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## I

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

## REGULATIONS

**COMMISSION REGULATION (EC) No 126/2009****of 12 February 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 13 February 2009.

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

Done at Brussels, 12 February 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	125,9
	JO	68,6
	MA	45,9
	TN	134,4
	TR	91,3
	ZZ	93,2
0707 00 05	JO	170,1
	MA	134,2
	TR	176,1
	ZZ	160,1
0709 90 70	MA	91,1
	TR	160,7
	ZZ	125,9
0709 90 80	EG	94,1
	ZZ	94,1
0805 10 20	EG	46,7
	IL	51,1
	MA	61,1
	TN	39,3
	TR	59,4
	ZZ	51,5
0805 20 10	IL	146,6
	MA	110,6
	ZZ	128,6
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	72,2
	IL	91,5
	MA	161,0
	PK	51,5
	TR	63,8
	ZZ	88,0
0805 50 10	EG	44,9
	MA	55,8
	TR	64,8
	ZZ	55,2
0808 10 80	AR	91,9
	CA	90,4
	CL	67,8
	CN	82,2
	MK	32,6
	US	112,3
	ZZ	79,5
0808 20 50	AR	109,4
	CL	79,6
	CN	49,2
	US	101,4
	ZA	111,2
	ZZ	90,2

<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 127/2009

of 12 February 2009

## laying down the procedure and conditions for the sale of cereals held by paying agencies or intervention agencies

(Codified version)

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>, and in particular Article 43(f), in conjunction with Article 4 thereof,

Whereas:

(1) Commission Regulation (EEC) No 2131/93 of 28 July 1993 laying down the procedure and conditions for the sale of cereals held by intervention agencies <sup>(2)</sup> has been substantially amended several times <sup>(3)</sup>. In the interests of clarity and rationality the said Regulation should be codified.

(2) Cereals may be bought in by paying agencies or intervention agencies either under compulsory intervention measures as provided for in Article 11 of Regulation (EC) No 1234/2007 or under special intervention measures as referred to in Article 47 of that Regulation.

(3) Cereals held by the paying agencies or intervention agencies must be sold without any discrimination between Community purchasers. In principle invitations to tender permit that objective to be achieved. However, in certain cases it must be possible to use other methods of sale.

(4) To ensure that all interested parties in the Community are treated equally, notices of invitation to tender must be published in the *Official Journal of the European Union* and a reasonable time must elapse between the date of

such publication and the first closing date for the submission of tenders. However, such publicity is not necessary for quantities of less than 5 000 tonnes.

(5) Products held in intervention storage are intended first and foremost for food and feed uses, to take account of specific situations on the cereals market. However, the quantity and quality of the products in intervention storage may, temporarily and occasionally, make it necessary to dispose of them for other purposes, in particular to meet the Community's undertakings, where the situation of stocks so warrants and where supply to traditional food markets is not threatened.

(6) The rise in processing cereals to produce biofuels for use in Community transport forms part of a raft of measures designed to meet the Community's environmental commitments. Promoting the use of biofuels may therefore open a new market for agricultural products held in intervention storage in the Member States, provided that prices applicable to the sale of cereals reflect this specific market in biofuels. Nonetheless, purchasing cereals to produce bioethanol and its use as a biofuel may prove particularly difficult. Provision should therefore be made for selling intervention stocks at special prices in such cases.

(7) Intervention stocks of cereals are sold on the Community market according to availability and market conditions. Sales may be influenced by or dependent upon specific or exceptional circumstances on those markets, and must therefore be able to take account of such circumstances. To this end, provision should be made for prices that avoid market disturbances and ensure that sales reflect those circumstances. This twofold objective can be achieved if the selling price is equal to the price on the market concerned, account being taken of the quality of the cereals put up for sale by tender and of transport costs.

(8) The sale of cereals for export must take place at prices to be determined in each case in the light of market trends and requirements. Such sales must not, however, lead to distortions to the detriment of exports from the open market. A minimum selling price should therefore be fixed by the Commission on the basis of tenders submitted.

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

<sup>(2)</sup> OJ L 191, 31.7.1993, p. 76.

<sup>(3)</sup> See Annex II.

- (9) The minimum selling price is to be established by the Commission in the light of all the relevant data available on the day on which tenders are submitted. In order to prevent speculation and ensure identical conditions for all concerned in the invitation to tender, tenders must be accompanied by an application for an export licence with, if appropriate, an application for advance fixing of the export refund or levy.
- (10) Tenders for different lots are comparable one with another only where they relate to cereals in identical situations. Cereals put up for tender are stored in different places. Comparability may be better ensured by reimbursing to the successful tenderer the lowest costs of transport from the place where the cereals in question are stored and the place of exit. However, for budgetary reasons, such reimbursement can only be made in respect of the place of exit which can be reached at the lowest cost. That place must be determined by reference to its facilities for exporting cereals.
- (11) In Member States which do not have sea ports, tenderers for cereals put up for sale are penalised by higher transport costs. As a result of these additional costs, cereals are more difficult to export from those Member States, which results in particular in longer intervention storage and additional costs to the Community budget. Therefore provision should be made for the possibility, in certain cases, of financing the lowest transport costs between the place of storage and the place of exit, in order to make the tenders comparable.
- (12) The Croatian ports of Rijeka and Split were traditional ports of exit for the countries of central Europe before their accession to the Union. Rijeka and Split should therefore be included among the places of exit that can be considered when calculating the refundable transport costs for exports.
- (13) Invitations to tender can take place properly only if those concerned submit genuine tenders. That objective can be achieved by requiring that a security be paid, to be released on payment of the selling price within the time limit laid down.
- (14) In the case of invitations to tender for export, steps must be taken to ensure that the cereals are not put back on the Community market. That risk exists if the selling price is less than the minimum price to be observed in the case of resale on the internal market. Provision should accordingly be made in such cases for the lodging of a second security, which must be equal to the difference between the selling price and that minimum price. As a consequence, that security can be released only if the successful tenderer intending to export the cereals provides the proof referred to in Article 16 of Commission Regulation (EC) No 800/1999 of 15 April 1999 laying down common detailed rules for the application of the system of export refunds on agricultural products <sup>(1)</sup>.
- (15) In the interests of sound management of the cereals intervention scheme, the information to be communicated by Member States to the Commission should be clarified. This information should be sent by electronic means.
- (16) In order to ensure that intervention stocks are disposed of rapidly and as far as possible in line with commercial practice, a certain time limit should be laid down in respect of the rights and obligations deriving from the award.
- (17) 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:

#### CHAPTER I

#### SALE BY INVITATION TO TENDER

##### Article 1

##### Sale

1. Cereals bought in by the paying agencies or intervention agencies hereinafter referred to as 'intervention agencies' in accordance with Article 11 of Regulation (EC) No 1234/2007 shall be put up for sale by invitation to tender or, in the case of resale on the Community market, by public auction.

2. For the purposes of this Regulation, 'invitation to tender' means competition between interested parties in response to a call for tenders, the contract being awarded for each of the lots to the tenderer submitting the most favourable bid from among the bids that comply with this Regulation, for which the price tendered is at least equal to the minimum selling price laid down by the Commission in accordance with Article 14(2).

<sup>(1)</sup> OJ L 102, 17.4.1999, p. 11.

*Article 2***Decisions issuing invitations to tender**

Decisions issuing invitations to tender shall be taken in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007. Such decisions shall lay down in particular:

- (a) the quantities to be put up for tender;
- (b) the closing date for the submission of tenders in the case of specific invitations to tender and the first and final closing dates for the submission of tenders in the case of standing invitations to tender.

The decisions referred to in the first paragraph shall be brought to the notice of all interested parties by their publication in the *Official Journal of the European Union*.

There must be a gap of at least six days between publication and the first closing date for submission of tenders.

*Article 3***Notice of invitation to tender**

1. At least four days before the first closing date for the submission of tenders, the intervention agencies shall draw up and publish a notice of invitation to tender setting out:

- (a) the additional clauses and conditions of sale compatible with this Regulation;
- (b) the main physical and technological characteristics of the various lots established upon buying in by the intervention agency or during checks carried out subsequently;
- (c) the places of storage and the names and addresses of the storers.

2. Intervention agencies shall ensure that notices of invitation to tender are properly publicised, in particular by displaying them at their head offices and on their website or the website of the competent ministry. In the case of standing

invitations to tender, they shall specify therein the closing dates for the submission of tenders for each partial invitation to tender.

3. Notices of invitation to tender shall specify the minimum quantities which tenders must cover.

4. Notices of invitation to tender, and any changes to them, shall be forwarded to the Commission before the expiry of the first deadline for the submission of tenders.

*Article 4***Quality of cereals**

Intervention agencies shall take all measures necessary to enable interested parties to assess the quality of cereals put up for sale before submitting their tenders.

*Article 5***Tenders**

1. Tenders shall be drawn up by reference to the actual quality of the lot to which the tender relates.

2. Tenders submitted may not be amended or withdrawn.

3. Tenders shall be valid only if they are accompanied by proof that the tenderer has lodged a security of EUR 5 per tonne.

## CHAPTER II

**SPECIFIC RULES FOR THE SALE ON THE COMMUNITY MARKET***Article 6***Limitations of invitations to tender**

1. Article 2 shall not apply to invitations to tender covering quantities of less than 5 000 tonnes.

2. Invitations to tender as provided for in Article 2 may be restricted to specified uses and/or destinations.

*Article 7***Additional conditions for tenders**

1. The following additional conditions shall apply to tenders:
  - (a) in the case of resale of maize and grain sorghum during the first three months of the marketing year and of common wheat, durum wheat and barley during the first two months of the marketing year, successful tenders shall quote a price at least equal to the intervention price applicable for the 11th month of the preceding marketing year, plus one monthly increase fixed for that year;
  - (b) in the case of resale during the rest of the marketing year, tenders may in no circumstances be lower than the intervention price applicable on the closing date for the submission of tenders; however, the intervention prices to be taken into account during the 12th month of the marketing year shall be those applicable for the 11th month, plus one monthly increase.

For successful tenders, the minimum selling price shall be fixed at a level that does not distort the cereals markets and that is at least equal to the price recorded for an equivalent quality and for a representative quantity on the market at the place of storage or, failing that, on the nearest market, account being taken of transport costs.

2. Notwithstanding paragraph 1, sales on the Community market may be organised on the basis of specific invitations to tender for the processing of cereals into bioethanol and the use of this bioethanol to produce biofuels in the Community, provided that supply to traditional food markets is not threatened. In such cases, the minimum selling price shall be at least equal to the price recorded for an equivalent quality and for a representative quantity on the market of products used to produce biofuels, account being taken of transport costs.
3. If during the marketing year there are distortions in the common organisation of the market, in particular due to difficulties in selling cereals at prices which comply with paragraph 1, or in cases of exceptional circumstances, sales on the Community market may be organised on the basis of specific invitations to tender under special conditions and selling prices fixed in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007.

*Article 8***Informing the Commission on the outcome of tenders**

In the second month following that of the closure of the invitation to tender, the Member States concerned shall inform the

Commission of the outcome of the tendering procedure, indicating in particular the average selling prices of the various lots and the quantities sold.

## CHAPTER III

**SPECIFIC RULES FOR THE SALE FOR EXPORT***Article 9***Notice of invitation to tender**

1. In the notices of invitation to tender provided for in Article 3, the intervention agencies shall specify for each lot the port or place of exit which may be reached at the lowest transport costs and which has adequate technical facilities for exporting the cereals put up for tender.

The lowest transport costs between the place of storage and the place of loading at the port or place of exit referred to in the first subparagraph shall be reimbursed to the successful tenderer by the intervention agency in respect of the quantities exported. In particular cases a decision may be taken, in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007, for carriage to be undertaken by the intervention agency under the same conditions.

2. Where Member States have no sea port, a decision may be taken, in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007, to derogate from paragraph 1 of this Article and, in the case of exports from a sea port, to finance the lowest transport costs between the place of storage and the actual place of exit, within the financial limits laid down in the tender notice.

For the purpose of this paragraph the Croatian ports of Rijeka and Split may be regarded as places of exit.

3. In the case of standing invitations to tender, the intervention agency shall set the closing dates for the submission of tenders for each partial invitation to tender.

*Article 10***Tenders**

1. Provision may be made for tenders submitted pursuant to Article 47 of Commission Regulation (EC) No 376/2008 <sup>(1)</sup> not to be admissible.
2. Tenders may be rejected if they relate to lots of less than 500 tonnes.

<sup>(1)</sup> OJ L 114, 26.4.2008, p. 3.



3. Tenders may stipulate that they are valid only for specified quantities.

4. Tenders shall be considered as relating to a cereal delivered to, but not unloaded at, the ports or places of exit referred to in Article 9(1).

5. Without prejudice to Article 5(1), tenders shall be valid only if they are accompanied by an application for an export licence together with an application for advance fixing of the export refund or levy for the relevant destination. All countries for which the same rate of export refund or levy applies shall be considered as one destination.

#### Article 11

##### **Determining the term of validity of export licences**

Notwithstanding Article 22(1) of Regulation (EC) No 376/2008, export licences issued pursuant to this Regulation shall be considered, for the purposes of determining their term of validity, as having been issued on the closing date for the submission of tenders.

#### Article 12

##### **Specific condition for the cancellation of the contract**

Where the export licence application submitted by the successful tenderer pursuant to Article 10(5) is based on Article 47 of Regulation (EC) No 376/2008, the intervention agency shall cancel the contract in respect of the quantities for which the licence is not issued in accordance with that Article.

#### Article 13

##### **Specific proof of the completion of customs formalities**

Notwithstanding Article 16 of Regulation (EC) No 800/1999, proof of completion of customs formalities for importation shall not be required for payment of the refund provided the operator furnishes proof that at least 1 500 tonnes of cereal products have left the customs territory of the Community on a sea-going vessel where:

- (a) the refund applicable on the day of submission of tenders is different only as between, first Switzerland and Liechtenstein and, second, other third countries;
- (b) the successful tenderer has fixed in advance the lowest standard refund other than that applying to Switzerland and Liechtenstein.

Such proof shall be furnished by the insertion of one of the entries listed in Annex I, certified by the competent authority, on the control copy referred to in Article 8 of Regulation (EC) No 800/1999 and of the single administrative document or national document proving that the goods have left the customs territory of the Community.

#### CHAPTER IV

##### **COMMON AND FINAL PROVISIONS**

#### Article 14

##### **Minimum price and allocation of tenders**

1. Upon expiry of each period for the submission of tenders, the Member State concerned shall forward to the Commission a list of the tenders, without names, in each case showing in particular the lot number, the quantity tendered, the price tendered and the price increases and reductions applying thereto.

2. The Commission, in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007, shall fix the minimum selling price or decide not to award any quantities.

3. In the case of invitations to tender for export, the minimum selling price shall be fixed at a level which does not prejudice other export operations.

#### Article 15

##### **Information for tenderers**

Intervention agencies shall immediately inform all tenderers of the outcome of their tender. They shall forward statements of award of contract to the successful tenderers within three working days of the said notification, by registered letter or written telecommunication.

#### Article 16

##### **Payment for cereals**

Successful tenderers shall pay for the cereals before they are removed and at the latest within one month of the date on which the statement referred to in Article 15 was forwarded. They shall bear all risks and storage costs in respect of cereals not removed within the period allowed for payment.

Cereals covered by contracts awarded and not removed within the period allowed for payment shall be deemed to all effects to have been removed on expiry of that period. In that case, where sales on the internal market are concerned, the price tendered shall be adjusted by reference to the quality characteristics described in the notice of invitation to tender.

In the case of sales for export, the price to be paid shall be that quoted in the tender, plus a monthly increase where removal takes place in the month following that of award of the contract.

Where the successful tenderer has not paid for the cereals within the period laid down in the first paragraph, the contract shall be cancelled by the intervention agency in respect of the quantities not paid for.

#### Article 17

##### **Lodge, release and forfeit of securities**

1. The securities referred to in this Regulation shall be lodged in accordance with Titles II and III of Commission Regulation (EEC) No 2220/85 <sup>(1)</sup>.

2. The security provided for in Article 5(3) shall be released where it covers quantities for which:

(a) no contract has been awarded;

(b) the selling price has been paid within the period laid down and, in the case of sales for export and where the price paid is less than the minimum price for resale on the Community market, in accordance with Article 7, a security covering the difference between those two prices has been lodged.

3. The security provided for in point (b) of paragraph 2 shall be released where it covers quantities in respect of which:

(a) proof has been furnished that the goods have become unfit for human or animal consumption;

(b) proof has been furnished that the customs formalities for exports outside the customs territory of the Community and for imports into one of the third countries covered by the tender have been completed. Proof of export outside the customs territory of the Community and of import into a third country shall respectively be those provided in accordance with the detailed rules laid down in Articles 7 and 16(1), (2) and (3) of Regulation (EC) No 800/1999;

(c) the licence has not been issued in accordance with Article 47 of Regulation (EC) No 376/2008;

(d) the contract has been cancelled in accordance with the fourth paragraph of Article 16.

4. The security provided for in Article 5(3) shall be forfeited in respect of quantities for which:

(a) the security lodged in respect of the issue of the export licence has been forfeited;

(b) except in cases of *force majeure*, payment has not been made within the period laid down in Article 16.

5. Except in cases of *force majeure*, the security provided for in point (b) of paragraph 2 shall be forfeited in respect of quantities for which the proof referred to in point (b) of paragraph 3 has not been provided within the period laid down in Article 49(2) of Regulation (EC) No 800/1999.

#### Article 18

##### **Forwarding the representative market price**

Each Member State shall forward to the Commission by electronic means the representative market price expressed in national currency, per tonne, of every cereal listed in Article 10(1)(a) of Regulation (EC) No 1234/2007 by 12.00 (Brussels time) every Wednesday. These prices must be calculated regularly, independently and transparently.

Member States shall indicate in particular the qualitative properties of each cereal, the stage of marketing and the place of quotation.

#### Article 19

##### **Repeal**

Regulation (EEC) No 2131/93 is repealed.

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

<sup>(1)</sup> OJ L 205, 3.8.1985, p. 5.

*Article 20***Entry into force**

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

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

Done at Brussels, 12 February 2009.

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

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## ANNEX I

**Entries referred to in Article 13, second subparagraph**

— in Bulgarian:	Износ на зърнени култури по море — член 13, втора алинея от Регламент (ЕО) № 127/2009
— in Spanish:	Exportación de cereales por vía marítima; artículo 13, párrafo segundo, del Reglamento (CE) nº 127/2009
— in Czech:	Vývoz obilovin po moři – čl. 13 druhý pododstavec nařízení (ES) č. 127/2009
— in Danish:	Eksport af korn ad søvejen — Artikel 13, stk. 2, i forordning (EF) nr. 127/2009
— in German:	Getreideausfuhr auf dem Seeweg — Verordnung (EG) Nr. 127/2009, Artikel 13 Absatz 2
— in Estonian:	Teravilja eksport meritsi – määruse (EÜ) nr 127/2009 artikli 13 teine lõik
— in Greek:	Εξαγωγή σιτηρών διά θαλάσσης — Άρθρο 13 δεύτερο εδάφιο του κανονισμού (ΕΚ) αριθ. 127/2009
— in English:	Export of cereals by sea — second paragraph of Article 13 of Regulation (EC) No 127/2009
— in French:	Exportation de céréales par voie maritime — Règlement (CE) nº 127/2009, article 13, deuxième alinéa
— in Irish:	Onnmhairiú gránach ar muir — an dara mir d' Airteagal 13 de Rialachán (CE) Uimh. 127/2009
— in Italian:	Esportazione di cereali per via marittima — articolo 13, secondo comma, del regolamento (CE) n. 127/2009
— in Latvian:	Labības izvešana pa jūras ceļiem – Regular (EK) Nr. 127/2009 13. panta otrā daļa
— in Lithuanian:	Grūdų eksportas jūra – Reglamento (EB) Nr. 127/2009 13 straipsnio antra pastraipa
— in Hungarian:	Gabonafélék exportja tengeri úton – 127/2009/EK rendelet 13. cikkének második albekezdése
— in Maltese:	L-esportazzjoni ta' ċereali bil-baħar – L-Artikolu 13, it-tieni subparagrafu, tar-Regolament (KE) Nru 127/2009
— in Dutch:	Uitvoer van graan over zee — Artikel 13, tweede alinea, van Verordening (EG) nr. 127/2009
— in Polish:	Wywóz zbóż drogą morską – art. 13 akapit drugi rozporządzenia (WE) nr 127/2009
— in Portuguese:	Exportação de cereais por via marítima — Artigo 13.º, segundo parágrafo do Regulamento (CE) n.º 127/2009
— in Romanian:	Export de cereale pe cale maritimă – Regulamentul (CE) nr. 127/2009, articolul 13, al doilea paragraf
— in Slovak:	Vývoz obilnín po mori – článok 13 druhý odsek nariadenia (ES) č. 127/2009
— in Slovenian:	Izvoz žit s pomorskim prometom – drugi odstavek člena 13 Uredbe (ES) št. 127/2009
— in Finnish:	Viljan vienti meritse – Asetuksen (EY) N:o 127/2009 13 artiklan toinen kohta
— in Swedish:	Export av spannmål genom sjötransport – artikel 13 andra stycket i förordning (EG) nr 127/2009

## ANNEX II

**Repealed Regulation with its successive amendments**

Commission Regulation (EEC) No 2131/93  
(OJ L 191, 31.7.1993, p. 76)

Commission Regulation (EC) No 120/94  
(OJ L 21, 26.1.1994, p. 1) Only Article 2

Commission Regulation (EC) No 2193/96  
(OJ L 293, 16.11.1996, p. 1)

Commission Regulation (EC) No 39/1999  
(OJ L 5, 9.1.1999, p. 64)

Commission Regulation (EC) No 1630/2000  
(OJ L 187, 26.7.2000, p. 24)

Commission Regulation (EC) No 777/2004  
(OJ L 123, 27.4.2004, p. 50) Only Article 2

Commission Regulation (EC) No 2045/2004  
(OJ L 354, 30.11.2004, p. 17)

Commission Regulation (EC) No 749/2005  
(OJ L 126, 19.5.2005, p. 10)

Commission Regulation (EC) No 1465/2006  
(OJ L 273, 4.10.2006, p. 3)

Commission Regulation (EC) No 1996/2006  
(OJ L 398, 30.12.2006, p. 1) Only Article 4 and Annex III

Commission Regulation (EC) No 367/2007  
(OJ L 91, 31.3.2007, p. 14) Only Article 1

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## ANNEX III

## Correlation table

Regulation (EEC) No 2131/93	This Regulation
Article 1	Article 1
Article 2(1)	Article 2
Article 2(2)	Article 6(1)
Article 3	Article 3
Article 4	Article 6(2)
Article 5	Article 7
Article 6	Article 8
Article 7(1)	Article 2
Article 7(2)	Article 9(1)
Article 7(2a)	Article 9(2)
Article 7(3)	Article 9(3)
Article 8	Article 10(2) to (5)
Article 9	Article 11
Article 10	Article 14
Article 11	Article 12
Article 12	Article 3
Article 12a	Article 18
Article 13(2)	Article 5(1)
Article 13(3)	Article 10(1)
Article 13(4) first subparagraph	Article 5(2)
Article 13(4) second subparagraph	Article 5(3)
Article 14	Article 4
Article 15	Article 15
Article 16	Article 16
Article 17(1)	Article 17(1)
Article 17(2) introductory sentence	Article 17(2) introductory sentence
Article 17(2) first indent	Article 17(2)(a)
Article 17(2) second indent	Article 17(2)(b)
Article 17(3) introductory sentence	Article 17(3) introductory sentence
Article 17(3) first indent	Article 17(3)(a)
Article 17(3) second indent	Article 17(3)(b)
Article 17(3) third indent	Article 17(3)(c)
Article 17(3) fourth indent	Article 17(3)(d)
Article 17(4) introductory sentence	Article 17(4) introductory sentence
Article 17(4) first indent	Article 17(4)(a)
Article 17(4) second indent	Article 17(4)(b)
Article 17(5)	Article 17(5)
Article 17a first paragraph introductory sentence	Article 13 first paragraph introductory sentence
Article 17a first paragraph first indent	Article 13 first paragraph, point (a)
Article 17a first paragraph second indent	Article 13 first paragraph, point (b)
Article 17a first paragraph final part	Article 13 first paragraph introductory sentence
Article 17a second paragraph	Article 13 second paragraph
Article 18	—
—	Article 19
Article 19	Article 20
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 18 December 2008

**rejecting the proposal from the Commission for a Council Regulation implementing Regulation (EC) No 853/2004 of the European Parliament and of the Council as regards the use of antimicrobial substances to remove surface contamination from poultry carcasses**

(Text with EEA relevance)

(2009/121/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 202 thereof,

Having regard to 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>, and in particular Article 3(2) thereof,

Having regard to the proposal from the Commission for a Council Regulation implementing Regulation (EC) No 853/2004 as regards the use of antimicrobial substances to remove surface contamination from poultry carcasses,

Having regard to Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(2)</sup>, and in particular Article 5 thereof,

Whereas:

(1) Regulation (EC) No 853/2004 lays down specific rules on the hygiene of food of animal origin for food business operators. It provides that food business

operators are not to use any substance other than water to remove surface contamination from products of animal origin, unless the use of such substance has been approved in accordance with that Regulation.

(2) A high level of protection of human health should be assured in the pursuit of Community policies. Measures adopted by the Community governing food and feed must be based on an appropriate assessment of the possible risks for human and animal health and must, taking into account existing scientific evidence, maintain, or if scientifically justified, increase the level of protection of human and animal health ensured in the Community. High hygiene standards throughout the food production chain and avoidance or prohibition on the use of substances which can potentially mask poor hygiene practices are a key priority in the Community.

(3) In addition, a high level of protection of the environment should be ensured in the pursuit of Community policies, both by acts of environmental policy itself and by the integration of environmental policy requirements into the definition and implementation of other Community policies and activities.

(4) The Commission proposal underlines that several antimicrobial substances such as chlorine dioxide, acidified sodium chlorite, trisodium phosphate or peroxyacids that are used to remove surface contamination from poultry carcasses can pose a risk to the aquatic environment, the health of staff working in waste water systems and the operation and performance of sewerage systems and/or waste water treatment plants. The use of

<sup>(1)</sup> OJ L 139, 30.4.2004, p. 55.

<sup>(2)</sup> OJ L 184, 17.7.1999, p. 23.

antimicrobial substances containing chlorine can also lead to the formation of chloroorganic compounds, several of which are persistent, bioaccumulable or carcinogenic. Phosphorus compounds are also one of the sources of the eutrophication of European regional seas, leading to mass growth algae and other undesirable disturbance of the aquatic environment.

- (5) The Scientific Committee on Veterinary Measures relating to Public Health (SCVPH) issued a report on 30 October 1998 on the 'benefits and limitations of antimicrobial treatments for poultry carcasses' and recommended that before any decontamination compound or decontamination technique is authorised for use, it should be fully assessed.
- (6) The European Food Safety Authority (EFSA) adopted a scientific opinion on 14-15 December 2005 'on the evaluation of the efficacy of peroxyacids for use as an antimicrobial substance applied on poultry carcasses'. It concluded that the efficacy of peroxyacids was difficult to assess because the protocols submitted were not always clearly described, and, even if they were, would not be sufficient to demonstrate the efficacy of peroxyacids under commercial conditions.
- (7) The EFSA adopted a scientific opinion on 6 March 2008 'on the assessment of possible effect of the chlorine dioxide, acidified sodium chlorite, trisodium phosphate and peroxyacids on the emergence of antimicrobial resistance'. The findings led the EFSA to encourage further research on the likelihood of the emergence of susceptibility to these types of substances, and the possibility of their resistance to therapeutic antibiotics and other antimicrobial agents.
- (8) The Scientific Committee on Health and Environmental Risks (SCHER) and the Scientific Committee on Emerging and Newly Identified Health Risks (SCENIHR) adopted a joint scientific opinion on 18 March 2008 and 2 April 2008 on the environmental impact and effect on the antimicrobial resistance of the four substances used for the removal of microbial surface contamination of poultry carcasses. They stated that 'there is currently insufficient knowledge on the potential negative effects of using different biocides' and concluded that there was not enough information available for producing comprehensive quantitative assessments. There were environmental concerns about the possibility to disseminate or select more resistant strains and in relation to the potential residues in the poultry carcasses.
- (9) Taking into account scientific information available, it cannot be excluded that the approval of these substances may lead to an increased antimicrobial resistance in humans.
- (10) The emergence of antimicrobial resistance is also a major and permanent concern of international bodies involved in human medicine. The Commission has taken various important legislative initiatives aiming at reducing antimicrobial resistance linked to feed, veterinary treatment of animals and food.
- (11) Likewise the Council adopted, at its session of 9 and 10 June 2008, Council conclusions on antimicrobial resistance stressing that antimicrobial resistance is still a growing European and global health problem.
- (12) The European Parliament, in its resolution of 19 June 2008, voiced its disapproval of the Commission proposal for the reasons stated above and called on the Council to reject it.
- (13) The lack of scientific data in relation to hazards related to the use of these substances leads to the application of the precautionary principle as referred to in Article 7 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>(1)</sup>. According to this principle, in specific circumstances where, following an assessment of available information, the possibility of harmful effects on health is identified but scientific uncertainty persists, provisional risk management measures necessary to ensure the high level of health protection chosen in the Community may be adopted, pending further scientific information for a more comprehensive risk assessment.
- (14) Data collection by food business operators and research programmes should therefore be encouraged so that both the efficacy of these substances and the development of antimicrobial resistances as well as possible environmental impact could be fully assessed. For this purpose, the EFSA has published a joint AFC/BIOHAZ guidance document<sup>(2)</sup> on the submission of data for the evaluation of the safety and the efficacy of substances for the removal of microbial surface contamination of foods of animal origin. Pending the collection and evaluation of such data, the Council considers it necessary to await the outcome thereof and, in the meantime, to reject the Commission's proposal,

HAS DECIDED AS FOLLOWS:

#### Article 1

The proposal from the Commission for a Council Regulation implementing Regulation (EC) No 853/2004 of the European Parliament and of the Council as regards the use of antimicrobial substances to remove surface contamination from poultry carcasses is rejected.

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

<sup>(2)</sup> The EFSA Journal (2006) 3888, p. 1.



*Article 2*

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

Done at Brussels, 18 December 2008.

*For the Council*  
*The President*  
M. BARNIER

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**COUNCIL DECISION**  
**of 10 February 2009**  
**appointing a United Kingdom member of the Committee of the Regions**  
(2009/122/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,

*Article 1*

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

Having regard to the proposal of the Government of the United Kingdom,

— Mr Robert BRIGHT, Councillor, Newport City.

Whereas:

*Article 2*

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

- (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>.

Done at Brussels, 10 February 2009.

- (2) A member's seat on the Committee of the Regions has become vacant following the expiry of the mandate of Mr W.J. WILLIAMS,

*For the Council*  
*The President*  
M. KALOUSEK

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

**COUNCIL DECISION**  
**of 10 February 2009**  
**appointing a Portuguese alternate member of the Committee of the Regions**  
(2009/123/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 Portuguese 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 Mr Vasco CORDEIRO,

*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 André Jorge DIONÍSIO BRADFORD, Secretário Regional da Presidência, Ponta Delgada, Açores.

*Article 2*

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

Done at Brussels, 10 February 2009.

*For the Council*

*The President*

M. KALOUSEK

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

# COMMISSION

## COMMISSION DECISION

of 4 February 2009

### appointing members representing the private sector in the Joint Transfer Pricing Forum, expert group on transfer pricing

(2009/124/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Decision 2007/75/EC of 22 December 2006 setting up an expert group on transfer pricing <sup>(1)</sup> to advise the Commission on transfer pricing tax issues, and in particular Article 4 thereof,

Having regard to the call for applications for business members and chairperson for the Joint Transfer Pricing Forum, published on 22 December 2006 on the website of Taxation and Customs Union Directorate-General,

Having regard to Commission Decision 2007/233/EC of 12 April 2007 on appointment of members representing the private sector in the Joint Transfer Pricing Forum, expert group on transfer pricing <sup>(2)</sup> for a two-year renewable term of office,

Whereas:

- (1) According to Article 4 of Decision 2007/75/EC, the Commission shall appoint a chairperson and a maximum of 15 specialists from the private sector with experience and competence in transfer pricing,
- (2) The term of office of the members representing the private sector in the Joint Transfer Pricing Forum

expires on 28 February 2009. It is necessary therefore, to appoint a replacement for one member and to renew the term of the chairperson and other existing members.

- (3) The members of the Joint Transfer Pricing Forum should be appointed for a period of two years starting on 1 March 2009,

HAS DECIDED AS FOLLOWS:

#### *Article 1*

The Commission herewith appoints for a period of two years the chairperson and 15 members representing the private sector in the Joint Transfer Pricing Forum, expert group, whose names are reproduced in the Annex.

#### *Article 2*

The Decision shall take effect on 1 March 2009.

Done at Brussels, 4 February 2009.

*For the Commission*

Robert VERRUE

*Director-General for Taxation and  
Customs Union*

<sup>(1)</sup> OJ L 32, 6.2.2007, p. 189.

<sup>(2)</sup> OJ L 100, 17.4.2007, p. 25.

## ANNEX

*Reappointed Chairperson*

Bruno GIBERT

***Members representing the private sector****Reappointed Members*

Dirk VAN STAPPEN

Isabel VERLINDEN

Svetla MARINOVA

Werner STUFFER

Heinz-Klaus KROPPE

Kennet PETTERSSON

Sabine WAHL

Guglielmo MAISTO

Guy KERSCH

Theo KEIJZER

Monique VAN HERKSEN

Eduardo GRACIA

Michael SUFRIN

Nicholas DEE

*New Member*

Andrea BONZANO

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**COMMISSION DECISION**  
**of 12 February 2009**  
**concerning a financial contribution by the Community towards controlling sheep and goat plague in Morocco**  
(2009/125/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field <sup>(1)</sup>, and in particular Article 8 thereof,

Whereas:

- (1) Pursuant to Decision 90/424/EEC, the Community may give its support to control measures against a disease by a third country, if the occurrence or the development of such a disease in the third country concerned may constitute a danger to the Community.
- (2) Sheep and goat plague (known also by the French name Peste des Petits Ruminants (PPR)) is a highly infectious and contagious disease of small ruminants very similar to Cattle Plague (Rinderpest). In the last decade this disease has shown a very clear tendency to spread, both in Africa and Asia.
- (3) Morocco has informed the Commission that sheep and goat plague has been detected on its territory and has spread in a very short time extensively. The strain of the virus detected recently in Morocco is of a type that was not found hitherto in Africa.
- (4) Sheep and goat plague can be controlled through vaccination, and a vaccine is available that will protect against all serotypes and which gives a long lasting protection against the disease.
- (5) The authorities in Morocco have prepared a vaccination strategy. They have sent the strategy to the Commission and have asked for Community financial support.
- (6) The spread to the Community of sheep and goat plague cannot always be prevented by the measures put in place at the Community borders, while an outbreak of such a

disease in the Community would have very serious consequences and therefore needs to be averted. For this reason it is appropriate to support Morocco in its efforts to control the disease, to prevent it becoming endemic in this country, and to make vaccines available to Morocco for the vaccination campaign against Sheep and goat plague. The maximum amount of that contribution should be specified.

- (7) Because of the urgency of the situation, the measures provided for in this Decision should preferably be completed by 31 May 2009 at the latest.
- (8) 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 DECIDED AS FOLLOWS:

*Article 1*

1. The Commission shall provide to the Moroccan authorities vaccines against sheep and goat plague, for use in the ongoing vaccination campaign in Morocco against that disease.
2. The measures mentioned in paragraph 1 shall be carried out by the Commission in cooperation with the authorities in Morocco. The vaccines to be provided to the Moroccan authorities shall be used for the vaccination strategy against sheep and goat plague to be undertaken in 2009 in Morocco.

*Article 2*

1. The Commission shall bear the full cost of the measures referred to in Article 1(1) which shall not exceed a maximum amount of EUR 1 500 000.
2. The Commission shall conclude a procurement contract (supply contract) on the measures provided for in paragraph 1 via the appropriate call for tender procedure, for which the procedure shall be launched by 31 May 2009.

<sup>(1)</sup> OJ L 224, 18.8.1990, p. 19.

3. The Director-General of the Directorate-General for Health and Consumer Protection is hereby authorised to sign the contract provided for in paragraph 2 on behalf of the Commission.

*Article 3*

The financial contributions provided for in Articles 1 and 2 shall be financed through the budget line 17 04 02 01 of the budget of the European Communities for 2009.

Done at Brussels, 12 February 2009.

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

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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.