marketing year.

(3) In order to promote the production of high-quality short flax and hemp fibres, the aid is granted to fibres containing a maximum of 7,5 % of impurities and shives. However, the Member States may derogate from this limit and grant processing aid for short flax fibre containing a percentage of impurities and shives of between 7,5 % and 15 % and for hemp fibre containing a percentage of impurities and shives of between 7,5 % and 25 %. Since this possibility is open only till the end of the 2007/2008 marketing year, it is necessary to give the Member States the possibility to derogate from that limit for one more marketing year.

(4) As new market outlets have developed it is required to guarantee a minimum level of raw material supply. So in order to continue to ensure reasonable production levels in each Member State, it is necessary to extend the period in which the national guaranteed quantities apply.

(5) Additional aid has been supporting the continuation of traditional production of flax in certain regions of the Netherlands, Belgium and France. In order to continue enabling gradual adaptation of farm structures to the new market conditions, it is necessary to extend this transitional aid until the end of 2008/2009 marketing year.

⁽¹⁾ OJ L 193, 29.7.2000, p. 16. Regulation as repealed by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1).

(6) Regulation (EC) No 1234/2007 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1234/2007 is hereby amended as follows:

1. the title of Subsection II of Section I of Chapter IV of Title I of Part II shall be replaced by the following:

‘Subsection II

Flax and hemp grown for fibre’;

2. Article 91 shall be amended as follows:

(a) the first subparagraph of paragraph 1 shall be replaced by the following subparagraphs:

‘1. Aid for processing the straw of long flax grown for fibre shall be granted to authorised primary processors on the basis of the quantity of fibre actually obtained from straw for which a contract of sale has been concluded with a farmer.

During the marketing year 2008/2009 aid shall also be granted under the same conditions for processing the straw of short flax and hemp grown for fibre.’;

(b) paragraph 2 shall be replaced by the following:

‘2. For the purposes of this Subsection, “authorised primary processor” shall mean a natural or legal person or a group of natural or legal persons, irrespective of its legal status under national law, or that of its members, that has been authorised by the competent authority of the Member State in the territory of which are located its facilities for producing flax or hemp fibre.’;

3. Article 92(1) shall be replaced by the following:

‘1. The amount of processing aid provided for in Article 91 shall be fixed:

(a) for long flax fibre:

— at EUR 160 per tonne for the 2008/2009 marketing year,

— at EUR 200 per tonne from the 2009/2010 marketing year onwards;

(b) during the marketing year 2008/2009, for short flax and hemp fibre containing not more than 7,5 % impurities and shives, at EUR 90 per tonne.

However, the Member State may, with reference to traditional outlets, also decide to grant aid:

(a) for short flax fibre containing a percentage of impurities and shives of between 7,5 % and 15 %;

(b) for hemp fibre containing a percentage of impurities and shives of between 7,5 % and 25 %.

In the cases provided for in the second subparagraph, the Member State shall grant the aid in respect of a quantity which amounts to not more than the quantity produced, on the basis of 7,5 % of impurities and shives.’;

4. Article 94 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

‘1. A maximum guaranteed quantity of 80 878 tonnes per marketing year shall be established for long flax fibre in respect of which aid may be granted. That quantity shall be apportioned among certain Member States as national guaranteed quantities in accordance with point A.I. of Annex XI.’;

(b) the following paragraph shall be inserted after paragraph 1:

‘1a. A maximum guaranteed quantity of 147 265 tonnes for the marketing year 2008/2009 shall be established for short flax fibre and hemp fibre in respect of which aid may be granted. That quantity shall be apportioned as national guaranteed quantities among certain Member States in accordance with point A.II. of Annex XI.’;

(c) the following paragraph shall be added:

‘3. Each Member State may transfer part of its national guaranteed quantity as referred to in paragraph 1 to its national guaranteed quantity as referred to in paragraph 1a and *vice versa*.

Transfers as referred to in the first subparagraph shall be carried out on the basis of an equivalence of one tonne of long flax fibre to 2,2 tonnes of short flax fibre and hemp fibre.

Processing aid shall be granted only in respect of the quantities referred to in paragraphs 1 and 1a, respectively, adjusted in accordance with the first two subparagraphs of this paragraph.’;

5. the following Article shall be inserted after Article 94:

'Article 94a

Additional aid

During the 2008/2009 marketing year, additional aid shall be granted to the authorised primary processor in respect of areas under flax in zones I and II as described in point A.III. of Annex XI and the straw production of which has been the subject of:

- (a) a sale/purchase contract or a commitment as referred to in Article 91(1); and
- (b) aid for processing into long fibre.

The amount of additional aid shall be EUR 120 per hectare in zone I and EUR 50 per hectare in zone II.;

6. Annex XI shall be amended in accordance with the Annex to this Regulation.

Article 2

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

It shall apply from 1 July 2008.

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

Done at Brussels, 17 March 2008.

For the Council
The President
I. JARC

ANNEX

Point A of Annex XI shall be replaced by the following:

'A.I. Apportionment of the maximum guaranteed quantity for long flax fibre among the Member States referred to in Article 94(1):

Belgium	13 800
Bulgaria	13
Czech Republic	1 923
Germany	300
Estonia	30
Spain	50
France	55 800
Latvia	360
Lithuania	2 263
Netherlands	4 800
Austria	150
Poland	924
Portugal	50
Romania	42
Slovakia	73
Finland	200
Sweden	50
United Kingdom	50

A.II. Apportionment of the maximum guaranteed quantity for the marketing year 2008/2009 for short flax and hemp fibre among the Member States referred to in Article 94(1a)

The quantity referred to in Article 94(1a) shall be apportioned in the form of:

(a) national guaranteed quantities for the following Member States:

Belgium	10 350
Bulgaria	48
Czech Republic	2 866
Germany	12 800
Estonia	42
Spain	20 000
France	61 350
Latvia	1 313
Lithuania	3 463
Hungary (*)	2 061
Netherlands	5 550
Austria	2 500
Poland	462
Portugal	1 750
Romania	921

Slovakia	189
Finland	2 250
Sweden	2 250
United Kingdom	12 100

(*) The national guaranteed quantity fixed for Hungary concerns hemp fibre only.

- (b) 5 000 tonnes to be apportioned in national guaranteed quantities for the marketing year 2008/2009 among Denmark, Ireland, Greece, Italy and Luxembourg. Such apportionment shall be determined on the basis of the areas which were the subject of one of the contracts or commitments as referred to in Article 91(1).

A.III. Zones eligible for the aid referred to in Article 94a

Zone I

1. The territory of the Netherlands;
2. the following Belgian communes: Assenede, Beveren-Waas, Blankenberge, Bredene, Brugge, Damme, De Haan, De Panne, Diksmuide (except Vladslo and Woumen), Gistel, Jabbeke, Knokke-Heist, Koksijde, Lo-Reninge, Middelkerke, Nieuwpoort, Oostende, Oudenburg, Sint-Gillis-Waas (Meerdonk only), Sint-Laureins, Veurne and Zuienkerke.

Zone II

1. Areas of Belgium other than those included in Zone I;
 2. the following areas of France:
 - the department of Nord,
 - the districts of Béthune, Lens, Calais, Saint-Omer and the canton of Marquise in the department of Pas-de-Calais,
 - the districts of Saint-Quentin and Vervins in the department of Aisne,
 - the district of Charleville-Mézières in the department of Ardennes.
-

COUNCIL REGULATION (EC) No 248/2008**of 17 March 2008****amending Regulation (EC) No 1234/2007 as regards the national quotas for milk**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

- (1) Annex IX to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (the 'single CMO' Regulation) ⁽¹⁾ sets down the national milk quotas for the seven 12-month periods commencing on 1 April 2008 within the milk quota system for production limitation.
- (2) Article 66(3) of Regulation (EC) No 1234/2007 provides that those quotas are fixed without prejudice to possible review in the light of the general market conditions and particular conditions in certain Member States.
- (3) The Council requested that the Commission undertake a market outlook report when the 2003 reforms of the common market organisation in milk and milk products had been fully implemented with a view to

assessing the appropriateness of allocating additional quotas.

- (4) This report has been conducted and concluded the current situation of the Community and world markets and their projected situation in the period to 2014, warrant an additional increase in quota by 2 % to facilitate the production of more milk within the Community to help satisfy emerging market requirements for dairy products.
- (5) Therefore it is appropriate to increase all Member State quotas as shown in Annex IX of Regulation (EC) No 1234/2007 by 2 % from 1 April 2008.
- (6) Regulation (EC) No 1234/2007 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Point 1 of Annex IX to Regulation (EC) No 1234/2007 is hereby replaced by the text in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 17 March 2008.

For the Council

The President

I. JARC

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

ANNEX

1. National quotas

Member State	Quantity (tonnes)
Belgium	3 427 288,740
Bulgaria	998 580,000
Czech Republic	2 792 689,620
Denmark	4 612 619,520
Germany	28 847 420,391
Estonia	659 295,360
Ireland	5 503 679,280
Greece	836 923,260
Spain	6 239 289,000
France	25 091 321,700
Italy	10 740 661,200
Cyprus	148 104,000
Latvia	743 220,960
Lithuania	1 738 935,780
Luxembourg	278 545,680
Hungary	2 029 861,200
Malta	49 671,960
Netherlands	11 465 630,280
Austria	2 847 478,469
Poland	9 567 745,860
Portugal	1 987 521,000
Romania	3 118 140,000
Slovenia	588 170,760
Slovakia	1 061 603,760
Finland	2 491 930,710
Sweden	3 419 595,900
United Kingdom	15 125 168,940'

COUNCIL REGULATION (EC) No 249/2008

of 17 March 2008

amending Regulation (EC) No 1425/2006 imposing a definitive anti-dumping duty on imports of certain plastic sacks and bags originating in the People's Republic of China and Thailand

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ (the basic Regulation) and in particular Articles 9 and 11(3) thereof,

Having regard to Council Regulation (EC) No 1425/2006 of 25 September 2006 imposing a definitive anti-dumping duty on imports of certain plastic sacks and bags originating in the People's Republic of China and Thailand, and terminating the proceeding on imports of certain plastic sacks and bags originating in Malaysia⁽²⁾,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

1. EXISTING MEASURES

(1) Following an investigation (the original investigation), the Council, by Regulation (EC) No 1425/2006, imposed a definitive anti-dumping duty on imports of certain plastic sacks and bags originating, *inter alia*, in the People's Republic of China.

1.1. Initiation of an interim review

(2) On the initiative of the Commission, a partial interim review of the above-mentioned Regulation was initiated for Xinhui Alida Polythene Limited (Xinhui Alida or the company), a Chinese exporting producer subject to the anti-dumping measures in force. This partial interim review was initiated on the initiative of the Commission based on *prima facie* evidence provided by the company.

(3) This review was initiated pursuant to Article 11(3) of the basic Regulation. In the evidence that the Commission received from Xinhui Alida, the company claimed that as far as they were concerned, the circumstances on the basis of which measures were established had changed and that these changes were of a lasting nature.

(4) Information at the Commission's disposal indicated that *prima facie* market economy conditions prevailed for the company as demonstrated by the company's claim that it had fulfilled the criteria of Article 2(7)(c) of the basic Regulation. The company also alleged that their sales pattern, both in terms of quantity and destination, had changed in a lasting way since the period on which the original measures were established, as did the installed capacity. They further alleged that a comparison of normal value based on their own costs and prices and their export prices to the Community would lead to a reduction of dumping significantly below the level of the current measures and provided *prima facie* evidence thereof.

(5) In this context, they claimed that the continued imposition of measures at the existing level, which were based on the level of dumping previously established, was no longer necessary to offset dumping.

(6) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of a partial interim review, the Commission published a notice (Notice of Initiation)⁽³⁾ and commenced an investigation, limited in scope to the examination of dumping.

1.2. Parties concerned by the investigation

(7) The Commission officially advised Xinhui Alida and its related companies, as well as the representatives of the exporting country, of the initiation of the review. Interested parties were given the opportunity to make their views known in writing and to request a hearing.

(8) The Commission also sent questionnaires to the applicant and its related companies and received replies within the deadlines set for that purpose. The Commission sought and verified all the information it deemed necessary for the determination of dumping and Market Economy Treatment and carried out verification visits at the premises of the following companies:

— Xinhui Alida Polythene Limited, Xinhui, China,

— Horneman Chemplas (Far East) Limited, Hong Kong,

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

⁽²⁾ OJ L 270, 29.9.2006, p. 4. Regulation as amended by Regulation (EC) No 1356/2007 (OJ L 304, 22.11.2007, p. 5).

⁽³⁾ OJ C 54, 9.3.2007, p. 5.

- British Polythene Industries plc, Stockton-on-Tees, United Kingdom,
- Thai Plastic Bags Industries Co., Ltd, Nakonpathom, Thailand,
- Thai Griptech Co., Ltd, Samae-Dum, Bangkok, Thailand,
- Sahachit Watana Co., Ltd, Nongkaem, Bangkok, Thailand.

- there are no significant distortions carried over from the former non-market economy system,
- legal certainty and stability is provided by bankruptcy and property laws,
- currency exchanges are carried out at the market rate.

1.3. Review investigation period

- (9) The investigation of dumping covered the period from 1 July 2005 to 30 June 2006 (the review investigation period or RIP).

- (13) The Commission's services concluded that Xinhui Alida demonstrated that they fulfilled the five criteria of Article 2(7)(c) of the basic Regulation, and proposed therefore that they be granted MET.

- (14) Both Xinhui Alida and the Community industry were given an opportunity to comment on the above findings.

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

- (10) The product concerned by the current review is the same as that in the original investigation, i.e. plastic sacks and bags, containing at least 20 % by weight of polyethylene and of sheeting of a thickness not exceeding 100 micrometres (μm); originating in the PRC; and currently classifiable within CN codes ex 3923 21 00, ex 3923 29 10 and ex 3923 29 90 (TARIC codes 3923 21 00 20, 3923 29 10 20 and 3923 29 90 20).

- (15) The Community industry contested the granting of MET to Xinhui Alida, stating that the governance of the company was unclear and that the company had destroyed certain documents required for them to prove their eligibility for MET.

- (16) The Articles of Association of the company provide for the nomination of directors by the shareholders in proportion to their shareholding in Xinhui Alida, but, at present, the two shareholders appoint the same number of directors, despite not having the same number of shares. This does not, however, make the governance of the company unclear. The smaller shareholder is majority-owned by the larger one, thus the composition of the Board of Directors reflects the actual ownership of Xinhui Alida.

2.2. Like product

- (11) The current review has shown that Xinhui Alida made no sales on the Chinese domestic market and therefore no like product was produced.

3. MARKET ECONOMY TREATMENT (MET)

- (12) In all anti-dumping investigations concerning imports originating in the PRC, normal value for exporting producers found to meet the criteria laid down in Article 2(7)(c) shall be determined in accordance with paragraphs 1 to 6 of Article 2 of the basic Regulation. Briefly, and for ease of reference only, these criteria are summarised below:

- business decisions and costs are made in response to market conditions and without significant State interference,
- accounting records are independently audited, in line with international accounting standards and applied for all purposes,

- (17) In addition, it was argued that the company was unable to provide original bank transfer slips for the original payment of capital, the payment of the land use right, and the payment to the State for their shareholding when the company became entirely privately owned, since it is not company policy to retain documents for more than seven years. However, the company was able to provide evidence from audited sources regarding these transactions and, given the passage of time since they took place, the absence of the original bank transfer slips was not considered exceptional.

- (18) These arguments were considered, but, as no evidence was submitted to change the Commission's decision to grant the company MET, the arguments of the Community industry were therefore rejected.

- (19) The Advisory Committee was consulted and the parties directly concerned were informed accordingly. The main arguments raised by the Community industry have already been addressed above.

4. DUMPING

4.1. Normal value

4.1.1. Methodology applied for the determination of normal value

- (20) In accordance with Article 2(2) of the basic Regulation, it was first examined whether the domestic sales of the like product to independent customers by the exporting producer were representative, i.e. whether the total volume of such sales was equal to or greater than 5 % of the total volume of the corresponding export sales to the Community. Given that Xinhui Alida had no domestic sales during the RIP the normal value of the company was constructed in accordance with Article 2(3) as described below.

4.1.2. Determination of normal value

- (21) Given the absence of any domestic sales, normal value was constructed on the basis of the provisions of Article 2(3) of the basic Regulation by adding selling, general and administrative (SGA) expenses incurred and weighted average profit to the average manufacturing cost of Xinhui Alida during the RIP.
- (22) Xinhui Alida claimed that their cost of manufacturing should be adjusted to take into account the difference in depreciation policy between them and their parent company in the United Kingdom, British Polythene Industries plc ('BPI') with whom their accounts are consolidated. Xinhui Alida provided evidence to show that BPI adjusted the depreciation of their assets as part of the consolidation process and also claimed that the depreciation rates in China were fixed by law, thereby stopping the company from aligning their depreciation policies.
- (23) This claim was rejected, partially because the law in China changed in 2001 and no longer fixes depreciation rates, and partially because the cost of manufacturing of Xinhui Alida for the RIP is that set out in their audited accounts, and not a cost adjusted to allow consolidation to take place in the United Kingdom. Moreover, the assets concerned were also examined and found to be mainly still in use after 10 years.
- (24) Xinhui Alida also claimed that the cost of raw materials should be adjusted to take account of the fact that part

of the amount paid to their supplier, Horneman Chemplas (Far East) Limited, was in fact paid to their holding company Venture Hong Kong, which is part-owned by Horneman Chemplas and the remainder by British Polythene Industries plc (BPI). This claim was also rejected. Firstly, although Horneman Chemplas and Xinhui Alida are related parties, the price charged by Horneman Chemplas to Xinhui Alida was found to be a reasonable market price, including a small mark-up by Horneman on the price at which it had purchased the goods in order to cover its costs. Moreover, the amounts were not paid straight back by Horneman to Xinhui Alida in the form of e.g. a volume rebate or credit notes, but to Venture Hong Kong which transferred them to Xinhui Alida as capital injection(s) and other payments. They therefore can not be qualified as a standard price rebate granted by a seller to a buyer.

- (25) The data for selling, general and administrative expenses and weighted average profit were taken from companies who responded to a questionnaire sent to companies in the analogue country as set out below.

4.1.3. Analogue Country

- (26) Data from the analogue country was used to construct the normal value for Xinhui Alida given the absence of domestic sales, in line with the provisions of Article 2(6)(c) of the basic Regulation. The Notice of Initiation made provision for Malaysia to be the analogue country, but no companies agreed to cooperate with the investigation. However, cooperation was received from three companies in Thailand who had domestic sales. Weighted average SGA and profit was calculated from data received from them and verified at their premises.

4.2. Export price

- (27) Whenever the exports of Xinhui Alida were made directly to independent customers in the Community, the export price was established on the basis of the prices actually paid or payable for the product concerned in the RIP in accordance with Article 2(8) of the basic Regulation.
- (28) However, the vast majority of sales by Xinhui Alida were either to their related company in Hong Kong, Horneman Chemplas, for final onward sale to the Community, or to their related company in the United Kingdom, BPI, for final sale within the Community. As regards these export sales to the Community, the export price was established on the basis of Article 2(9) of the basic Regulation, i.e. using the resale prices actually paid or payable to the related company by the first independent buyer in the Community in the RIP adjusted for all costs incurred between importation and resale and for profits.

4.3. Comparison

- (29) The comparison between the normal value and the export price was made on an ex-factory basis and at the same level of trade. In order to ensure a fair comparison, account was taken, in accordance with Article 2(10) of the basic Regulation, of differences in factors which were demonstrated to affect prices and price comparability. On this basis, allowances for differences in discounts, rebates, commissions, transport costs, insurance, handling charges, packaging, credit costs, bank charges and import duties were made where applicable and justified.
- (30) As the related importer in the United Kingdom has functions similar to those of an agent working on a commission basis, an adjustment to the export price for a commission was made in accordance with Article 2(10)(i) of the basic Regulation. The level of the commission was calculated based on direct evidence pointing to the existence of a mark-up and selling expenses related to such functions.

4.4. Dumping margin

- (31) As provided for under Article 2(11) of the basic Regulation, the weighted average normal value by type was compared with the weighted average export price of the corresponding type of the product concerned.
- (32) Xinhui Alida's dumping margin expressed as a percentage of the net, free-at-Community-frontier price, duty unpaid, was found to be 4,3 %.

5. LASTING NATURE OF CHANGED CIRCUMSTANCES

- (33) In accordance with Article 11(3) of the basic Regulation, it was also examined whether the changed circumstances could reasonably be said to be of a lasting nature.
- (34) Firstly, it should be noted that the company was able to prove that it should be granted MET, and was therefore eligible for its own individual dumping margin. The grounds on which they were granted MET are to be considered lasting as they refer to the long-term structure and business model of the company. Secondly, information was requested regarding the evolution of product types and price fluctuation after the end of the RIP in June 2006. The company provided evidence to show that raw material prices increased in the latter half of 2006, falling back to the end of 2006 but still above their level during the RIP.

Given the parent company's policy on transfer pricing between Xinhui Alida and themselves, it is clear that during the latter half of 2006 the transfer price remained stable whilst raw material prices rose substantially. BPI have also demonstrated that their onward sales prices remained stable during the latter half of 2006, making the dumping margin calculated for the RIP clearly valid for the remainder of the calendar year 2006.

- (35) The company alleged that their sales pattern, both in terms of quantity and destination, changed in a lasting way since the original investigation period of April 2004 to March 2005.
- (36) Evidence obtained during the investigation showed that the behaviour of the company, including the circumstances that led to the initiation of this review, were unlikely to change in the foreseeable future in a manner that would affect the findings of the current review. This would therefore suggest that the changes concerned were of a lasting nature and therefore the conclusions of the review were long-lasting.

6. ANTI-DUMPING MEASURES

- (37) In the light of the results of the investigation, it is considered appropriate to amend the anti-dumping duty applicable to imports of the product concerned from Xinhui Alida to 4,3 %.

7. DISCLOSURE

- (38) Interested parties were informed of the essential facts and considerations on the basis of which it was intended to recommend an amendment to Council Regulation (EC) No 1425/2006 and were given an opportunity to comment.
- (39) The company contested the findings disclosed where various adjustments claimed by the company had been rejected, being the calculation of depreciation in China, the treatment of an exchange rate gain made in the United Kingdom and an alleged raw material rebate. However, the company provided no new evidence to substantiate their claims and therefore these claims were again rejected.
- (40) The Community industry requested further information regarding the calculation of the constructed normal value using data from Thailand, but provided no evidence to dispute or contest the calculation or methodology used,

HAS ADOPTED THIS REGULATION:

Article 1

The table in Article 1(2) of Council Regulation (EC) No 1425/2006 is hereby amended by adding the following:

Country	Company	Rate of duty (%)	TARIC additional code
The People's Republic of China	Xinhui Alida Polythene Limited, Xinhui	4,3 %	A854

The list of companies in Annex I of Council Regulation (EC) No 1425/2006 is hereby amended by removing the following:

XINHUI ALIDA POLYTHENE LIMITED	Xinhui
--------------------------------	--------

Article 2

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

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

Done at Brussels, 17 March 2008.

For the Council
The President
I. JARC

COMMISSION REGULATION (EC) No 250/2008
of 18 March 2008
establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes

the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

- (2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 19 March 2008.

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

Done at Brussels, 18 March 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

to Commission Regulation of 18 March 2008 establishing the standard import values for determining the entry price of certain fruit and vegetables

<i>(EUR/100 kg)</i>		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	JO	60,4
	MA	58,1
	TN	134,4
	TR	105,4
	ZZ	89,6
0707 00 05	JO	178,8
	MA	90,4
	TR	175,5
	ZZ	148,2
0709 90 70	MA	86,5
	TR	147,7
	ZZ	117,1
0709 90 80	EG	238,6
	ZZ	238,6
0805 10 20	EG	42,7
	IL	56,5
	MA	51,8
	TN	53,6
	TR	50,7
	ZA	43,3
0805 50 10	ZZ	49,8
	EG	107,9
	IL	106,3
	SY	109,7
	TR	130,4
	ZA	147,5
0808 10 80	ZZ	120,4
	AR	91,4
	BR	76,9
	CA	98,7
	CL	100,7
	CN	72,7
	MK	46,8
	US	104,7
	UY	87,6
	ZA	69,5
ZZ	83,2	
0808 20 50	AR	81,5
	CL	84,1
	CN	57,9
	ZA	90,2
	ZZ	78,4

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 251/2008**of 18 March 2008****on the issuing of import licences for applications lodged during the first seven days of March 2008
under tariff quotas opened by Regulation (EC) No 533/2007 for poultrymeat**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EEC) No 2777/75 of the Council of 29 October 1975 on the common organisation of the market in poultrymeat ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ⁽²⁾, and in particular Article 7(2) thereof,

Having regard to Commission Regulation (EC) No 533/2007 of 14 May 2007 opening and providing for the administration of tariff quotas in the poultrymeat sector ⁽³⁾, and in particular Article 5(6) thereof,

Whereas:

(1) Regulation (EC) No 533/2007 opened tariff quotas for imports of products in the poultrymeat sector.

(2) The applications for import licences lodged during the first seven days of March 2008 for the subperiod 1 April to 30 June 2008 relate, for some quotas, to quantities exceeding those available. The extent to which licences may be issued should therefore be determined and an allocation coefficient laid down to be applied to the quantities applied for,

HAS ADOPTED THIS REGULATION:

Article 1

The quantities for which import licence applications have been lodged pursuant to Regulation (EC) No 533/2007 for the subperiod 1 April to 30 June 2008 shall be multiplied by the allocation coefficients set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 19 March 2008.

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

Done at Brussels, 18 March 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 282, 1.11.1975, p. 77. Regulation as last amended by Regulation (EC) No 679/2006 (OJ L 119, 4.5.2006, p. 1). Regulation (EEC) No 2777/75 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 July 2008.

⁽²⁾ OJ L 238, 1.9.2006, p. 13. Regulation as amended by Regulation (EC) No 289/2007 (OJ L 78, 17.3.2007, p. 17).

⁽³⁾ OJ L 125, 15.5.2007, p. 9.

ANNEX

Group No	Order No	Allocation coefficient for import licence applications lodged for the subperiod 1.4.2008-30.6.2008 (%)
P1	09.4067	4,558380
P2	09.4068	53,742902
P3	09.4069	1,428582
P4	09.4070	(¹)

(¹) Not applied: the applications do not cover the total quantity available.

COMMISSION REGULATION (EC) No 252/2008**of 18 March 2008****on the issuing of import licences for applications lodged during the first seven days of March 2008 under tariff quotas opened by Regulation (EC) No 539/2007 for certain products in the egg sector and for egg albumin**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EEC) No 2771/75 of the Council of 29 October 1975 on the common organisation of the market in eggs ⁽¹⁾, and in particular Article 6(1) thereof,

Having regard to Regulation (EEC) No 2783/75 of the Council of 29 October 1975 on the common system of trade for ovalbumin and lactalbumin ⁽²⁾, and in particular Article 4(1) thereof,

Having regard to Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ⁽³⁾, and in particular Article 7(2) thereof,

Having regard to Commission Regulation (EC) No 539/2007 of 15 May 2007 opening and providing for the administration of tariff quotas in the egg sector and for egg albumin ⁽⁴⁾, and in particular Article 5(6) thereof,

Whereas:

(1) Regulation (EC) No 539/2007 opened tariff quotas for imports of products in the egg sector and for egg albumin.

(2) The applications for import licences lodged during the first seven days of March 2008 for the subperiod 1 April to 30 June 2008 relate, for some quotas, to quantities exceeding those available. The extent to which licences may be issued should therefore be determined and an allocation coefficient laid down to be applied to the quantities applied for.

HAS ADOPTED THIS REGULATION:

Article 1

The quantities for which import licence applications have been lodged pursuant to Regulation (EC) No 539/2007 for the subperiod 1 April to 30 June 2008 shall be multiplied by the allocation coefficients set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 19 March 2008.

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

Done at Brussels, 18 March 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 282, 1.11.1975, p. 49. Regulation as last amended by Regulation (EC) No 679/2006 (OJ L 119, 4.5.2006, p. 1). Regulation (EEC) No 2771/75 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 July 2008.

⁽²⁾ OJ L 282, 1.11.1975, p. 104. Regulation as last amended by Commission Regulation (EC) No 2916/95 (OJ L 305, 19.12.1995, p. 49).

⁽³⁾ OJ L 238, 1.9.2006, p. 13. Regulation as amended by Regulation (EC) No 289/2007 (OJ L 78, 17.3.2007, p. 17).

⁽⁴⁾ OJ L 128, 16.5.2007, p. 19.

ANNEX

Group No	Order No	Allocation coefficient for import licence applications lodged for the subperiod 1.4.2008-30.6.2008 (%)
E1	09.4015	(¹)
E2	09.4401	33,731 344
E3	09.4402	(²)

(¹) Not applied: no licence application has been sent to the Commission.

(²) Not applied: the applications do not cover the total quantity available.

COMMISSION REGULATION (EC) No 253/2008**of 18 March 2008****on the issuing of import licences for applications lodged during the first seven days of March 2008 under the tariff quota opened by Regulation (EC) No 1385/2007 for poultrymeat**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organisation of the market in poultrymeat ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ⁽²⁾, and in particular Article 7(2) thereof,

Having regard to Commission Regulation (EC) No 1385/2007 of 26 November 2007 laying down detailed rules for the application of Council Regulation (EC) No 774/94 as regards the opening and procedure for administering certain Community tariff quotas in the poultrymeat sector ⁽³⁾, and in particular Article 5(6) thereof,

Whereas:

- (1) The applications for import licences lodged under certain quotas during the first seven days of March 2008 for the subperiod 1 April to 30 June 2008 relate to quantities exceeding those available. The quantities for which

licences may be issued should therefore be determined by setting the allocation coefficient by which the quantities applied for are to be multiplied.

- (2) The applications for import licences lodged under certain quotas during the first seven days of March 2008 for the subperiod 1 April to 30 June 2008 do not cover the total available. The quantities for which applications have not been lodged should therefore be determined, and these should be added to the quantity fixed for the following quota subperiod,

HAS ADOPTED THIS REGULATION:

Article 1

1. The quantities for which import licence applications have been lodged for the subperiod 1 April to 30 June 2008 under Regulation (EC) No 1385/2007 shall be multiplied by the allocation coefficients set out in the Annex to this Regulation.

2. The quantities for which applications have not been lodged, to be added to the quantity fixed for the subperiod 1 July to 30 September 2008, shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 19 March 2008.

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

Done at Brussels, 18 March 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 282, 1.11.1975, p. 77. Regulation as last amended by Regulation (EC) No 679/2006 (OJ L 119, 4.5.2006, p. 1). Regulation (EEC) No 2777/75 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 July 2008.

⁽²⁾ OJ L 238, 1.9.2006, p. 13. Regulation as amended by Regulation (EC) No 289/2007 (OJ L 78, 17.3.2007, p. 17).

⁽³⁾ OJ L 309, 27.11.2007, p. 47.

ANNEX

Group No	Serial No	Allocation coefficient for import licence applications lodged for the subperiod 1.4.2008-30.6.2008 (%)	Quantities not applied for, to be added to the quantity for the subperiod 1.7.2008-30.9.2008 (kg)
1	09.4410	0,898484	—
2	09.4411	(¹)	2 550 000
3	09.4412	0,925076	—
4	09.4420	1,256300	—
5	09.4421	3,484400	—
6	09.4422	1,379229	—

(¹) Not applicable: no licence application has been sent to the Commission.

COMMISSION REGULATION (EC) No 254/2008**of 18 March 2008****on the issuing of import licences for applications lodged during the first seven days of March 2008 under the tariff quota opened by Regulation (EC) No 1384/2007 for poultrymeat**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organisation of the market in poultrymeat ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ⁽²⁾, and in particular Article 7(2) thereof,

Having regard to Commission Regulation (EC) No 1384/2007 of 26 November 2007 laying down detailed rules for the application of Council Regulation (EC) No 2398/96 as regards the opening and providing for the administration of certain quotas for imports into the Community of poultrymeat products originating in Israel ⁽³⁾, and in particular Article 5(5) thereof,

Whereas:

- (1) The applications for import licences lodged (under the quota bearing the serial number 09.4092) during the first seven days of March 2008 for the subperiod 1 April to 30 June 2008 relate to quantities exceeding those available. The quantities for which licences may be

issued should therefore be determined by setting the allocation coefficient by which the quantities applied for are to be multiplied.

- (2) The applications for import licences lodged (under the quota bearing the serial number 09.4091) during the first seven days of March 2008 for the subperiod 1 April to 30 June 2008 do not cover the total quantities available. The quantities for which applications have not been lodged should therefore be determined, and these should be added to the quantity fixed for the following quota subperiod,

HAS ADOPTED THIS REGULATION:

Article 1

1. The quantities for which import licence applications have been lodged for the subperiod 1 April to 30 June 2008 under Regulation (EC) No 1384/2007 shall be multiplied by the allocation coefficients set out in the Annex to this Regulation.

2. The quantities for which applications have not been lodged, to be added to the quantity fixed for the subperiod 1 July to 30 September 2008, shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 19 March 2008.

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

Done at Brussels, 18 March 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 282, 1.11.1975, p. 77. Regulation as last amended by Regulation (EC) No 679/2006 (OJ L 119, 4.5.2006, p. 1).

⁽²⁾ OJ L 238, 1.9.2006, p. 13. Regulation as amended by Regulation (EC) No 289/2007 (OJ L 78, 17.3.2007, p. 17). Regulation (EEC) No 2777/75 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 July 2008.

⁽³⁾ OJ L 309, 27.11.2007, p. 40.

ANNEX

Group No	Serial No	Allocation coefficient for import licence applications lodged for the subperiod 1.4.2008-30.6.2008 (%)	Quantities not applied for, to be added to the quantity for the subperiod 1.7.2008-30.9.2008 (kg)
IL1	09.4092	5,747185	—
IL2	09.4091	(¹)	280 000

(¹) Not applicable: no licence application has been sent to the Commission.

COMMISSION REGULATION (EC) No 255/2008**of 18 March 2008****on the issuing of import licences for applications lodged during the first seven days of March 2008
under the tariff quota opened by Regulation (EC) No 1383/2007 for poultrymeat**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organisation of the market in poultrymeat ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1383/2007 of 26 November 2007 laying down detailed rules for the application of Council Regulation (EC) No 779/98 as regards opening and providing for the administration of certain quotas for imports into the Community of poultrymeat products originating in Turkey ⁽²⁾, and in particular Article 5(5) thereof,

Whereas:

(1) Regulation (EC) No 1383/2007 has opened tariff quotas for imports of poultrymeat products.

(2) The applications for import licences lodged during the first seven days of March 2008 for the subperiod 1 April to 30 June 2008 do not cover the total quantity available. The quantities for which applications have not been lodged should therefore be determined, and these should be added to the quantity fixed for the following quota subperiod,

HAS ADOPTED THIS REGULATION:

Article 1

The quantities for which import licence applications pursuant to Regulation (EC) No 1383/2007 under the quota bearing the serial number 09.4103 have not been lodged, to be added to subperiod 1 July to 30 September 2008, shall be 500 000 kg.

Article 2

This Regulation shall enter into force on 19 March 2008.

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

Done at Brussels, 18 March 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 282, 1.11.1975, p. 77. Regulation as last amended by Regulation (EC) No 679/2006 (OJ L 119, 4.5.2006, p. 1). Regulation (EEC) No 2777/75 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 July 2008.

⁽²⁾ OJ L 309, 27.11.2007, p. 34.

COMMISSION REGULATION (EC) No 256/2008**of 18 March 2008****on the issuing of import licences for applications lodged during the first seven days of March 2008 under the tariff quota opened by Regulation (EC) No 1399/2007 for meat products originating in Switzerland**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organisation of the market in pigmeat ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1399/2007 of 28 November 2007 opening and providing for the administration of a tariff quota for sausages and certain meat products originating in Switzerland ⁽²⁾ and in particular Article 5(5) thereof,

Whereas:

(1) Regulation (EC) No 1399/2007 has opened tariff quotas for the import of certain meat products.

(2) The applications for import licences lodged during the first seven days of March 2008 for the subperiod 1 April to 30 June 2008 do not cover the total quantity available. The quantities for which applications have not been lodged should therefore be determined and these should be added to the quantity fixed for the following quota subperiod,

HAS ADOPTED THIS REGULATION:

Article 1

The quantities for which import licence applications under the quota bearing the serial number 09.4180 have not been lodged pursuant to Regulation (EC) No 1399/2007, to be added to the subperiod 1 July to 30 September 2008, shall be 935 000 kg.

Article 2

This Regulation shall enter into force on 19 March 2008.

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

Done at Brussels, 18 March 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 282, 1.11.1975, p. 1. Regulation as last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2). Regulation (EEC) No 2759/75 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 July 2008.

⁽²⁾ OJ L 311, 29.11.2007, p. 7.

COMMISSION REGULATION (EC) No 257/2008**of 18 March 2008****on the issuing of import licences for applications lodged during the first seven days of March 2008
under the tariff quota opened by Regulation (EC) No 1382/2007 for pigmeat**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organisation of the market in pigmeat ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1382/2007 of 26 November 2007 laying down detailed rules for the application of Council Regulation (EC) No 774/94 concerning the import arrangements for pigmeat ⁽²⁾, and in particular Article 5(6) thereof,

Whereas:

- (1) Regulation (EC) No 1382/2007 has opened tariff quotas for the import of pigmeat products.
- (2) The applications for import licences lodged during the first seven days of March 2008 for the subperiod

1 April to 30 June 2008 do not cover the total quantity available. The quantities for which applications have not been lodged should therefore be determined and these should be added to the quantity fixed for the following quota subperiod,

HAS ADOPTED THIS REGULATION:

Article 1

The quantities for which import licence applications covered by the quota bearing the serial number 09.4046 have not been lodged under Regulation (EC) No 1382/2007, to be added to the subperiod from 1 July to 30 September 2008, shall be 3 500 000 kg.

Article 2

This Regulation shall enter into force on 19 March 2008.

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

Done at Brussels, 18 March 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 282, 1.11.1975, p. 1. Regulation as last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2). Regulation (EEC) No 2759/75 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 July 2008.

⁽²⁾ OJ L 309, 27.11.2007, p. 28.

COMMISSION REGULATION (EC) No 258/2008**of 18 March 2008****amending the representative prices and additional duties for the import of certain products in the sugar sector fixed by Regulation (EC) No 1109/2007 for the 2007/08 marketing year**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector ⁽¹⁾,

Having regard to Commission Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector ⁽²⁾, and in particular of the Article 36,

Whereas:

(1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups

for the 2007/08 marketing year are fixed by Commission Regulation (EC) No 1109/2007 ⁽³⁾. These prices and duties have been last amended by Commission Regulation (EC) No 211/2008 ⁽⁴⁾.

(2) The data currently available to the Commission indicate that the said amounts should be changed in accordance with the rules and procedures laid down in Regulation (EC) No 951/2006,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties on imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Regulation (EC) No 1109/2007 for the 2007/08 marketing year are hereby amended as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 19 March 2008.

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

Done at Brussels, 18 March 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 58, 28.2.2006, p. 1. Regulation as last amended by Regulation (EC) No 1260/2007 (OJ L 283, 27.10.2007, p. 1). Regulation (EC) No 318/2006 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 October 2008.

⁽²⁾ OJ L 178, 1.7.2006, p. 24. Regulation as last amended by Regulation (EC) No 1568/2007 (OJ L 340, 22.12.2007, p. 62).

⁽³⁾ OJ L 253, 28.9.2007, p. 5.

⁽⁴⁾ OJ L 65, 8.3.2008, p. 3.

ANNEX

Amended representative prices and additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 95 applicable from 19 March 2008

(EUR)

CN code	Representative price per 100 kg of the product concerned	Additional duty per 100 kg of the product concerned
1701 11 10 ⁽¹⁾	21,18	5,71
1701 11 90 ⁽¹⁾	21,18	11,12
1701 12 10 ⁽¹⁾	21,18	5,52
1701 12 90 ⁽¹⁾	21,18	10,60
1701 91 00 ⁽²⁾	20,67	15,94
1701 99 10 ⁽²⁾	20,67	10,49
1701 99 90 ⁽²⁾	20,67	10,49
1702 90 95 ⁽³⁾	0,21	0,43

⁽¹⁾ Fixed for the standard quality defined in Annex I.III to Council Regulation (EC) No 318/2006 (OJ L 58, 28.2.2006, p. 1).

⁽²⁾ Fixed for the standard quality defined in Annex I.II to Regulation (EC) No 318/2006.

⁽³⁾ Fixed per 1 % sucrose content.

COMMISSION REGULATION (EC) No 259/2008

of 18 March 2008

laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the publication of information on the beneficiaries of funds deriving from the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy⁽¹⁾, and in particular point 8b of Article 42 thereof,

After consulting the European Data Protection Supervisor,

Whereas:

- (1) Article 44a of Regulation (EC) No 1290/2005 lays down that Member States have to ensure the annual ex-post publication of the beneficiaries of the European Agricultural Guarantee Fund (EAGF), and of the European Agricultural Fund for Rural Development (EAFRD), hereinafter referred to as Funds, and the amounts received per beneficiary under each of these Funds.
- (2) The purpose of the publication, which should be in accordance with the information held by the paying agencies in their books and records and which should only concern payments received in the preceding financial year, is to enhance transparency regarding the use of the Funds and improve their sound financial management. In order to meet these objectives, the information should be presented to the public in a clear, harmonised and searchable manner by the due date of 30 April. In respect of EAFRD expenditure paid between 1 January and 15 October 2007, a special date for publication should be fixed.
- (3) To this end, the minimum requirements as to the content of the publication should be laid down. These requirements should not go further than what is necessary in a democratic society in order to reach the objectives pursued.
- (4) Publication of the information should be implemented via the internet in the form of a search tool which ensures that the public at large is in the position to consult it. The search tool should permit to search on the basis of certain criteria and the results of the search should be presented in an easily accessible form.
- (5) The publication of the information concerning the beneficiaries should occur as quickly as possible after the closure of the financial year in order to ensure transparency towards the public. At the same time, Member States should have sufficient time to undertake the necessary work. As the objective of transparency does not require that the information remains available indefinitely, a reasonable period of availability of the published information should be laid down.
- (6) Making this information accessible to the public enhances transparency regarding the use of Community funds in the common agricultural policy and improves the sound financial management of these funds, in particular by reinforcing public control of the money used. Given the overriding weight of the objectives pursued, it is justified with regard to the principle of proportionality and the requirement of the protection of personal data to provide for the general publication of the relevant information as it does not go beyond what is necessary in a democratic society and for the prevention of irregularities.
- (7) To comply with the data protection requirements beneficiaries of the Funds should be informed of the publication of their data before the publication takes place. The information of the beneficiaries should take place through the application forms for aid or when the data are collected otherwise. Furthermore, the beneficiaries should be informed about their rights under Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data⁽²⁾ and the procedures applicable for exercising these rights. As regards expenditure incurred in financial years 2007 and 2008, in so far as information of the beneficiaries is not possible at the moment of collecting the personal data, the beneficiaries should still be informed within a reasonable period of time before publication actually takes place.
- (8) For the sake of transparency, beneficiaries of the Funds should also be informed that, for the purpose of safeguarding the financial interests of the Communities, their personal data may be processed by auditing and investigating bodies of the Communities and the Member States. This information should be given at the same moment as the information on the publication and on the rights of individuals is given.

⁽¹⁾ OJ L 209, 11.8.2005, p. 1. Regulation as last amended by Regulation (EC) No 1437/2007 (OJ L 322, 7.12.2007, p. 1).

⁽²⁾ OJ L 281, 23.11.1995, p. 31. Directive as last amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

- (9) In order to facilitate the access of the public to the data published, the Commission should provide for a Community website including links to the websites of the Member States on which the information has been made available. In view of the different organisational structures within the Member States, they should determine themselves which body is in charge of setting up and maintaining their single website and of publishing the data.
- (10) Since Article 2 of Regulation (EC) No 1437/2007 provides that Article 44a of Regulation (EC) No 1290/2005, inserted by Regulation (EC) No 1437/2007, applies to EAGF expenditure incurred from 16 October 2007 and to EAFRD expenditure incurred from 1 January 2007, it is therefore necessary to apply also the implementing rules for the same time period.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Committee on the Agricultural Funds,

HAS ADOPTED THIS REGULATION:

Article 1

Content of the publication

1. The publication referred to in Article 44a of Regulation (EC) No 1290/2005 shall include the following information:
- (a) the first name and the surname where the beneficiaries are natural persons;
- (b) the full legal name as registered where the beneficiaries are legal persons;
- (c) the full name of the association as registered or otherwise officially recognised where the beneficiaries are associations of natural or legal persons without an own legal personality;
- (d) the municipality where the beneficiary resides or is registered and, where available, the postal code or the part thereof identifying the municipality;
- (e) for the European Agricultural Guarantee Fund, hereinafter referred to as EAGF, the amount of direct payments within the meaning of Article 2(d) of Regulation (EC) No 1782/2003 received by each beneficiary in the financial year concerned;
- (f) for the EAGF, the amount of payments other than those referred to in point (e) received by each beneficiary in the financial year concerned;

- (g) for the European Agricultural Fund for Rural Development, hereinafter referred to as EAFRD, the total amount of public funding received by each beneficiary in the financial year concerned, which includes both the Community and the national contribution;
- (h) the sum of the amounts referred to in points (e), (f) and (g) received by each beneficiary in the financial year concerned;
- (i) the currency of these amounts.

2. Member States may publish more detailed information than provided for in paragraph 1.

Article 2

Form of the publication

The information referred to in Article 1 shall be made available on a single website per Member State through a search tool allowing the users to search for beneficiaries by name, municipality, amounts received as referred to in (e), (f), (g) and (h) of Article 1 or a combination thereof and to extract all the corresponding information as a single set of data.

Article 3

Date of the publication

1. The information referred to in Article 1 shall be published by 30 April each year for the preceding financial year.
2. For the EAFRD expenditure paid between 1 January and 15 October 2007, the information shall be published by 30 September 2008, provided that the expenditure has been reimbursed by the EAFRD to the Member State concerned by that date. Otherwise, the information shall be published together with the information for the financial year 2008.
3. The information shall remain available on the website for two years from the date of their initial publication.

Article 4

Information of the beneficiaries

1. Member States shall inform the beneficiaries that their data will be made public in accordance with Regulation (EC) No 1290/2005 and this Regulation and that they may be processed by auditing and investigating bodies of the Communities and the Member States for the purpose of safeguarding the Communities' financial interests.
2. In case of personal data, the information referred to in paragraph 1 shall be provided in accordance with the requirements of Directive 95/46/EC and the beneficiaries shall be informed of their rights as data subjects under this Directive and of the procedures applicable for exercising these rights.

3. The information referred to in paragraphs 1 and 2 shall be provided to the beneficiaries by including it in the application forms for receiving funds deriving from the EAGF and EAFRD, or otherwise at the time when the data are collected.

By way of derogation from the first subparagraph, as regards data related to payments received in the financial years 2007 and 2008, the information shall be provided at least four weeks before the date of their publication.

Article 5

Cooperation between the Commission and Member States

1. The Commission shall set up and maintain a Community website under its central internet address which includes the links to the websites of the Member States. The Commission shall provide updates of the internet links according to the information sent by Member States.

2. The Member States shall send to the Commission the internet address of their website as soon as it has been set up as well as any subsequent changes thereof having an influence on the accessibility of their website from the Community website.

3. Member States shall nominate a body in charge of setting up and maintaining the single website referred to in Article 2. They shall inform the Commission of the name and address details of this body.

Article 6

Entry into force and application

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

It shall apply to EAGF expenditure incurred from 16 October 2007 and to EAFRD expenditure incurred from 1 January 2007.

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

Done at Brussels, 18 March 2008.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

COMMISSION REGULATION (EC) No 260/2008**of 18 March 2008****amending Regulation (EC) No 396/2005 of the European Parliament and of the Council by establishing Annex VII listing active substance/product combinations covered by a derogation as regards post harvest treatments with a fumigant****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in and on food and feed of plant and animal origin and amending Council Directive 91/414/EEC ⁽¹⁾, and in particular the second subparagraph of Article 18(3) thereof,

Whereas:

- (1) Several Member States have indicated to the Commission the need for a derogation from the maximum residue levels set out in Annexes II and III, specifying the crops and pesticides for which that derogation is needed. Such a derogation should allow Member States to authorise, further to a post-harvest treatment with a fumigant on their own territory, residue levels for active substances which exceed the limits specified in those

Annexes in order to prevent trade disruption of stored products that underwent post-harvest treatments with fumigants.

- (2) Regulation (EC) No 396/2005 should therefore be amended accordingly.
- (3) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

The text in the Annex to this Regulation is added to Regulation (EC) No 396/2005, as Annex VII.

*Article 2*This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 18 March 2008.

For the Commission
Androulla VASSILIOU
Member of the Commission

⁽¹⁾ OJ L 70, 16.3.2005, p. 1. Regulation as amended by Commission Regulation (EC) No 178/2006 (OJ L 29, 2.2.2006, p. 3).

ANNEX

'ANNEX VII

Active substance/product combinations, as referred to in Article 18(3)

Active substance	Product in Annex I (Code number)
Hydrogen phosphide	Fruit (0100000), Vegetables (0200000), Pulses (0300000), Oilseeds and oil fruits (0400000), Cereals (0500000), Tea, coffee, herbal infusions and cocoa (0600000), Spices (0800000).
Aluminiumphosphide	Fruit (0100000), Vegetables (0200000), Pulses (0300000), Oilseeds and oil fruits (0400000), Cereals (0500000), Tea, coffee, herbal infusions and cocoa (0600000), Spices (0800000).
Magnesiumphosphide	Fruit (0100000), Vegetables (0200000), Pulses (0300000), Oilseeds and oil fruits (0400000), Cereals (0500000), Tea, coffee, herbal infusions and cocoa (0600000), Spices (0800000).
Sulfurylfluoride	Fruit (0100000), Cereals (0500000).'

DIRECTIVES

DIRECTIVE 2008/10/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 March 2008

amending Directive 2004/39/EC on markets in financial instruments, as regards the implementing powers conferred on the Commission

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 47(2) thereof,

Having regard to the proposal from the Commission,

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

Having regard to the opinion of the European Central Bank ⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

(1) Directive 2004/39/EC of the European Parliament and of the Council ⁽⁴⁾ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁵⁾.

(2) Council Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance

with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.

(3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁶⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

(4) The Commission should be empowered to adopt the measures necessary for the implementation of Directive 2004/39/EC in order to take account of technical developments on financial markets and ensure the uniform application of that Directive. Those measures are designed to adapt definitions or modify the scope of exemptions under that Directive; elaborate upon or supplement provisions of that Directive concerning organisational requirements or operating conditions imposed upon investment firms or credit institutions; and add detailed specifications on the pre- and post-trade transparency obligations imposed upon the various negotiating venues under that Directive. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2004/39/EC by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(5) Directive 2004/39/EC provides for a time restriction concerning the implementing powers conferred on the Commission. In their statement concerning Decision 2006/512/EC, the European Parliament, the Council and the Commission stated that Decision 2006/512/EC provides a horizontal and satisfactory solution to the European Parliament's wish to scrutinise the implementation of instruments adopted under the co-decision procedure and that, accordingly, implementing powers should be conferred on the Commission without time

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ OJ C 39, 23.2.2007, p. 1.

⁽³⁾ Opinion of the European Parliament of 14 November 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽⁴⁾ OJ L 145, 30.4.2004, p. 1. Directive as last amended by Directive 2007/44/EC (OJ L 247, 21.9.2007, p. 1).

⁽⁵⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁶⁾ OJ C 255, 21.10.2006, p. 1.

limit. The European Parliament and the Council also declared that they would ensure that the proposals aimed at repealing the provisions in the instruments that provide for a time limit on the delegation of implementing powers to the Commission are adopted as rapidly as possible. Following the introduction of the regulatory procedure with scrutiny, the provision establishing that time restriction in Directive 2004/39/EC should be deleted.

- (6) The Commission should, at regular intervals, evaluate the functioning of the provisions concerning the implementing powers conferred on it in order to allow the European Parliament and the Council to determine whether the extent of those powers and the procedural requirements imposed on the Commission are appropriate and ensure both efficiency and democratic accountability.
- (7) Directive 2004/39/EC should therefore be amended accordingly.
- (8) Since the amendments made to Directive 2004/39/EC by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 2004/39/EC is hereby amended as follows:

1. Article 2(3) shall be amended as follows:

- (a) the words 'acting in accordance with the procedure referred to in Article 64(2),' shall be deleted;
- (b) the following sentence shall be added:

'Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 64(2).';

2. Article 4 shall be amended as follows:

- (a) in point 2 of paragraph 1, the words 'acting in accordance with the procedure referred to in Article 64(2)' shall be deleted;
- (b) paragraph 2 shall be amended as follows:

- (i) the terms 'acting in accordance with the procedure referred to in Article 64(2),' shall be deleted;

(ii) the following subparagraph shall be added:

'The measures referred to in this Article, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 64(2).';

3. Article 13(10) shall be amended as follows:

- (a) the words 'in accordance with the procedure referred to in Article 64(2),' shall be deleted;
- (b) the following sentence shall be added:

'Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 64(2).';

4. in the second and third subparagraphs of Article 15(3), the words 'in accordance with the procedure referred to in Article 64(2),' shall be replaced by 'in accordance with the regulatory procedure referred to in Article 64(3).';

5. Article 18(3) shall be amended as follows:

- (a) the words 'in accordance with the procedure referred to in Article 64(2),' shall be deleted;
- (b) the following subparagraph shall be added:

'The measures referred to in the first subparagraph, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 64(2).';

6. Article 19(10) shall be amended as follows:

- (a) the words 'in accordance with the procedure referred to in Article 64(2),' shall be deleted;
- (b) the following subparagraph shall be added:

'The measures referred to in the first subparagraph, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 64(2).';

15. Article 40(6) shall be amended as follows:

- (a) the words 'in accordance with the procedure referred to in Article 64(2)' shall be deleted;
- (b) the following subparagraph shall be added:

'The measures referred to in the first subparagraph, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 64(2).';

16. Article 44(3) shall be amended as follows:

- (a) the words 'in accordance with the procedure referred to in Article 64(2)' shall be deleted;
- (b) the following subparagraph shall be added:

'The measures referred to in the first subparagraph, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 64(2).';

17. Article 45(3) shall be amended as follows:

- (a) the words 'in accordance with the procedure referred to in Article 64(2)' shall be deleted;
- (b) the following subparagraph shall be added:

'The measures referred to in the first subparagraph, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 64(2).';

18. Article 56(5) shall be amended as follows:

- (a) the words 'in accordance with the procedure referred to in Article 64(2),' shall be deleted;
- (b) the following sentence shall be added:

'Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 64(2).';

19. in Article 58(4), the words 'in accordance with the procedure referred to in Article 64(2),' shall be replaced by ', in accordance with the regulatory procedure referred to in Article 64(3).';

20. Article 64 shall be amended as follows:

- (a) paragraph 2 shall be replaced by the following:

'2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.';

- (b) paragraph 3 shall be replaced by the following:

'3. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.';

- (c) the following paragraph shall be added:

'4. By 31 December 2010, and, thereafter, at least every three years, the Commission shall review the provisions concerning its implementing powers and present a report to the European Parliament and to the Council on the functioning of those powers. The report shall examine, in particular, the need for the Commission to propose amendments to this Directive in order to ensure the appropriate scope of the implementing powers conferred on the Commission. The conclusion as to whether or not amendment is necessary shall be accompanied by a detailed statement of reasons. If necessary, the report shall be accompanied by a legislative proposal to amend the provisions conferring implementing powers on the Commission.'.

Article 2

Entry into force

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

Article 3

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J. LENARČIČ

DIRECTIVE 2008/11/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 11 March 2008****amending Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading, as regards the implementing powers conferred on the Commission****(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.

Having regard to the Treaty establishing the European Community, and in particular Articles 44 and 95 thereof,

- (3) In accordance with the statement by the European Parliament, the Council and the Commission⁽⁶⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

Having regard to the proposal from the Commission,

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

- (4) The Commission should be empowered to adopt the measures necessary for the implementation of Directive 2003/71/EC in order to take account of technical developments in financial markets and ensure the uniform application of that Directive. Those measures are designed to adapt definitions and elaborate upon or supplement the provisions of Directive 2003/71/EC by detailed specification of the form and contents of a prospectus. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2003/71/EC by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

Having regard to the opinion of the European Central Bank⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽³⁾,

Whereas:

- (1) Directive 2003/71/EC of the European Parliament and of the Council⁽⁴⁾ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽⁵⁾.

- (5) Directive 2003/71/EC provides for a time restriction concerning the implementing powers conferred on the Commission. In their statement concerning Decision 2006/512/EC, the European Parliament, the Council and the Commission stated that Decision 2006/512/EC provides a horizontal and satisfactory solution to the European Parliament's wish to scrutinise the implementation of instruments adopted under the co-decision procedure and that, accordingly, implementing powers should be conferred on the Commission without time limit. The European Parliament and the Council also declared that they would ensure that the proposals aimed at repealing the provisions in the instruments that provide for a time limit on the delegation of implementing powers to the Commission are adopted as rapidly as possible. Following the introduction of the regulatory procedure with scrutiny, the provision establishing that time restriction in Directive 2003/71/EC should be deleted.

- (2) Council Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ OJ C 39, 23.2.2007, p. 1.

⁽³⁾ Opinion of the European Parliament of 14 November 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽⁴⁾ OJ L 345, 31.12.2003, p. 64.

⁽⁵⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁶⁾ OJ C 255, 21.10.2006, p. 1.

- (6) The Commission should, at regular intervals, evaluate the functioning of the provisions concerning the implementing powers conferred on it in order to allow the European Parliament and the Council to determine whether the extent of those powers and the procedural requirements imposed on the Commission are appropriate and ensure both efficiency and democratic accountability.
- (7) Directive 2003/71/EC should therefore be amended accordingly.
- (8) Since the amendments made to Directive 2003/71/EC by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 2003/71/EC is hereby amended as follows:

1. Articles 2(4), 4(3), 5(5), 7(1), 8(4), 11(3), 13(7), 14(8) and 15(7) shall be amended as follows:
- (a) the words 'in accordance with the procedure referred to in Article 24(2)' shall be deleted;
- (b) the following sentence shall be added:

'Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 24(2a).';

2. Article 20(3) shall be replaced by the following:

'3. In order to ensure uniform application of this Directive, the Commission shall adopt implementing measures aimed at establishing general equivalence criteria, based on the requirements laid down in Articles 5 and 7. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 24(2a).

On the basis of the above criteria, the Commission may adopt implementing measures in accordance with the regu-

latory procedure referred to in Article 24(2), stating that a third country ensures the equivalence of prospectuses drawn up in that country with this Directive by reason of its national law or of practices or procedures based on international standards set by international organisations, including the IOSCO disclosure standards.';

3. Article 24 shall be amended as follows:

- (a) the following paragraph shall be inserted:

'2a. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.';

- (b) paragraphs 3 and 4 shall be replaced by the following:

'3. By 31 December 2010 and, thereafter, at least every three years, the Commission shall review the provisions concerning its implementing powers and present a report to the European Parliament and to the Council on the functioning of those powers. The report shall examine, in particular, the need for the Commission to propose amendments to this Directive in order to ensure the appropriate scope of the implementing powers conferred on the Commission. The conclusion as to whether or not amendment is necessary shall be accompanied by a detailed statement of reasons. If necessary, the report shall be accompanied by a legislative proposal to amend the provisions conferring implementing powers on the Commission.'

Article 2

Entry into force

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

Article 3

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J. LENARČIČ

DIRECTIVE 2008/12/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 March 2008

amending Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators, as regards the implementing powers conferred on the Commission

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

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

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

(1) Directive 2006/66/EC of the European Parliament and of the Council ⁽³⁾ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁴⁾.

(2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.

(3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁵⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments

adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

(4) The Commission should be empowered to adapt Annex III and to adopt and revise detailed rules for exports and for the labelling of batteries and accumulators. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2006/66/EC, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(5) Directive 2006/66/EC should therefore be amended accordingly.

(6) Since the amendments made to Directive 2006/66/EC by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 2006/66/EC is hereby amended as follows:

1. Article 10(4) shall be replaced by the following:

'4. Transitional arrangements may be laid down in accordance with the regulatory procedure referred to in Article 24(2) to address difficulties faced by a Member State in satisfying the requirements of paragraph 2 as a result of specific national circumstances.

⁽¹⁾ OJ C 175, 27.7.2007, p. 57.

⁽²⁾ Opinion of the European Parliament of 24 October 2007 (not yet published in the Official Journal) and Council Decision of 14 February 2008.

⁽³⁾ OJ L 266, 26.9.2006, p. 1.

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁵⁾ OJ C 255, 21.10.2006, p. 1.

A common methodology shall be established for the calculation of annual sales of portable batteries and accumulators to end-users by 26 September 2007. That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 24(3).';

2. the first sentence of Article 12(6) shall be replaced by the following:

‘6. Annex III may be adapted or supplemented to take account of technical or scientific progress. Those measures, designed to amend non-essential elements of this Directive, *inter alia*, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 24(3).’;

3. Article 15(3) shall be replaced by the following:

‘3. Detailed rules for the implementation of this Article shall be laid down, in particular criteria for the assessment of equivalent conditions as referred to in paragraph 2. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 24(3).’;

4. Article 17 shall be replaced by the following:

‘Article 17

Registration

Member States shall ensure that each producer is registered. Registration shall be subject to the same procedural requirements in each Member State. Such requirements for registration, designed to amend non-essential elements of this Directive by supplementing it, shall be established in accordance with the regulatory procedure with scrutiny referred to in Article 24(3).’;

5. Article 21 shall be amended as follows:

(a) paragraph 2 shall be replaced by the following:

‘2. Member States shall ensure that the capacity of all portable and automotive batteries and accumulators is indicated on them in a visible, legible and indelible form by 26 September 2009. Detailed rules for the implementation of this requirement, including harmonised methods for the determination of capacity

and appropriate use, shall be laid down no later than 26 March 2009. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 24(3).’;

(b) paragraph 7 shall be replaced by the following:

‘7. Exemptions from the labelling requirements of this Article may be granted. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 24(3).’;

6. Article 24(3) shall be replaced by the following:

‘3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.’

Article 2

Entry into force

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

Article 3

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J. LENARČIČ

DIRECTIVE 2008/13/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 March 2008
repealing Council Directive 84/539/EEC on the approximation of the laws of the Member States
relating to electro-medical equipment used in veterinary medicine

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

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

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

(1) Community policies on better regulation stress the importance of simplification of national and Community legislation as a crucial element in improving the competitiveness of enterprises and achieving the objectives of the Lisbon Agenda.

(2) The method of conformity assessment provided for by Council Directive 84/539/EEC ⁽³⁾ is no longer necessary for the purposes of the internal market and trade with third countries.

(3) The functioning of the internal market and the protection of users and animals can be better ensured by other Community legislation.

(4) Directive 84/539/EEC should therefore be repealed.

(5) The repeal of Directive 84/539/EEC entails that after 31 December 2008 the specimen mark of conformity of Annex III to that Directive will no longer be used and that the corresponding national implementing measures have to be repealed accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 84/539/EEC is hereby repealed with effect from 31 December 2008.

Article 2

Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2008. They shall forthwith communicate to the Commission the text of those measures and a correlation table between them and this Directive.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

Article 3

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

Done at Strasbourg, 11 March 2008.

For the European Parliament
The President

H.-G. PÖTTERING

For the Council
The President

J. LENARČIČ

⁽¹⁾ Opinion of 16 January 2008 (not yet published in the Official Journal).

⁽²⁾ Opinion of the European Parliament of 29 November 2007 (not yet published in the Official Journal) and Council Decision of 14 February 2008.

⁽³⁾ OJ L 300, 19.11.1984, p. 179. Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

DIRECTIVE 2008/18/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 March 2008

amending Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), as regards the implementing powers conferred on the Commission

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 47(2) thereof,

Having regard to the proposal of the Commission,

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

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

(1) Council Directive 85/611/EEC ⁽³⁾ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁴⁾.

(2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.

(3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁵⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments

adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

(4) The Commission should be empowered to adopt the measures necessary for the implementation of Directive 85/611/EEC by adopting technical amendments clarifying the definitions so as to ensure the uniform application of that Directive throughout the Community, and aligning terminology and framing definitions in accordance with subsequent acts on UCITS and related matters. Since those measures are of general scope and are designed to amend non-essential elements of Directive 85/611/EEC, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(5) Directive 85/611/EEC should therefore be amended accordingly.

(6) Since the amendments made to Directive 85/611/EEC by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Articles 53a and 53b of Directive 85/611/EEC shall be replaced by the following:

'Article 53a

The Commission shall adopt technical amendments to this Directive in the following areas:

(a) clarification of the definitions in order to ensure uniform application of this Directive throughout the Community;

(b) alignment of terminology and the framing of definitions in accordance with subsequent acts on UCITS and related matters.

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ Opinion of the European Parliament of 10 July 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽³⁾ OJ L 375, 31.12.1985, p. 3. Directive as last amended by Directive 2005/1/EC of the European Parliament and of the Council (OJ L 79, 24.3.2005, p. 9).

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁵⁾ OJ C 255, 21.10.2006, p. 1.

Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 53b(2).

Article 53b

1. The Commission shall be assisted by the European Securities Committee instituted by Commission Decision 2001/528/EC (*).

2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

(*) OJ L 191, 13.7.2001, p. 45. Decision as amended by Decision 2004/8/EC (OJ L 3, 7.1.2004, p. 33).'

Article 2

Entry into force

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

Article 3

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J. LENARČIČ

DIRECTIVE 2008/19/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 March 2008

amending Directive 2002/83/EC concerning life assurance, as regards the implementing powers conferred on the Commission

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 47(2) and 55 thereof,

Having regard to the proposal from the Commission,

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

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

(1) Directive 2002/83/EC of the European Parliament and of the Council ⁽³⁾ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁴⁾.

(2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, inter alia, by deleting some of those elements or by supplementing the instrument with new non-essential elements.

(3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁵⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

(4) The Commission should be empowered to adopt the measures necessary for the implementation of Directive 2002/83/EC in order to take account of technical developments in the insurance sector or on financial markets and to ensure uniform application of that Directive. Those measures are designed to adjust the elements eligible for the available solvency margin; extend the list of legal forms; amend the list of classes of insurance or adapt the terminology used in that list; clarify or adjust the items constituting the solvency margin; amend the list of assets acceptable as cover for technical provisions and the rules on the spreading of investments; change the relaxations in the matching rules; clarify definitions; and make the necessary technical adjustments to the rules for setting the maxima applicable to interest rates. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2002/83/EC, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(5) Directive 2002/83/EC should therefore be amended accordingly.

(6) Since the amendments made to Directive 2002/83/EC by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 2002/83/EC is hereby amended as follows:

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ Opinion of the European Parliament of 14 November 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽³⁾ OJ L 345, 19.12.2002, p. 1. Directive as last amended by Directive 2007/44/EC (OJ L 247, 21.9.2007, p. 1).

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁵⁾ OJ C 255, 21.10.2006, p. 1.

1. in Article 64, the introductory wording shall be replaced by the following:

'The following technical adjustments, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 65(2)';

2. Article 65 shall be amended as follows:

- (a) paragraph 2 shall be replaced by the following:

'2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.';

- (b) paragraph 3 shall be deleted.

Article 2

Entry into force

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

Article 3

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J. LENARČIČ

DIRECTIVE 2008/20/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 March 2008

amending Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, as regards the implementing powers conferred on the Commission

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the first and third sentences of Article 47(2) and Article 95 thereof,

Having regard to the proposal from the Commission,

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

Having regard to the opinion of the European Central Bank ⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

- (1) Directive 2005/60/EC ⁽⁴⁾ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁵⁾.
- (2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, inter alia by deleting some of those elements or by supplementing the instrument with new non-essential elements.

- (3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁶⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

- (4) The Commission should be empowered to adopt the measures necessary for the implementation of Directive 2005/60/EC in order to take account of technical developments in the fight against money laundering and terrorist financing and to ensure uniform application of that Directive. More particularly, those measures are designed to clarify the technical aspects of some of the definitions provided for under Directive 2005/60/EC, to establish technical criteria for assessing whether situations present a low or high risk of money laundering or terrorist financing, whether or not it is justified to apply that Directive to persons carrying out a financial activity on an occasional or very limited basis, and to adapt the amounts provided for in that Directive, taking account of economic developments and changes in international standards. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2005/60/EC, inter alia by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

- (5) Directive 2005/60/EC provides for a time restriction concerning the implementing powers conferred on the Commission. In their statement concerning Decision 2006/512/EC, the European Parliament, the Council and the Commission stated that Decision 2006/512/EC provides a horizontal and satisfactory solution to the European Parliament's wish to scrutinise the implementation of instruments adopted under the co-decision procedure and that, accordingly, implementing powers should be conferred on the Commission without time limit. The European Parliament and the Council also declared that they would make sure that the proposals aimed at repealing the provisions in the instruments that provide for a time limit on the delegation of implementing powers to the Commission are adopted as rapidly as possible. Following the introduction of the regulatory procedure with scrutiny, the provision establishing that time restriction in Directive 2005/60/EC should be deleted.

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ OJ C 39, 23.2.2007, p. 1.

⁽³⁾ Opinion of the European Parliament of 14 November 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽⁴⁾ OJ L 309, 25.11.2005, p. 15. Directive as last amended by Directive 2007/64/EC (OJ L 319, 5.12.2007, p. 1).

⁽⁵⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁶⁾ OJ C 255, 21.10.2006, p. 1.

- (6) The Commission should, at regular intervals, evaluate the functioning of the provisions concerning the implementing powers conferred on it in order to allow the European Parliament and the Council to determine whether the extent of those powers and the procedural requirements imposed on the Commission are appropriate and ensure both efficiency and democratic accountability.
- (7) Directive 2005/60/EC should therefore be amended accordingly.
- (8) Since the amendments made to Directive 2005/60/EC by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 2005/60/EC is hereby amended as follows:

1. Article 40(1) shall be amended as follows:

- (a) the words ‘, in accordance with the procedure referred to in Article 41(2),’ shall be deleted;
- (b) the following subparagraph shall be added:

‘The measures referred to in the first subparagraph, designed to amend non-essential elements of this Directive, inter alia by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 41(2a).’;

2. Article 40(3) shall be amended as follows:

- (a) the words ‘, in accordance with the procedure referred to in Article 41(2),’ shall be deleted;

(b) the following subparagraph shall be added:

‘The measures referred to in the first subparagraph, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 41(2a).’;

3. Article 41 shall be amended as follows:

(a) the following paragraph shall be inserted:

‘2a. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.’;

(b) paragraphs 3 and 4 shall be replaced by the following:

‘3. By 31 December 2010, and thereafter at least every three years, the Commission shall review the provisions concerning its implementing powers and present a report to the European Parliament and to the Council on the functioning of those powers. The report shall examine, in particular, the need for the Commission to propose amendments to this Directive in order to ensure the appropriate scope of the implementing powers conferred on the Commission. The conclusion as to whether or not an amendment is necessary shall be accompanied by a detailed statement of reasons. If necessary, the report shall be accompanied by a legislative proposal to amend the provisions conferring implementing powers on the Commission’.

Article 2

Entry into force

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

Article 3

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J. LENARČIČ

DIRECTIVE 2008/21/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 March 2008

amending Council Directive 91/675/EEC setting up a European insurance and occupational pensions committee, as regards the implementing powers conferred on the Commission

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 47(2) thereof,

Having regard to the proposal of the Commission,

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

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

(1) Council Directive 91/675/EEC ⁽³⁾ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁴⁾.

(2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, inter alia by deleting some of those elements or by supplementing the instrument with new non-essential elements.

(3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁵⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments

adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

(4) The measures necessary for the implementation of directives in the field of direct non-life insurance and direct life insurance, reinsurance and occupational pensions should be adopted in accordance with Decision 1999/468/EC. When those measures are of general scope and are designed to amend non-essential elements of such directives, inter alia by supplementing them with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(5) Directive 91/675/EEC should therefore be amended accordingly.

(6) Since the amendments made to Directive 91/675/EEC by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 91/675/EEC is hereby amended as follows:

1. Article 2 shall be replaced by the following:

'Article 2

Where reference is made to this Article, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC (*) shall apply, having regard to the provisions of Article 8 thereof.

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ Opinion of the European Parliament of 14 November 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽³⁾ OJ L 374, 31.12.1991, p. 32. Directive as last amended by Directive 2005/1/EC of the European Parliament and of the Council (OJ L 79, 24.3.2005, p. 9).

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁵⁾ OJ C 255, 21.10.2006, p. 1.

(*) OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).;

2. the following article shall be inserted:

Article 3

Addressees

This Directive is addressed to the Member States.

'Article 2a

Where reference is made to this Article, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.'

Done at Strasbourg, 11 March 2008.

Article 2

Entry into force

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

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J. LENARČIČ

DIRECTIVE 2008/22/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 11 March 2008****amending Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market, as regards the implementing powers conferred on the Commission**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 44 and 95 thereof,

Having regard to the proposal from the Commission,

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

Having regard to the opinion of the European Central Bank ⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

- (1) Directive 2004/109/EC ⁽⁴⁾ of the European Parliament and of the Council provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁵⁾.
- (2) Decision 1999/468/EC has been amended by Decision 2006/512/EC which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.
- (3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁶⁾

concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

- (4) The Commission should be empowered to adopt the measures necessary for the implementation of Directive 2004/109/EC in order to clarify the technical aspects of some of the definitions provided under that Directive, notably the maximum length of the usual short settlement cycle, the calendar of trading days, the circumstances under which a person should have learnt of the acquisition or disposal of voting rights, the conditions of independence to be respected by market makers and management companies; take account of technical developments in financial markets; clarify the nature of the auditor's review, to define the minimum content of the condensed set of solo financial statements; elaborate further the procedures for the notification and disclosure of major holdings as well as the procedures for filing regulated information with the competent authority of the issuer's home Member State; and define minimum standards for the dissemination of regulated information and for the setting up of storage mechanisms. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2004/109/EC, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (5) Directive 2004/109/EC provides for a time restriction concerning the implementing powers conferred on the Commission. In their statement concerning Decision 2006/512/EC, the European Parliament, the Council and the Commission stated that Decision 2006/512/EC provides a horizontal and satisfactory solution to the European Parliament's wish to scrutinise the implementation of instruments adopted under the co-decision procedure and that, accordingly, implementing powers should be conferred on the Commission without time limit. The European Parliament and the Council also declared that they would ensure that the proposals aimed at repealing the provisions in the instruments that provide for a time limit on the delegation of implementing powers to the Commission are adopted as rapidly as possible. Following the introduction of the regulatory procedure with scrutiny, the provision establishing that time restriction in Directive 2004/109/EC should be deleted.

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ OJ C 39, 23.2.2007, p. 1.

⁽³⁾ Opinion of the European Parliament of 14 November 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽⁴⁾ OJ L 390, 31.12.2004, p. 38.

⁽⁵⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁶⁾ OJ C 255, 21.10.2006, p. 1.

- (6) The Commission should, at regular intervals, evaluate the functioning of the provisions concerning the implementing powers conferred on it in order to allow the European Parliament and the Council to determine whether the extent of those powers and the procedural requirements imposed on the Commission are appropriate and ensure both efficiency and democratic accountability.
- (7) Directive 2004/109/EC should therefore be amended accordingly.
- (8) Since the amendments made to Directive 2004/109/EC by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services (*) in accordance with the regulatory procedure referred to in Article 27(2).

The measures referred to in points (a) and (b) of the second subparagraph, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27(2a).

(*) OJ L 204, 21.7.1998, p. 37. Directive as last amended by Council Directive 2006/96/EC (OJ L 363, 20.12.2006, p. 81).;

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 2004/109/EC is hereby amended as follows:

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

‘3. In order to take account of technical developments on financial markets and to ensure the uniform application of paragraph 1, the Commission shall, in accordance with the procedures referred to in Article 27(2) and (2a), adopt implementing measures concerning the definitions set out in paragraph 1.

The Commission shall, in particular:

- (a) establish, for the purposes of paragraph 1(i)(ii), the procedural arrangements in accordance with which an issuer may make the choice of the home Member State;
- (b) adjust, where appropriate for the purposes of the choice of the home Member State referred to in paragraph 1(i)(ii), the three-year period in relation to the issuer's track record in the light of any new requirement under Community law concerning admission to trading on a regulated market; and
- (c) establish, for the purposes of paragraph 1(l), an indicative list of means which are not to be considered as electronic means, thereby taking into account Annex V to Directive 98/34/EC of the European Parliament

2. Article 5(6) shall be amended as follows:

(a) in the first subparagraph, the words ‘, in accordance with the procedure referred to in Article 27(2),’ shall be deleted;

(b) the third subparagraph shall be replaced by the following:

‘The measures referred to in point (a) shall be adopted in accordance with the regulatory procedure referred to in Article 27(2). The measures referred to in points (b) and (c), designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27(2a).

Where appropriate, the Commission may also adapt the five-year period referred to in paragraph 1. That measure, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27(2a).’;

3. Article 9(7) shall be replaced by the following:

‘7. The Commission shall adopt implementing measures in order to take account of technical developments on financial markets and to ensure the uniform application of paragraphs 2, 4 and 5. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27(2a).

The Commission shall specify the maximum length of the 'short settlement cycle' referred to in paragraph 4 of this Article, as well as the appropriate control mechanisms by the competent authority of the home Member State. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27(2a).

In addition, the Commission may draw up a list of the events referred to in paragraph 2 of this Article, in accordance with the regulatory procedure referred to in Article 27(2).;

4. Article 12(8) shall be amended as follows:

(a) the words 'in accordance with the procedure referred to in Article 27(2),' shall be deleted;

(b) the following subparagraph shall be added:

'Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27(2a).;

5. Article 13(2) shall be amended as follows:

(a) the words 'in accordance with the procedure referred to in Article 27(2),' shall be deleted;

(b) the following subparagraph shall be added:

'Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27(2a).;

6. Articles 14(2), 17(4) and 18(5) shall each be amended as follows:

(a) the words 'in accordance with the procedure referred to in Article 27(2),' shall be deleted;

(b) the following sentence shall be added:

'Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27(2a).;

7. Article 19(4) shall be amended as follows:

(a) in the first subparagraph, the words 'in accordance with the procedure referred to in Article 27(2),' shall be deleted;

(b) the following subparagraph shall be added:

'The measures referred to in the first and second subparagraphs, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27(2a).;

8. Article 21(4) shall be amended as follows:

(a) in the first subparagraph, the words 'in accordance with the procedure referred to in Article 27(2)' shall be deleted;

(b) the following subparagraph shall be added:

'The measures referred to in the first, second and third subparagraphs, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27(2a).;

9. Article 23 shall be amended as follows:

(a) paragraph 4 shall be amended as follows:

(i) the following subparagraph shall be inserted after the first subparagraph:

'In the context of point (ii) of the first subparagraph, the Commission shall also adopt implementing measures concerning the assessment of standards relevant to the issuers of more than one country. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27(2a).;

(ii) the following subparagraph shall be added:

'In the context of the previous subparagraph, the Commission shall also adopt implementing measures aimed at establishing general equivalence criteria regarding accounting standards relevant to issuers of more than one country. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27(2a).;

(b) paragraph 5 shall be amended as follows:

(i) the words ‘, in accordance with the procedure referred to in Article 27(2),’ shall be deleted;

(ii) the following sentence shall be added:

‘Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27(2a).’;

(c) in paragraph 7, the following subparagraph shall be added:

‘The Commission shall also adopt implementing measures aimed at establishing general equivalence criteria for the purpose of the first subparagraph. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27(2a).’;

10. Article 27 shall be amended as follows:

(a) the following paragraph shall be inserted:

‘2a. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.’;

(b) paragraphs 3 and 4 shall be replaced by the following:

‘3. By 31 December 2010, and, thereafter, at least every three years, the Commission shall review the provisions concerning its implementing powers and present a report to the European Parliament and to the Council on the functioning of those powers. The report shall examine, in particular, the need for the Commission to propose amendments to this Directive in order to ensure the appropriate scope of the implementing powers conferred on the Commission. The conclusion as to whether or not amendment is necessary shall be accompanied by a detailed statement of reasons. If necessary, the report shall be accompanied by a legislative proposal to amend the provisions conferring implementing powers on the Commission’.

Article 2

Entry into force

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

Article 3

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J. LENARČIČ

DIRECTIVE 2008/23/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 March 2008

**amending Directive 2006/49/EC on the capital adequacy of investment firms and credit institutions,
as regards the implementing powers conferred on the Commission**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 47(2) thereof,

Having regard to the proposal from the Commission,

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

Having regard to the opinion of the European Central Bank ⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

- (1) Directive 2006/49/EC ⁽⁴⁾ of the European Parliament and of the Council provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁵⁾.
- (2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, inter alia, by deleting some of those elements or by supplementing the instrument with new non-essential elements.
- (3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁶⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments

adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

- (4) The Commission should be empowered to adopt the measures necessary for the implementation of Directive 2006/49/EC in order to take account, inter alia, of technical developments of financial markets and to ensure the uniform application of that Directive. Those measures are designed to clarify definitions, to adjust the provisions of that Directive through technical adaptations related to the determination of own funds, the organisation, calculation and evaluation of risks and exposures, and to the categories of investment firms which are subject to that Directive. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2006/49/EC, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (5) Directive 2006/49/EC provides for a time restriction concerning the implementing powers conferred on the Commission. In their statement concerning Decision 2006/512/EC, the European Parliament, the Council and the Commission stated that Decision 2006/512/EC provides a horizontal and satisfactory solution to the European Parliament's wish to scrutinise the implementation of instruments adopted under the co-decision procedure and that, accordingly, implementing powers should be conferred on the Commission without time limit. The European Parliament and the Council also declared that they would ensure that the proposals aimed at repealing the provisions in the instruments that provide for a time limit on the delegation of implementing powers to the Commission are adopted as rapidly as possible. Following the introduction of the regulatory procedure with scrutiny, the provision establishing that time restriction in Directive 2006/49/EC should be deleted.
- (6) The Commission should, at regular intervals, evaluate the functioning of the provisions concerning the implementing powers conferred on it in order to allow the European Parliament and the Council to determine whether the extent of those powers and the procedural requirements imposed on the Commission are appropriate and ensure both efficiency and democratic accountability.
- (7) Directive 2006/49/EC should therefore be amended accordingly.

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ OJ C 39, 23.2.2007, p. 1.

⁽³⁾ Opinion of the European Parliament of 14 November 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽⁴⁾ OJ L 177, 30.6.2006, p. 201.

⁽⁵⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁶⁾ OJ C 255, 21.10.2006, p. 1.

(8) Since the amendments made to Directive 2006/49/EC by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 2006/49/EC is hereby amended as follows:

1. Article 41 shall be amended as follows:

(a) in paragraph 1 the words 'in accordance with the procedure referred to in Article 42(2)' shall be deleted;

(b) paragraph 2 shall be replaced by the following:

'2. The measures referred to in paragraph 1, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 42(2).';

2. Article 42 shall be amended as follows:

(a) paragraph 2 shall be replaced by the following:

'2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.';

(b) paragraphs 3 and 4 shall be replaced by the following:

'3. By 31 December 2010, and, thereafter, at least every three years, the Commission shall review the provisions concerning its implementing powers and present a report to the European Parliament and to the Council on the functioning of those powers. The report shall examine, in particular, the need for the Commission to propose amendments to this Directive in order to ensure the appropriate scope of the implementing powers conferred on the Commission. The conclusion as to whether or not amendment is necessary shall be accompanied by a detailed statement of reasons. If necessary, the report shall be accompanied by a legislative proposal to amend the provisions conferring implementing powers on the Commission'.

Article 2

Entry into force

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

Article 3

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J. LENARČIČ

II

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

DECISIONS

COMMISSION

COMMISSION DECISION

of 17 March 2008

amending Decision 2004/558/EC implementing Council Directive 64/432/EEC as regards additional guarantees for intra-Community trade in bovine animals relating to infectious bovine rhinotracheitis and the approval of the eradication programme presented by certain Member States

(notified under document number C(2008) 1004)

(Text with EEA relevance)

(2008/233/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine⁽¹⁾, and in particular Article 9(2) thereof,

Whereas:

- (1) Article 9 of Directive 64/432/EEC provides that a Member State, which has a compulsory national control programme for one of the contagious diseases listed in Annex E(II) to that Directive, may submit its programme to the Commission for approval. That Article also provides for the definition of the additional guarantees which may be required in intra-Community trade.
- (2) Commission Decision 2004/558/EC of 15 July 2004 implementing Council Directive 64/432/EEC as regards additional guarantees for intra-Community trade in bovine animals relating to infectious bovine rhinotracheitis and the approval of the eradication

programmes presented by certain Member States⁽²⁾ approves the programmes for the control and eradication of the infection with the bovine herpesvirus type 1 (BHV1) presented by the Member States listed in Annex I to that Decision for the regions listed in that Annex, and for which additional guarantees for BHV1 apply in accordance with Article 9 of Directive 64/432/EEC.

- (3) The Czech Republic has now submitted the programme with the aim of eradicating BHV1 infection in the whole territory of that Member State. That programme complies with the criteria set out in Article 9(1) of Directive 64/432/EEC. That programme also provides for rules for the national movement of bovine animals which are equivalent to those previously implemented in certain Member States or regions thereof, which were successful in eradicating the disease in those Member States or regions.
- (4) The programme presented by the Czech Republic and the additional guarantees presented in accordance with Article 9 of Directive 64/432/EEC, should be approved.
- (5) Annex I to Decision 2004/558/EC should therefore be amended accordingly.
- (6) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

⁽¹⁾ OJ L 121, 29.7.1964, p. 1977/64. Directive as last amended by Commission Decision 2007/729/EC (OJ L 294, 13.11.2007, p. 26).

⁽²⁾ OJ L 249, 23.7.2004, p. 20. Decision as last amended by Decision 2007/584/EC (OJ L 219, 24.8.2007, p. 37).

HAS ADOPTED THIS DECISION:

Article 1

Annex I to Decision 2004/558/EC is replaced by the text in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done in Brussels, 17 March 2008.

For the Commission
Androulla VASSILIOU
Member of the Commission

ANNEX

'ANNEX I

Member States	Regions of Member States to which the additional guarantees for infectious bovine rhinotracheitis apply in accordance with Article 9 of Directive 64/432/EEC
Czech Republic	All regions
Germany	All regions, except Regierungsbezirke Oberpfalz and Oberfranken in the federal state of Bavaria
Italy	The Autonomous Region of Friuli Venezia Giulia The Autonomous Province of Trento'

COMMISSION DECISION

of 18 March 2008

amending Decision 2003/467/EC as regards the declaration that certain administrative regions of Poland are officially free of enzootic bovine leucosis

(notified under document number C(2008) 974)

(Text with EEA relevance)

(2008/234/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine ⁽¹⁾, and in particular Annex D(I)(E) thereto,

Whereas:

- (1) Annex D to Directive 64/432/EEC provides that a Member State or part of a Member State may, as regards bovine herds, be considered officially enzootic-bovine-leukosis-free subject to compliance with certain conditions set out in that Directive.
- (2) The lists of regions of Member States declared free of enzootic bovine leukosis are set out in Commission Decision 2003/467/EC of 23 June 2003 establishing the official tuberculosis, brucellosis and enzootic-bovine-leukosis-free status of certain Member States and regions of Member States as regards bovine herds ⁽²⁾.
- (3) Poland has now submitted to the Commission documentation demonstrating compliance with the appropriate conditions provided for in Directive 64/432/EEC as regards 14 administrative regions (powiaty) within the superior administrative units (Voivodships) of Kujawsko-Pomorskie, Łódzkie and Małopolskie, in order that those regions be considered officially enzootic-bovine-leukosis-free regions of Poland.

(4) Following the evaluation of that documentation, those regions (powiaty) in Poland should be recognised as officially enzootic-bovine-leukosis-free regions of that Member State.

(5) Decision 2003/467/EC should therefore be amended accordingly.

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

HAS ADOPTED THIS DECISION:

Article 1

Annex III to Decision 2003/467/EC is amended in accordance with the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 18 March 2008.

For the Commission
Androulla VASSILIOU
Member of the Commission

⁽¹⁾ OJ L 121, 29.7.1964, p. 1977/64. Directive as last amended by Commission Decision 2007/729/EC (OJ L 294, 13.11.2007, p. 26).

⁽²⁾ OJ L 156, 25.6.2003, p. 74. Decision as last amended by Decision 2008/97/EC (OJ L 32, 6.2.2008, p. 25).

ANNEX

In Chapter 2 of Annex III to Decision 2003/467/EC, the second part, concerning Poland, is replaced by the following:

'In Poland:

— Voivodship Dolnośląskie,

Powiaty:	Bolesławiecki, Dzierżoniowski, Głogowski, Górowski, Jaworski, Jeleniogórski, Jelenia Góra, Kamiennogórski, Kłodzki, Legnicki, Legnica, Lubański, Lubiński, Lwówecki, Milicki, Oleśnicki, Oławski, Polkowicki, Strzeliński, Średzki, Świdnicki, Trzebnicki, Wałbrzyski, Wałbrzych, Wołowski, Wrocławski, Wrocław, Ząbkowicki, Zgorzelecki, Złotoryjski.
----------	--

— Voivodship Lubelskie,

Powiaty:	Białski, Biała Podlaska, Biłgorajski, Chełmski, Chełm, Hrubieszowski, Janowski, Krasnostawski, Kraśnicki, Lubartowski, Lubelski, Lublin, Łęczyński, Łukowski, Opolski, Parczewski, Puławski, Radzyński, Rycki, Świdnicki, Tomaszowski, Włodawski, Zamojski, Zamość.
----------	---

— Voivodship Kujawsko-Pomorskie,

Powiaty:	Aleksandrowski, Chełmiński, Golubsko-Dobrzyński, Grudziądzki, Grudziądz, Toruński, Toruń, Wąbrzeski.
----------	--

— Voivodship Łódzkie,

Powiaty:	Bełchatowski, Brzeziński, Kutnowski, Łaski, Łęczycki, Łowicki, Łódzki, Łódź, Opoczyński, Pabianicki, Pajęczański, Piotrkowski, Piotrków Trybunalski, Poddębicki, Radomszczański, Rawski, Sieradzki, Skierniewicki, Skierniewice, Tomaszowski, Wieluński, Wieruszowski, Zduńskowolski, Zgierski.
----------	---

— Voivodship Małopolskie,

Powiaty:	Brzeski, Bocheński, Chrzanowski, Dąbrowski, Gorlicki, Krakowski, Kraków, Limanowski, Miechowski, Myślenicki, Nowosądecki, Nowotarski, Nowy Sącz, Oświęcimski, Olkusi, Proszowicki, Tarnowski, Tarnów, Tatrzański, Wielicki.
----------	---

— Voivodship Opolskie,

Powiaty:	Brzeski, Głubczycki, Kędzierzyńsko-Kozielski, Kluczborski, Krapkowicki, Namysłowski, Nyski, Olecki, Opolski, Opole, Prudnicki, Strzelecki.
----------	--

— Voivodship Podkarpackie,

Powiaty:	Bieszczadzki, Brzozowski, Jasielski, Krośnieński, Krosno, Leski, Leżajski, Łańcucki, Rzeszowski, Rzeszów, Sanocki, Strzyżowski.
----------	---

— Voivodship Śląskie,

Powiaty:	Będziński, Bielski, Bielsko Biała, Bytom, Chorzów, Cieszyński, Częstochowski, Częstochowa, Dąbrowa, Gliwicki, Gliwice, Jastrzębie Zdrój, Jaworzno, Katowice, Kłobucki, Lubliniecki, Mikołowski, Mysłowice, Myszkowski, Piekary Śląskie, Pszczyński, Raciborski, Ruda Śląska, Rybnicki, Rybnik, Siemianowice, Sosnowiec, Świętochłowice, Tarnogórski, Tychy, Tyski, Wodzisławski, Zabrze, Zawierciański, Żory, Żywiecki.
----------	---

— Voivodship Świętokrzyskie,

Powiaty:	Buski, Jędrzejowski, Kazimierski, Kielecki, Kielce, Konecki, Opatowski, Ostrowiecki, Pińczowski, Sandomierski, Skarżyski, Starachowicki, Staszowski, Włoszczowski.
----------	--

— Voivodship Wielkopolskie,

Powiaty:	Jarociński, Kaliski, Kalisz, Kępiński, Kolski, Koniński, Konin, Krotoszyński, Ostrzeszowski, Słupecki, Turecki, Wrzesiński.
----------	---