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### Legislation

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2008/429/EC, Euratom:

- ★ **Council and Commission Decision of 26 May 2008 on the conclusion of the Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Armenia, of the other part, to take account of the accession of the Republic of Bulgaria and Romania to the European Union** .. 33

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- ★ **Council and Commission Decision of 26 May 2008 on the conclusion of the Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and Georgia, of the other part, to take account of the accession of the Republic of Bulgaria and Romania to the European Union** ..... 35

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<sup>(1)</sup> Text with EEA relevance

## I

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

## REGULATIONS

**COMMISSION REGULATION (EC) No 515/2008****of 10 June 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 <sup>(1)</sup>, 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 11 June 2008.

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

Done at Brussels, 10 June 2008.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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<sup>(1)</sup> OJ L 350, 31.12.2007, p. 1.

## ANNEX

**to Commission Regulation of 10 June 2008 establishing the standard import values for determining the entry price of certain fruit and vegetables**

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	MA	60,9
	MK	36,7
	TR	67,5
	ZZ	55,0
0707 00 05	JO	162,5
	MK	23,0
	TR	118,6
	ZZ	101,4
0709 90 70	TR	103,8
	ZZ	103,8
0805 50 10	AR	125,8
	EG	150,8
	TR	129,5
	US	176,3
	ZA	143,1
	ZZ	145,1
0808 10 80	AR	100,9
	BR	84,9
	CL	98,0
	CN	87,2
	MK	50,7
	NZ	106,4
	US	125,6
	UY	152,2
	ZA	85,6
	ZZ	99,1
0809 10 00	TR	195,6
	US	317,3
	ZZ	256,5
0809 20 95	TR	492,1
	US	400,6
	ZZ	446,4

<sup>(1)</sup> 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 516/2008

of 10 June 2008

amending Regulations (EC) No 1200/2005, (EC) No 184/2007, (EC) No 243/2007, (EC) No 1142/2007, (EC) No 1380/2007 and (EC) No 165/2008 as regards the terms of the authorisation of certain additives for use in animal nutrition

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

is necessary to change the terms of the authorisations with effect from that date.

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition<sup>(1)</sup>, and in particular Article 13(3) thereof,

Whereas:

(1) BASF Aktiengesellschaft has submitted an application under Article 13(3) of Regulation (EC) No 1831/2003 proposing to change the name of the holder of the authorisation as regards Commission Regulations (EC) No 1200/2005<sup>(2)</sup>, (EC) No 184/2007<sup>(3)</sup>, (EC) No 243/2007<sup>(4)</sup>, (EC) No 1142/2007<sup>(5)</sup>, (EC) No 1380/2007<sup>(6)</sup> and Commission Regulation (EC) No 165/2008<sup>(7)</sup>.

(2) Those Regulations authorise the use of certain additives. The authorisation is linked to the holder of the authorisation. In all cases the holder of the authorisation is BASF Aktiengesellschaft.

(3) The applicant claims that BASF Aktiengesellschaft was converted into BASF SE with effect from 14 January 2008 and that BASF SE is the same enterprise and now owns the marketing rights for those additives. The applicant has submitted appropriate documents supporting its claims.

(4) The proposed change of the terms of the authorisations is purely administrative in nature and does not entail a fresh assessment of the additives concerned. The European Food Safety Authority was informed of the application.

(5) To allow the applicant to exploit its marketing rights under the name of BASF SE from 14 January 2008, it

(6) Regulations (EC) No 1200/2005, (EC) No 184/2007, (EC) No 243/2007, (EC) No 1142/2007, (EC) No 1380/2007 and (EC) No 165/2008 should therefore be amended accordingly.

(7) It is appropriate to provide for a transitional period during which existing stocks may be used up.

(8) 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*

1. In Annex I to Regulation (EC) No 1200/2005, in column 2 of the entry for 1, the words 'BASF Aktiengesellschaft' are replaced by the words 'BASF SE'.

2. In the Annex to Regulation (EC) No 184/2007, in column 2 of the entry for 4d800, the words 'BASF Aktiengesellschaft' are replaced by the words 'BASF SE'.

3. In the Annex to Regulation (EC) No 243/2007, in column 2 of the entry for 4a1600, the words 'BASF Aktiengesellschaft' are replaced by the words 'BASF SE'.

4. In the Annex to Regulation (EC) No 1142/2007, in column 2 of the entry for 4a1600, the words 'BASF Aktiengesellschaft' are replaced by the words 'BASF SE'.

5. In the Annex to Regulation (EC) No 1380/2007, in column 2 of the entry for 4a62, the words 'BASF Aktiengesellschaft' are replaced by the words 'BASF SE'.

6. In the Annex to Regulation (EC) No 165/2008, in column 2 of the entry for 4a1600, the words 'BASF Aktiengesellschaft' are replaced by the words 'BASF SE'.

<sup>(1)</sup> OJ L 268, 18.10.2003, p. 29. Regulation as amended by Commission Regulation (EC) No 378/2005 (OJ L 59, 5.3.2005, p. 8).

<sup>(2)</sup> OJ L 195, 27.7.2005, p. 6. Regulation as amended by Regulation (EC) No 1445/2006 (OJ L 271, 30.9.2006, p. 22).

<sup>(3)</sup> OJ L 63, 1.3.2007, p. 1.

<sup>(4)</sup> OJ L 73, 13.3.2007, p. 4.

<sup>(5)</sup> OJ L 256, 2.10.2007, p. 20.

<sup>(6)</sup> OJ L 309, 27.11.2007, p. 21.

<sup>(7)</sup> OJ L 50, 23.2.2008, p. 8.

*Article 2*

Existing stocks which are in conformity with the provisions applicable before the entry into force of this Regulation may continue to be placed on the market and used until 31 October 2008.

*Article 3*

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

It shall apply from 14 January 2008.

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

Done at Brussels, 10 June 2008.

*For the Commission*  
Androulla VASSILIOU  
*Member of the Commission*

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## COMMISSION REGULATION (EC) No 517/2008

of 10 June 2008

## laying down detailed rules for the implementation of Council Regulation (EC) No 850/98 as regards the determination of the mesh size and assessing the thickness of twine of fishing nets

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms <sup>(1)</sup>, and in particular Article 48 thereof,

Whereas:

(1) Regulation (EC) No 850/98 lays down technical conservation measures applying to the taking and landing of fishery resources in maritime waters under the sovereignty or jurisdiction of the Member States. It provides, *inter alia*, that detailed rules are to be adopted for the assessment of twine thickness and the determination of mesh size of fishing nets.

(2) Commission Regulation (EC) No 129/2003 of 24 January 2003 laying down detailed rules for determining the mesh size and thickness of twine of fishing nets <sup>(2)</sup> contains certain technical rules concerning the use of gauges for determining the mesh size and twine thickness of fishing nets. However, the current use of those gauges by fishery inspectors has resulted in certain cases in disputes between fishery inspectors and fishermen as regards the methods and the results of measuring the meshes depending on how those instruments were used.

(3) In addition, recent technical progresses relating to the development of instruments for determining the mesh size of fishing nets have increased their accuracy. It is appropriate to provide for the use of those improved instruments by Community and national fishery inspectors. Accordingly, the use of the new gauge should be mandatory for Community inspectors and the national fishery inspectors of the Member States and marked as 'EC gauge'.

(4) For the purposes of the control procedure it is necessary to specify the types of gauge to be used, how they are to be used, how the meshes to be measured are to be chosen, the method by which each of them is to be measured, how the mesh size of the net is to be calculated, the procedure for the selection of twines of meshes for the assessment of thickness of twine, and to describe the sequence of the inspection procedure.

(5) Where the master of the fishing vessel disputes the result of a measurement in the course of an inspection, provision should be made for a further and final measurement.

(6) In the interests of clarity of Community legislation, Regulation (EC) No 129/2003 should be repealed and replaced by this Regulation.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fisheries Resources and Aquaculture,

HAS ADOPTED THIS REGULATION:

## CHAPTER I

## SUBJECT MATTER AND DEFINITIONS

## Article 1

## Subject matter

This Regulation lays down detailed rules for the implementation of Regulation (EC) No 850/98 as regards the determination of the mesh size and the assessment of the twine thickness of fishing nets by Community and national inspectors.

## Article 2

## Definitions

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

(a) 'mesh gauge' means a mesh measurement gauge with two jaws, which automatically applies longitudinal forces, in the range of 5 to 180 Newton (N) to the meshes with a precision of 1 N;

<sup>(1)</sup> OJ L 125, 27.4.1998, p. 1. Regulation as last amended by Regulation (EC) No 2166/2005 (OJ L 345, 28.12.2005, p. 5).

<sup>(2)</sup> OJ L 22, 25.1.2003, p. 5.

- (b) 'active gear' means any fishing gear for which the catch operation requires an active movement of the gear, including in particular towed gears, encircling gears, trawls, Danish seines and similar towed nets;
- (c) 'passive gear' means any fishing gear for which the catch operation does not require an active movement of the gear, and includes gillnets, entangling nets, trammel nets, trap-nets, lines, pots and traps;
- (d) 'N-direction' for knotted netting means the direction at right angles to the general course of the netting yarn, as shown in Annex I;
- (e) 'T-direction' means:
- (i) for knotted netting: the direction parallel to the general course of the netting yarn, as shown in Annex I;
  - (ii) for knotless netting: the direction at right angle to N-direction;
- (f) 'mesh size' means:
- (i) for knotted netting: the longest distance between two opposite knots in the same mesh when fully extended as shown in Annex I;
  - (ii) for knotless netting: the inside distance between the opposite joints in the same mesh when fully extended along its longest possible axis;
- (g) 'diamond mesh' means a mesh as shown in figure 1 of Annex II, composed of four bars of the same length where the two diagonals of the mesh are perpendicular and one diagonal is parallel to the longitudinal axis of the net as shown in figure 2 of Annex II;
- (h) 'square mesh' means a quadrilateral mesh composed of two sets of parallel bars of the same length, where one set is parallel to, and the other is at right angles to the longitudinal axis of the net;
- (i) 'T90 mesh' means a diamond mesh from knotted netting, as shown in figure 1 of Annex II, mounted so that the T-direction of the netting is parallel to the longitudinal axis of the net.

## CHAPTER II

## EC GAUGES

## Article 3

**Mesh gauge and twine thickness gauges**

1. Community and national inspectors shall use the mesh gauge and twine thickness gauges which comply with the

provisions of this Regulation for the determination of the mesh size and the twine thickness of fishing nets when conducting fishery inspections.

2. The technical specifications applying to the mesh gauge are set out in Annex III.

3. The technical specifications applying to twine thickness gauges are set out in Annex IV.

4. The mesh gauge and twine thickness gauges referred to in paragraph 1 shall be marked 'EC gauge' and certified by the manufacturer as complying with the technical specification referred in paragraphs 2 and 3 respectively.

5. The mesh gauge and twine thickness gauges sold or distributed for use by entities or persons other than national fisheries authorities shall not be marked 'EC gauge'.

## Article 4

**Calibration instruments for the mesh gauge**

The calibrated test weights and calibrated test measuring plate provided for in figure 1 of Annex V shall be certified by the competent national authorities and marked 'EC'.

## Article 5

**Testing of the mesh gauges**

The accuracy of the mesh gauge shall be verified by:

- (a) inserting the jaws of the gauge into slots of the calibrated test plate as provided for in figure 1 of Annex V;
- (b) hanging the calibrated test weights on the fixed jaw, as provided for in figure 2 of Annex V.

## CHAPTER III

## DETERMINATION OF MESH SIZE

## Article 6

**Selection of meshes in active gear**

1. The inspector shall select a series of 20 consecutive meshes from the net, chosen in the following direction:

- (a) for diamond and square meshes, in the direction of the longitudinal axis of the net;



(b) for T90 meshes, perpendicular to the direction of the longitudinal axis of the net.

2. Meshes less than three meshes from the selvedge, lacings, ropes or cod line shall not be measured. That distance shall be measured perpendicular to the lacings, ropes or cod line with the net stretched in the direction of that measurement. Meshes which are broken or have been repaired or have attachments to the net fixed at that mesh shall not be measured.

3. By way of derogation from paragraph 1, the meshes to be measured need not be consecutive if the application of paragraph 2 prevents it.

#### Article 7

##### Selection of meshes in passive gear

1. The inspector shall select 20 meshes from the fishing net. In the case of different mesh sizes in the fishing net, the meshes shall be selected from the part of the fishing net having the smallest meshes.

2. When selecting meshes in accordance with paragraph 1, the following meshes shall not be included:

(a) meshes at the top, bottom or side of a net selvedge;

(b) meshes within three meshes of lacings and ropes;

(c) meshes that have been broken or have been repaired.

#### Article 8

##### General provisions on the preparation and operation of mesh gauges

The mesh gauge shall be:

(a) prepared in accordance with Annex VI;

(b) operated in accordance with Annex VII.

#### Article 9

##### Operation of the mesh gauge for measuring diamond and T90 meshes

When measuring diamond and T90 meshes in:

(a) knotted and knotless netting when the N-direction can be determined, the netting shall be stretched in the N-direction of the meshes, as shown in Annex VII;

(b) knotless netting when the N-direction cannot be determined, the longest axis of the mesh shall be measured.

#### Article 10

##### Operation of the mesh gauge for measuring square meshes

1. When measuring a square mesh panel, the netting shall be stretched first in one diagonal direction and then in the other diagonal direction of the mesh, as shown in Annex VIII.

2. The procedure laid down in Annex VI shall apply to the measurement of each diagonal direction of the square mesh.

#### Article 11

##### Measurement conditions

Meshes shall be measured only when wet and unfrozen.

#### Article 12

##### Measurement of the size of each selected mesh

1. The size of each mesh shall be the distance between the outside edges of the jaws of the gauge at the point where the movable jaw is stopped.

2. Where there is a difference in measurement between the diagonals of an individual square mesh, then the larger diagonal shall be used.

#### Article 13

##### Determination of the mesh size of the net

The mesh size of the net shall be determined as the mean value, displayed by the gauge, of the series of 20 selected meshes.

#### Article 14

##### Determination of the mesh size in case of disputes

1. If the master of a fishing vessel disputes the result of the determination of the mesh size carried out in accordance with Article 13, 20 meshes shall be selected and measured in another part of the fishing net in accordance with Articles 6 to 12.

2. The mesh size shall then be redetermined as the mean value, displayed by the gauge, of all 40 meshes measured. The displayed result of the gauge shall be final.

## CHAPTER IV

**ASSESSING TWINE THICKNESS***Article 15***General provisions on the selection of twines**

1. The inspector shall select meshes from any part of the fishing net which is subject to a maximum permitted twine thickness.
2. Twines within a mesh that are broken or have been repaired shall not be selected.

*Article 16***Selection of twines in diamond mesh netting**

Twines in diamond mesh netting shall be selected in the following way, as shown in Annex VIII:

- (a) in the case of single twine netting, the twine on opposite sides of 10 meshes shall be selected;
- (b) in the case of double twine netting, each strand of twine on opposite sides of five meshes shall be selected.

*Article 17***Selection of twines in square mesh netting**

Twines in square mesh netting shall be selected in the following way, as shown in Annex VIII:

- (a) in the case of single twine netting, the twine on only one side of 20 meshes shall be selected, with the same side being selected in each mesh;
- (b) in the case of double twine netting, each strand of twine on only one side of 10 meshes shall be assessed, with the same side being selected in each mesh.

*Article 18***Selection of the twine thickness gauge**

A gauge with a circular hole with a diameter equal to the maximum twine thickness permitted for the part of the net considered shall be used by the inspector.

*Article 19***Assessment conditions**

Twines shall be assessed when unfrozen.

*Article 20***Assessment of the thickness of each selected twine**

When the thickness of the twine prevents the closure of the jaws of the gauge or the twine does not pass easily through the hole when the jaws are closed, the assessment of the thickness of a twine shall be noted by the inspector as a negative assessment (-).

*Article 21***Assessing twine thickness**

1. If more than five negative assessments (-) of the 20 twines selected are noted in accordance with Article 20, the inspector shall again select and assess a further 20 twines in accordance with Articles 15 to 20.
2. If more than 10 negative assessments (-) of the total 40 twines selected are found, the twine thickness shall be determined as exceeding the maximum twine thickness permitted for that part of the fishing net.

*Article 22***Assessment of twine thickness in case of disputes**

1. If the master of the vessel disputes the result of the assessment of the twine thickness carried out in accordance with Article 21, the provisions of paragraph 2 of this Article shall apply.
2. The inspector shall again select and assess 20 different twines in the same part of the fishing net. If more than five negative assessments (-) of the total 20 twines selected are found, the twine thickness shall be determined as exceeding the maximum twine thickness permitted for that part of the fishing net. The result of that assessment shall be final.

## CHAPTER V

**FINAL PROVISIONS***Article 23***Repeal**

1. Regulation (EC) No 129/2003 is repealed.
2. Reference to the provisions of the Regulation (EC) No 129/2003 shall be construed as reference to the present Regulation and read in accordance with the correlation table in Annex IX.

*Article 24***Transitional provisions**

1. For a transitional period until 1 September 2009 a Member State may continue to apply, in the waters under its sovereignty or jurisdiction the methods for determining the mesh size and assessing the thickness of twine of fishing nets which are in conformity with Regulation (EC) No 129/2003.

2. If a Member State intends to apply in the waters under its sovereignty or jurisdiction the methods for determining the

mesh size and assessing the twine thickness which are in conformity with Regulation (EC) No 129/2003 for a transitional period until 1 September 2009, it shall immediately inform the Commission thereof and publish this information on its official website.

*Article 25***Entry into force**

This Regulation shall enter into force on the third 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, 10 June 2008.

*For the Commission*

Joe BORG

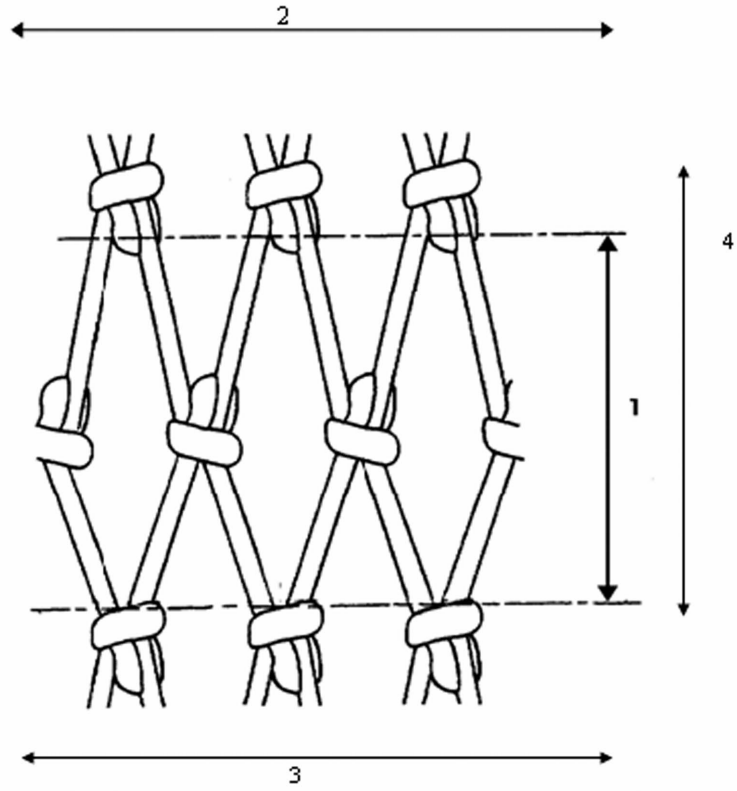
*Member of the Commission*

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ANNEX I

Mesh size and N-direction and T-direction of netting twine

Figure



1: Size of mesh

2: T-direction.

3: General course of the netting.

4: N-direction.

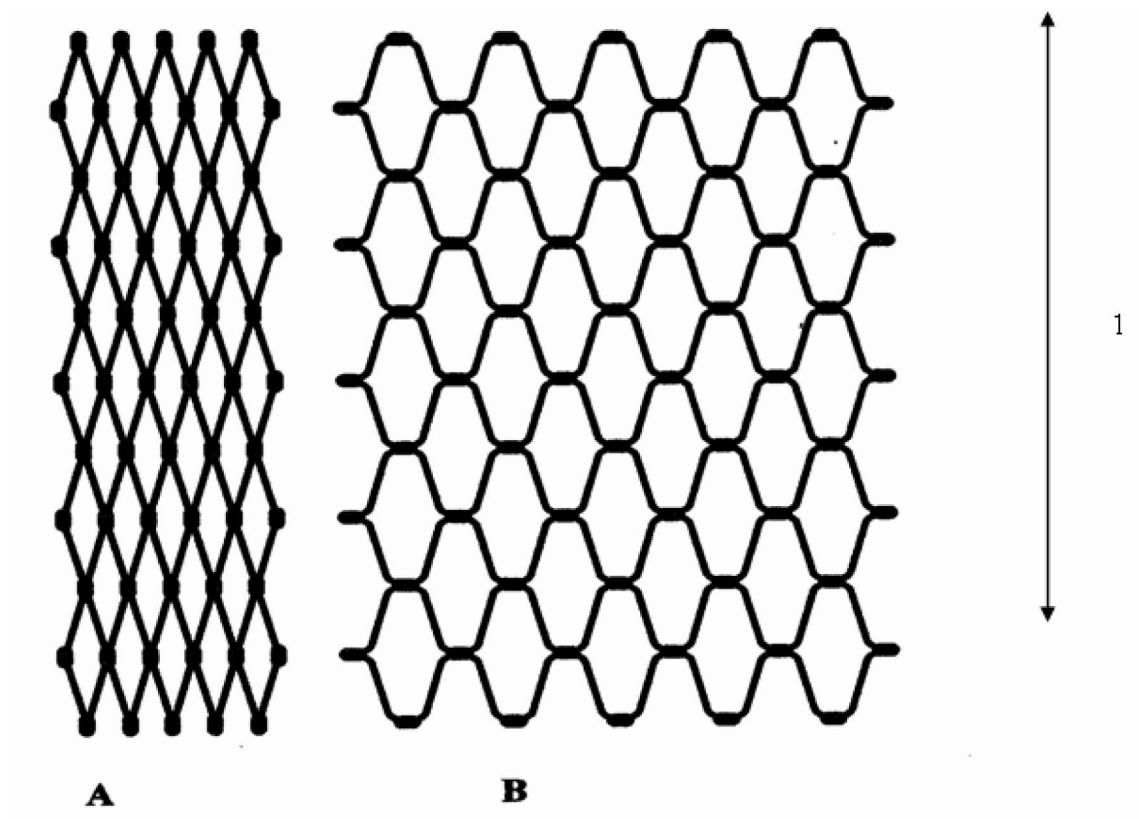
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## ANNEX II

## Diamond knotted netting and T90 netting

Figure 1

The direction of run of the netting twine in a standard diamond knotted net (A) and in a net turned 90° (B) is shown below.



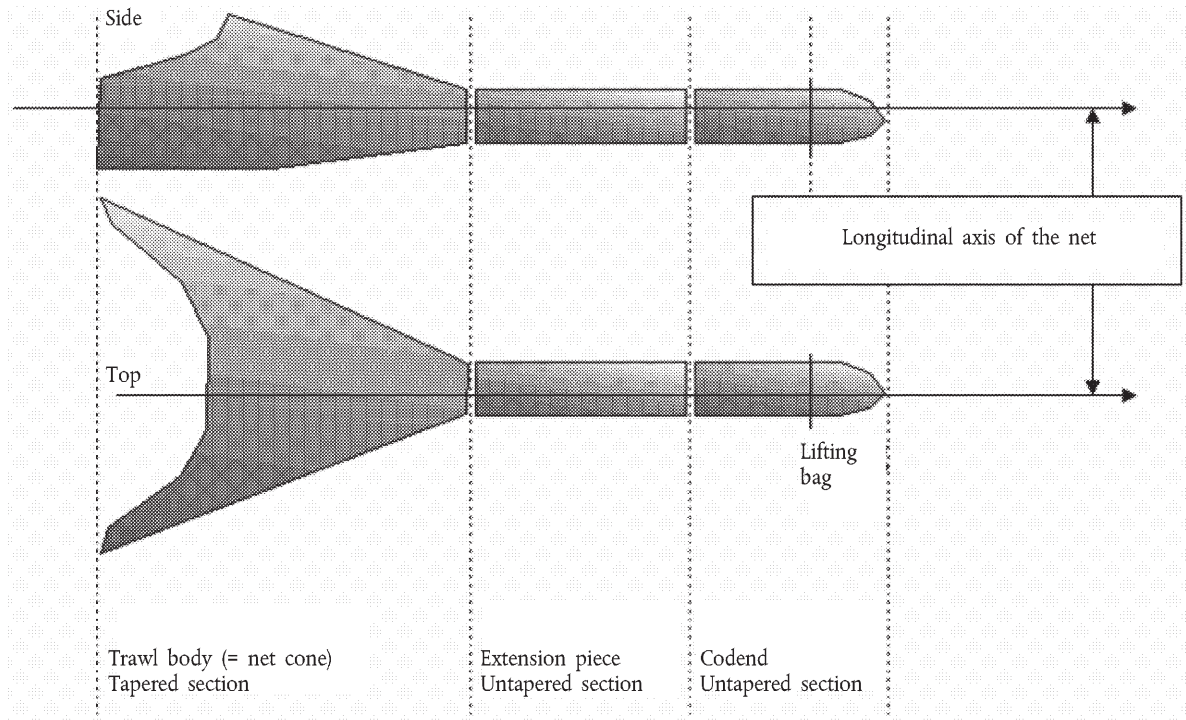
A: Standard diamond mesh netting.

B: T90 mesh netting.

1: longitudinal axis of the net.

Longitudinal axis of the net

Figure 2



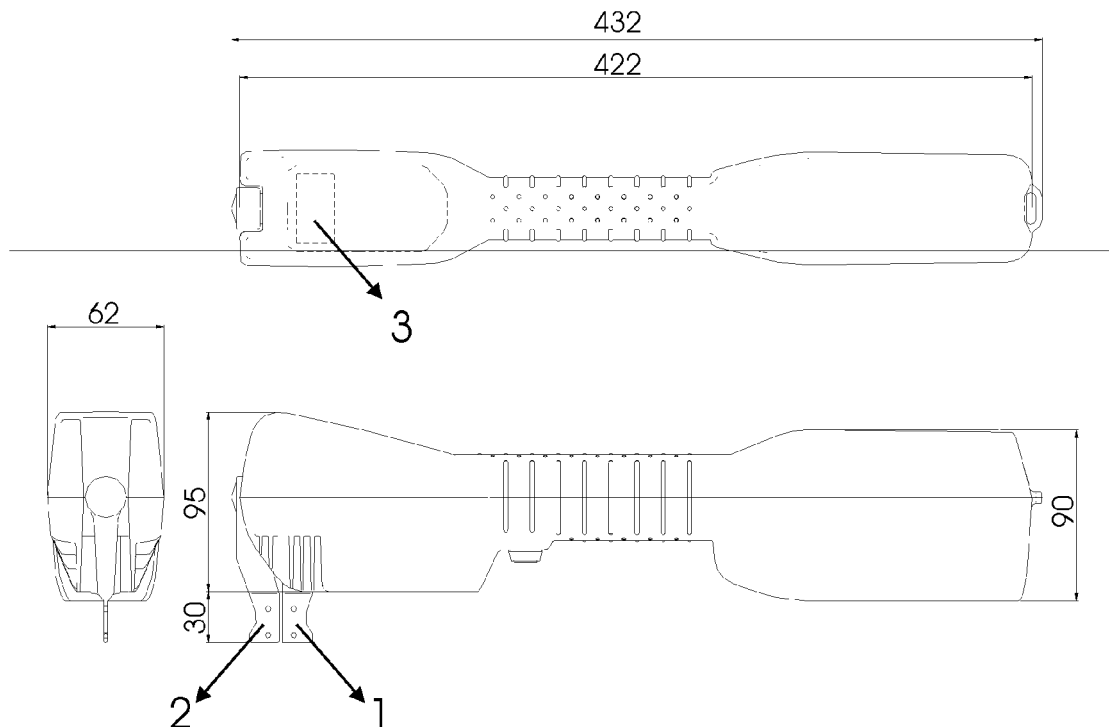
## ANNEX III

**Technical specifications of the mesh gauge**

1. The mesh gauge shall:
  - (a) automatically apply a longitudinal measuring force when measuring the mesh size of fishing nets;
  - (b) have two jaws, one fixed and one movable, each 2 mm thick with rounded edges with a radius of 1 mm to ensure that the jaws slip easily over the twine as shown in figure below;
  - (c) be electrically driven or if battery powered it shall be capable of making 1 000 consecutive mesh measurements before requiring to be recharged;
  - (d) be able to apply selected longitudinal forces, in the range 5 to 180 N, to the meshes with a precision of 1 N;
  - (e) have a built-in system for measuring the applied force;
  - (f) be capable to stretch a mesh at a constant speed of  $300 \pm 30$  mm/min by the movable jaw;
  - (g) be able to measure meshes from 10 to 300 mm and have detachable jaws for use on small and large meshes;
  - (h) have a measurement precision of 1 mm;
  - (i) have a structure which is rigid and shall not be distorted under load;
  - (j) be light yet robust and should weigh no more than 2,5 kg;
  - (k) be made of materials resistant to corrosion under marine conditions;
  - (l) be water resistant and unaffected by dust to standard IP56 <sup>(1)</sup>;
  - (m) be stable in operation over a temperature range of  $-10$  to  $+45$  °C;
  - (n) be able to withstand temperatures between  $-30$  and  $70$  °C during storage and transportation;
  - (o) be controlled by software which should provide a menu of functions and enable the gauge to self-test the electronic and mechanical parts when started;
  - (p) display that the gauge is ready for use and if not, display an error message, close down and cease operating;
  - (q) be possible to operate with one hand and the functions must be accessed via external buttons;
  - (r) show data on an integral display and present each measurement, the number of measurements made in a series, and the mean value in millimetres;
  - (s) store the data of at least 1 000 measurements in its memory and it must be possible to transmit data to a computer;
  - (t) contain a function to calculate the mean mesh size rounded to the nearest 0,1 mm;
  - (u) incorporate software having a function to automatically select the largest diagonal of each mesh to calculate the mean mesh size of the square mesh netting;
  - (v) save the data of all measurements made.
2. Some netting creeps under load. The gauge must respond to this condition by reapplying the fixed force, requiring an algorithm in the controlling software, as described in the Appendix.

<sup>(1)</sup> Internal protection (IP) codes are specified in the international standard of the International Electrotechnical Commission (IEC) 60529.

Figure  
(These drawings are for illustrative purposes only)



Description	
1	Fixed jaw with load cell
2	Movable jaw
3	Display
Specifications	
Length measurement	
Range:	10-300 mm
Accuracy:	± 1 mm
Force measurement	
Range:	5-180 N
Precision:	± 1 N
Fixed measuring forces:	10 N, 20 N, 50 N, 125 N
Speed movable jaw:	300 ± 30 mm/min <sup>(1)</sup>
Battery autonomy:	minimum 1 000 measurements
Data storage	
Memory:	minimum 1 000 measurements
Temperature range	
Operating:	- 10 to 40 °C
Storage:	- 30 to 70 °C
Waterproof	to standard IP56
Shockproof	
Weight	maximum 2,5 kg

<sup>(1)</sup> Speed of the movable jaw during the stretching of the mesh. The unloaded speed of the movable jaw can be higher.



*Appendix to Annex III***Measurement algorithm**

To allow for creep in a stretched mesh:

1. extend the movable jaw into the mesh at a constant speed of  $300 \pm 30$  mm/min <sup>(1)</sup>, until the measurement force is reached;
2. stop the motor and wait for 1 second;
3. if the force drops below 80 % of the pre-set measurement force, extend the movable jaw into the mesh until the measurement force is reached once more.

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<sup>(1)</sup> Speed of the movable jaw during the stretching of the mesh. The unloaded speed of the movable jaw can be higher.

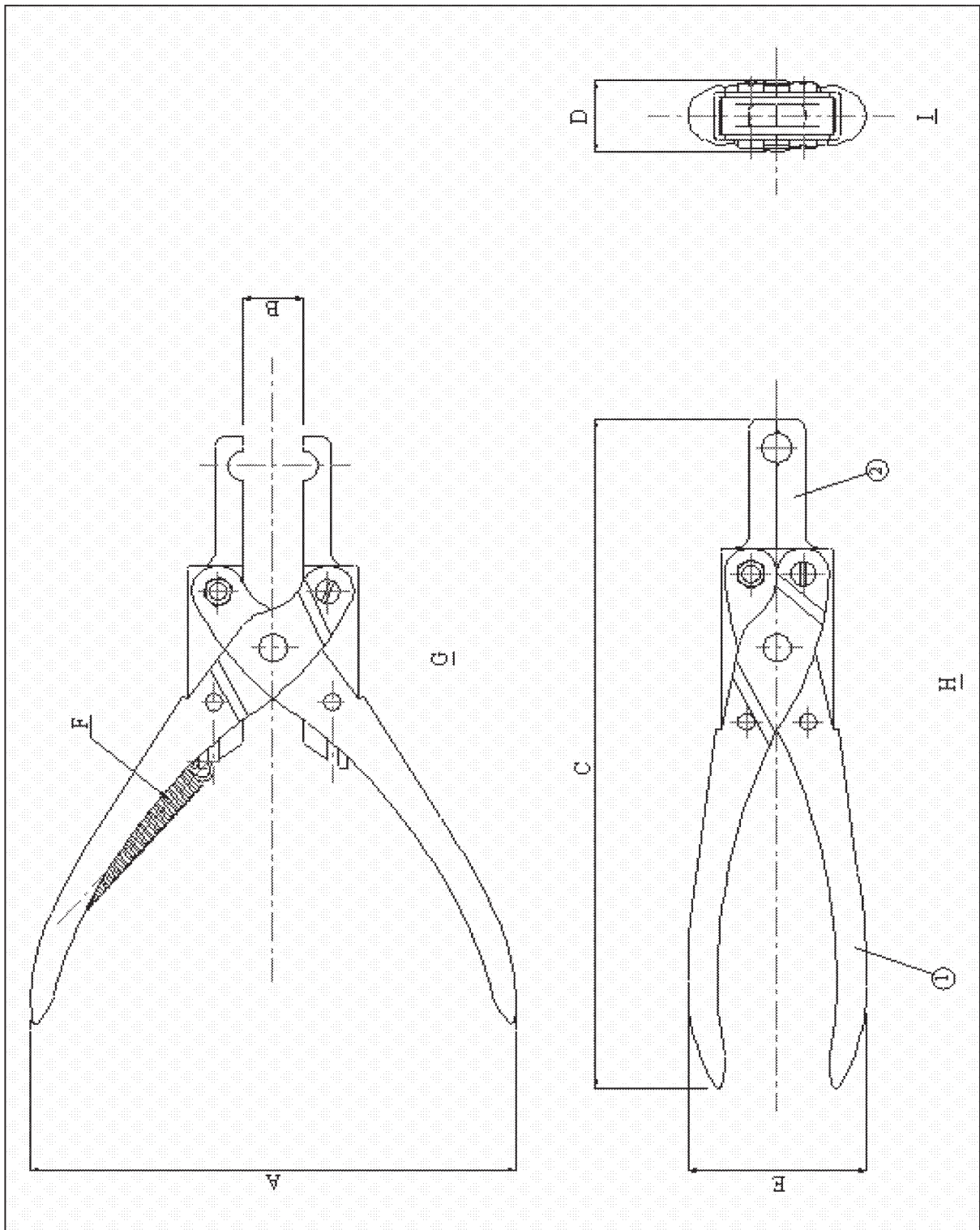
## ANNEX IV

**Technical specifications of the twine thickness gauge**

Gauges for assessing the thickness of twine shall:

- (a) be made of durable, non-corrosive material able to withstand a harsh marine environment and shall be manufactured in accordance with the drawings shown in the figure below;
- (b) have edges around the circumference of each side of the circular hole for assessing the thickness of the twine (the hole) rounded to avoid abrasion when the twine is pulled through the hole to test legality;
- (c) be constructed with the nose of the pliers rounded to facilitate inserting the jaws between double twines;
- (d) have jaws with parallel action that are sufficiently strong to prevent deformation of the jaws during any reasonable use, bearing in mind that the jaws have to be squeezed closed with manual force during every measurement;
- (e) have the inside faces of the jaws milled to leave a 0,5 mm gap for a distance of 1 mm either side of the hole when the jaws are closed in order to avoid single filaments of material protruding from braided or twisted construction being trapped in the flat surfaces of the jaws on each side of the hole in which the twine is seated;
- (f) have, when the jaws are closed, the diameter of the circular hole marked in millimetres on one of the jaws, adjacent to the hole; the jaws are closed when the surface of both internal sides of the jaws touch each other and are flush;
- (g) have both the handle and the jaws marked 'EC gauge';
- (h) have a tolerance for the hole diameter of  $0 + 0,1$  mm;
- (i) be conveniently portable such that a set of four (4 mm, 5 mm, 6 mm, and 8 mm) gauges may be carried by an inspector during vessel to vessel transfer at sea;
- (j) if gauges are of different sizes, be easily identifiable;
- (k) be easy to insert between double twine. After the gauge has been inserted into position, it shall be capable of easy operation with one hand.

Figure  
Twine-measuring pliers assembly

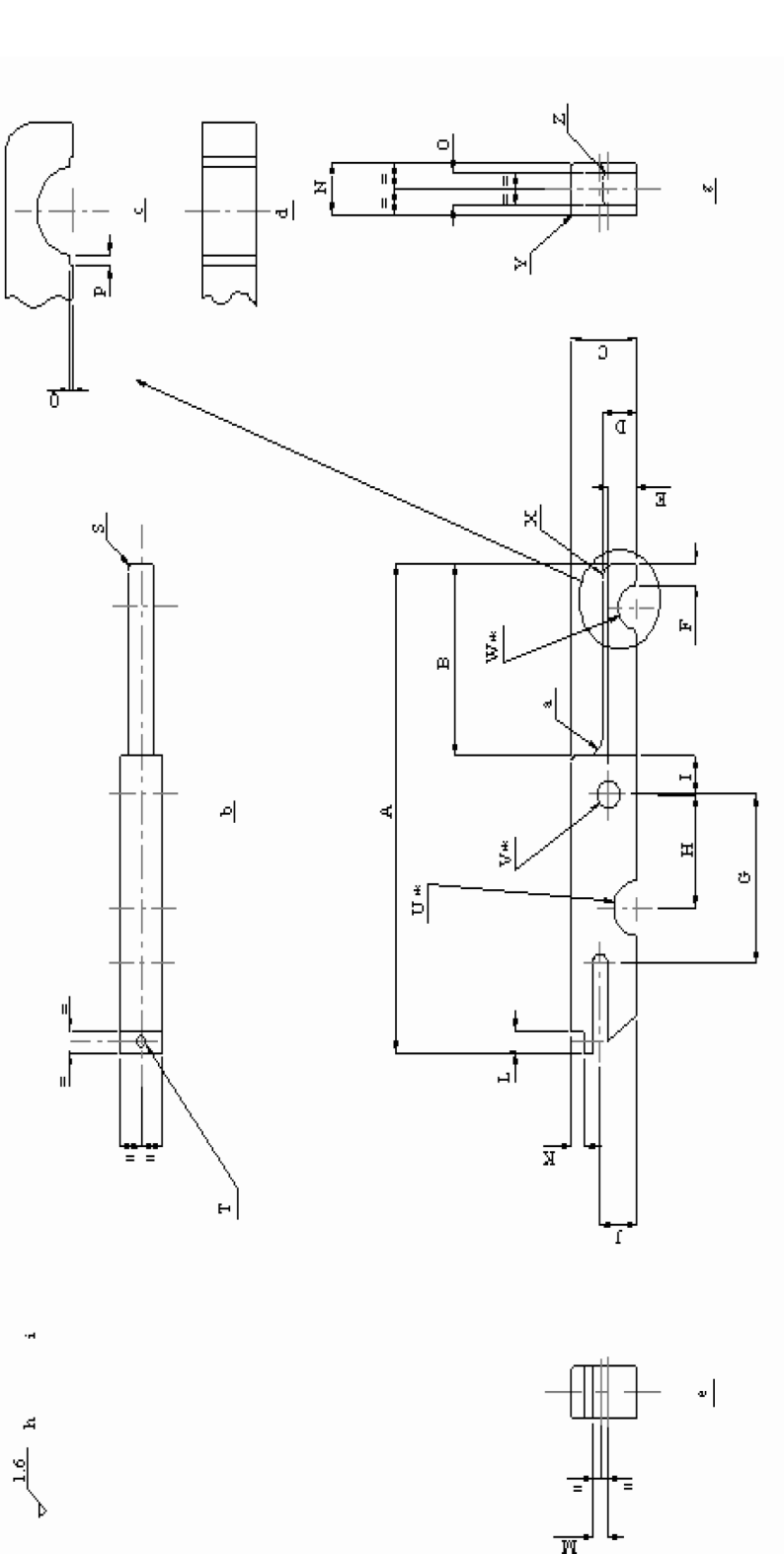


Dimensions and text on drawing	
A	132
B	16
C	161
D	19
E	48
F	In the unused condition the pliers are held open by a tension spring
G	Plan view
H	Front elevation
I	End elevation
1	Handle
2	Jaws

Dimensions and text on drawing		Title	
A	89	g	Jaw
B	35	h	Dimension units
C	14,5	i	mm
D	7,5	*	Holes machined with jaws clamped together as pair
E	6,25		
F	4 minimum		
G	40,48		
H	20,64		
I	7,0		
J	7,94		
K	3		
L	4		
M	N <sup>3,23</sup> <sub>3,18</sub>		
N	9,5		
O	6,0		
P	1,0		
Q	0,25		
S	R1,5		
T	N 2,0		
U	N <sup>10,2</sup> through <sup>10,0</sup>		
V	N <sup>4,85</sup> through <sup>4,80</sup>		
W	N 4,0/5,0/6,0/8,0 + 0,10 0,00		
X	R3		
Y	0,5 x 45E		
Z	R1,5		
a	R4		
b	Plan view		
c	Enlarged scrap view	g	End elevation
d	Scrap plan	h	All over
e	End elevation	i	Break all sharp edges
f	Front elevation	*	Holes machined with jaws clamped together as pair

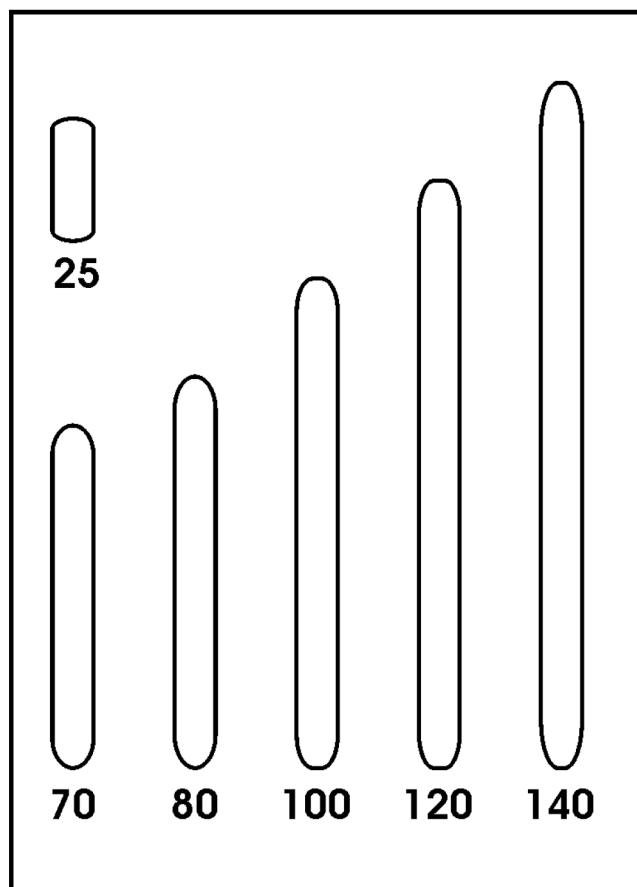
Tolerances:	
unless otherwise stated	± 0,10
decimal dimensions:	± 0,50
others:	



## ANNEX V

**Calibration and testing of the mesh gauge****A. Verification of length measurement**

The verification of length measurement shall be performed by inserting the jaws of the gauge to be used during the inspection, into slots of different lengths in the calibrated rigid test plate. This can be done at any time.

*Figure 1*

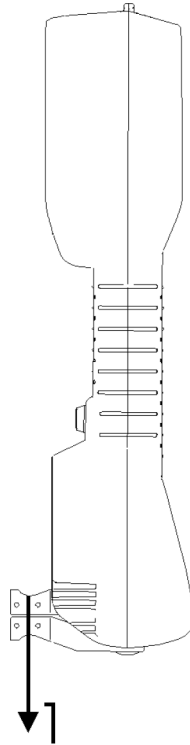
Length of slots in mm

**B. Verification of force measurement**

The verification of force measurement shall be performed by hanging calibrated weights on the fixed jaw containing the load cell, with the gauge held vertical and secure. The weights shall have the following values: 10, 20, 50 and 125 N. The weights can only be used under stable conditions.

Figure 2

(This drawing is for illustrative purposes only)



1: Test weight.

—

## ANNEX VI

**Preparation of the mesh gauge**

1. The inspector shall:
    - (a) select the appropriate size of jaw for the meshes to be measured;
    - (b) ensure that the jaws are clean;
    - (c) check that the gauge completes the self-test satisfactorily;
    - (d) select the measuring force to be applied as follows:
      - (i) for active gear:
        - 20 N for mesh sizes < 35 mm,
        - 50 N for mesh sizes  $\geq$  35 mm and < 55 mm,
        - 125 N for mesh sizes  $\geq$  55 mm;
      - (ii) for passive gear:
        - 10 N for all mesh sizes;
    - (e) verify the jaw type setting. The default setting is 'Normal'. If small or large jaws are used, the inspector shall enter the menu and change the jaw type setting accordingly.
  2. When the activities set out in point 1 are completed the gauge is then ready to undertake mesh measurements.
-

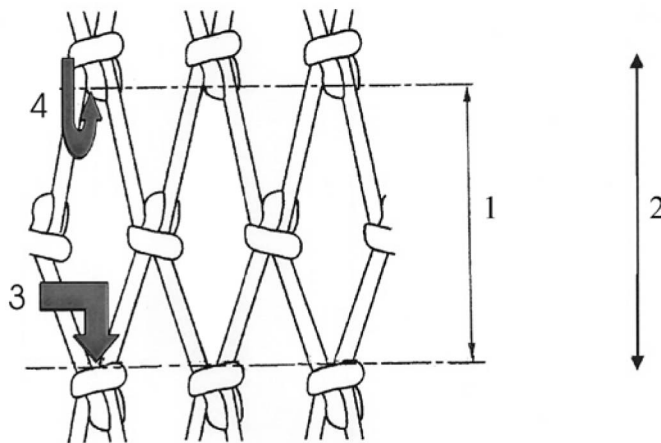
## ANNEX VII

**Operation of the mesh gauge for inspection**

When measuring the meshes the inspector shall:

- (a) insert the jaws into the mesh opening with the fixed jaw of the gauge against the knot, as shown in the figure below;
- (b) activate the gauge allowing the jaws to open until the movable jaw reaches the opposite knot and stops when the set force is reached:

Figure



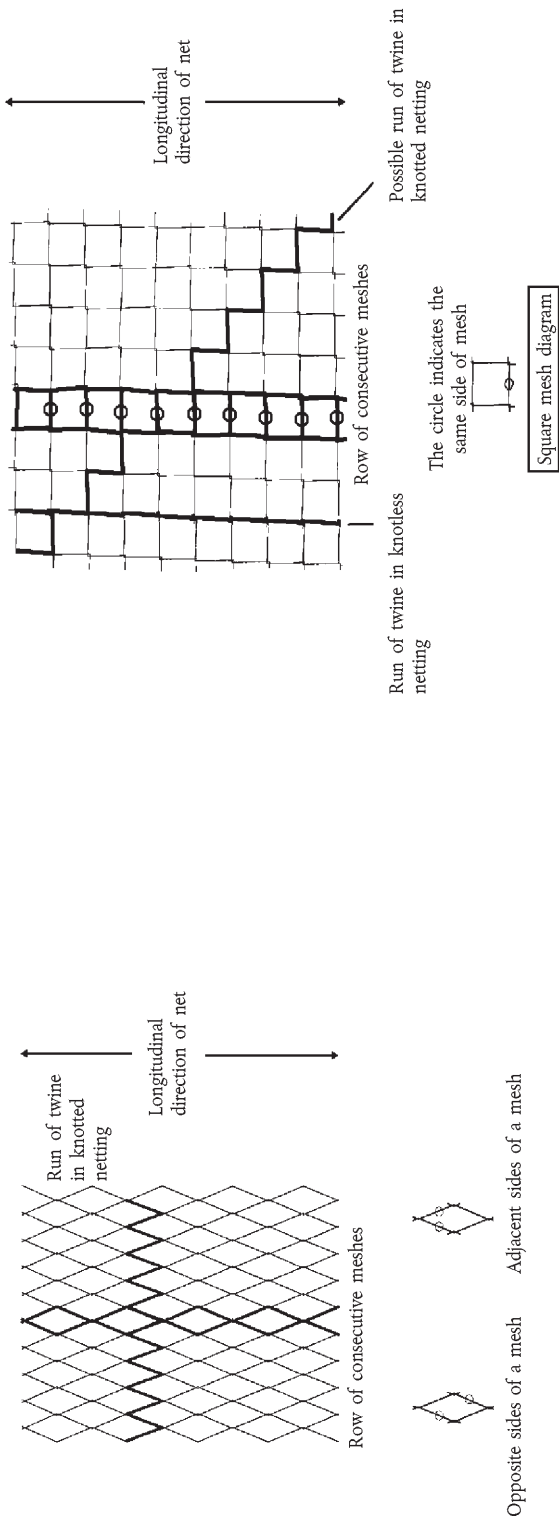
- 1: Mesh size.
- 2: N-direction.
- 3: Fixed jaw.
- 4: Movable jaw.



ANNEX VIII

Twines in diamond and square mesh netting

Figure



ANNEX IX  
Correlation table

Regulation (EC) No 129/2003	This Regulation
—	Article 1
Article 1	Article 2
Article 2(1)	Article 3(2)
Article 2(2)	Article 3(4)
Article 3(1)	Article 9
Article 3(2)	—
Article 3(3)	—
Article 4(1)	Article 10(1)
Article 4(2)	Article 10(2)
Article 5(1)	Article 6(1)
Article 5(2)	Article 6(2)
Article 5(3)	Article 6(3)
Article 6(1)	Article 11
Article 6(2)	Article 12(1)
Article 6(3)	Article 12(2)
Article 7	Article 13
Article 8	—
Article 9	Article 14
Article 10(1)	Article 3(2)
Article 10(2)	Article 3(2)
Article 10(3)	Article 3(4)
Article 10(4)	Article 3(2)
Article 10(5)	Article 3(2)
Article 11(1)	Article 7(1)
Article 11(2)	Article 7(2)
Article 12(1)	Article 11
Article 12(2)	Article 8
Article 13	Article 13
Article 14	Article 6
Article 15	Article 14
Article 16(1)	Article 3(3)
Article 16(2)	Article 3(3)

Regulation (EC) No 129/2003	This Regulation
Article 16(3)	Article 3(4)
Article 17(1)	Article 15(1)
Article 17(2)	Article 15(2)
Article 17(3)	—
Article 18(1)	Article 19
Article 18(2)	Article 16
Article 18(3)	Article 17
Article 19(1)	Article 20
Article 19(2)	Article 21(1)
Article 19(3)	Article 21(2)
Article 20	Article 22

**COMMISSION REGULATION (EC) No 518/2008****of 10 June 2008****fixing, for the 2007/08 marketing year, the storage aid for unprocessed dried grapes and unprocessed dried figs**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the markets in processed fruit and vegetable products <sup>(1)</sup>, and in particular Article 9(8) thereof,

Whereas:

- (1) The aid scheme established by Regulation (EC) No 2201/96 is repealed by Council Regulation (EC) No 1182/2007 <sup>(2)</sup>, which lays down specific rules for the fruit and vegetable sector, from 1 January 2008. However, this aid scheme remains applicable for the 2007/08 marketing year for each of the products concerned by virtue of Article 55(1) of Regulation (EC) No 1182/2007.
- (2) Article 9(4) of Regulation (EC) No 2201/96 provides that storage aid is to be granted to storage agencies for the actual duration of storage and for the quantities of sultanas, currants and dried figs that they buy in accordance with paragraph 1 of the said Article.
- (3) The storage aid for unprocessed dried grapes and unprocessed dried figs from the 2007/08 marketing year should be set in accordance with Article 7 of Commission Regulation (EC) No 1622/1999 of 23 July 1999 laying down detailed rules for applying Council

Regulation (EC) No 2201/96 as regards the scheme for the storage of unprocessed dried grapes and unprocessed dried figs <sup>(3)</sup>.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

For products from the 2007/08 marketing year, the storage aid provided for in Article 9(4) of Regulation (EC) No 2201/96 shall be:

- (a) for dried grapes:
  - (i) EUR 0,1408 per day and per tonne net weight until 28 February 2009;
  - (ii) EUR 0,1148 per day and per tonne net weight from 1 March 2009;
- (b) for dried figs, EUR 0,1311 per day and per tonne net weight.

*Article 2*This Regulation shall enter into force on the third 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, 10 June 2008.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

<sup>(1)</sup> OJ L 297, 21.11.1996, p. 29. Regulation as last amended by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1).

<sup>(2)</sup> OJ L 273, 17.10.2007, p. 1.

<sup>(3)</sup> OJ L 192, 24.7.1999, p. 33. Regulation as amended by Regulation (EC) No 1051/2005 (OJ L 173, 6.7.2005, p. 5).

**COMMISSION REGULATION (EC) No 519/2008****of 10 June 2008****approving minor amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications ('Volailles de Loué' (PGI))**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs <sup>(1)</sup>, and in particular the second sentence of Article 9(2) thereof,

Whereas:

- (1) In accordance with the first subparagraph of Article 9(1), and by virtue of Article 17(2), of Regulation (EC) No 510/2006, the Commission has examined France's application for approval of an amendment to the specification for the protected geographical indication 'Volailles de Loué', registered by Commission Regulation (EC) No 1107/1996 <sup>(2)</sup>.
- (2) The purpose of the application is to amend the specification by adding a breed 'dinde bronzée' intended for sale in cuts throughout the year. The strain, density and feed are also to be specified.

- (3) The Commission has examined the amendment in question and concluded that it is justified. As the amendment is minor within the meaning of Article 9 of Regulation (EC) No 510/2006, the Commission may approve it without following the procedure laid down in Articles 5, 6 and 7 of that Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

The specification for the protected designation of origin 'Volailles de Loué' shall be amended in accordance with Annex I to this Regulation.

*Article 2*

A summary of the main points of the specification is given in Annex II to this Regulation.

*Article 3*

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

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

Done at Brussels, 10 June 2008.

*For the Commission*  
Mariann FISCHER BOEL  
*Member of the Commission*

<sup>(1)</sup> OJ L 93, 31.3.2006, p. 12. Regulation as last amended by Commission Regulation (EC) No 417/2008 (OJ L 125, 9.5.2008, p. 27).

<sup>(2)</sup> OJ L 148, 21.6.1996, p. 1. Regulation as last amended by Regulation (EC) No 704/2005 (OJ L 118, 5.5.2005, p. 14).

## ANNEX I

The specification for the protected geographical indication 'Volailles de Loué' is amended as follows:

**'Description of product':**

The following paragraph is added:

*'Dinde (bronzée) fermière de Loué* (Loué farm-reared (bronze) turkey).

Slow-growing strain of female and male turkeys of the "bronze" variety, solidly built and with a firm stand, are reared solely in the open air until they are mature (minimum 14 weeks for the females and 18 weeks for the males).

Owing to their maturity the meat is tasty and stays firm when cooked, and their genetic origin ensures that it is tender. The turkeys are produced all year round and intended for marketing in cuts or processed.'

**'Method of production':**

Under 'Strain' the following is added: 'the turkey chicks must be of the "bronze" variety'.

Under 'Density' the following is added: 'the birds are reared in low-density conditions in the poultry-house (not more than 6,25 turkeys per m<sup>2</sup> from the age of 10 weeks)'.

Under 'Feed' the following is added: 'a minimum of 75 % cereals, for most of the fattening period for (bronze) turkeys'.

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## ANNEX II

## SUMMARY

COUNCIL REGULATION (EC) No 510/2006

## 'VOLAILLES DE LOUÉ'

EC No: FR/PGI/117/0149/18.2.2004

PDO ( ) PGI (X)

This summary sets out the main elements of the specification for information purposes.

**1. Responsible department in the Member State**

Name: Institut national de l'Origine et de la Qualité  
Address: 51 rue d'Anjou — F-75008 Paris  
Tel: (33) (0)1 53 89 80 00  
Fax: (33) (0)1 42 25 57 97  
E-mail: info@inao.gouv.fr

**2. Group**

Name: Syndicat des Volailles Fermières de Loué — SYVOL QUALIMAIN  
Address: 82 avenue Rubillard 72000 LE MANS — FRANCE  
Tel: (33) (0)2 43 39 93 13  
Fax: (33) (0)2 43 23 42 19  
E-mail: info@loue.fr  
Composition: Producers/processors (X) Other ( )

**3. Type of product**

Class 1.1 — Fresh meat (and offal)

**4. Specification** (Summary of requirements under Article 4(2) of Regulation (EC) No 510/2006)**4.1. Name**

'Volailles de Loué'

**4.2. Description**

Poultry carcasses or cuts of superior quality, with tasty meat, tender but of firm consistency, with no excess fat (*Poulet Blanc Fermier de Loué* [Loué farm-reared white chicken], *Dinde Fermière de Loué* [Loué farm-reared turkey], *Dinde (bronzée) Fermière de Loué* [Loué farm-reared (bronze) turkey], *Pintade Fermière de Loué* [Loué farm-reared guinea-fowl], *Canard de Barbarie Fermier de Loué* and *Canette de Barbarie Fermière de Loué* [Loué farm-reared Muscovy duck and Loué farm-reared Muscovy duckling], *Poulet Noir Fermier de Loué* [Loué farm-reared black chicken], *Poulet Jaune Fermier de Loué* [Loué farm-reared yellow chicken], *Oie Fermière de Loué* [Loué farm-reared goose], *Chapon Fermier de Loué* [Loué farm-reared capon], *Poule Fermière de Loué* [Loué farm-reared hen], *Poularde Fermière de Loué* [Loué farm-reared poulard], *Poulet Blanc Fermier* [farm-reared white chicken], *Chapon de Pintade Fermier de Loué* [Loué farm-reared guinea-fowl capon]).

Poultry marketed without giblets, whole or in cuts, fresh or frozen.

**4.3. Geographical area**

The department of Sarthe; the department of Mayenne; the cantons bordering these two departments in the neighbouring departments of Orne, Indre et Loire, Loir et Cher and Eure et Loir; in the department of Maine et Loire: the *arrondissement* of Segré and the cantons of Louroux-Béconnais, Saint-Georges-sur-Loire, Angers, Tiercé, Durtal, Seiches-sur-le-Loir, Baugé, Beaufort-en-Vallée, Noyant, Longué-Jumelles and Allonnes.

#### 4.4. Proof of origin

All the links in the production chain are listed (hatcheries, feed manufacturers, breeders, slaughterhouses).

Documentary records are kept for each batch of poultry: declaration by the breeder of birds added to his stock, delivery slips for day-old chicks, declaration of departure for the slaughterhouse and slips for collection of carcasses from the slaughterhouse, declaration of the labels used for the poultry after slaughter and declaration of downgraded poultry. All labels are numbered. Checks on the consistency of this information ensure the product's traceability.

#### 4.5. Method of production

Pure and crossbred slow-growing strain. Reared in small flocks, in the open air or roaming freely in the local fields (*bocage*) until sexually mature. The feed is cereal-based and a minimum age is set for the slaughter of each species.

#### 4.6. Link

The link with the geographical origin derives from:

— Historical reputation, linked to the 'Foire de l'Envoi', a fair held in the village of Loué. This fair was very well-known in the 19th century and attracted many poultry dealers. The region's farmers sold their poultry to these dealers. In 1958, breeders and packers in the Loué region successfully revived the production of high-quality farm poultry.

— Current reputation: Loué poultry is the best-known poultry in France. It is highly renowned and features prominently in French *haute cuisine*. It is used by top restaurateurs.

#### 4.7. Inspection body

Name: QUALI OUEST  
Anschrift: 30 rue du Pavé 72000 Le Mans — France  
Tel.: (33) (0)2 43 14 21 11  
Fax: (33) (0)2 43 14 27 32  
E-mail: [qualiouest@qualiouest.com](mailto:qualiouest@qualiouest.com)

#### 4.8. Labelling

Volailles de Loué and the name of the species concerned.

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**COMMISSION REGULATION (EC) No 520/2008****of 9 June 2008****prohibiting fishing for roundnose grenadier in ICES zones Vb, VI and VII (Community waters and waters not under the sovereignty or jurisdiction of third countries) by vessels flying the flag of Spain**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy <sup>(1)</sup>, and in particular Article 26(4) thereof,Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy <sup>(2)</sup>, and in particular Article 21(3) thereof,

Whereas:

- (1) Council Regulation (EC) No 2015/2006 of 19 December 2006 fixing for 2007 and 2008 the fishing opportunities for Community fishing vessels for certain deep-sea fish stocks <sup>(3)</sup> lays down quotas for 2007 and 2008.
- (2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of, or registered in, the Member State referred to therein have exhausted the quota allocated for 2008.

- (3) It is therefore necessary to prohibit fishing for that stock and its retention on board, transshipment and landing,

HAS ADOPTED THIS REGULATION:

*Article 1***Quota exhaustion**

The fishing quota allocated for 2008 to the Member State referred to in the Annex to this Regulation for the stock referred to therein shall be deemed to be exhausted from the date stated in that Annex.

*Article 2***Prohibitions**

Fishing for the stock referred to in the Annex to this Regulation by vessels flying the flag of, or registered in, the Member State referred to therein shall be prohibited from the date stated in that Annex. After that date it shall also be prohibited to retain on board, tranship or land such stock caught by those vessels.

*Article 3***Entry into force**

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

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

Done at Brussels, 9 June 2008.

*For the Commission*

Fokion FOTIADIS

*Director-General for Fisheries and Maritime Affairs*

<sup>(1)</sup> OJ L 358, 31.12.2002, p. 59. Regulation as last amended by Regulation (EC) No 865/2007 (OJ L 192, 24.7.2007, p. 1).

<sup>(2)</sup> OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1967/2006 (OJ L 409, 30.12.2006, p. 11; corrigendum: OJ L 36, 8.2.2007, p. 6).

<sup>(3)</sup> OJ L 384, 29.12.2006, p. 28. Regulation as last amended by Regulation (EC) No 1533/2007 (OJ L 337, 21.12.2007, p. 21).

## ANNEX

No	02/DSS
Member State	ESP
Stock	RNG/5B67-
Species	Roundnose grenadier ( <i>Coryphaenoides rupestris</i> )
Area	Community waters and waters not under the sovereignty or jurisdiction of third countries of Vb, VI and VII
Date	12.5.2008

## II

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

## DECISIONS

## COUNCIL AND COMMISSION

## COUNCIL AND COMMISSION DECISION

of 26 May 2008

**on the conclusion of the Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Armenia, of the other part, to take account of the accession of the Republic of Bulgaria and Romania to the European Union**

(2008/429/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION

Whereas:

AND THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 44(2), the last sentence of Article 47(2) and Articles 55, 57(2), 71, 80(2), 93, 94, 133 and 181a, in conjunction with the second sentence of Article 300(2) and the first subparagraph of Article 300(3), thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Having regard to the Act of Accession of Bulgaria and Romania, and in particular Article 6(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament <sup>(1)</sup>,

Having regard to the Council's approval pursuant to Article 101 of the Treaty establishing the European Atomic Energy Community,

(1) The Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Armenia, of the other part, to take account of the accession of the Republic of Bulgaria and Romania to the European Union, was signed on behalf of the European Community and its Member States on 27 June 2007 in accordance with Council Decision 2007/547/EC <sup>(2)</sup>.

(2) Pending its entry into force, the Protocol has been applied on a provisional basis as from 1 January 2007.

(3) The Protocol should be approved,

HAVE DECIDED AS FOLLOWS:

*Article 1*

The Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Armenia, of the other part, to take account of the accession of the Republic of Bulgaria and Romania to the European Union is hereby approved on behalf of the European Community, the European Atomic Energy Community and the Member States.

<sup>(1)</sup> Opinion delivered on 10 July 2007 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 202, 3.8.2007, p. 25.

The text of the Protocol is annexed to this Decision <sup>(1)</sup>.

*Article 2*

The President of the Council shall, on behalf of the European Community and its Member States, give the notification provided for in Article 3(2) of the Protocol <sup>(2)</sup>. The President of the Commission shall simultaneously give such notification on behalf of the European Atomic Energy Community.

Done at Brussels, 26 May 2008.

*For the Council*

*The President*

D. RUPEL

*For the Commission*

*The President*

José Manuel BARROSO

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<sup>(1)</sup> OJ L 202, 3.8.2007, p. 26.

<sup>(2)</sup> The date of entry into force of the Protocol will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

## COUNCIL AND COMMISSION DECISION

of 26 May 2008

**on the conclusion of the Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and Georgia, of the other part, to take account of the accession of the Republic of Bulgaria and Romania to the European Union**

(2008/430/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 44(2), the last sentence of Article 47(2), and Articles 55, 57(2), 71, 80(2), 93, 94, 133 and 181a, in conjunction with the second sentence of Article 300(2) and the first subparagraph of Article 300(3), thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Having regard to the Act of Accession of Bulgaria and Romania, and in particular Article 6(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament <sup>(1)</sup>,

Having regard to the Council's approval pursuant to Article 101 of the Treaty establishing the European Atomic Energy Community,

Whereas:

- (1) The Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and Georgia, of the other part, to take account of the accession of the Republic of Bulgaria and Romania to the European Union, was signed on behalf of the European Community and its Member States on 27 June 2007 in accordance with Council Decision 2007/548/EC <sup>(2)</sup>.

- (2) Pending its entry into force, the Protocol has been applied on a provisional basis as from 1 January 2007.

- (3) The Protocol should be approved,

HAVE DECIDED AS FOLLOWS:

*Article 1*

The Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and Georgia, of the other part, to take account of the accession of the Republic of Bulgaria and Romania to the European Union is hereby approved on behalf of the European Community, the European Atomic Energy Community and the Member States.

The text of the Protocol is annexed to this Decision <sup>(3)</sup>.

*Article 2*

The President of the Council shall, on behalf of the European Community and its Member States, give the notification provided for in Article 3(2) of the Protocol <sup>(4)</sup>. The President of the Commission shall simultaneously give such notification on behalf of the European Atomic Energy Community.

Done at Brussels, 26 May 2008.

*For the Council**The President*

D. RUPEL

*For the Commission**The President*

José Manuel BARROSO

<sup>(1)</sup> Opinion delivered on 10 July 2007 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 202, 3.8.2007, p. 30.

<sup>(3)</sup> OJ L 202, 3.8.2007, p. 31.

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

# COUNCIL

## COUNCIL DECISION

of 5 June 2008

**authorising certain Member States to ratify, or accede to, in the interest of the European Community, the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children and authorising certain Member States to make a declaration on the application of the relevant internal rules of Community law**

(2008/431/EC)

THE COUNCIL OF THE EUROPEAN UNION,

the Community on 1 April 2003 have also signed the Convention.

Having regard to the Treaty establishing the European Community, and in particular Article 61(c) and Article 67(1) in conjunction with the first subparagraph of Article 300(2), and the first subparagraph of Article 300(3), thereof,

(4) Upon the adoption of Decision 2003/93/EC the Council and the Commission agreed that the Decision would be followed by a Commission proposal for a Council Decision authorising the Member States to ratify, or accede to, the Convention in the interest of the Community at the appropriate time.

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament <sup>(1)</sup>,

(5) Some Member States have already ratified, or acceded to, the Convention.

Whereas:

(1) The Community is working towards the establishment of a common judicial area based on the principle of mutual recognition of judicial decisions.

(6) Certain Articles of the Convention affect secondary Community legislation on jurisdiction and recognition and enforcement of judgments, in particular Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility <sup>(3)</sup>. The Member States retain their competence in the areas covered by the Convention which do not affect Community law. The Community and the Member States thus share competence to conclude the Convention.

(2) The Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children concluded on 19 October 1996 within the Hague Conference on Private International Law (hereinafter referred to as the Convention) makes a valuable contribution to the protection of children at the international level. It is therefore desirable that its provisions be applied as soon as possible.

(7) Pursuant to the Convention, only sovereign States may be party to it. For that reason, the Community may not ratify, or accede to, the Convention.

(3) Council Decision 2003/93/EC of 19 December 2002 <sup>(2)</sup> authorised the Member States to sign the Convention in the interest of the Community. Those States which were Member States of the Community at that time signed the Convention on 1 April 2003, with the exception of the Netherlands which had already signed the Convention. Other Member States which were not Member States of

(8) The Council should therefore authorise the Member States, by way of exception, to ratify, or accede to, the Convention in the interest of the Community, under the conditions set out in this Decision, however not those Member States which have already ratified, or acceded to, the Convention.

<sup>(1)</sup> OJ C 82 E, 1.4.2004, p. 307.

<sup>(2)</sup> OJ L 48, 21.2.2003, p. 3.

<sup>(3)</sup> OJ L 338, 23.12.2003, p. 1. Regulation as last amended by Regulation (EC) No 2116/2004 (OJ L 367, 14.12.2004, p. 1).

(9) In order to safeguard the application of Community rules on recognition and enforcement of judgments within the Community, Article 2 of Decision 2003/93/EC required the Member States to make a declaration when signing the Convention.

(10) The Member States which signed the Convention on 1 April 2003 made the declaration set out in Article 2 of Decision 2003/93/EC on that occasion. Other Member States which did not sign the Convention pursuant to Decision 2003/93/EC made the declaration after their accession to the European Union. Some Member States have, however, not made the declaration and should therefore now make the declaration set out in Article 2 of this Decision.

(11) The Member States which are authorised to ratify, or accede to, the Convention by this Decision, should do so simultaneously. Those Member States should therefore exchange information on the state of their ratification or accession procedures in order to prepare the simultaneous deposit of their instruments of ratification or accession.

(12) The United Kingdom and Ireland are taking part in the adoption and application of this Decision.

(13) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not take part in the adoption of this Decision and is not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

#### Article 1

1. The Council hereby authorises Belgium, Germany, Ireland, Greece, Spain, France, Italy, Cyprus, Luxembourg, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Finland, Sweden and the United Kingdom to ratify, or accede to, the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children (hereinafter referred to as the Convention), in the interest of the Community, subject to the conditions set out in Articles 3 and 4.

2. The text of the Convention is attached to this Decision.

#### Article 2

The Council hereby authorises Bulgaria, Cyprus, Latvia, Malta, the Netherlands and Poland to make the following declaration:

'Articles 23, 26 and 52 of the Convention allow Contracting Parties a degree of flexibility in order to apply a simple and rapid regime for the recognition and enforcement of judgments. The Community rules provide for a system of recognition and enforcement which is at least as favourable as the rules laid down in the Convention. Accordingly, a judgment given in a court of a Member State of the European Union, in respect of a matter relating to the Convention, shall be recognised and enforced in ...<sup>(1)</sup> by application of the relevant internal rules of Community law<sup>(2)</sup>.

<sup>(1)</sup> Member State making the declaration.

<sup>(2)</sup> Council Regulation (EC) No 2201/2003 plays a special role in this field since it relates to jurisdiction and recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility.'

#### Article 3

1. The Member States mentioned in Article 1(1) shall take the necessary steps to deposit simultaneously their instruments of ratification or accession with the Ministry of Foreign Affairs of the Kingdom of the Netherlands, if possible before 5 June 2010.

2. The Member States referred to in paragraph 1 shall exchange information with the Commission within the Council, before 5 December 2009, on the prospective date of completion of their parliamentary procedures required for ratification or accession. On this basis, the date and modalities of the simultaneous deposit shall be determined.

#### Article 4

The Member States mentioned in Article 1(1) shall inform the Ministry of Foreign Affairs of the Kingdom of the Netherlands in writing when their parliamentary procedures required for ratification or accession have been carried out indicating that their instruments of ratification or accession will be deposited at a later stage in accordance with this Decision.

#### Article 5

Decision shall apply from the day of its publication in the *Official Journal of the European Union*.

*Article 6*

This Decision is addressed to all Member States with the exception of Denmark, the Czech Republic, Estonia, Lithuania, Hungary, Slovenia and Slovakia.

Done at Luxembourg, 5 June 2008.

*For the Council*

*The President*

D. MATE

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**CONVENTION ON JURISDICTION, APPLICABLE LAW, RECOGNITION, ENFORCEMENT AND COOPERATION IN RESPECT OF PARENTAL RESPONSIBILITY AND MEASURES FOR THE PROTECTION OF CHILDREN**

(Concluded on 19 October 1996)

The States signatory to the present Convention,

Considering the need to improve the protection of children in international situations,

Wishing to avoid conflicts between their legal systems in respect of jurisdiction, applicable law, recognition and enforcement of measures for the protection of children,

Recalling the importance of international cooperation for the protection of children,

Confirming that the best interests of the child are to be a primary consideration,

Noting that the Convention of 5 October 1961 concerning the powers of authorities and the law applicable in respect of the protection of minors is in need of revision,

Desiring to establish common provisions to this effect, taking into account the United Nations Convention on the Rights of the Child of 20 November 1989,

Have agreed on the following provisions:

CHAPTER I

**SCOPE OF THE CONVENTION**

*Article 1*

1. The objects of the present Convention are:
  - (a) to determine the State whose authorities have jurisdiction to take measures directed to the protection of the person or property of the child;
  - (b) to determine which law is to be applied by such authorities in exercising their jurisdiction;
  - (c) to determine the law applicable to parental responsibility;
  - (d) to provide for the recognition and enforcement of such measures of protection in all Contracting States;
  - (e) to establish such cooperation between the authorities of the Contracting States as may be necessary in order to achieve the purposes of this Convention.

2. For the purposes of this Convention, the term 'parental responsibility' includes parental authority, or any analogous relationship of authority determining the rights, powers and responsibilities of parents, guardians or other legal representatives in relation to the person or the property of the child.

*Article 2*

The Convention applies to children from the moment of their birth until they reach the age of 18 years.

*Article 3*

The measures referred to in Article 1 may deal in particular with:

- (a) the attribution, exercise, termination or restriction of parental responsibility, as well as its delegation;
- (b) rights of custody, including rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence, as well as rights of access including the right to take a child for a limited period of time to a place other than the child's habitual residence;

- (c) guardianship, curatorship and analogous institutions;
- (d) the designation and functions of any person or body having charge of the child's person or property, representing or assisting the child;
- (e) the placement of the child in a foster family or in institutional care, or the provision of care by kafala or an analogous institution;
- (f) the supervision by a public authority of the care of a child by any person having charge of the child;
- (g) the administration, conservation or disposal of the child's property.

#### Article 4

The Convention does not apply to:

- (a) the establishment or contesting of a parent-child relationship;
- (b) decisions on adoption, measures preparatory to adoption, or the annulment or revocation of adoption;
- (c) the name and forename of the child;
- (d) emancipation;
- (e) maintenance obligations;
- (f) trusts or succession;
- (g) social security;
- (h) public measures of a general nature in matters of education or health;
- (i) measures taken as a result of penal offences committed by children;
- (j) decisions on the right of asylum and on immigration.

## CHAPTER II

### JURISDICTION

#### Article 5

1. The judicial or administrative authorities of the Contracting State of the habitual residence of the child have

jurisdiction to take measures directed to the protection of the child's person or property.

2. Subject to Article 7, in case of a change of the child's habitual residence to another Contracting State, the authorities of the State of the new habitual residence have jurisdiction.

#### Article 6

1. For refugee children and children who, due to disturbances occurring in their country, are internationally displaced, the authorities of the Contracting State on the territory of which these children are present as a result of their displacement have the jurisdiction provided for in paragraph 1 of Article 5.

2. The provisions of the preceding paragraph also apply to children whose habitual residence cannot be established.

#### Article 7

1. In case of wrongful removal or retention of the child, the authorities of the Contracting State in which the child was habitually resident immediately before the removal or retention keep their jurisdiction until the child has acquired a habitual residence in another State, and:

- (a) each person, institution or other body having rights of custody has acquiesced in the removal or retention; or
- (b) the child has resided in that other State for a period of at least one year after the person, institution or other body having rights of custody has or should have had knowledge of the whereabouts of the child, no request for return lodged within that period is still pending, and the child is settled in his or her new environment.

2. The removal or the retention of a child is to be considered wrongful where:

- (a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and
- (b) at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.

The rights of custody mentioned in subparagraph (a) above, may arise in particular by operation of law or by reason of a judicial or administrative decision, or by reason of an agreement having legal effect under the law of that State.

3. So long as the authorities first mentioned in paragraph 1 keep their jurisdiction, the authorities of the Contracting State to which the child has been removed or in which he or she has been retained can take only such urgent measures under Article 11 as are necessary for the protection of the person or property of the child.

#### Article 8

1. By way of exception, the authority of a Contracting State having jurisdiction under Articles 5 or 6, if it considers that the authority of another Contracting State would be better placed in the particular case to assess the best interests of the child, may either:

- request that other authority, directly or with the assistance of the Central Authority of its State, to assume jurisdiction to take such measures of protection as it considers to be necessary, or,
- suspend consideration of the case and invite the parties to introduce such a request before the authority of that other State.

2. The Contracting States whose authorities may be addressed as provided in the preceding paragraph are:

- (a) a State of which the child is a national;
- (b) a State in which property of the child is located;
- (c) a State whose authorities are seised of an application for divorce or legal separation of the child's parents, or for annulment of their marriage;
- (d) a State with which the child has a substantial connection.

3. The authorities concerned may proceed to an exchange of views.

4. The authority addressed as provided in paragraph 1 may assume jurisdiction, in place of the authority having jurisdiction under Articles 5 or 6, if it considers that this is in the child's best interests.

#### Article 9

1. If the authorities of a Contracting State referred to in Article 8(2), consider that they are better placed in the particular case to assess the child's best interests, they may either:

- request the competent authority of the Contracting State of the habitual residence of the child, directly or with the assistance of the Central Authority of that State, that they be authorised to exercise jurisdiction to take the measures of protection which they consider to be necessary, or

— invite the parties to introduce such a request before the authority of the Contracting State of the habitual residence of the child.

2. The authorities concerned may proceed to an exchange of views.

3. The authority initiating the request may exercise jurisdiction in place of the authority of the Contracting State of the habitual residence of the child only if the latter authority has accepted the request.

#### Article 10

1. Without prejudice to Articles 5 to 9, the authorities of a Contracting State exercising jurisdiction to decide upon an application for divorce or legal separation of the parents of a child habitually resident in another Contracting State, or for annulment of their marriage, may, if the law of their State so provides, take measures directed to the protection of the person or property of such child if:

- (a) at the time of commencement of the proceedings, one of his or her parents habitually resides in that State and one of them has parental responsibility in relation to the child; and
- (b) the jurisdiction of these authorities to take such measures has been accepted by the parents, as well as by any other person who has parental responsibility in relation to the child, and is in the best interests of the child.

2. The jurisdiction provided for by paragraph 1 to take measures for the protection of the child ceases as soon as the decision allowing or refusing the application for divorce, legal separation or annulment of the marriage has become final, or the proceedings have come to an end for another reason.

#### Article 11

1. In all cases of urgency, the authorities of any Contracting State in whose territory the child or property belonging to the child is present have jurisdiction to take any necessary measures of protection.

2. The measures taken under the preceding paragraph with regard to a child habitually resident in a Contracting State shall lapse as soon as the authorities which have jurisdiction under Articles 5 to 10 have taken the measures required by the situation.

3. The measures taken under paragraph 1 with regard to a child who is habitually resident in a non-Contracting State shall lapse in each Contracting State as soon as measures required by the situation and taken by the authorities of another State are recognised in the Contracting State in question.

*Article 12*

1. Subject to Article 7, the authorities of a Contracting State in whose territory the child or property belonging to the child is present have jurisdiction to take measures of a provisional character for the protection of the person or property of the child which have a territorial effect limited to the State in question, in so far as such measures are not incompatible with measures already taken by authorities which have jurisdiction under Articles 5 to 10.

2. The measures taken under the preceding paragraph with regard to a child habitually resident in a Contracting State shall lapse as soon as the authorities which have jurisdiction under Articles 5 to 10 have taken a decision in respect of the measures of protection which may be required by the situation.

3. The measures taken under paragraph 1 with regard to a child who is habitually resident in a non-Contracting State shall lapse in the Contracting State where the measures were taken as soon as measures required by the situation and taken by the authorities of another State are recognised in the Contracting State in question.

*Article 13*

1. The authorities of a Contracting State which have jurisdiction under Articles 5 to 10 to take measures for the protection of the person or property of the child must abstain from exercising this jurisdiction if, at the time of the commencement of the proceedings, corresponding measures have been requested from the authorities of another Contracting State having jurisdiction under Articles 5 to 10 at the time of the request and are still under consideration.

2. The provisions of the preceding paragraph shall not apply if the authorities before whom the request for measures was initially introduced have declined jurisdiction.

*Article 14*

The measures taken in application of Articles 5 to 10 remain in force according to their terms, even if a change of circumstances has eliminated the basis upon which jurisdiction was founded, so long as the authorities which have jurisdiction under the Convention have not modified, replaced or terminated such measures.

## CHAPTER III

## APPLICABLE LAW

*Article 15*

1. In exercising their jurisdiction under the provisions of Chapter II, the authorities of the Contracting States shall apply their own law.

2. However, in so far as the protection of the person or the property of the child requires, they may exceptionally apply or

take into consideration the law of another State with which the situation has a substantial connection.

3. If the child's habitual residence changes to another Contracting State, the law of that other State governs, from the time of the change, the conditions of application of the measures taken in the State of the former habitual residence.

*Article 16*

1. The attribution or extinction of parental responsibility by operation of law, without the intervention of a judicial or administrative authority, is governed by the law of the State of the habitual residence of the child.

2. The attribution or extinction of parental responsibility by an agreement or a unilateral act, without intervention of a judicial or administrative authority, is governed by the law of the State of the child's habitual residence at the time when the agreement or unilateral act takes effect.

3. Parental responsibility which exists under the law of the State of the child's habitual residence subsists after a change of that habitual residence to another State.

4. If the child's habitual residence changes, the attribution of parental responsibility by operation of law to a person who does not already have such responsibility is governed by the law of the State of the new habitual residence.

*Article 17*

The exercise of parental responsibility is governed by the law of the State of the child's habitual residence. If the child's habitual residence changes, it is governed by the law of the State of the new habitual residence.

*Article 18*

The parental responsibility referred to in Article 16 may be terminated, or the conditions of its exercise modified, by measures taken under this Convention.

*Article 19*

1. The validity of a transaction entered into between a third party and another person who would be entitled to act as the child's legal representative under the law of the State where the transaction was concluded cannot be contested, and the third party cannot be held liable, on the sole ground that the other person was not entitled to act as the child's legal representative under the law designated by the provisions of this Chapter, unless the third party knew or should have known that the parental responsibility was governed by the latter law.

2. The preceding paragraph applies only if the transaction was entered into between persons present on the territory of the same State.

*Article 20*

The provisions of this Chapter apply even if the law designated by them is the law of a non-Contracting State.

*Article 21*

1. In this Chapter the term 'law' means the law in force in a State other than its choice of law rules.

2. However, if the law applicable according to Article 16 is that of a non-Contracting State and if the choice of law rules of that State designate the law of another non-Contracting State which would apply its own law, the law of the latter State applies. If that other non-Contracting State would not apply its own law, the applicable law is that designated by Article 16.

*Article 22*

The application of the law designated by the provisions of this Chapter can be refused only if this application would be manifestly contrary to public policy, taking into account the best interests of the child.

## CHAPTER IV

**RECOGNITION AND ENFORCEMENT***Article 23*

1. The measures taken by the authorities of a Contracting State shall be recognised by operation of law in all other Contracting States.

2. Recognition may however be refused:

- (a) if the measure was taken by an authority whose jurisdiction was not based on one of the grounds provided for in Chapter II;
- (b) if the measure was taken, except in a case of urgency, in the context of a judicial or administrative proceeding, without the child having been provided the opportunity to be heard, in violation of fundamental principles of procedure of the requested State;
- (c) on the request of any person claiming that the measure infringes his or her parental responsibility, if such measure was taken, except in a case of urgency, without such person having been given an opportunity to be heard;
- (d) if such recognition is manifestly contrary to public policy of the requested State, taking into account the best interests of the child;
- (e) if the measure is incompatible with a later measure taken in the non-Contracting State of the habitual residence of the child, where this later measure fulfils the requirements for recognition in the requested State;

(f) if the procedure provided in Article 33 has not been complied with.

*Article 24*

Without prejudice to Article 23(1) any interested person may request from the competent authorities of a Contracting State that they decide on the recognition or non-recognition of a measure taken in another Contracting State. The procedure is governed by the law of the requested State.

*Article 25*

The authority of the requested State is bound by the findings of fact on which the authority of the State where the measure was taken based its jurisdiction.

*Article 26*

1. If measures taken in one Contracting State and enforceable there require enforcement in another Contracting State, they shall, upon request by an interested party, be declared enforceable or registered for the purpose of enforcement in that other State according to the procedure provided in the law of the latter State.

2. Each Contracting State shall apply to the declaration of enforceability or registration a simple and rapid procedure.

3. The declaration of enforceability or registration may be refused only for one of the reasons set out in Article 23(2).

*Article 27*

Without prejudice to such review as is necessary in the application of the preceding Articles, there shall be no review of the merits of the measure taken.

*Article 28*

Measures taken in one Contracting State and declared enforceable, or registered for the purpose of enforcement, in another Contracting State shall be enforced in the latter State as if they had been taken by the authorities of that State. Enforcement takes place in accordance with the law of the requested State to the extent provided by such law, taking into consideration the best interests of the child.

## CHAPTER V

**COOPERATION***Article 29*

1. A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention on such authorities.

2. Federal States, States with more than one system of law or States having autonomous territorial units shall be free to appoint more than one Central Authority and to specify the territorial or personal extent of their functions. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which any communication may be addressed for transmission to the appropriate Central Authority within that State.

#### Article 30

1. Central Authorities shall cooperate with each other and promote cooperation amongst the competent authorities in their States to achieve the purposes of the Convention.

2. They shall, in connection with the application of the Convention, take appropriate steps to provide information as to the laws of, and services available in, their States relating to the protection of children.

#### Article 31

The Central Authority of a Contracting State, either directly or through public authorities or other bodies, shall take all appropriate steps to:

- (a) facilitate the communications and offer the assistance provided for in Articles 8 and 9 and in this Chapter;
- (b) facilitate, by mediation, conciliation or similar means, agreed solutions for the protection of the person or property of the child in situations to which the Convention applies;
- (c) provide, on the request of a competent authority of another Contracting State, assistance in discovering the whereabouts of a child where it appears that the child may be present and in need of protection within the territory of the requested State.

#### Article 32

On a request made with supporting reasons by the Central Authority or other competent authority of any Contracting State with which the child has a substantial connection, the Central Authority of the Contracting State in which the child is habitually resident and present may, directly or through public authorities or other bodies:

- (a) provide a report on the situation of the child;
- (b) request the competent authority of its State to consider the need to take measures for the protection of the person or property of the child.

#### Article 33

1. If an authority having jurisdiction under Articles 5 to 10 contemplates the placement of the child in a foster family or institutional care, or the provision of care by kafala or an analogous institution, and if such placement or such provision of care is to take place in another Contracting State, it shall first consult with the Central Authority or other competent authority of the latter State. To that effect it shall transmit a report on the child together with the reasons for the proposed placement or provision of care.

2. The decision on the placement or provision of care may be made in the requesting State only if the Central Authority or other competent authority of the requested State has consented to the placement or provision of care, taking into account the child's best interests.

#### Article 34

1. Where a measure of protection is contemplated, the competent authorities under the Convention, if the situation of the child so requires, may request any authority of another Contracting State which has information relevant to the protection of the child to communicate such information.

2. A Contracting State may declare that requests under paragraph 1 shall be communicated to its authorities only through its Central Authority.

#### Article 35

1. The competent authorities of a Contracting State may request the authorities of another Contracting State to assist in the implementation of measures of protection taken under this Convention, especially in securing the effective exercise of rights of access as well as of the right to maintain direct contacts on a regular basis.

2. The authorities of a Contracting State in which the child does not habitually reside may, on the request of a parent residing in that State who is seeking to obtain or to maintain access to the child, gather information or evidence and may make a finding on the suitability of that parent to exercise access and on the conditions under which access is to be exercised. An authority exercising jurisdiction under Articles 5 to 10 to determine an application concerning access to the child, shall admit and consider such information, evidence and finding before reaching its decision.

3. An authority having jurisdiction under Articles 5 to 10 to decide on access may adjourn a proceeding pending the outcome of a request made under paragraph 2, in particular, when it is considering an application to restrict or terminate access rights granted in the State of the child's former habitual residence.

4. Nothing in this Article shall prevent an authority having jurisdiction under Articles 5 to 10 from taking provisional measures pending the outcome of the request made under paragraph 2.

#### Article 36

In any case where the child is exposed to a serious danger, the competent authorities of the Contracting State where measures for the protection of the child have been taken or are under consideration, if they are informed that the child's residence has changed to, or that the child is present in another State, shall inform the authorities of that other State about the danger involved and the measures taken or under consideration.

#### Article 37

An authority shall not request or transmit any information under this Chapter if to do so would, in its opinion, be likely to place the child's person or property in danger, or constitute a serious threat to the liberty or life of a member of the child's family.

#### Article 38

1. Without prejudice to the possibility of imposing reasonable charges for the provision of services, Central Authorities and other public authorities of Contracting States shall bear their own costs in applying the provisions of this Chapter.

2. Any Contracting State may enter into agreements with one or more other Contracting States concerning the allocation of charges.

#### Article 39

Any Contracting State may enter into agreements with one or more other Contracting States with a view to improving the application of this Chapter in their mutual relations. The States which have concluded such an agreement shall transmit a copy to the depositary of the Convention.

### CHAPTER VI

#### GENERAL PROVISIONS

#### Article 40

1. The authorities of the Contracting State of the child's habitual residence, or of the Contracting State where a measure of protection has been taken, may deliver to the person having parental responsibility or to the person entrusted with protection of the child's person or property, at his or her request, a certificate indicating the capacity in which that person is entitled to act and the powers conferred upon him or her.

2. The capacity and powers indicated in the certificate are presumed to be vested in that person, in the absence of proof to the contrary.

3. Each Contracting State shall designate the authorities competent to draw up the certificate.

#### Article 41

Personal data gathered or transmitted under the Convention shall be used only for the purposes for which they were gathered or transmitted.

#### Article 42

The authorities to whom information is transmitted shall ensure its confidentiality, in accordance with the law of their State.

#### Article 43

All documents forwarded or delivered under this Convention shall be exempt from legalisation or any analogous formality.

#### Article 44

Each Contracting State may designate the authorities to which requests under Articles 8, 9 and 33 are to be addressed.

#### Article 45

1. The designations referred to in Articles 29 and 44 shall be communicated to the Permanent Bureau of the Hague Conference on Private International Law.

2. The declaration referred to in Article 34(2) shall be made to the depositary of the Convention.

#### Article 46

A Contracting State in which different systems of law or sets of rules of law apply to the protection of the child and his or her property shall not be bound to apply the rules of the Convention to conflicts solely between such different systems or sets of rules of law.

#### Article 47

In relation to a State in which two or more systems of law or sets of rules of law with regard to any matter dealt with in this Convention apply in different territorial units:

1. any reference to habitual residence in that State shall be construed as referring to habitual residence in a territorial unit;
2. any reference to the presence of the child in that State shall be construed as referring to presence in a territorial unit;
3. any reference to the location of property of the child in that State shall be construed as referring to location of property of the child in a territorial unit;

4. any reference to the State of which the child is a national shall be construed as referring to the territorial unit designated by the law of that State or, in the absence of relevant rules, to the territorial unit with which the child has the closest connection;
5. any reference to the State whose authorities are seised of an application for divorce or legal separation of the child's parents, or for annulment of their marriage, shall be construed as referring to the territorial unit whose authorities are seised of such application;
6. any reference to the State with which the child has a substantial connection shall be construed as referring to the territorial unit with which the child has such connection;
7. any reference to the State to which the child has been removed or in which he or she has been retained shall be construed as referring to the relevant territorial unit to which the child has been removed or in which he or she has been retained;
8. any reference to bodies or authorities of that State, other than Central Authorities, shall be construed as referring to those authorised to act in the relevant territorial unit;
9. any reference to the law or procedure or authority of the State in which a measure has been taken shall be construed as referring to the law or procedure or authority of the territorial unit in which such measure was taken;
10. any reference to the law or procedure or authority of the requested State shall be construed as referring to the law or procedure or authority of the territorial unit in which recognition or enforcement is sought.

#### Article 48

For the purpose of identifying the applicable law under Chapter III, in relation to a State which comprises two or more territorial units each of which has its own system of law or set of rules of law in respect of matters covered by this Convention, the following rules apply:

- (a) if there are rules in force in such a State identifying which territorial unit's law is applicable, the law of that unit applies;
- (b) in the absence of such rules, the law of the relevant territorial unit as defined in Article 47 applies.

#### Article 49

For the purpose of identifying the applicable law under Chapter III, in relation to a State which has two or more systems of law

or sets of rules of law applicable to different categories of persons in respect of matters covered by this Convention, the following rules apply:

- (a) if there are rules in force in such a State identifying which among such laws applies, that law applies;
- (b) in the absence of such rules, the law of the system or the set of rules of law with which the child has the closest connection applies.

#### Article 50

This Convention shall not affect the application of the Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, as between Parties to both Conventions. Nothing, however, precludes provisions of this Convention from being invoked for the purposes of obtaining the return of a child who has been wrongfully removed or retained or of organising access rights.

#### Article 51

In relations between the Contracting States this Convention replaces the Convention of 5 October 1961 concerning the powers of authorities and the law applicable in respect of the protection of minors, and the Convention governing the guardianship of minors, signed at The Hague 12 June 1902, without prejudice to the recognition of measures taken under the Convention of 5 October 1961 mentioned above.

#### Article 52

1. This Convention does not affect any international instrument to which Contracting States are Parties and which contains provisions on matters governed by the Convention, unless a contrary declaration is made by the States Parties to such instrument.

2. This Convention does not affect the possibility for one or more Contracting States to conclude agreements which contain, in respect of children habitually resident in any of the States Parties to such agreements, provisions on matters governed by this Convention.

3. Agreements to be concluded by one or more Contracting States on matters within the scope of this Convention do not affect, in the relationship of such States with other Contracting States, the application of the provisions of this Convention.

4. The preceding paragraphs also apply to uniform laws based on special ties of a regional or other nature between the States concerned.



*Article 53*

1. The Convention shall apply to measures only if they are taken in a State after the Convention has entered into force for that State.

2. The Convention shall apply to the recognition and enforcement of measures taken after its entry into force as between the State where the measures have been taken and the requested State.

*Article 54*

1. Any communication sent to the Central Authority or to another authority of a Contracting State shall be in the original language, and shall be accompanied by a translation into the official language or one of the official languages of the other State or, where that is not feasible, a translation into French or English.

2. However, a Contracting State may, by making a reservation in accordance with Article 60, object to the use of either French or English, but not both.

*Article 55*

1. A Contracting State may, in accordance with Article 60:

- (a) reserve the jurisdiction of its authorities to take measures directed to the protection of property of a child situated on its territory;
- (b) reserve the right not to recognise any parental responsibility or measure in so far as it is incompatible with any measure taken by its authorities in relation to that property.

2. The reservation may be restricted to certain categories of property.

*Article 56*

The Secretary General of the Hague Conference on Private International Law shall at regular intervals convoke a Special Commission in order to review the practical operation of the Convention.

## CHAPTER VII

## FINAL CLAUSES

*Article 57*

1. The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law at the time of its Eighteenth Session.

2. It shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands, depositary of the Convention.

*Article 58*

1. Any other State may accede to the Convention after it has entered into force in accordance with Article 61(1).

2. The instrument of accession shall be deposited with the depositary.

3. Such accession shall have effect only as regards the relations between the acceding State and those Contracting States which have not raised an objection to its accession in the six months after the receipt of the notification referred to in Article 63(b). Such an objection may also be raised by States at the time when they ratify, accept or approve the Convention after an accession. Any such objection shall be notified to the depositary.

*Article 59*

1. If a State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that the Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

2. Any such declaration shall be notified to the depositary and shall state expressly the territorial units to which the Convention applies.

3. If a State makes no declaration under this Article, the Convention is to extend to all territorial units of that State.

*Article 60*

1. Any State may, not later than the time of ratification, acceptance, approval or accession, or at the time of making a declaration in terms of Article 59, make one or both of the reservations provided for in Articles 54(2) and 55. No other reservation shall be permitted.

2. Any State may at any time withdraw a reservation it has made. The withdrawal shall be notified to the depositary.

3. The reservation shall cease to have effect on the first day of the third calendar month after the notification referred to in the preceding paragraph.

*Article 61*

1. The Convention shall enter into force on the first day of the month following the expiration of three months after the deposit of the third instrument of ratification, acceptance or approval referred to in Article 57.
2. Thereafter the Convention shall enter into force:
  - (a) for each State ratifying, accepting or approving it subsequently, on the first day of the month following the expiration of three months after the deposit of its instrument of ratification, acceptance, approval or accession;
  - (b) for each State acceding, on the first day of the month following the expiration of three months after the expiration of the period of six months provided in Article 58(3);
  - (c) for a territorial unit to which the Convention has been extended in conformity with Article 59, on the first day of the month following the expiration of three months after the notification referred to in that Article.

*Article 62*

1. A State Party to the Convention may denounce it by a notification in writing addressed to the depositary. The denunciation may be limited to certain territorial units to which the Convention applies.
2. The denunciation takes effect on the first day of the month following the expiration of twelve months after the notification is received by the depositary. Where a longer period for the denunciation to take effect is specified in the notification, the denunciation takes effect upon the expiration of such longer period.

*Article 63*

The depositary shall notify the States Members of the Hague Conference on Private International Law and the States which have acceded in accordance with Article 58 of the following:

- (a) the signatures, ratifications, acceptances and approvals referred to in Article 57;
- (b) the accessions and objections raised to accessions referred to in Article 58;
- (c) the date on which the Convention enters into force in accordance with Article 61;
- (d) the declarations referred to in Articles 34(2) and 59;
- (e) the agreements referred to in Article 39;
- (f) the reservations referred to in Articles 54(2) and 55 and the withdrawals referred to in Article 60(2);
- (g) the denunciations referred to in Article 62.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at The Hague, on the nineteenth day of October 1996, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Kingdom of the Netherlands, and of which a certified copy shall be sent, through diplomatic channels, to each of the States Members of the Hague Conference on Private International Law at the date of its Eighteenth Session.

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# COMMISSION

## COMMISSION DECISION

of 23 May 2008

### amending Decision 2006/771/EC on harmonisation of the radio spectrum for use by short-range devices

(notified under document number C(2008) 1937)

(Text with EEA relevance)

(2008/432/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) <sup>(1)</sup>, and in particular Article 4(3) thereof,

Whereas:

- (1) Commission Decision 2006/771/EC <sup>(2)</sup> harmonises the technical conditions for short-range devices.
- (2) However, due to rapid changes in technology and societal demands, new applications for short-range devices could emerge which would require regular updates of spectrum harmonisation conditions.
- (3) On 5 July 2006, the Commission issued a permanent mandate <sup>(3)</sup> to the European Conference of Postal and Telecommunications Administrations (CEPT), pursuant to Article 4(2) of Decision No 676/2002/EC, to update the Annex to Decision 2006/771/EC in response to the technological and market developments in the area of short-range devices.
- (4) In its report <sup>(4)</sup> of July 2007 submitted in response to that mandate, the CEPT advised the Commission to amend a number of technical aspects in the Annex to Decision 2006/771/EC.
- (5) Decision 2006/771/EC should therefore be amended accordingly.

- (6) Equipment operating within the conditions set in this Decision must also comply with Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity <sup>(5)</sup> in order to use the spectrum effectively so as to avoid harmful interference, demonstrated either by meeting harmonised standard or by fulfilling alternative conformity assessment procedures.
- (7) The measures provided for in this Decision are in accordance with the opinion of the Radio Spectrum Committee,

HAS ADOPTED THIS DECISION:

#### Article 1

The Annex to Decision 2006/771/EC is replaced by the Annex to this Decision.

#### Article 2

This Decision is addressed to the Member States.

Done at Brussels, 23 May 2008.

For the Commission

Viviane REDING

Member of the Commission

<sup>(1)</sup> OJ L 108, 24.4.2002, p. 1.

<sup>(2)</sup> OJ L 312, 11.11.2006, p. 66.

<sup>(3)</sup> Permanent Mandate to CEPT regarding the annual update of the technical Annex of the Commission Decision on the technical harmonisation of radio spectrum for use by Short Range Devices (5 July 2006).

<sup>(4)</sup> RSCOM(07) 58.

<sup>(5)</sup> OJ L 91, 7.4.1999, p. 10. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

## ANNEX

## Harmonised frequency bands and technical parameters for short-range devices

Type of short-range device	Frequency band	Power limit/field strength limit/ power density limit <sup>(1)</sup>	Additional parameters/spectrum access and mitigation requirements <sup>(2)</sup>	Other usage restrictions <sup>(3)</sup>	Implementation deadline	
Non-specific short-range devices <sup>(4)</sup>	6 765-6 795 kHz	42 dB $\mu$ A/m at 10 metres			1 October 2008	
	13,553-13,567 MHz	42 dB $\mu$ A/m at 10 metres			1 October 2008	
	26,957-27,283 MHz	10 mW effective radiated power (e.r.p.), which corre- sponds to 42 dB $\mu$ A/m at 10 metres		Video applications are excluded	1 June 2007	
	40,660-40,700 MHz	10 mW e.r.p.		Video applications are excluded	1 June 2007	
	433,050-434,040 <sup>(5)</sup> MHz	1 mW e.r.p. – 13 dBm/10 kHz power density for bandwidth modulation larger than 250 kHz			Audio and voice signals, and video applications, are excluded	1 October 2008
		10 mW e.r.p.	Duty cycle <sup>(6)</sup> : 10 %		Audio and voice signals, and video applications, are excluded	1 June 2007
	434,040-434,790 <sup>(5)</sup> MHz	1 mW e.r.p. – 13 dBm/10 kHz power density for bandwidth modulation larger than 250 kHz			Audio and voice signals, and video applications, are excluded	1 October 2008
		10 mW e.r.p.	Duty cycle <sup>(6)</sup> : 10 %		Audio and voice signals, and video applications, are excluded	1 June 2007
			Duty cycle <sup>(6)</sup> : 100 % subject to channel spacing up to 25 kHz		Audio and voice signals, and video applications, are excluded	1 October 2008
	863,000-868,000 MHz	25 mW e.r.p.	Techniques to access spectrum and mitigate inter- ference that provide at least equivalent performance to the techniques described in harmonised standards adopted under Directive 1999/5/EC must be used. Alternatively a duty cycle <sup>(6)</sup> of 0,1 % may also be used	Audio and voice signals, and video applications, are excluded	1 October 2008	

Type of short-range device	Frequency band	Power limit/field strength limit/ power density limit <sup>(1)</sup>	Additional parameters/spectrum access and mitigation requirements <sup>(2)</sup>	Other usage restrictions <sup>(3)</sup>	Implementation deadline
Non-specific short-range devices <sup>(4)</sup> (continued)	868,000-868,600 <sup>(5)</sup> MHz	25 mW e.r.p.	Techniques to access spectrum and mitigate interference that provide at least equivalent performance to the techniques described in harmonised standards adopted under Directive 1999/5/EC must be used. Alternatively a duty cycle <sup>(6)</sup> of 1 % may also be used	Video applications are excluded	1 October 2008
		25 mW e.r.p.	Techniques to access spectrum and mitigate interference that provide at least equivalent performance to the techniques described in harmonised standards adopted under Directive 1999/5/EC must be used. Alternatively a duty cycle <sup>(6)</sup> of 0,1 % may also be used	Audio and voice signals, and video applications, are excluded	1 October 2008
	868,700-869,200 <sup>(5)</sup> MHz	25 mW e.r.p.	Techniques to access spectrum and mitigate interference that provide at least equivalent performance to the techniques described in harmonised standards adopted under Directive 1999/5/EC must be used. Alternatively a duty cycle <sup>(6)</sup> of 0,1 % may also be used	Video applications are excluded	1 October 2008
		25 mW e.r.p.	Techniques to access spectrum and mitigate interference that provide at least equivalent performance to the techniques described in harmonised standards adopted under Directive 1999/5/EC shall be used. Alternatively a duty cycle <sup>(6)</sup> of 0,1 % may also be used	Audio and voice signals, and video applications, are excluded	1 October 2008
869,400-869,650 <sup>(5)</sup> MHz	500 mW e.r.p.	Techniques to access spectrum and mitigate interference that provide at least equivalent performance to the techniques described in harmonised standards adopted under Directive 1999/5/EC must be used. Alternatively a duty cycle <sup>(6)</sup> of 10 % may also be used.  Channel spacing must be 25 kHz, except that the whole band may also be used as a single channel for high-speed data transmission	Video applications are excluded	1 October 2008	

Type of short-range device	Frequency band	Power limit/field strength limit/ power density limit <sup>(1)</sup>	Additional parameters/spectrum access and mitigation requirements <sup>(2)</sup>	Other usage restrictions <sup>(3)</sup>	Implementation deadline
Non-specific short-range devices <sup>(4)</sup> (continued)		25 mW e.r.p.	Techniques to access spectrum and mitigate interference that provide at least equivalent performance to the techniques described in harmonised standards adopted under Directive 1999/5/EC must be used. Alternatively a duty cycle <sup>(6)</sup> of 0,1 % may also be used	Audio and voice signals, and video applications, are excluded	1 October 2008
	869,700-870,000 <sup>(5)</sup> MHz	5 mW e.r.p.	Voice applications allowed with advanced mitigation techniques	Audio and video applications are excluded	1 June 2007
		25 mW e.r.p.	Techniques to access spectrum and mitigate interference that provide at least equivalent performance to the techniques described in harmonised standards adopted under Directive 1999/5/EC must be used. Alternatively a duty cycle <sup>(6)</sup> of 0,1 % may also be used	Audio and voice signals, and video applications, are excluded	1 October 2008
	2 400-2 483,5 MHz	10 mW equivalent isotropic radiated power (e.i.r.p.)			1 June 2007
	5 725-5 875 MHz	25 mW e.i.r.p.			1 June 2007
	24,150-24,250 GHz	100 mW e.i.r.p.			1 October 2008
	61,0-61,5 GHz	100 mW e.i.r.p.			1 October 2008
Alarm systems	868,600-868,700 MHz	10 mW e.r.p.	Channel spacing: 25 kHz The whole frequency band may also be used as a single channel for high-speed data transmission Duty cycle <sup>(6)</sup> : 1,0 %		1 October 2008
	869,250-869,300 MHz	10 mW e.r.p.	Channel spacing: 25 kHz Duty cycle <sup>(6)</sup> : 0,1 %		1 June 2007
	869,300-869,400 MHz	10 mW e.r.p.	Channel spacing: 25 kHz Duty cycle <sup>(6)</sup> : 1,0 %		1 October 2008
	869,650-869,700 MHz	25 mW e.r.p.	Channel spacing: 25 kHz Duty cycle <sup>(6)</sup> : 10 %		1 June 2007
Social alarms <sup>(7)</sup>	869,200-869,250 MHz	10 mW e.r.p.	Channel spacing: 25 kHz Duty cycle <sup>(6)</sup> : 0,1 %		1 June 2007

Type of short-range device	Frequency band	Power limit/field strength limit/ power density limit <sup>(1)</sup>	Additional parameters/spectrum access and mitigation requirements <sup>(2)</sup>	Other usage restrictions <sup>(3)</sup>	Implementation deadline
Inductive applications <sup>(8)</sup>	20,050-59,750 kHz	72 dB $\mu$ A/m at 10 metres			1 June 2007
	59,750-60,250 kHz	42 dB $\mu$ A/m at 10 metres			1 June 2007
	60,250-70,000 kHz	69 dB $\mu$ A/m at 10 metres			1 June 2007
	70-119 kHz	42 dB $\mu$ A/m at 10 metres			1 June 2007
	119-127 kHz	66 dB $\mu$ A/m at 10 metres			1 June 2007
	127-140 kHz	42 dB $\mu$ A/m at 10 metres			1 October 2008
	140-148,5 kHz	37,7 dB $\mu$ A/m at 10 metres			1 October 2008
	148,5-5 000 kHz In the specific bands mentioned below, higher field strengths and additional usage restrictions apply:	- 15 dB $\mu$ A/m at 10 metres in any bandwidth of 10 kHz. Furthermore the total field strength is - 5 dB $\mu$ A/m at 10 m for systems operating at bandwidths larger than 10 kHz			1 October 2008
	400-600 kHz	- 8 dB $\mu$ A/m at 10 metres		No other application than RFID <sup>(9)</sup> allowed	1 October 2008
	3 155-3 400 kHz	13,5 dB $\mu$ A/m at 10 metres			1 October 2008
	5 000-30 000 kHz In the specific bands mentioned below, higher field strengths and additional usage restrictions apply:	- 20 dB $\mu$ A/m at 10 metres in any bandwidth of 10 kHz. Furthermore the total field strength is - 5 dB $\mu$ A/m at 10 m for systems operating at bandwidths larger than 10 kHz			1 October 2008
	6 765-6 795 kHz	42 dB $\mu$ A/m at 10 metres			1 June 2007
	7 400-8 800 kHz	9 dB $\mu$ A/m at 10 metres			1 October 2008
	10 200-11 000 kHz	9 dB $\mu$ A/m at 10 metres			1 October 2008
	13 553-13 567 kHz	42 dB $\mu$ A/m at 10 metres			1 June 2007
60 dB $\mu$ A/m at 10 metres			No other applications than RFID <sup>(9)</sup> and EAS <sup>(10)</sup> allowed	1 October 2008	
26 957-27 283 kHz	42 dB $\mu$ A/m at 10 metres			1 October 2008	

Type of short-range device	Frequency band	Power limit/field strength limit/ power density limit <sup>(1)</sup>	Additional parameters/spectrum access and mitigation requirements <sup>(2)</sup>	Other usage restrictions <sup>(3)</sup>	Implementation deadline
Active medical implants <sup>(11)</sup>	9-315 kHz	30 dB $\mu$ A/m at 10 m	Duty cycle <sup>(6)</sup> : 10 %		1 October 2008
	402-405 MHz	25 $\mu$ W e.r.p.	Channel spacing: 25 kHz. Other channelling restriction: individual trans- mitters may combine adjacent channels for increased bandwidth with advanced mitigation tech- niques that provide at least equivalent performance to the techniques described in harmonised standards adopted under Directive 1999/5/EC		1 October 2008
Wireless audio appli- cations <sup>(12)</sup>	87,5-108,0 MHz	50 nW e.r.p.	Channel spacing up to 200 kHz		1 October 2008
	863-865 MHz	10 mW e.r.p.			1 June 2007

<sup>(1)</sup> Member States must allow the usage of spectrum up to the power, field strength or power density given in this table. In conformity with Article 3(3) of Decision 2006/771/EC, they may impose less restrictive conditions, i.e. allow the use of spectrum with higher power, field strength or power density.

<sup>(2)</sup> Member States may only impose these 'additional parameters/spectrum access and mitigation requirements', and may not add other parameters or spectrum access and mitigation requirements. Less restrictive conditions within the meaning of Article 3(3) of Decision 2006/771/EC mean that Member States may completely omit the parameters/spectrum access and mitigation requirements in a given cell or allow higher values.

<sup>(3)</sup> Member States may only impose these 'other usage restrictions', and may not add additional usage restrictions. As less restrictive conditions may be introduced within the meaning of Article 3(3) of Decision 2006/771/EC, Member States may omit one or all of these restrictions.

<sup>(4)</sup>

<sup>(5)</sup> For this frequency band Member States must make all the alternative sets of usage conditions possible.

<sup>(6)</sup> 'Duty cycle' means the ratio of time during any one-hour period when equipment is actively transmitting. Less restrictive conditions within the meaning of Article 3(3) of Decision 2006/771/EC mean that Member States may allow a higher value for 'Duty cycle'.

<sup>(7)</sup> Social alarm devices are used to assist elderly or disabled people when they are in distress.

<sup>(8)</sup> This category covers, for example, devices for car immobilisation, animal identification, alarm systems, cable detection, waste management, personal identification, wireless voice links, access control, proximity sensors, anti-theft systems, including RF anti-theft induction systems, data transfer to handheld devices, automatic article identification, wireless control systems and automatic road tolling.

<sup>(9)</sup> This category covers inductive applications used for Radio Frequency Identification (RFID).

<sup>(10)</sup> This category covers inductive applications used for Electronic Article Surveillance (EAS).

<sup>(11)</sup> This category covers the radio part of active implantable medical devices, as defined in Council Directive 90/385/EEC of 20 June 1990 on the approximation of the laws of the Member States relating to active implantable medical devices and their peripherals (OJ L 189, 20.7.1990, p. 17).

<sup>(12)</sup> Applications for wireless audio systems, including: cordless loudspeakers; cordless headphones; cordless headphones for portable use, e.g. portable CD, cassette or radio devices carried on a person; cordless headphones for use in a vehicle, for example for use with a radio or mobile telephone, etc.; in-ear monitoring, for use at concerts or other stage productions.



## COMMISSION DECISION

of 10 June 2008

**imposing special conditions governing the import of sunflower oil originating in or consigned from Ukraine due to contamination risks by mineral oil***(notified under document number C(2008) 2709)***(Text with EEA relevance)**

(2008/433/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety<sup>(1)</sup>, and in particular Article 53(2), second subparagraph, thereof,

Whereas:

- (1) The Rapid Alert System for Food and Feed (RASFF) has been notified on 23 April 2008 that sunflower oil originating from Ukraine was found contaminated with high levels of mineral oil. This contamination by mineral oil was later confirmed in several consignments of crude sunflower oil originating from Ukraine imported in recent months in the Community. Sunflower oil containing high levels of mineral oil is unfit for human consumption and therefore deemed to be unsafe. The source of contamination is not yet known.
- (2) The European Commission has repeatedly urged the Ukrainian authorities to provide information on the origin of the contamination and on the measures taken to prevent it in future. Assurances were also sought from the Ukrainian authorities as to the establishment of effective measures aimed at guaranteeing the appropriate sampling and analysis on the presence of mineral oil in consignments of sunflower oil leaving Ukraine with destination the European Community.
- (3) Investigations aimed at identifying the source of contamination are ongoing in Ukraine. The Ukrainian authorities also committed to the establishment of an appropriate control system that will ensure that all consignments of sunflower oil to be exported to the European Union are certified as not containing levels of mineral oil making the sunflower oil unfit for human consumption.

However, the details of this control system have still to be provided to the Commission. The Commission should assess the control and certification system in order to verify the accuracy and the reliability to guarantee that the sunflower oil exported to the Community does not contain levels of mineral oil, making the sunflower oil unfit for human consumption. It has to be ensured that no exports of sunflower oil to the Community will take place until such control and certification system is put in place and assessed and accepted by the Commission. The assessment of the control and certification system will be performed on the basis of detailed information provided by the Ukrainian authorities.

- (4) After a request from the European Commission for an assessment of the risks related to the contamination of sunflower oil with mineral oil, the European Food Safety Authority (EFSA) published a statement on the contamination of sunflower oil with mineral oil exported from Ukraine. The statement refers to assessments performed by the joint FAO/WHO Expert Committee on Food Additives (JECFA) indicating the different level of toxicity depending of the type of mineral oil. EFSA concluded that the available analytical data for the contaminated sunflower oil from Ukraine indicated that the mineral oil present was of high viscosity. Based upon exposure estimates, EFSA concluded that the exposure of sunflower oil contaminated with high viscosity mineral oil, although being undesirable for human consumption, would not be of public health concern in this case. Given that the source of contamination has not yet been identified with certainty, there is the presumption of risk attached to the presence of unacceptable high levels of mineral oil in sunflower oil.
- (5) Given the level of risk, even once the control and certification system will be accepted by the Commission, Member States should control the consignments of sunflower oil in order to verify that such consignments contain a level of mineral oil conform to what it is declared in the certificate. This system of double control is necessary and justified in order to provide additional guarantees for the accuracy and reliability of the control and certification system put in place by the Ukrainian authorities. The costs incurred for carrying out these controls are to be borne by the operators responsible for the import. Member States should inform the Commission of unfavourable results through the Rapid Alert System for Food and Feed. Favourable results shall be reported to the Commission on a three-monthly basis. This obligation of information is necessary for the measures to be reassessed.

<sup>(1)</sup> OJ L 31, 1.2.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 202/2008 (OJ L 60, 5.3.2008, p. 17).

- (6) Article 53 of Regulation (EC) No 178/2002 provides for the possibility to adopt appropriate Community emergency measures for food and feed imported from a third country in order to protect human health, animal health or the environment, where the risk cannot be contained satisfactorily by means of measures taken by the Member States individually.
- (7) Pending the assessment and acceptance of the control and certification system to be put in place by the Ukrainian authorities, no imports of sunflower oil originating in or consigned from Ukraine should take place due to the risk of contamination with mineral oil.
- (8) Member States have been informed of the contamination incident and have taken the appropriate measures to withdraw the contaminated sunflower oil and food products containing contaminated sunflower oil already placed on the market, as recommended by the European Commission via the RASFF.
- (9) Given the urgency, pending the meeting of the Standing Committee on the Food Chain and Animal Health, and after having informed the authorities of Ukraine, the Commission adopted Decision 2008/388/EC on 23 May 2008 imposing special conditions governing the import of sunflower oil originating in or consigned from Ukraine due to contamination risks by mineral oil<sup>(1)</sup>, in accordance with the procedure laid down in Article 53(2), first subparagraph of Regulation (EC) No 178/2002.
- (10) Those measures should be confirmed and amended as regards the costs of the controls, performed by the competent authorities of the Member States.
- (11) It is therefore appropriate to repeal and replace Decision 2008/388/EC.
- (12) 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*

1. Member States shall prohibit the import of sunflower oil, falling within CN codes 1512 11 91 or 1512 19 90 10, originating in or consigned from Ukraine (hereafter referred to as sunflower oil), unless the consignment of sunflower oil is accompanied by a valid certificate, certifying the absence of unacceptable levels of mineral oil and the results of sampling and analysis for the presence of mineral oil.

2. The certificate provided for in paragraph 1 shall only be valid for imports of consignments of sunflower oil into the Community if the sampling and analysis of the consignment and the issuance of the certificate have taken place after the European Commission has assessed and formally accepted the control and certification system put in place by the Ukrainian authorities.

3. Member States will be informed of the details of the control and certification system put in place by the Ukrainian authorities and of the formal acceptance of it by the Commission through the Standing Committee on the Food Chain and Animal Health.

4. Member States shall take the appropriate measures to sample and analyse each consignment of sunflower oil originating in or consigned from Ukraine, accompanied by a valid certificate, presented for import to ensure that the consignments contain a level of mineral oil conform to what it is declared in the certificate.

They shall inform the Commission of unfavourable results through the Rapid Alert System for Food and Feed. Favourable results shall be reported to the Commission on a three-monthly basis.

5. Member States shall take the necessary measures to ensure that the sunflower oil originating in or consigned from Ukraine, not complying with the provisions of this Decision, is not placed on the market for feed or food use.

6. Member States shall ensure that the costs incurred in the implementation of points 4 and 5 are borne by the operators responsible for the import.

*Article 2*

Decision 2008/388/EC is repealed.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 10 June 2008.

*For the Commission*  
Androulla VASSILIOU  
*Member of the Commission*

<sup>(1)</sup> OJ L 136, 24.5.2008, p. 43.