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I

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

REGULATIONS

COUNCIL REGULATION (EC) No 153/2009

of 19 February 2009

amending Regulation (EC) No 3/2008 on information provision and promotion measures for agricultural products on the internal market and in third countries

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 36 and 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

- (1) For the stakeholders of promotion policy for agricultural products, the single legal framework established by Council Regulation (EC) No 3/2008 ⁽²⁾ has facilitated access to and participation in the scheme. The administrative procedures involved in implementing this policy have been significantly reduced and simplified through the application of this single legal framework.
- (2) Regulation (EC) No 3/2008 provides that in the case of absence of programmes to be carried out on the internal market, the Member States concerned have the possibility to draw up a programme. Where proposing organisations do not wish to submit programmes to be carried out in third countries for one or more of the information measures referred to in that Regulation, the Member States concerned should be allowed to draw up a relevant programme.
- (3) In particular, the possibility should be offered to the Member States concerned to broaden the scope of the actions to be covered by those programmes including by seeking the help of international organisations when im-

plementing those programmes, notably in the case of promotion programmes for the olive oil and table olive sector in third countries.

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

HAS ADOPTED THIS REGULATION:

Article 1

Amendment

Article 9 of Regulation (EC) No 3/2008 is hereby replaced by the following:

'Article 9

Procedure to be followed in case of an absence of information programmes for the internal market or in third countries

1. In the absence of programmes to be carried out on the internal market for one or more of the information measures referred to in Article 2(1)(b) submitted in accordance with Article 6(1), each Member State concerned shall draw up, on the basis of the guidelines referred to in Article 5(1), a programme and its specification and shall select through a public call for tenders the implementing body for the programme it undertakes to co-finance.
2. In the absence of programmes to be carried out in third countries for one or more of the information measures referred to in Article 2(1)(a), (b) and (c), submitted in accordance with Article 6(1), each Member State concerned shall draw up, on the basis of the guidelines referred to in Article 5(2), a programme and its specification and shall select through a public call for tenders the implementing body for the programme it undertakes to co-finance.

⁽¹⁾ Opinion of 5 February 2009 (not yet published in the Official Journal).

⁽²⁾ OJ L 3, 5.1.2008, p. 1.

The implementing body for the programme eventually selected by the Member State(s) concerned may be an international organisation, in particular when the programme regards the promotion of the olive oil and table olive sector in third countries.

3. The Member State(s) shall submit to the Commission the programme selected in accordance with paragraphs 1 and 2, accompanied by a reasoned opinion including:

- (a) the desirability of the programme;
- (b) the conformity of the programme and the proposed body with this Regulation and, where necessary, with the applicable guidelines;
- (c) an assessment of the programme's value for money;

(d) the choice of the implementing body for the programme.

4. For the purposes of the Commission's examination of the programmes, Article 7(2) and Article 8(1) shall apply.

5. In accordance with the procedure referred to in Article 16(2), the Commission may set lower or higher limits to the actual costs of the programmes submitted in line with paragraph 3 of this Article. These limits may be adjusted according to the type of programmes concerned. The criteria applied may be defined in accordance with the procedure referred to in Article 16(2).'

Article 2

Entry into force

This Regulation shall enter into force on the seventh 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, 19 February 2009.

For the Council
The President
M. ŘÍMAN

COUNCIL REGULATION (EC) No 154/2009**of 23 February 2009****amending Regulation (EC) No 1859/2005 imposing certain restrictive measures in respect of Uzbekistan**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 301 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Council Regulation (EC) No 1859/2005 ⁽¹⁾ prohibits, *inter alia*, the sale, supply, transfer and export to Uzbekistan of equipment which might be used for internal repression. Annex I to that Regulation lists the goods to which this prohibition applies.
- (2) The list of equipment which might be used for internal repression should be updated following recommendations made by experts, taking into account Council

Regulation (EC) No 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment ⁽²⁾.

- (3) Regulation (EC) No 1859/2005 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 1859/2005 is replaced by the text set out in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 23 February 2009.

For the Council
The President
A. VONDRA

⁽¹⁾ OJ L 299, 16.11.2005, p. 23.

⁽²⁾ OJ L 200, 30.7.2005, p. 1.

ANNEX

ANNEX I

List of equipment which might be used for internal repression as referred to in Articles 1(1), 2 and 4

1. Firearms, ammunition and related accessories therefor, as follows:
 - 1.1. Firearms not controlled by ML 1 and ML 2 of the EU Common Military List (*);
 - 1.2. Ammunition specially designed for the firearms listed in item 1.1 and specially designed components therefor;
 - 1.3. Weapon-sights not controlled by the EU Common Military List.
2. Bombs and grenades not controlled by the EU Common Military List.
3. Vehicles as follows:
 - 3.1. Vehicles equipped with a water cannon, specially designed or modified for the purpose of riot control;
 - 3.2. Vehicles specially designed or modified to be electrified to repel boarders;
 - 3.3. Vehicles specially designed or modified to remove barricades, including construction equipment with ballistic protection;
 - 3.4. Vehicles specially designed for the transport or transfer of prisoners and/or detainees;
 - 3.5. Vehicles specially designed to deploy mobile barriers;
 - 3.6. Components for the vehicles specified in items 3.1 to 3.5 specially designed for the purposes of riot control.

Note 1 This item does not control vehicles specially designed for the purposes of fire-fighting.

Note 2 For the purposes of item 3.5 the term "vehicles" includes trailers.
4. Explosive substances and related equipment as follows:
 - 4.1. Equipment and devices specially designed to initiate explosions by electrical or non-electrical means, including firing sets, detonators, igniters, boosters and detonating cord, and specially designed components therefor; except those specially designed for a specific commercial use consisting of the actuation or operation by explosive means of other equipment or devices the function of which is not the creation of explosions (e.g. car airbag inflators, electric-surge arresters of fire sprinkler actuators);
 - 4.2. Linear cutting explosive charges not controlled by the EU Common Military List;
 - 4.3. Other explosives not controlled by the EU Common Military List and related substances as follows:
 - (a) amatol;
 - (b) nitrocellulose (containing more than 12,5 % nitrogen);
 - (c) nitroglycol;
 - (d) pentaerythritol tetranitrate (PETN);
 - (e) picryl chloride;
 - (f) 2,4,6-trinitrotoluene (TNT).

5. Protective equipment not controlled by ML 13 of the EU Common Military List as follows:
 - 5.1. Body armour providing ballistic and/or stabbing protection;
 - 5.2. Helmets providing ballistic and/or fragmentation protection, anti-riot helmets, anti-riot shields and ballistic shields.

Note. This item does not control:

 - equipment specially designed for sports activities,
 - equipment specially designed for safety of work requirements.
6. Simulators, other than those controlled by ML 14 of the EU Common Military List, for training in the use of firearms, and specially designed software therefor.
7. Night vision, thermal imaging equipment and image intensifier tubes, other than those controlled by the EU Common Military List.
8. Razor barbed wire.
9. Military knives, combat knives and bayonets with blade lengths in excess of 10 cm.
10. Production equipment specially designed for the items specified in this list.
11. Specific technology for the development, production or use of the items specified in this list.

(*) OJ C 98, 18.4.2008, p. 1.

COMMISSION REGULATION (EC) No 155/2009
of 23 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) ⁽¹⁾,

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 ⁽²⁾, 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 24 February 2009.

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

Done at Brussels, 23 February 2009.

For the Commission
Jean-Luc DEMARTY
*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ 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 ⁽¹⁾	Standard import value
0702 00 00	JO	62,0
	MA	43,8
	TN	111,3
	TR	95,7
	ZZ	78,2
0707 00 05	JO	161,3
	MA	73,6
	MK	145,1
	TR	124,1
	ZZ	126,0
0709 90 70	JO	239,8
	MA	62,6
	TR	87,1
	ZZ	129,8
0709 90 80	EG	94,1
	ZZ	94,1
0805 10 20	EG	47,3
	IL	57,8
	MA	52,8
	TN	44,1
	TR	65,0
	ZZ	53,4
0805 20 10	IL	146,3
	MA	92,2
	TR	73,0
	ZZ	103,8
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	EG	75,3
	IL	95,9
	JM	95,1
	MA	90,6
	PK	51,3
	TR	66,6
	ZZ	79,1
	ZZ	79,1
0805 50 10	EG	81,5
	MA	49,9
	TR	49,5
	ZZ	60,3
0808 10 80	CA	89,7
	CL	67,7
	CN	72,8
	MK	25,7
	US	106,5
	ZZ	72,5
0808 20 50	AR	98,4
	CL	73,7
	CN	73,5
	US	100,1
	ZA	115,5
	ZZ	92,2

⁽¹⁾ 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'.

II

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

DECISIONS

COUNCIL AND COMMISSION

COUNCIL AND COMMISSION DECISION

of 16 February 2009

on the conclusion of the Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part, to take account of the accession of the Republic of Bulgaria and Romania to the European Union

(2009/153/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,
AND THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 310 in conjunction with the second sentence of the first subparagraph of Article 300(2), and the second subparagraph of Article 300(3) thereof,

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

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

Having regard to the proposal from the Commission,

Having regard to the assent of the European Parliament ⁽¹⁾,

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

Whereas:

(1) The Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part, to take account of the accession of the Republic of Bulgaria and Romania to the European Union, has been signed on behalf of the Community on 15 July 2008 in accordance with Council Decision 2008/800/EC ⁽²⁾.

(2) The Protocol should be concluded,

HAVE DECIDED AS FOLLOWS:

Article 1

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

⁽¹⁾ Assent given on 16 December 2008 (not yet published in the Official Journal).

⁽²⁾ OJ L 286, 29.10.2008, p. 45.

Article 2

The President of the Council shall, on behalf of the European Community and its Member States, deposit the instruments of approval provided for in Article 12(2) of the Protocol. The President of the Commission shall simultaneously deposit these instruments on behalf of the European Atomic Energy Community.

Done at Brussels, 16 February 2009.

For the Council
The President
O. LIŠKA

For the Commission
The President
José MANUEL BARROSO

EUROPEAN CENTRAL BANK

DECISION OF THE EUROPEAN CENTRAL BANK

of 27 January 2009

amending Decision ECB/2007/5 laying down the Rules on Procurement

(ECB/2009/2)

(2009/154/EC)

THE EXECUTIVE BOARD OF THE EUROPEAN CENTRAL BANK,

Having regard to Article 11.6 of the Statute of the European System of Central Banks and of the European Central Bank,

Having regard to Decision ECB/2004/2 of 19 February 2004 adopting the Rules of Procedure of the European Central Bank ⁽¹⁾, and in particular Article 19 thereof,

Whereas:

(1) The thresholds for public tender procedures laid down in Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts ⁽²⁾ have been changed by Commission Regulation (EC) No 1422/2007 of 4 December 2007 amending Directives 2004/17/EC and 2004/18/EC of the European Parliament and of the Council in respect of their application thresholds for the procedures for the award of contracts ⁽³⁾. The European Central Bank (ECB), although not subject to Directive 2004/18/EC, intends to apply the same thresholds for its public tender procedures.

(2) To further enhance transparency and competition, in particular for procurements below the thresholds provided for in Decision ECB/2007/5 of 3 July 2007 laying down the Rules on Procurement ⁽⁴⁾, the ECB intends to establish lists of suitable suppliers who may be invited to submit a tender for procurements below the thresholds or to participate in public tenders. The lists will be established following the publication of calls for expressions of interest in the *Official Journal of the European Union*.

(3) To prevent irregularities, combat fraud and corruption and promote sound and efficient management,

candidates or tenderers who are guilty of such acts or have conflicting interests should be excluded from future tender procedures carried out by the ECB. The rules for such exclusion need to be specified in Decision ECB/2007/5.

(4) For the sake of clarity, some of the rules laid down in Decision ECB/2007/5 need to be refined further,

HAS DECIDED AS FOLLOWS:

Article 1

Amendments

Decision ECB/2007/5 is amended as follows:

1. in Article 1 the following definition is added:

‘(p) “call for expressions of interest” is a procedure to establish a list of suitable suppliers who may be invited to participate in procurement procedures.’;

2. Article 2 is amended as follows:

(a) paragraph 3(b) is replaced by the following:

‘(b) procurement procedures in which the ECB participates organised by any of the following: (i) Community institutions and bodies; (ii) international organisations; or (iii) government agencies, provided that the rules governing these procurement procedures are in line with the general principles of Community procurement law’;

(b) paragraph 3(c) is replaced by the following:

‘(c) agreements with other Community institutions and bodies, international organisations or government agencies, which the ECB enters into in the fulfilment of its public tasks’;

⁽¹⁾ OJ L 80, 18.3.2004, p. 33.

⁽²⁾ OJ L 134, 30.4.2004, p. 114.

⁽³⁾ OJ L 317, 5.12.2007, p. 34.

⁽⁴⁾ OJ L 184, 14.7.2007, p. 34.

3. Article 4(3) is replaced by the following:

‘3. The following threshold amounts shall apply:

(a) EUR 206 000 for supply and service contracts;

(b) EUR 5 150 000 for works contracts.’;

4. Article 13 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. The ECB may also use the negotiated procedure where no acceptable tenders have been obtained in response to an open or restricted procedure or a competitive dialogue. The ECB may refrain from publishing a new contract notice if it includes in the negotiated procedure exclusively all the tenderers who participated in the previous procedure, met the selection criteria and submitted their tenders in accordance with the formal tender requirements. If no tenders have been obtained or no tenders that meet the formal tender requirements, the ECB may also start a negotiated procedure without notice in accordance with Article 29. In all cases, the original terms of the contract shall not be substantially altered.’;

(b) paragraph 5 is replaced by the following:

‘5. Following the evaluation of the tenders, the ECB may negotiate with tenderers in order to bring their tender in line with the ECB’s requirements. The ECB may start negotiations either:

(a) with the best-ranked tenderer. If the negotiations with the best-ranked tenderer fail, the ECB may take up negotiations with the next ranked tenderer; or

(b) simultaneously with several tenderers who best meet the award criteria. The number of tenderers admitted to the negotiations may be reduced in successive stages by applying the award criteria set out in the contract notice or the invitation to tender.

Before starting negotiations, the ECB shall inform all tenderers who are eligible for negotiations on how the negotiations will be conducted.’;

5. in Article 15 the following sentence is added at the end of paragraph 4:

‘Article 30(1) and (2) shall apply accordingly.’;

6. the following Article 16a is added:

‘Article 16a

Call for expressions of interest

1. The ECB may apply a call for expressions of interest if it intends to award several contracts which cover the same or similar subject-matter. Unless specified otherwise in this Article, the procedure shall follow the restricted procedure rules.

2. For the purpose of establishing a list of suitable suppliers, the ECB shall publish a contract notice in the *Official Journal of the European Union* specifying as a minimum the subject of the contracts to be awarded, the eligibility and selection criteria and the deadline for receipt of applications to be considered for the first use of a list of suitable suppliers (hereinafter the list).

3. The list shall be valid for no more than four years from the date on which the contract notice is sent to the Office for Official Publications of the European Communities. A supplier may submit an application to be included in the list at any time during the period of validity of the list, with the exception of the last three months of that period. The application shall be accompanied by the documentation specified in the contract notice. To be considered for the first use of the list, suppliers shall submit their application within the deadline specified in the contract notice.

4. Following the receipt of applications, the ECB shall verify the eligibility of candidates and evaluate the applications against the selection criteria set out in the contract notice. The ECB shall include all candidates meeting the eligibility and selection criteria in the list. The ECB shall inform the candidates at the earliest possible opportunity of their inclusion in the list or of their rejection.

5. Suppliers included in the list shall inform the ECB without undue delay of any substantial changes affecting their eligibility or capacity to perform the contract. Moreover, suppliers included in the list may provide the ECB with updated or additional documentation, if they deem it necessary.

6. If the ECB intends to award a contract the estimated value of which is below the thresholds laid down in Article 4(3), it shall invite at least three or five suppliers included in the list, if available, to submit a tender in accordance with the procedure set out in Article 29. The ECB shall invite the suppliers who best meet the selection criteria set out in the contract notice in view of the contract to be awarded.

7. If the ECB intends to award a contract the estimated value of which exceeds the thresholds laid down in Article 4(3), it shall publish a simplified contract notice in the Official Journal describing the scope of this specific contract. Interested suppliers who are not yet included in the list may submit an application to be included in the list within the deadline specified in the simplified contract notice, which shall not be less than 15 days from the date on which the simplified contract notice is sent. Following evaluation of the applications received, the ECB shall invite at least five suitable suppliers included in the list to submit a tender provided that a sufficient number of suppliers is available. The ECB shall select the suppliers who best meet the selection criteria set out in the contract notice in view of the contract to be awarded. Article 12(4) and (5) shall apply accordingly.

8. In the cases described in paragraphs 6 and 7, the ECB may request the suppliers included in the list to provide updated information and documentation relevant for the fulfillment of the eligibility and selection criteria.;

7. Article 21(2) is replaced by the following:

'2. If candidates or tenderers consider that the ECB's requirements laid down in the contract notice, the invitation to tender or supporting documents are incomplete, inconsistent or illegal or that the ECB or another candidate/tenderer has infringed the applicable procurement rules, they shall notify their concerns to the ECB in writing without undue delay. The time limit shall start to run from the moment they become aware of the irregularity or could reasonably have become aware of it. The ECB may then either correct or supplement the requirements or remedy the irregularity as requested, or reject the request indicating the reasons therefor. Objections which were not communicated to the ECB without undue delay may not be raised at a later stage.;

8. Article 24 is amended as follows:

(a) paragraphs 3 to 5 are replaced by the following:

'3. Candidates and tenderers shall submit only one application or tender. The ECB may exclude from participation any candidates/tenderers who submit a separate application or tender and who:

- (a) are members of the same group of affiliated undertakings as another candidate/tenderer;
- (b) are members of a temporary grouping together with other candidates/tenderers;
- or
- (c) offer a substantial part of the contract to be awarded to another candidate/tenderer as subcontractor,

if there are indications that they have received information regarding the application or tender prepared by another candidate/tenderer or if the submission of separate applications/tenders distorts otherwise free competition among candidates/tenderers.

4. The ECB shall exclude candidates or tenderers from participation if they have been the subject of a judgment which has the force of *res judicata* for fraud, corruption, money laundering, involvement in a criminal organisation or any other illegal activity detrimental to the financial interests of the Communities, of the ECB or of the NCBS.

5. The ECB may exclude candidates or tenderers from participation at any time if:

- (a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) they have been convicted of an offence concerning their professional conduct by a judgment which has the force of *res judicata*;
- (c) they have been guilty of grave professional misconduct;
- (d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
- (e) they have been declared by a court or an arbitration tribunal to be in serious breach of contract for failure to comply with their contractual obligations following another tender procedure;
- (f) they or their management, staff or agents are subject to a conflict of interest;
- (g) they are guilty of serious misrepresentation in supplying the information required by the ECB;
- (h) they contact other candidates or tenderers with the purpose of restraining competition.;

(b) the following paragraphs 6 and 7 are added:

'6. Candidates or tenderers shall certify that they are not in one of the situations listed in paragraphs 4 and 5 and/or provide the evidence specified in the contract notice or invitation to tender. If such circumstances arise in the course of the procedure the candidate/tenderer concerned shall inform the ECB without undue delay thereof.

7. The ECB may exclude a supplier that is in one of the situations described in paragraphs 4 and 5 from participation in any future tender procedure for a reasonable period of time. The ECB shall decide on the exclusion and determine the period of its duration applying the principle of proportionality, taking into account in particular the seriousness of the offence, the time which has elapsed since the offence was committed, the duration and recurrence of the offence, the intention or degree of negligence of the supplier concerned and the measures taken by the supplier to avoid similar offences in the future. The period of exclusion shall not exceed 10 years. Prior to taking a decision to exclude a supplier, the ECB shall give the supplier an opportunity to express its views unless the facts justifying the exclusion are laid down in a judgment which has the force of *res judicata*. The ECB shall notify the supplier in writing of its decision and the main reasons therefor.'

9. Article 28(2) is replaced by the following:

'2. The notification shall be sent at least 10 days prior to the signature of the contract by the ECB if the notification is sent by fax or electronic means, or at least 15 days prior to the signature of the contract if other means of communication are used.'

10. Article 29 is amended as follows:

(a) paragraph 3 is replaced by the following:

'3. The ECB shall select the suppliers invited to participate in the tender procedure either among the tenderers admitted to a dynamic purchasing system or, where no such system is in place, from a list of suitable suppliers drawn up following a call for expressions of interest or, where no such list is established, on the basis of a proper market analysis. In the latter case, the pre-selection of suitable suppliers shall be at the ECB's sole discretion.'

(b) paragraph 5 is replaced by the following:

'5. The tenders received shall be evaluated against the criteria set out in the request for a proposal. Following the evaluation of the written tenders, the ECB may enter negotiations with the tenderers if that possibility was announced in the request for a proposal. The negotiations may be carried out as consecutive negotiations in the order of the tenderers' ranking or as parallel negotiations with several tenderers who best meet the award criteria.'

Article 2

Entry into force

1. This Decision shall enter into force on 1 March 2009.

2. Tender procedures started before the entry into force of this Decision shall be completed in accordance with the original provisions of Decision ECB/2007/5. For the purpose of this provision a tender procedure is deemed to be started on the day on which the contract notice was sent to the *Official Journal of the European Union* or, in cases where no such notice is required, on the day when the ECB invited one or several suppliers to submit a tender.

Done at Frankfurt am Main, 27 January 2009.

The President of the ECB
Jean-Claude TRICHET

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.