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## I

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

## REGULATIONS

## COMMISSION REGULATION (EC) No 21/2009

of 14 January 2009

**establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 15 January 2009.

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

Done at Brussels, 14 January 2009.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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

<sup>(2)</sup> OJ L 350, 31.12.2007, p. 1.

## ANNEX

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

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	IL	147,8
	MA	42,4
	TN	134,4
	TR	117,3
	ZZ	110,5
0707 00 05	JO	155,5
	MA	98,3
	TR	147,7
	ZZ	133,8
0709 90 70	MA	119,1
	TR	131,1
	ZZ	125,1
0805 10 20	EG	44,7
	IL	56,2
	MA	60,4
	TN	47,4
	TR	59,3
	ZZ	53,6
0805 20 10	MA	82,3
	TR	58,0
	ZZ	70,2
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	63,6
	EG	91,8
	IL	64,7
	JM	120,5
	TR	68,1
	ZZ	81,7
0805 50 10	EG	47,1
	MA	67,1
	TR	60,5
	ZZ	58,2
0808 10 80	CA	87,4
	CN	64,4
	MK	34,8
	US	115,3
	ZZ	75,5
0808 20 50	CN	41,5
	US	114,7
	ZZ	78,1

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

**COMMISSION REGULATION (EC) No 22/2009**  
**of 14 January 2009**  
**amending Regulation (EC) No 1347/2008 fixing the import duties in the cereals sector applicable**  
**from 1 January 2009**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 in respect of import duties in the cereals sector <sup>(2)</sup>, and in particular Article 2(1) thereof,

Whereas:

(1) The import duties in the cereals sector applicable from 1 January 2009 were fixed by Commission Regulation (EC) No 1347/2008 <sup>(3)</sup>.

(2) As the average of the import duties calculated differs by more than EUR 5/tonne from that fixed, a corresponding adjustment must be made to the import duties fixed by Regulation (EC) No 1347/2008.

(3) Regulation (EC) No 1347/2008 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annexes I and II to Regulation (EC) No 1347/2008 are hereby replaced by the text in the Annex to this Regulation.

*Article 2*

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

It shall apply from 15 January 2009.

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

Done at Brussels, 14 January 2009.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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

<sup>(2)</sup> OJ L 161, 29.6.1996, p. 125.

<sup>(3)</sup> OJ L 348, 24.12.2008, p. 81.

## ANNEX I

**Import duties on the products referred to in Article 136(1) of Regulation (EC) No 1234/2007 applicable from 15 January 2009**

CN code	Description	Import duties <sup>(1)</sup> (EUR/t)
1001 10 00	Durum wheat, high quality	0,00
	medium quality	0,00
	low quality	0,00
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	High quality common wheat, other than for sowing	0,00
1002 00 00	Rye	21,96
1005 10 90	Maize seed other than hybrid	19,22
1005 90 00	Maize, other than seed <sup>(2)</sup>	19,22
1007 00 90	Grain sorghum other than hybrids for sowing	21,96

<sup>(1)</sup> For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal the importer may benefit, under Article 2(4) of Regulation (EC) No 1249/96, from a reduction in the duty of:

- 3 EUR/t, where the port of unloading is on the Mediterranean Sea, or
- 2 EUR/t, where the port of unloading is in Denmark, Estonia, Ireland, Latvia, Lithuania, Poland, Finland, Sweden, the United Kingdom or the Atlantic coast of the Iberian peninsula.

<sup>(2)</sup> The importer may benefit from a flatrate reduction of EUR 24 per tonne where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

## ANNEX II

## Factors for calculating the duties laid down in Annex I

2.1.2009-13.1.2009

1. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

	(EUR/t)					
	Common wheat <sup>(1)</sup>	Maize	Durum wheat, high quality	Durum wheat, medium quality <sup>(2)</sup>	Durum wheat, low quality <sup>(3)</sup>	Barley
Exchange	Minnéapolis	Chicago	—	—	—	—
Quotation	176,48	117,05	—	—	—	—
Fob price USA	—	—	217,05	207,05	187,05	127,70
Gulf of Mexico premium	—	13,70	—	—	—	—
Great Lakes premium	28,08	—	—	—	—	—

<sup>(1)</sup> Premium of 14 EUR/t incorporated (Article 4(3) of Regulation (EC) No 1249/96).<sup>(2)</sup> Discount of 10 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).<sup>(3)</sup> Discount of 30 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

2. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Freight costs: Gulf of Mexico–Rotterdam: 9,51 EUR/t

Freight costs: Great Lakes–Rotterdam: 6,90 EUR/t



**COMMISSION REGULATION (EC) No 23/2009****of 14 January 2009****derogating from Regulation (EC) No 1282/2001 as regards the final date for submitting harvest and production declarations for the 2008/09 marketing year**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine <sup>(1)</sup>, and in particular Article 23 thereof,

Whereas:

- (1) Article 11(1) of Commission Regulation (EC) No 1282/2001 <sup>(2)</sup> requires wine growers to submit harvest and production declarations no later than 10 December, so that the volume of Community wine production can be known in good time.
- (2) In one Member State, the need to adjust the computer system for handling compulsory declarations as a result of new measures introduced by Council Regulation (EC) No 479/2008 of 29 April 2008 on the common organisation of the market in wine amending Regulations (EC) No 1493/1999, (EC) No 1782/2003, (EC) No 1290/2005 and (EC) No 3/2008, and repealing Regulations (EEC) No 2392/86 and (EC) No 1493/1999 <sup>(3)</sup>, which are linked to the vineyard parcels of the vineyard register, particularly the distillation into potable alcohol, has caused a delay in the availability of this system to producers.
- (3) In another Member State, some of the computer centres to which producers have to submit those declarations

have experienced a problem of capacity. Those centres are unable to handle all declarations by the deadline.

- (4) In order to rectify these two different situations, which are outside producers' control, and therefore to avoid producers incurring unjustified penalties, they should be granted an extension for the submission of harvest and production declarations and the Member States should be allowed to extend this time frame to a final deadline.
- (5) 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*

Notwithstanding Article 11(1) of Regulation (EC) No 1282/2001, for the 2008/09 wine year the declarations referred to in Articles 2 and 4 of that Regulation may be submitted up to 31 December 2008. However, Member States may extend this time frame to 15 January 2009 at the latest.

*Article 2*

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

It shall apply from 10 December 2008.

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

Done at Brussels, 14 January 2009.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

<sup>(1)</sup> OJ L 179, 14.7.1999, p. 1.

<sup>(2)</sup> OJ L 176, 29.6.2001, p. 14.

<sup>(3)</sup> OJ L 148, 6.6.2008, p. 1.

## DIRECTIVES

## COUNCIL DIRECTIVE 2008/119/EC

of 18 December 2008

## laying down minimum standards for the protection of calves

(Codified version)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

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

Having regard to the opinion of the European Economic and Social Committee <sup>(2)</sup>,

Whereas:

(1) Council Directive 91/629/EEC of 19 November 1991 laying down minimum standards for the protection of calves <sup>(3)</sup> has been substantially amended several times <sup>(4)</sup>. In the interests of clarity and rationality the said Directive should be codified.

(2) Most Member States have ratified the European Convention for the protection of animals kept for farming purposes. The Community has also approved this Convention, by Council Decision 78/923/EEC <sup>(5)</sup>.

(3) Calves, being live animals, are included in the list of products set out in Annex I to the Treaty.

(4) The keeping of calves is an integral part of agriculture. It constitutes a source of revenue for part of the agricultural population.

(5) Differences which may distort conditions of competition interfere with the smooth running of the organisation of the common market in calves and calf products.

(6) There is therefore a need to establish common minimum standards for the protection of rearing calves or calves for fattening in order to ensure rational development of production.

(7) It is recognised scientifically that calves should benefit from an environment corresponding to their needs as a herd-living species. For that reason, they should be reared in groups. Calves, both group-housed and individually penned, should have sufficient space for exercise, for contact with other cattle and for normal movements when standing up or lying down.

(8) It is necessary for official services, producers, consumers and others to be kept informed of developments in this field. The Commission should therefore, on the basis of an opinion from the European Food Safety Authority, pursue actively scientific research into the most efficient stock-farming system(s) from the point of view of the well-being of calves. Provision should accordingly be made for an interim period to enable the Commission to complete this task successfully.

(9) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(6)</sup>.

(10) This Directive should be without prejudice to the obligations of the Member States relating to the time limits for transposition into national law of the Directives set out in Annex II, Part B,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

This Directive lays down the minimum standards for the protection of calves confined for rearing and fattening.

<sup>(1)</sup> Opinion of 11 December 2007 (not yet published in the Official Journal).

<sup>(2)</sup> OJ C 324, 30.12.2006, p. 26.

<sup>(3)</sup> OJ L 340, 11.12.1991, p. 28.

<sup>(4)</sup> See Annex II, Part A.

<sup>(5)</sup> OJ L 323, 17.11.1978, p. 12.

<sup>(6)</sup> OJ L 184, 17.7.1999, p. 23.

## Article 2

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

1. 'calf' means a bovine animal up to six months old;
2. 'competent authority' means the competent authority as defined in Article 2(6) of Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market <sup>(1)</sup>.

## Article 3

1. From 1 January 1998, the following provisions shall apply on all newly built or rebuilt holdings and on all those brought into use after that date:

- (a) no calf shall be confined in an individual pen after the age of eight weeks, unless a veterinarian certifies that its health or behaviour requires it to be isolated in order to receive treatment. The width of any individual pen for a calf shall be at least equal to the height of the calf at the withers, measured in the standing position, and the length shall be at least equal to the body length of the calf, measured from the tip of the nose to the caudal edge of the *tuber ischii* (pin bone), multiplied by 1,1.

Individual pens for calves (except those for isolating sick animals) must not have solid walls, but perforated walls which allow the calves to have direct visual and tactile contact;

- (b) for calves kept in groups, the unobstructed space allowance available to each calf shall be at least equal to 1,5 m<sup>2</sup> for each calf of a live weight of less than 150 kilograms, at least equal to 1,7 m<sup>2</sup> for each calf of a live weight of 150 kilograms or more but less than 220 kilograms, and at least equal to 1,8 m<sup>2</sup> for each calf of a live weight of 220 kilograms or more.

However, the provisions of the first subparagraph shall not apply to:

- (a) holdings with fewer than six calves;
- (b) calves kept with their mothers for suckling.

2. From 31 December 2006, the provisions provided for in paragraph 1 shall apply to all holdings.

<sup>(1)</sup> OJ L 224, 18.8.1990, p. 29.

## Article 4

Member States shall ensure that the conditions for rearing calves comply with the general provisions laid down in Annex I.

## Article 5

The general provisions in Annex I may be amended in accordance with the procedure referred to in Article 10(2) in order to take account of scientific progress.

## Article 6

By 1 January 2006, the Commission shall submit to the Council a report, drawn up on the basis of an opinion from the European Food Safety Authority, on the intensive farming system(s) which comply with the requirements of the well-being of calves from the pathological, zootechnical, physiological and behavioural point of view, as well as the socio-economic implications of different systems, together with proposals relevant to the report's conclusions.

## Article 7

1. Member States shall ensure that inspections are carried out under the responsibility of the competent authority in order to check that the provisions of this Directive are complied with.

These inspections, which may be carried out on the occasion of checks made for other purposes, shall each year cover a statistically representative sample of the different farming systems used in each Member State.

2. The Commission shall, in accordance with the procedure referred to in Article 10(2), draw up a code of rules to be applied in carrying out the inspections provided for in paragraph 1 of this Article.

3. Every two years, by the last working day in April and for the first time by 30 April 1996, Member States shall inform the Commission of the results of the inspections carried out during the previous two years in accordance with this Article, including the number of inspections carried out in relation to the number of holdings in their territory.

## Article 8

In order to be imported into the Community, animals coming from a third country must be accompanied by a certificate issued by the competent authority of that country, certifying that they have received treatment at least equivalent to that granted to animals of Community origin as provided for by this Directive.

#### Article 9

Veterinary experts from the Commission may, where necessary for the uniform application of this Directive, carry out on-the-spot checks in cooperation with the competent authorities. The persons carrying out these checks shall implement the special personal hygiene measures necessary to exclude any risk of transmission of disease.

The Member State in the territory of which a check is being carried out shall give all necessary assistance to the experts in carrying out their duties. The Commission shall inform the competent authority of the Member State concerned of the results of the checks.

The competent authority of the Member State concerned shall take any measures which may prove necessary to take account of the results of the checks.

With regard to relations with third countries, the provisions of Chapter III of Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organization of veterinary checks on animals entering the Community from third countries <sup>(1)</sup> shall apply.

General rules for the application of this Article shall be adopted in accordance with the procedure referred to in Article 10(2) of this Directive.

#### Article 10

1. The Commission shall be assisted by the Standing Committee on the Food Chain and Animal Health set up pursuant to Article 58 of 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>(2)</sup>.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

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

#### Article 11

Member States may, in compliance with the general rules of the Treaty, maintain or apply within their territories stricter provisions for the protection of calves than those laid down in this Directive. They shall inform the Commission of any such measures.

#### Article 12

Directive 91/629/EEC, as amended by the Acts listed in Annex II, Part A, is repealed, without prejudice to the obligations of the Member States relating to the time limits for transposition into national law of the Directives set out in Annex II, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex III.

#### Article 13

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

#### Article 14

This Directive is addressed to the Member States.

Done at Brussels, 18 December 2008.

For the Council  
The President  
M. BARNIER

<sup>(1)</sup> OJ L 268, 24.9.1991, p. 56.

<sup>(2)</sup> OJ L 31, 1.2.2002, p. 1.

## ANNEX I

1. Materials used for the construction of calf accommodation and in particular of boxes and equipment with which calves may come into contact must not be harmful to the calves and must be capable of being thoroughly cleaned and disinfected.
2. Until Community rules are laid down on the matter, electrical circuits and equipment must be installed in accordance with current national rules so as to avoid electric shocks.
3. Insulation, heating and ventilation of the building must ensure that the air circulation, dust level, temperature, relative air humidity and gas concentrations are kept within limits which are not harmful to the calves.
4. All automated or mechanical equipment essential for the calves' health and well-being must be inspected at least once daily. Where defects are discovered, they must be rectified immediately or, if this is impossible, appropriate steps must be taken to safeguard the health and well-being of the calves until the defect has been rectified, notably by using alternative methods of feeding and maintaining a satisfactory environment.

Where an artificial ventilation system is used, provision must be made for an appropriate back-up system to guarantee sufficient air renewal to preserve the health and well-being of the calves in the event of failure of the system, and an alarm system must be provided to warn the stock-keeper of the breakdown. The alarm system must be tested regularly.

5. Calves must not be kept permanently in darkness. To meet their behavioural and physiological needs, provision must be made, allowing for the different climatic conditions in the Member States, for appropriate natural or artificial lighting; if the latter, it must function for a period at least equivalent to the period of natural light normally available between 9 a.m. and 5 p.m. In addition, suitable lighting (fixed or portable) strong enough to allow the calves to be inspected at any time must be available.
6. All housed calves must be inspected by the owner or the person responsible for the animals at least twice daily and calves kept outside must be inspected at least once daily. Any calf which appears to be ill or injured must be treated appropriately without delay and veterinary advice must be obtained as soon as possible for any calf which is not responding to the stock-keeper's care. Where necessary, sick or injured calves must be isolated in adequate accommodation with dry, comfortable bedding.
7. The accommodation for calves must be constructed in such a way as to allow each calf to lie down, rest, stand up and groom itself without difficulty.
8. Calves must not be tethered, with the exception of group-housed calves which may be tethered for periods of not more than one hour at the time of feeding milk or milk substitute. Where tethers are used, they must not cause injury to the calves and must be inspected regularly and adjusted as necessary to ensure a comfortable fit. Each tether must be designed to avoid the risk of strangulation or injury and to allow the calf to move in accordance with point 7.
9. Housing, pens, equipment and utensils used for calves must be properly cleaned and disinfected to prevent cross-infection and the build-up of disease-carrying organisms. Faeces, urine and uneaten or spilt food must be removed as often as necessary to minimise smell and avoid attracting flies or rodents.
10. Floors must be smooth but not slippery, so as to prevent injury to the calves, and so designed as not to cause injury or suffering to calves standing or lying on them. They must be suitable for the size and weight of the calves and form a rigid, even and stable surface. The lying area must be comfortable, clean, and adequately drained and must not adversely affect the calves. Appropriate bedding must be provided for all calves less than two weeks old.

11. All calves must be provided with an appropriate diet adapted to their age, weight and behavioural and physiological needs, to promote good health and welfare. To this end, their food must contain sufficient iron to ensure an average blood haemoglobin level of at least 4,5 mmol/litre, and a minimum daily ration of fibrous food must be provided for each calf over two weeks old, the quantity being raised from 50 g to 250 g per day for calves from eight to 20 weeks old. Calves shall not be muzzled.
  12. All calves must be fed at least twice a day. Where calves are housed in groups and not fed *ad libitum* or by an automatic feeding system, each calf must have access to the food at the same time as the others in the group.
  13. All calves over two weeks of age must have access to a sufficient quantity of fresh water or be able to satisfy their fluid intake needs by drinking other liquids. However, in hot weather conditions or for calves which are ill, fresh drinking water must be available at all times.
  14. Feeding and watering equipment must be designed, constructed, placed and maintained so that contamination of the calves' feed and water is minimised.
  15. Each calf must receive bovine colostrum as soon as possible after it is born and in any case within the first six hours of life.
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## ANNEX III

## CORRELATION TABLE

Directive 91/629/EEC	This Directive
Articles 1 and 2	Articles 1 and 2
Article 3(1)	—
Article 3(2)	—
Article 3(3), first subparagraph	Article 3(1), first subparagraph
Article 3(3), second subparagraph, introductory words	Article 3(1), second subparagraph, introductory words
Article 3(3), second subparagraph, first indent	Article 3(1), second subparagraph, point (a)
Article 3(3), second subparagraph, second indent	Article 3(1), second subparagraph, point (b)
Article 3(3), third subparagraph	Article 3(2)
Article 3(4)	—
Article 4(1)	Article 4
Articles 5 to 10	Articles 5 to 10
Article 11(1)	—
Article 11(2)	Article 11
—	Article 12
—	Article 13
Article 12	Article 14
Annex	Annex I
—	Annex II
—	Annex III



## II

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

## DECISIONS

## COUNCIL

## COUNCIL DECISION

of 4 December 2008

appointing a Spanish alternate member of the Committee of the Regions

(2009/24/EC)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Community, and in particular Article 263 thereof,

Having regard to the proposal of the Spanish Government,

Whereas:

(1) On 24 January 2006, the Council adopted Decision 2006/116/EC appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2006 to 25 January 2010 <sup>(1)</sup>.

(2) An alternate member's seat on the Committee of the Regions has become vacant following the expiry of the mandate of Ms Maria Dolores ALARCÓN MARTÍNEZ,

*Article 1*

The following is hereby appointed to the Committee of the Regions as an alternate member for the remainder of the current term of office, which runs until 25 January 2010:

— Mr Juan Antonio MORALES RODRÍGUEZ, Director General de Relaciones Institucionales y Acción Exterior, Murcia.

*Article 2*

This Decision shall take effect on the day of its adoption.

Done at Brussels, 4 December 2008.

*For the Council*

*The President*

N. KOSCIUSKO-MORIZET

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<sup>(1)</sup> OJ L 56, 25.2.2006, p. 75.

# COMMISSION

## COMMISSION DECISION

of 4 December 2006

**on the conclusion of the Agreement for co-operation in the peaceful uses of nuclear energy between the European Atomic Energy Community and the Government of the Republic of Kazakhstan**

(2009/25/Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS DECIDED AS FOLLOWS:

### *Article 1*

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

The Agreement for co-operation in the peaceful uses of nuclear energy between the European Atomic Energy Community and the Government of the Republic of Kazakhstan is hereby approved on behalf of the European Atomic Energy Community. The text of the Agreement is attached to this Decision.

### *Article 2*

Having regard to the approval of the Council,

The President of the Commission or the Member of the Commission responsible for Energy are hereby authorised to sign the Agreement and to carry out all necessary steps for the entry into force of this Agreement to be concluded on behalf of the European Atomic Energy Community.

Whereas:

Done at Brussels, 4 December 2006.

The Agreement for co-operation in the peaceful uses of nuclear energy between the European Atomic Energy Community and the Government of the Republic of Kazakhstan should be concluded,

*For the Commission*  
Andris PIEBALGS  
*Member of the Commission*

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**AGREEMENT****for co-operation in the peaceful uses of nuclear energy between the European Atomic Energy Community and the Government of the Republic of Kazakhstan**

THE EUROPEAN ATOMIC ENERGY COMMUNITY, hereinafter referred to as 'the Community',

and

THE GOVERNMENT OF THE REPUBLIC OF KAZAKHSTAN, hereinafter referred to as 'Government of Kazakhstan',

both also generally referred to hereinafter as the 'Party' or 'Parties', as appropriate,

MINDFUL that the Partnership and Co-operation Agreement (PCA) between the European Communities and their Member States, of the one part, and the Republic of Kazakhstan, of the other part, which entered into force on 1 July 1999, establishes that trade in nuclear materials shall be subject to the provisions of a specific agreement to be concluded between the European Atomic Energy Community and the Government of Kazakhstan,

WHEREAS the Parties have signed the Co-operation Agreement between the European Atomic Energy Community and the Republic of Kazakhstan in the field of nuclear safety and the Agreement for co-operation between the European Atomic Energy Community and the Government of the Republic of Kazakhstan in the field of controlled nuclear fusion, which came into force on 1 June 2003 and 13 April 2004, respectively,

WHEREAS all Member States of the Community and the Republic of Kazakhstan are Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, hereinafter referred to as NPT,

WHEREAS the Community, its Member States and the Republic of Kazakhstan are committed to ensuring that the research, development and use of nuclear energy for peaceful purposes are carried out in a manner consistent with the objectives of the NPT,

WHEREAS nuclear safeguards are applied in the Community both under Chapter VII of Title II of the Treaty establishing the European Atomic Energy Community, hereinafter referred to as 'the Euratom Treaty' and under safeguards agreements concluded between the Community, its Member States and the International Atomic Energy Agency, hereinafter referred to as 'the IAEA', and in the Republic of Kazakhstan under the Agreement between the Republic of Kazakhstan and the International Atomic Energy Agency for the application of safeguards in connection with the NPT, which came into force on 11 August 1995, hereinafter referred to as 'Agreement on application of safeguards',

WHEREAS the Community, its Member States and the Government of Kazakhstan reaffirm their support of the IAEA and of its strengthened safeguards system,

WHEREAS the Parties shall facilitate nuclear trade between themselves or between authorised persons or undertakings established in the respective territories of the Community and the Republic of Kazakhstan in the mutual interest of producers, the nuclear fuel cycle industry, utilities and consumers,

WHEREAS account shall be taken of the commitments made by the Government of each Member State of the Community and the Government of the Republic of Kazakhstan in the framework of the Nuclear Suppliers Group,

WHEREAS it is appropriate to strengthen the basis for cooperation between the Parties in the civil nuclear sector by a framework agreement,

HAVE AGREED AS FOLLOWS:

*Article 1*

**Definitions**

For the purpose of this Agreement:

1. 'nuclear material' means any source material or special fissionable material as those terms are defined in Article XX of the Statute of the IAEA;

2. 'Community' means both:

(a) the legal person created by the Treaty establishing the European Atomic Energy Community, Party to this Agreement;

(b) the territories to which this same Treaty applies;

3. 'competent authorities of the Parties' means:

— for the Community, the European Commission,

— for the Government of Kazakhstan, the Committee for Atomic Energy of the Ministry of Energy and Mineral Resources of the Republic of Kazakhstan.

In case of any change, the Parties shall notify each other through diplomatic communication channels.

*Article 2*

**Objective**

The objective of this Agreement is to provide a framework for co-operation between the Parties in the peaceful uses of nuclear energy with a view to strengthening the overall co-operation relationship between the Community and the Republic of Kazakhstan on the basis of mutual benefit and reciprocity and without prejudice to the respective powers of each Party.

*Article 3*

**Scope of co-operation**

1. The Parties may co-operate in the way as specified in Articles 4 to 8 below in the peaceful uses of nuclear energy in the following areas:

(a) nuclear safety (Article 4);

(b) controlled nuclear fusion (Article 5);

(c) research and development in other areas of peaceful uses of nuclear energy than those foreseen under (a) and (b) of paragraph 1 of this Article (Article 6);

(d) trade in nuclear materials and provision of nuclear fuel cycle services (Article 7);

(e) other areas relevant to the subject of this Agreement (Article 8).

2. The co-operation referred to in this Article, as between the Parties, may also take place between authorised persons and undertakings established in the Community and the Republic of Kazakhstan.

*Article 4*

**Nuclear safety**

The co-operation in the field of nuclear safety shall be implemented according to the Co-operation Agreement between the European Atomic Energy Community and the Republic of Kazakhstan in the Field of Nuclear Safety, which entered into force on 1 June 2003.

*Article 5*

**Controlled nuclear fusion**

The co-operation in the field of controlled nuclear fusion shall be implemented according to the Agreement for co-operation between the European Atomic Energy Community and the Government of the Republic of Kazakhstan in the Field of Controlled Nuclear Fusion, which entered into force on 13 April 2004.

*Article 6*

**Research and development in other areas of peaceful uses of nuclear energy**

1. Co-operation shall extend to nuclear research and development activities of mutual interest to the Parties other than those provided for in Articles 4 and 5 above, as agreed between the Parties, insofar as they are covered by their respective programmes.

2. The co-operation may include, in particular, the following areas:

(a) applications of nuclear energy in the fields of medicine and industry, including generation of electricity;

(b) environmental impact of nuclear energy;

(c) any other area of nuclear research and development as agreed between the Parties and insofar as they are covered by their respective programmes.

3. The co-operation shall be implemented in particular through:

- (a) exchange of technical information by means of reports, visits, seminars, technical meetings, etc.;
- (b) exchange of personnel between laboratories and/or bodies involved, including for training purposes;
- (c) exchange of samples, materials, instruments and apparatus for experimental purposes;
- (d) balanced participation in joint studies and activities.

4. To the extent necessary, the scope, terms and conditions for co-operation in concrete projects will be laid down in implementing arrangements, entered into by the competent authorities of the Parties which will proceed according to respective requirements of legislation of the Community and the legislation of the Republic of Kazakhstan.

Such implementing arrangements may, *inter alia*, cover financing provisions, assignment of management responsibilities and detailed provisions on dissemination of information and intellectual property rights.

5. Costs resulting from co-operation activities shall be borne by the Party that incurs them, unless otherwise specifically agreed by the Parties.

#### *Article 7*

#### **Trade in nuclear materials and provision of relevant services**

1. Nuclear material transferred between the Parties, whether directly or through a third country, shall become subject to this Agreement upon its entry into the territorial jurisdiction of the Community or the Republic of Kazakhstan, provided that the supplying Party has notified the receiving Party in writing prior to, or at the time of, shipment, in accordance with procedures defined in an Administrative Arrangement to be established by the competent authorities of the Parties.

2. Nuclear material referred to in paragraph 1 of this Article shall remain subject to the provisions of this Agreement until:

- (a) it is determined in accordance with the provisions for the termination of safeguards in the relevant agreement referred to in paragraph 6(b) of this Article, that it is no longer usable for any nuclear activity relevant from the point of view of safeguards, or has become practically irrecoverable;
- (b) it has been transferred beyond the jurisdiction of the Community or the Republic of Kazakhstan in accordance with paragraph 6(e) of this Article; or
- (c) the Parties agree in writing that it should no longer be subject to this Agreement.

3. Any nuclear transfers carried out pursuant to the co-operation activities shall be made in accordance with the relevant international commitments of the Community, the Member States of the European Union, and the Republic of Kazakhstan in relation to peaceful uses of nuclear energy as listed in paragraph 6 of this Article.

4. Trade in nuclear materials and provision of relevant services between the Parties shall be carried out at market-related prices.

5. The Parties shall try to avoid conflictual situations requiring commercial safeguard measures in their mutual trade in nuclear materials. If problems nevertheless arise in their mutual trade in nuclear materials which would seriously jeopardise the viability of the nuclear industry, including uranium mining, of the Community or the Republic of Kazakhstan, either Party may request consultations which shall be held as soon as possible in the framework of an *ad hoc* Committee, the procedure for convocation, period and level of participants to carry out consultations shall be defined by the Parties.

If no mutually acceptable solution to these problems can be found in such consultations, the Party having requested the consultations may take the appropriate commercial safeguard measures to solve them or mitigate their effects in accordance with the legislation of the Community and the Republic of Kazakhstan and with the relevant principles of international law.

The implementation of paragraph 5 of this Article shall be without prejudice to the Euratom Treaty and secondary legislation thereunder.

6. Transfers of nuclear material shall be subject to the following conditions:

(a) the nuclear material shall be used for peaceful purposes and not for any nuclear explosive device or for research on, or development of, any such device;

(b) the nuclear material shall be subject:

— in the Community, to the Euratom safeguards pursuant to the Euratom Treaty and to the IAEA safeguards pursuant to the following safeguards agreements, as relevant, and as they may be revised and replaced, so long as coverage as required by the Non-Proliferation Treaty is provided for:

1. the Agreement between the Community's non-nuclear weapon Member States, Euratom and the IAEA, which entered into force on 21 February 1977 (published as INFCIRC/193);

2. the Agreement between France, Euratom and the IAEA, which entered into force on 12 September 1981 (published as INFCIRC/290);

3. the Agreement between the United Kingdom, Euratom and the IAEA, which entered into force on 14 August 1978 (published as INFCIRC/263);

supplemented in due course by Additional Protocols which entered into force on 30 April 2004 on the basis of the document published as INFCIRC/540 (Model Protocol Additional to the Agreement(s) between State(s) and the IAEA for the Application of Safeguards);

— in the Republic of Kazakhstan, to the Safeguards Agreement, which entered into force on 11 August 1995 (published as INFCIRC/504); and supplemented by an Protocol Additional to the Agreement between the IAEA and the Republic of Kazakhstan for the application of safeguards in connection with the NPT, concluded on 6 February 2004 on the basis of the document published as INFCIRC/540 (Model Protocol Additional to the Agreement(s) between State(s) and

the IAEA for the Application of Safeguards) if it is in force;

(c) in the event of the application of any of the Agreements with the IAEA referred to in paragraph 6(b) of this Article being suspended or terminated for any reason within the Community or the Republic of Kazakhstan, the relevant party shall enter into an agreement with the IAEA which provides for effectiveness and coverage equivalent to that provided by the safeguards agreements referred to in paragraphs 6(b)(1) or 6(b)(2), or, if that is not possible,

the Community, as far as it is concerned, shall apply safeguards based on the Euratom safeguards system, which provides for effectiveness and coverage equivalent to that provided by the safeguards agreements referred to in paragraphs 6(b)(1) or, if that is not possible,

the Parties shall enter arrangements for the application of safeguards which provide for effectiveness and coverage equivalent to that provided by the safeguards agreements referred to in paragraph 6(b)(1) or 6(b)(2);

(d) application of physical protection measures at levels which satisfy as a minimum the criteria set out in Annex C to IAEA document INFCIRC/254/Rev.6/Part 1 (Guidelines for Nuclear Transfers) as it may be revised; supplementary to this document, the Member States of the Community, the European Commission, as appropriate, and the Republic of Kazakhstan will refer when applying physical protection measures to the recommendations in IAEA document INFCIRC/225/REV.4 corrected (Physical Protection of Nuclear Material and Nuclear Facilities) as it may be revised. International transport shall be subject to the provisions of the International Convention on the Physical Protection of Nuclear Material (IAEA document INFCIRC/274/Rev.1), as it may be revised and accepted by the Parties and the Member States of the Community, and to the IAEA Regulations for the Safe Transport of Radioactive Materials (IAEA Safety Standards Series TS-R-1/ ST-1, Revised), as they may be revised and transposed to the legislation of the Community and the Republic of Kazakhstan;

(e) retransfers of any items subject to this Article outside the jurisdiction of the Community or the Republic of Kazakhstan shall only be made under the conditions of the Guidelines for Nuclear Transfers, as set out in IAEA document INFCIRC/254/Rev.6/Part1, as it may be revised.

7. No administrative provision related to trade, industrial operations or nuclear material movements on the territories of the Community or the Republic of Kazakhstan shall be used to restrict trade or hinder the commercial interests of either Party on the peaceful use of nuclear energy both internationally and domestically.

Provisions of this Agreement shall not be used to impede the free movement of nuclear material within the territory of the Community.

The implementation of paragraph 7 of this Article shall be without prejudice to the Euratom Treaty and secondary legislation thereunder.

8. Notwithstanding the suspension or termination of this Agreement for any reason, paragraph 6 of this Article shall continue to apply so long as any nuclear material subject to these provisions remains under the jurisdiction of the Community or the Republic of Kazakhstan or until a determination is made in accordance with paragraph 2 of this Article.

#### *Article 8*

##### **Other areas relevant to the subject of this agreement**

1. The Parties may agree within the scope of their respective competences to co-operation in other activities in the field of nuclear energy.

2. On the Community side, the activities would have to be covered by relevant programmes of action and correspond to the conditions specified for it, e.g. in areas such as nuclear security, the safe transport of nuclear material, safeguards or industrial co-operation to promote certain aspects of the safety of nuclear installations.

3. The provisions of Article 6, paragraph 4, are equally applicable to this co-operation.

#### *Article 9*

##### **Applicable law**

Co-operation under this Agreement shall be in accordance with the laws and regulations in force within the Community and the Republic of Kazakhstan as well as with the international agreements entered into by the Parties.

#### *Article 10*

##### **Intellectual property**

The utilisation and diffusion of information and intellectual property rights, patents and copyrights connected with the co-operation activities under this Agreement shall be in accordance with the Annexes to the Agreements on co-operation in the areas of nuclear safety and controlled nuclear fusion that are referred to above in Articles 4 and 5, respectively, of this Agreement.

#### *Article 11*

##### **Consultation and arbitration**

1. The Parties will hold regular consultations within the PCA framework to monitor the co-operation under this Agreement unless specific consultation mechanisms are foreseen by the Parties.

2. Any dispute relating to the application or interpretation of this Agreement may be dealt with according to Article 88 of the PCA.

#### *Article 12*

##### **Bilateral nuclear co-operation agreements**

1. The provisions of this Agreement shall supersede the provisions in existing bilateral agreements between individual Member States of the Community and the Republic of Kazakhstan providing for rights and obligations contained in this Agreement.

2. To the extent that the provisions in the said bilateral agreements between individual Member States of the Community and the Republic of Kazakhstan provide for rights and obligations of the respective Member States and for the Republic of Kazakhstan beyond those contained in this Agreement, those rights and obligations will continue to be implemented under the respective bilateral agreements.

#### *Article 13*

##### **Entry into force and duration**

1. The Agreement shall enter into force on the date the Parties, through an exchange of diplomatic notes on completion of appropriate procedures, specify its entry into force and shall remain in force for a period of 10 years.

2. Thereafter this Agreement shall be automatically renewed for five-year periods, unless either Party, by written notice, requests the termination of the Agreement. The Agreement shall expire within six months from the date of receiving of notification of the relevant Party.



3. If either Party or any Member State of the Community violates any of the material provisions of this Agreement, the other Party may, on giving written notice to that effect, suspend or terminate in whole or in part co-operation under this Agreement. Before either Party takes action to that effect the Parties shall consult with a view to reaching agreement on the corrective measures to be taken and on the timescale within which such measures shall be taken. Such action shall be taken only if there has been failure to take the agreed measures within the agreed time or, in the event of failure to reach agreement after the lapse of a period of time defined by the Parties.

*Article 14*

Upon mutual agreement of the Parties the amendments and changes in the form of the minutes could be included in the Agreement that shall be integral part of the Agreement.

This Agreement shall be drawn up in duplicate in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovak, Slovenian, Spanish, Swedish and Kazakh languages, each text being equally authentic.

Done at Brussels, 5 December 2006.

*For the European Atomic Energy Community*

Andris PIEBALGS

*For the Government of the Republic of Kazakhstan*

Bakhtykozha IZMUKHAMBETOV

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**COMMISSION DECISION****of 22 December 2008****on the request from the United Kingdom to accept Regulation (EC) No 593/2008 of the European Parliament and the Council on the law applicable to contractual obligations (Rome I)***(notified under document number C(2008) 8554)**(2009/26/EC)*

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, in particular to Article 11a thereof,

Whereas:

- (1) On 17 June 2008, the European Parliament and the Council adopted Regulation (EC) No 593/2008 on the law applicable to contractual obligations (Rome I) <sup>(1)</sup>.
- (2) Pursuant to Article 1 of the Protocol on the position of the United Kingdom and Ireland, the United Kingdom did not participate in the adoption of Regulation (EC) No 593/2008.
- (3) In accordance with Article 4 of that Protocol, the United Kingdom notified the Commission by letter of 24 July 2008, received by the Commission on 30 July 2008, of its intention to accept and to participate in Regulation (EC) No 593/2008.
- (4) On 11 November 2008 the Commission gave a positive opinion to the Council on the request from the United Kingdom,

HAS ADOPTED THIS DECISION:

*Article 1*

Regulation (EC) No 593/2008 shall apply to the United Kingdom in accordance with Article 2.

*Article 2*

Regulation (EC) No 593/2008 shall enter into force in the United Kingdom from the date of notification of this Decision. It shall apply from 17 December 2009, except for Article 26 which shall apply from 17 June 2009.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 22 December 2008.

*For the Commission*

Jacques BARROT

*Vice-President*

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<sup>(1)</sup> OJ L 177, 4.7.2008, p. 6.

## COMMISSION DECISION

of 12 January 2009

## amending the Appendix to Annex VI to the Act of Accession of Bulgaria and Romania as regards certain milk processing establishments in Bulgaria

(notified under document number C(2008) 9000)

(Text with EEA relevance)

(2009/27/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Bulgaria and Romania, and in particular the first subparagraph of paragraph (f) of Section B of Chapter 4 of Annex VI thereto,

Whereas:

- (1) Bulgaria has been granted transitional periods by the Act of Accession of Bulgaria and Romania for compliance by certain milk processing establishments with the requirements of Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin <sup>(1)</sup>.
- (2) The Appendix to Annex VI to the Act of Accession has been amended by Commission Decisions 2007/26/EC <sup>(2)</sup>, 2007/689/EC <sup>(3)</sup>, 2008/209/EC <sup>(4)</sup>, 2008/331/EC <sup>(5)</sup>, 2008/547/EC <sup>(6)</sup>, 2008/672/EC <sup>(7)</sup> and 2008/827/EC <sup>(8)</sup>.
- (3) Bulgaria has provided guarantees that four milk processing establishments have completed their upgrading process and are now in full compliance with Community legislation. Three of them are allowed to receive and process compliant and non-compliant raw milk without separation. Those establishments should therefore be included in the list of Chapter I of the Appendix to Annex VI. One establishment is allowed to receive and process compliant and non-compliant raw milk in two fully separated lines. This establishment should be included in the list of Chapter II of the Appendix to Annex VI.

- (4) One milk processing establishment listed in Chapter I will process only compliant raw milk and will therefore be approved as EU milk processing establishment. This establishment should therefore be deleted from the list of Chapter I of the Appendix to Annex VI.
- (5) The Appendix to Annex VI to the Act of Accession of Bulgaria and Romania should therefore be amended accordingly.
- (6) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

*Article 1*

The Appendix to Annex VI to the Act of Accession of Bulgaria and Romania is amended in accordance with the Annex to this Decision.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 12 January 2009.

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

<sup>(1)</sup> OJ L 139, 30.4.2004, p. 55; corrected version in OJ L 226, 25.6.2004, p. 22.

<sup>(2)</sup> OJ L 8, 13.1.2007, p. 35.

<sup>(3)</sup> OJ L 282, 26.10.2007, p. 60.

<sup>(4)</sup> OJ L 65, 8.3.2008, p. 18.

<sup>(5)</sup> OJ L 114, 26.4.2008, p. 97.

<sup>(6)</sup> OJ L 176, 4.7.2008, p. 11.

<sup>(7)</sup> OJ L 220, 15.8.2008, p. 27.

<sup>(8)</sup> OJ L 294, 1.11.2008, p. 9.

## ANNEX

In Chapter I of the Appendix to Annex VI to the Act of Accession of Bulgaria and Romania the following entries are added:

No	Veterinary No	Name establishment	Town/Street or Village/Region
'13	BG 1512033	ET "Voynov-Ventsislav Hristakiev"	s. Milkovitsa obsht. Gulyantsi
14	BG 1612020	ET "Bor-Chvor"	s. Dalbok izvor obsht. Parvomay
15	BG 1612013	"Polidey-2" OOD	s. Domlyan'

In Chapter I of the Appendix to Annex VI to the Act of Accession of Bulgaria and Romania the following entry is deleted:

No	Veterinary No	Name establishment	Town/Street or Village/Region
'2	BG 2012022	"Bratya Zafirovi" OOD gr. Sliven ul. "Treti mart" 7	gr. Sliven Industrialna zona Zapad'

In Chapter II of the Appendix to Annex VI to the Act of Accession of Bulgaria and Romania the following entry is added:

No	Veterinary No	Name establishment	Town/Street or Village/Region
'15	BG 2812003	"Balgarski yogurt" OOD	s. Veselinovo, obl. Yambolska'

## COMMISSION DECISION

of 13 January 2009

**concerning the non-inclusion of flurprimidol in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing that substance**

(notified under document number C(2008) 8967)

(Text with EEA relevance)

(2009/28/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market <sup>(1)</sup>, and in particular the fourth subparagraph of Article 8(2) thereof,

Whereas:

(1) Article 8(2) of Directive 91/414/EEC provides that a Member State may, during a period of 12 years following the notification of that Directive, authorise the placing on the market of plant protection products containing active substances not listed in Annex I to that Directive that are already on the market two years after the date of notification, while those substances are gradually being examined within the framework of a programme of work.

(2) Commission Regulations (EC) No 451/2000 <sup>(2)</sup> and (EC) No 1490/2002 <sup>(3)</sup> lay down the detailed rules for the implementation of the third stage of the programme of work referred to in Article 8(2) of Directive 91/414/EEC and establish a list of active substances to be assessed with a view to their possible inclusion in Annex I to Directive 91/414/EEC. That list includes flurprimidol.

(3) For flurprimidol the effects on human health and the environment have been assessed in accordance with the provisions laid down in Regulations (EC) No 451/2000 and (EC) No 1490/2002 for a range of uses proposed by the notifier. Moreover, those Regulations designate the rapporteur Member States which have to submit the relevant assessment reports and recommendations to

the European Food Safety Authority (EFSA) in accordance with Article 10(1) of Regulation (EC) No 1490/2002. For flurprimidol the rapporteur Member State was Finland and all relevant information was submitted on 20 April 2007.

(4) The assessment report has been peer reviewed by the Member States and the EFSA within its Working Group Evaluation and presented to the Commission on 31 July 2008 in the format of the EFSA conclusion regarding the peer review of the pesticide risk assessment of the active substance flurprimidol <sup>(4)</sup>. This report has been reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 26 September 2008 in the format of the Commission review report for flurprimidol.

(5) During the evaluation of this active substance, a number of concerns have been identified. In particular, based on the available information, the operator and worker exposure exceed the AOEL (acceptable operator exposure level) in all evaluated scenarios and conditions of use. Moreover, no data was available on the impurity profile of batches used in toxicological studies. Consequently, it was not possible to conclude on the basis of the information available that flurprimidol met the criteria for inclusion in Annex I to Directive 91/414/EEC.

(6) The Commission invited the notifier to submit its comments on the results of the peer review and on its intention or not to further support the substance. The notifier submitted its comments which have been carefully examined. However, despite the arguments put forward by the notifier, the concerns identified could not be eliminated, and assessments made on the basis of the information submitted and evaluated during the EFSA expert meetings have not demonstrated that it may be expected that, under the proposed conditions of use, plant protection products containing flurprimidol satisfy in general the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC.

<sup>(1)</sup> OJ L 230, 19.8.1991, p. 1.

<sup>(2)</sup> OJ L 55, 29.2.2000, p. 25.

<sup>(3)</sup> OJ L 224, 21.8.2002, p. 23.

<sup>(4)</sup> EFSA Scientific Report (2008) 151, Conclusion on the peer review of flurprimidol, finalised 31 July 2008.

- (7) Flurprimidol should therefore not be included in Annex I to Directive 91/414/EEC.
- (8) Measures should be taken to ensure that authorisations granted for plant protection products containing flurprimidol are withdrawn within a fixed period of time and are not renewed and that no new authorisations for such products are granted.
- (9) Any period of grace granted by a Member State for the disposal, storage, placing on the market and use of existing stocks of plant protection products containing flurprimidol should be limited to 12 months in order to allow existing stocks to be used in one further growing season, which ensures that plant protection products containing flurprimidol remain available to farmers for 18 months from the adoption of this Decision.
- (10) This Decision does not prejudice the submission of an application for flurprimidol according to the provisions of Article 6(2) of Directive 91/414/EEC, the detailed implementation rules of which have been laid down in Commission Regulation (EC) No 33/2008 <sup>(1)</sup>, in view of a possible inclusion in its Annex I.
- (11) 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*

Flurprimidol shall not be included as active substance in Annex I to Directive 91/414/EEC.

*Article 2*

Member States shall ensure that:

- (a) authorisations for plant protection products containing flurprimidol are withdrawn by 13 July 2009;
- (b) no authorisations for plant protection products containing flurprimidol are granted or renewed from the date of publication of this Decision.

*Article 3*

Any period of grace granted by Member States in accordance with the provisions of Article 4(6) of Directive 91/414/EEC, shall be as short as possible and shall expire on 13 July 2010 at the latest.

*Article 4*

This Decision is addressed to the Member States.

Done at Brussels, 13 January 2009.

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

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<sup>(1)</sup> OJ L 15, 18.1.2008, p. 5.

## III

*(Acts adopted under the EU Treaty)*

## ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

## COUNCIL DECISION 2009/29/CFSP

of 22 December 2008

**concerning the conclusion of the Agreement between the European Union and the Somali Republic on the status of the European Union-led naval force in the Somali Republic in the framework of the EU military operation Atalanta**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 24 thereof,

Having regard to the recommendation from the Presidency,

Whereas:

(1) On 15 May 2008, the United Nations Security Council (UNSC) adopted Resolution 1814 (2008) calling on States and regional organisations to take action to protect shipping involved in the transport and delivery of humanitarian aid to Somalia and in activities authorised by the United Nations.

(2) On 2 June 2008, the UNSC adopted Resolution 1816 (2008) authorising, for a period of six months from the date of the Resolution, States cooperating with the Transitional Federal Government of Somalia to enter the territorial waters of Somalia and to use, in a manner consistent with relevant international law, all necessary means to repress acts of piracy and armed robbery at sea. Those provisions were extended for an additional period of 12 months by UNSC Resolution 1846 (2008), adopted on 2 December 2008.

(3) On 10 November 2008, the Council adopted Joint Action 2008/851/CFSP on a European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast <sup>(1)</sup> (operation Atalanta).

(4) Article 11 of that Joint Action provides that the status of the EU-led forces and their personnel who are stationed on the land territory of third States, or operate in the territorial or internal waters of third States, shall be agreed in accordance with the procedure laid down in Article 24 of the Treaty.

(5) Following authorisation by the Council on 18 September 2007, in accordance with Article 24 of the Treaty, the Presidency, assisted by the SG/HR, negotiated an Agreement between the European Union and the Somali Republic on the status of the EU-led naval force in the Somali Republic.

(6) The Agreement should be approved,

HAS DECIDED AS FOLLOWS:

*Article 1*

The Agreement between the European Union and the Somali Republic on the status of the European Union-led naval force in the Somali Republic is hereby approved on behalf of the European Union.

The text of the Agreement is attached to this Decision.

*Article 2*

The President of the Council is hereby authorised to designate the person empowered to sign the Agreement in order to bind the European Union.

<sup>(1)</sup> OJ L 301, 12.11.2008, p. 33.

*Article 3*

This Decision shall take effect on the day of its adoption.

*Article 4*

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 22 December 2008.

*For the Council*  
*The President*  
B. KOUCHNER

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**AGREEMENT****between the European Union and the Somali Republic on the status of the European Union-led naval force in the Somali Republic in the framework of the EU military operation Atalanta**

THE EUROPEAN UNION (EU),

of the one part, and

THE SOMALI REPUBLIC, hereinafter referred to as 'the Host State',

of the other part,

together hereinafter referred to as the 'Parties',

TAKING INTO ACCOUNT:

- United Nations (UN) Security Council Resolutions 1814 (2008), 1816 (2008) and 1838 (2008) and successor Resolutions,
- the letter dated 1 November 2008 from the Prime Minister of the Transitional Federal Government of the Republic of Somalia to the Secretary-General of the Council of the EU/High Representative of the Common Foreign and Security Policy of the EU in response to the EU's cooperation offer and the notification by the Transitional Federal Government of the Republic of Somalia of this offer to the UN Secretary-General dated 14 November 2008,
- EU Council Joint Action 2008/851/CFSP of 10 November 2008 on a European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (operation Atalanta),
- that this Agreement will not affect the Parties' rights and obligations under international agreements and other instruments establishing international courts and tribunals, including the Statute of the International Criminal Court,

HAVE AGREED AS FOLLOWS:

*Article 1*

**Scope and definitions**

1. This Agreement shall apply to the European Union-led forces and to their personnel.
2. This Agreement shall apply only within the territory of the Host State, including its internal waters, territorial sea and airspace.
3. For the purpose of this Agreement:
  - (a) 'European Union-led naval force (EUNAVFOR)' shall mean EU military headquarters and national contingents contributing to the operation, their vessels, their aircraft, their equipment and assets and their means of transport;
  - (b) 'operation' shall mean the preparation, establishment, execution and support of the military mission further to the mandate arising out of UN Security Council Resolutions 1814 (2008) and 1816 (2008) and any subsequent relevant UN Security Council Resolutions and the 1982 UN Convention on the Law of the Sea;
  - (c) 'EU operation commander' shall mean the commander of the operation;



- (d) 'EU force commander' shall mean the commander in the theatre of operations;
- (e) 'EU military headquarters' shall mean the military headquarters and elements thereof, whatever their location, under the authority of EU military commanders exercising the military command or control of the operation;
- (f) 'national contingents' shall mean units, vessels, aircraft and elements belonging to the Member States of the European Union and to other States participating in the operation, including vessel protection detachments and embarked military forces on board merchant ships;
- (g) 'EUNAVFOR personnel' shall mean the civilian and military personnel assigned to EUNAVFOR as well as personnel deployed for the preparation of the operation and personnel on mission for a Sending State or an EU institution in the framework of the operation, present, except as otherwise provided in this Agreement, within the territory of the Host State, with the exception of personnel employed locally and personnel employed by international commercial contractors;
- (h) 'Sending State' shall mean a State providing a national contingent for EUNAVFOR;
- (i) 'waters' shall mean the internal waters and territorial sea of the Host State and the airspace above these waters.

#### *Article 2*

##### **General provisions**

1. EUNAVFOR and EUNAVFOR personnel shall respect the laws and regulations of the Host State and shall refrain from any action or activity incompatible with the objectives of the operation.
2. EUNAVFOR shall inform the government of the Host State of the vessels and aircraft operating in the Host State's waters and of the vessels making calls to the Host State's ports.

#### *Article 3*

##### **Identification**

1. EUNAVFOR personnel present on the land territory of the Host State must carry passports or military identity cards with them at all times.
2. EUNAVFOR aircraft and vessels shall carry distinctive EUNAVFOR identification, of which the relevant Host State authorities shall be notified.
3. EUNAVFOR shall have the right to display the flag of the European Union and markings such as military insignia, titles and official symbols, on its aircraft and vessels. On the land territory of the Host State, the uniforms of EUNAVFOR personnel shall carry a distinctive EUNAVFOR emblem. National flags or insignia of the constituent national contingents of the operation may be displayed on the EUNAVFOR uniforms, as decided by the EU force commander.

#### *Article 4*

##### **Border crossing and movement within the Host State's territory**

1. EUNAVFOR personnel shall enter the Host State's land territory only on presentation of the documents provided for in Article 3(1). They shall be exempt from passport and visa regulations, immigration inspections and customs control on entering, leaving or within the Host State's territory.

2. EUNAVFOR personnel shall be exempt from the Host State's regulations on the registration and control of aliens, but shall not acquire any right to permanent residence or domicile within the Host State's territory.
3. EUNAVFOR assets and means of transport entering, transiting or exiting the Host State's territory in support of the operation shall be exempt from any requirement to produce inventories or other customs documentation, and from any inspection.
4. EUNAVFOR personnel may drive motor vehicles, navigate vessels and operate aircraft within the Host State's territory provided they have valid national, international or military driving licences, ship master's certificates or pilot licences, as appropriate.
5. For the purpose of the operation, the Host State shall grant EUNAVFOR and EUNAVFOR personnel freedom of movement and freedom to travel within its territory, including its waters and airspace. Freedom of movement within the territorial sea of the Host State shall include stopping and anchoring under any circumstances.
6. For the purpose of the operation, EUNAVFOR may carry out within the Host State's waters and its airspace, any exercise or practice with weapons as well as the launching, landing or taking on board of any aircraft or military device.
7. For the purpose of the operation, EUNAVFOR submarines are not required to navigate on the surface and to show their flag in the territorial sea of the Host State.
8. For the purpose of the operation, EUNAVFOR and the means of transport that it charters may use public roads, bridges, ferries, airports and ports without the payment of duties, fees, tolls, taxes and similar charges. EUNAVFOR shall not be exempt from reasonable charges for services requested and received, under the conditions that apply to those provided to the Host State's armed forces.

#### *Article 5*

#### **Privileges and immunities of EUNAVFOR granted by the Host State**

1. EUNAVFOR's vessels and aircraft shall be inviolable. The Host State's agents shall not enter them without the consent of the EU force commander.
2. EUNAVFOR's vessels and aircraft as well as its means of transport shall be immune from search, requisition, attachment or execution.
3. EUNAVFOR, its vessels, aircraft, property and assets, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process.
4. EUNAVFOR's archives and documents shall be inviolable at any time, wherever they may be.
5. The official correspondence of EUNAVFOR shall be inviolable. Official correspondence means all correspondence relating to the operation and its functions.
6. In respect of purchased and imported goods, services provided and facilities used by EUNAVFOR for the purposes of the operation, EUNAVFOR, as well as its providers or contractors, shall be exempt from all national, regional and communal dues, taxes and charges of a similar nature. EUNAVFOR shall not be exempt from dues, taxes or charges that represent payment for services rendered.
7. The Host State shall permit the entry of articles for the operation and grant them exemption from all custom duties, fees, tolls, taxes and similar charges other than charges for storage, cartage and other services rendered.

*Article 6***Privileges and immunities of EUNAVFOR personnel granted by the Host State**

1. EUNAVFOR personnel shall not be liable to any form of arrest or detention.
2. Papers, correspondence and property of EUNAVFOR personnel, shall enjoy inviolability.
3. EUNAVFOR personnel shall enjoy immunity from the criminal, civil and administrative jurisdiction of the Host State under all circumstances.

The immunity from jurisdiction of EUNAVFOR personnel may be waived by the Sending State or EU institution concerned, as the case may be. Such waiver must always be in writing.

4. The initiation of proceedings by EUNAVFOR personnel shall preclude them from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.
5. EUNAVFOR personnel are not obliged to give evidence as witnesses.
6. No measures of execution may be taken in respect of EUNAVFOR personnel.
7. The immunity of EUNAVFOR personnel from the jurisdiction of the Host State does not exempt them from the jurisdictions of the respective Sending States.
8. EUNAVFOR personnel shall be exempt from any form of taxation in the Host State on the salary and emoluments paid to them by EUNAVFOR or the Sending States, as well as on any income received from outside the Host State.
9. The Host State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on articles for the personal use of EUNAVFOR personnel.

The personal baggage of EUNAVFOR personnel shall be exempt from inspection, unless there are serious grounds for presuming that it contains articles that are not for the personal use of EUNAVFOR personnel, or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the Host State. Such inspection shall be conducted only in the presence of the concerned EUNAVFOR personnel or of an authorised representative of EUNAVFOR.

*Article 7***Criminal jurisdiction**

The competent authorities of a Sending State shall have the right to exercise on the territory of the Host State all the criminal jurisdiction and disciplinary powers conferred on them by the law of the Sending State with regard to all EUNAVFOR personnel subject to the relevant law of the Sending State.

*Article 8***Uniform and arms**

1. The wearing of uniform shall be subject to rules adopted by the EU force commander.
2. EUNAVFOR military personnel may carry arms and ammunition on condition that they are authorised to do so by their orders.

*Article 9***Host State support and contracting**

1. Within its means and capabilities, the Host State shall assist in the preparation, establishment, and execution of and support for the operation.
2. The law applicable to contracts concluded by EUNAVFOR in the Host State shall be determined by the contract.
3. The Host State shall facilitate the implementation of contracts concluded by EUNAVFOR with commercial entities for the purposes of the operation.

*Article 10***Deceased EUNAVFOR personnel**

The EU force commander shall have the right to take charge of and make suitable arrangements for the repatriation of any deceased EUNAVFOR personnel, as well as that of their personal property.

*Article 11***Security of EUNAVFOR**

EUNAVFOR is authorised, on the land territory of the Host State and its internal waters, to take the measures necessary to protect its vessels, aircraft and assets as well as the vessels that it protects, against any external attack or intrusion.

*Article 12***Communications**

EUNAVFOR shall enjoy the right to unrestricted communication by radio (including satellite, mobile and hand-held radio), telephone, telegraph, facsimile and other means. The Host State shall grant access to the frequency spectrum free of charge.

*Article 13***Claims for death, injury, damage and loss**

1. EUNAVFOR and EUNAVFOR personnel shall not be liable for any damage to or loss of civilian or government property which are related to operational necessities or caused by activities in connection with civil disturbances or protection of EUNAVFOR.
2. Claims for damage to or loss of civilian or government property not covered by paragraph 1, as well as claims for death of or injury to persons and for damage to or loss of EUNAVFOR property, shall be settled by diplomatic means.
3. In the event of legal action instituted in connection with a prejudice caused to third parties, the Republic of Somalia shall stand in lieu of EUNAVFOR in the proceedings. In all events, the Republic of Somalia shall pay any compensation due as redress for prejudice caused to third parties other than those referred to in paragraph 1. If such compensation is attributable to EUNAVFOR, the amount of compensation shall be totally or partially refunded by EUNAVFOR.

*Article 14***Liaison and disputes**

1. All issues arising in connection with the application of this Agreement shall be examined jointly by representatives of EUNAVFOR and the Host State's competent authorities.
2. Failing any prior settlement, disputes concerning the interpretation or application of this Agreement shall be settled exclusively by diplomatic means between the Host State and EU representatives.

*Article 15***Other provisions**

1. Whenever this Agreement refers to the privileges, immunities and rights of EUNAVFOR and of EUNAVFOR personnel, the government of the Host State shall be responsible for their implementation and for compliance with them on the part of the appropriate Host State local authorities.
2. Nothing in this Agreement is intended or may be construed to derogate from any rights that may attach to an EU Member State or to any other State contributing to EUNAVFOR under other agreements.

*Article 16***Implementing arrangements**

For purposes of the application of this Agreement, operational, administrative and technical matters may be the subject of separate arrangements to be concluded between the EU operation commander or EU force commander on the one hand and the Host State's administrative authorities on the other hand.

*Article 17***Entry into force and termination**

1. This Agreement shall enter into force on the day on which it is signed and shall remain in force until the date of departure of the last EUNAVFOR element and of the last EUNAVFOR personnel, as notified by EUNAVFOR.
2. Notwithstanding paragraph 1, the provisions contained in Articles 4(8), 5(1-3), 5(6-7), 6(1), 6(3-4), 6(6), 6(8-9) and 13 shall be deemed to have applied from the date on which the first EUNAVFOR personnel were deployed if that date was earlier than the date of entry into force of this Agreement.
3. This Agreement may be amended by written agreement between the Parties.
4. Termination of this Agreement shall not affect any rights or obligations arising out of the execution of this Agreement before such termination.

Done at Nairobi on *31 december 2008*, in two originals in the English language.

*For the European Union*

*For the Host State*



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**CORRIGENDA****Corrigendum to Commission Decision 2008/984/EC of 10 December 2008 amending Annex C to Council Directive 64/432/EEC and Decision 2004/226/EC as regards diagnostic tests for bovine brucellosis**

*(Official Journal of the European Union L 352 of 31 December 2008)*

On page 40, point 1:

*for:* '1. Annex C to Directive 64/432/EEC is replaced by the following';

*read:* '1. In Annex C to Directive 64/432/EEC points 1, 2 and 3 are replaced by the following':

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**NOTE TO THE READER**

The institutions have decided no longer to quote in their texts the last amendment to cited acts.

Unless otherwise indicated, references to acts in the texts published here are to the version of those acts currently in force.