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Contents

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

REGULATIONS

★ Council Regulation (EC) No 169/2009 of 26 February 2009 applying rules of competition to transport by rail, road and inland waterway (Codified version) ⁽¹⁾	1
Commission Regulation (EC) No 170/2009 of 4 March 2009 establishing the standard import values for determining the entry price of certain fruit and vegetables	6
Commission Regulation (EC) No 171/2009 of 4 March 2009 on the issue of licences for the import of garlic in the subperiod from 1 June to 31 August 2009	8
Commission Regulation (EC) No 172/2009 of 4 March 2009 fixing the import duties applicable to certain husked rice from 5 March 2009	10
Commission Regulation (EC) No 173/2009 of 4 March 2009 fixing the import duties applicable to semi-milled and wholly milled rice from 5 March 2009	11
Commission Regulation (EC) No 174/2009 of 4 March 2009 setting the allocation coefficient for the issuing of import licences applied for from 23 to 27 February 2009 for sugar products under tariff quotas and preferential agreements	12

1

⁽¹⁾ Text with EEA relevance

(Continued overleaf)

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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

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

DECISIONS

Council

2009/171/EC:

- ★ **Council Decision of 10 February 2009 amending Annex 2, Schedule A, to the Common Consular Instructions on visas for the diplomatic missions and consular posts, in relation to visa requirements for holders of Indonesian diplomatic and service passports** 17

Corrigenda

- ★ **Corrigendum to Council Decision 2008/421/EC of 5 June 2008 on the application of the provisions of the Schengen *acquis* relating to the Schengen Information System in the Swiss Confederation (OJ L 149, 7.6.2008)** 19

I

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

REGULATIONS

COUNCIL REGULATION (EC) No 169/2009

of 26 February 2009

applying rules of competition to transport by rail, road and inland waterway

(Codified version)

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 83 thereof,

Having regard to the proposal from the Commission,

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

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Whereas:

(1) Regulation (EEC) No 1017/68 of the Council of 19 July 1968 applying rules of competition to transport by rail, road and inland waterway ⁽³⁾ has been substantially amended several times ⁽⁴⁾. In the interests of clarity and rationality the said Regulation should be codified.

(2) Rules of competition for transport by rail, road and inland waterway are part of the common transport policy and of general economic policy.

(3) Rules of competition for those sectors should take account of the distinctive features of transport.

(4) Since the rules of competition for transport derogate from the general rules of competition, it should be made possible for undertakings to ascertain what rules apply in any particular case.

(5) The system of rules on competition for transport should apply equally to the joint financing or acquisition of transport equipment for the joint operation of services by certain groupings of undertakings, and also to certain operations in connection with transport by rail, road or inland waterway of providers of services ancillary to transport.

(6) In order to ensure that trade between Member States is not affected or competition within the internal market distorted, it is necessary to prohibit in principle for the three modes of transport specified above all agreements between undertakings, decisions of associations of undertakings and concerted practices between undertakings and all instances of abuse of a dominant position within the internal market which could have such effects.

(7) Certain types of agreement, decision and concerted practice in the transport sector the object and effect of which is merely to apply technical improvements or to achieve technical cooperation may be exempted from the prohibition on restrictive agreements since they contribute to improving productivity. In the light of experience following application of this Regulation, the Council may, on a proposal from the Commission, amend the list of such types of agreement.

⁽¹⁾ OJ C 219 E, 28.8.2008, p. 67.

⁽²⁾ OJ C 161, 13.7.2007, p. 100.

⁽³⁾ OJ L 175, 23.7.1968, p. 1.

⁽⁴⁾ See Annex I.

- (8) In order that an improvement may be fostered in the sometimes too dispersed structure of the industry in the road and inland waterway sectors, exemption from the prohibition on restrictive agreements should also be granted in the case of those agreements, decisions and concerted practices providing for the creation and operation of groupings of undertakings in these two transport sectors whose object is the carrying on of transport operations, including the joint financing or acquisition of transport equipment for the joint operation of services. Such overall exemption can be granted only on condition that the total carrying capacity of a grouping does not exceed a fixed maximum, and that the individual capacity of undertakings belonging to the grouping does not exceed certain limits so fixed as to ensure that no one undertaking can hold a dominant position within the grouping. The Commission should, however, have power to intervene if, in specific cases, such agreements should have effects incompatible with the conditions under which a restrictive agreement may be recognised as lawful, and should constitute an abuse of the exemption. Nevertheless, the fact that a grouping has a total carrying capacity greater than the fixed maximum, or cannot claim the overall exemption because of the individual capacity of the undertakings belonging to the grouping, does not in itself prevent such a grouping from constituting a lawful agreement, decision or concerted practice if it satisfies the relevant conditions laid down in this Regulation.
- (9) It is for the undertakings themselves, in the first instance, to judge whether the predominant effects of their agreements, decisions or concerted practices are the restriction of competition or the economic benefits acceptable as justification for such restriction and to decide accordingly, on their own responsibility, as to the illegality or legality of such agreements, decisions or concerted practices.
- (10) Therefore, undertakings should be allowed to conclude or operate agreements without declaring them. This exposes such agreements to the risk of being declared void with retroactive effect should they be examined following a complaint or on the Commission's own initiative, but does not prevent their being retroactively declared lawful in the event of such subsequent examination,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

The provisions of this Regulation shall, in the field of transport by rail, road and inland waterway, apply both to all agreements, decisions and concerted practices which have as their object or effect the fixing of transport rates and conditions, the limitation or control of the supply of transport, the sharing of transport markets, the application of technical improvements or technical cooperation, or the joint financing or acquisition of transport

equipment or supplies where such operations are directly related to the provision of transport services and are necessary for the joint operation of services by a grouping within the meaning of Article 3 of road or inland waterway transport undertakings, and to the abuse of a dominant position on the transport market. These provisions shall apply also to operations of providers of services ancillary to transport which have any of those objects or effects.

Article 2

Exception for technical agreements

1. The prohibition in Article 81(1) of the Treaty shall not apply to agreements, decisions or concerted practices the object and effect of which is to apply technical improvements or to achieve technical cooperation by means of:

- (a) the standardisation of equipment, transport supplies, vehicles or fixed installations;
- (b) the exchange or pooling, for the purpose of operating transport services, of staff, equipment, vehicles or fixed installations;
- (c) the organisation and execution of successive, complementary, substitute or combined transport operations, and the fixing and application of inclusive rates and conditions for such operations, including special competitive rates;
- (d) the use, for journeys by a single mode of transport, of the routes which are most rational from the operational point of view;
- (e) the coordination of transport timetables for connecting routes;
- (f) the grouping of single consignments;
- (g) the establishment of uniform rules as to the structure of tariffs and their conditions of application, provided such rules do not lay down transport rates and conditions.

2. The Commission shall, where appropriate, submit proposals to the Council with a view to extending or reducing the list in paragraph 1.

Article 3

Exemption for groups of small and medium-sized undertakings

1. Agreements, decisions and concerted practices as referred to in Article 81(1) of the Treaty shall be exempt from the prohibition in that Article where their purpose is:

- (a) the constitution and operation of groupings of road or inland waterway transport undertakings with a view to carrying on transport activities;
- (b) the joint financing or acquisition of transport equipment or supplies, where these operations are directly related to the provision of transport services and are necessary for the joint operations of the aforesaid groupings;

always provided that the total carrying capacity of any grouping does not exceed:

- (i) 10 000 metric tons in the case of road transport;
- (ii) 500 000 metric tons in the case of transport by inland waterway.

The individual capacity of each undertaking belonging to a grouping shall not exceed 1 000 metric tons in the case of road transport or 50 000 metric tons in the case of transport by inland waterway.

2. If the implementation of any agreement, decision or concerted practice covered by paragraph 1 has, in a given case, effects which are incompatible with the requirements of Article 81(3) of the Treaty, undertakings or associations of undertakings may be required to make such effects cease.

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

Done at Brussels, 26 February 2009.

Article 4

Repeal

Regulation (EEC) No 1017/68, as amended by the Regulation listed in Annex I, Part A, is repealed, with the exception of Article 13(3), which continues to apply to decisions adopted pursuant to Article 5 of Regulation (EEC) No 1017/68 prior to 1 May 2004 until the date of expiration of those decisions.

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 II.

Article 5

Entry into force, existing agreements

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

2. The prohibition in Article 81(1) of the Treaty shall not apply to agreements, decisions and concerted practices which were in existence at the date of accession of Austria, Finland and Sweden or at the date of accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia and which, by reason of accession, fall within the scope of Article 81(1) of the Treaty if, within six months from the date of accession, they are so amended that they comply with the conditions laid down in Article 3 of this Regulation. This paragraph does not apply to agreements, decisions and concerted practices which at the date of accession already fall under Article 53(1) of the EEA Agreement.

For the Council

The President

I. LANGER

ANNEX I

PART A

Repealed Regulation with its successive amendment

(referred to in Article 4)

Regulation (EEC) No 1017/68 of the Council except Article 13(3)
(OJ L 175, 23.7.1968, p. 1)

Council Regulation (EC) No 1/2003 Article 36 only
(OJ L 1, 4.1.2003, p. 1)

PART B

Non-repealed successive amendments

1972 Act of Accession

1979 Act of Accession

1994 Act of Accession

2003 Act of Accession

ANNEX II

CORRELATION TABLE

Regulation (EEC) No 1017/68	This Regulation
Article 1	Article 1
Article 3	Article 2
Article 4(1), first subparagraph, first introductory phrase, first indent	Article 3(1), first subparagraph, first introductory phrase, (a)
Article 4(1), first subparagraph, first introductory phrase, second indent	Article 3(1), first subparagraph, first introductory phrase, (b)
Article 4(1), first subparagraph, second introductory phrase, first indent	Article 3(1), first subparagraph, second introductory phrase, (i)
Article 4(1), first subparagraph, second introductory phrase, second indent	Article 3(1), first subparagraph, second introductory phrase, (ii)
Article 4(1), second subparagraph	Article 3(1), second subparagraph
Article 4(2)	Article 3(2)
—	Article 4
Article 30(1)	Article 5(1)
Article 30(3), second subparagraph	Article 5(2)
Article 31	—
—	Annex I
—	Annex II

COMMISSION REGULATION (EC) No 170/2009
of 4 March 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 5 March 2009.

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

Done at Brussels, 4 March 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	IL	148,7
	MA	62,2
	TN	126,1
	TR	84,0
	ZZ	105,3
0707 00 05	MA	120,1
	TR	133,5
	ZZ	126,8
0709 90 70	MA	54,8
	TR	113,7
	ZZ	84,3
0709 90 80	EG	88,5
	ZZ	88,5
0805 10 20	EG	47,5
	IL	61,0
	MA	49,5
	TN	58,3
	TR	62,7
	ZZ	55,8
0805 50 10	EG	49,6
	MA	48,2
	TR	52,6
	ZZ	50,1
0808 10 80	AR	113,5
	CA	87,4
	CL	104,8
	CN	73,4
	MK	25,7
	NZ	95,4
	US	120,6
	ZZ	88,7
0808 20 50	AR	78,0
	CL	95,4
	CN	93,2
	US	109,7
	ZA	97,1
	ZZ	94,7

⁽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'.

COMMISSION REGULATION (EC) No 171/2009**of 4 March 2009****on the issue of licences for the import of garlic in the subperiod from 1 June to 31 August 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) ⁽¹⁾,

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

Whereas:

- (1) Commission Regulation (EC) No 341/2007 ⁽³⁾ opens and provides for the administration of tariff quotas and introduces a system of import licences and certificates of origin for garlic and other agricultural products imported from third countries.
- (2) The quantities for which 'A' licence applications have been lodged by traditional importers and by new importers during the first five working days following

the 15th day of February 2009, pursuant to Article 10(1) of Regulation (EC) No 341/2007 exceed the quantities available for products originating in China and all third countries other than China.

- (3) Therefore, in accordance with Article 7(2) of Regulation (EC) No 1301/2006, it is now necessary to establish the extent to which the 'A' licence applications sent to the Commission by the end of February 2009 can be met in accordance with Article 12 of Regulation (EC) No 341/2007,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for 'A' import licences lodged pursuant to Article 10(1) of Regulation (EC) No 341/2007 during the first five working days following the 15th day of February 2009 and sent to the Commission by the end of February 2009 shall be met at a percentage rate of the quantities applied for as set out 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*.

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

Done at Brussels, 4 March 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 238, 1.9.2006, p. 13.

⁽³⁾ OJ L 90, 30.3.2007, p. 12.

ANNEX

Origin	Order number	Allocation coefficient
Argentina		
— Traditional importers	09.4104	X
— New importers	09.4099	X
China		
— Traditional importers	09.4105	23,155471 %
— New importers	09.4100	0,442303 %
Other third countries		
— Traditional importers	09.4106	100 %
— New importers	09.4102	100 %

'X: No quota for this origin for the subperiod in question.'

COMMISSION REGULATION (EC) No 172/2009**of 4 March 2009****fixing the import duties applicable to certain husked rice from 5 March 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) ⁽¹⁾, and in particular Article 137 thereof,

Whereas:

- (1) Based on the information provided by the competent authorities, the Commission notes that import licences for husked rice falling within CN code 1006 20, other than import licences for basmati rice, were issued in respect of 221 765 tonnes for the period from 1 September 2008 to 28 February 2009. The import

duty for husked rice falling within CN code 1006 20 other than basmati rice should therefore be adjusted.

- (2) The applicable duty must be fixed within 10 days of the end of the period mentioned above. This Regulation should therefore come into force immediately,

HAS ADOPTED THIS REGULATION:

Article 1

The import duty for husked rice falling within CN code 1006 20 shall be EUR 42,5 per tonne.

Article 2

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

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

Done at Brussels, 4 March 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

COMMISSION REGULATION (EC) No 173/2009**of 4 March 2009****fixing the import duties applicable to semi-milled and wholly milled rice from 5 March 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) ⁽¹⁾, and in particular Article 139 thereof,

Whereas:

- (1) Based on the information provided by the competent authorities, the Commission notes that import licences for semi-milled and wholly milled rice falling within CN code 1006 30 have been issued in respect of 160 203 tonnes for the period from 1 September 2008 to 28 February 2009. The import duty for semi-milled and wholly milled rice falling within CN code 1006 30 must therefore be adjusted.

- (2) As the applicable duty must be fixed within 10 days of the end of the period mentioned above, this Regulation should come into force immediately,

HAS ADOPTED THIS REGULATION:

Article 1

The import duty for semi-milled and wholly milled rice falling within CN code 1006 30 shall be EUR 145 per tonne.

Article 2

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

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

Done at Brussels, 4 March 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

COMMISSION REGULATION (EC) No 174/2009**of 4 March 2009****setting the allocation coefficient for the issuing of import licences applied for from 23 to 27 February 2009 for sugar products under tariff quotas and preferential agreements**

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 950/2006 of 28 June 2006 laying down detailed rules of application for the 2006/07, 2007/08 and 2008/09 marketing years for the import and refining of sugar products under certain tariff quotas and preferential agreements ⁽²⁾, and in particular Article 5(3) thereof,

Whereas:

- (1) Applications for import licences were submitted to the competent authorities in the period from 23 to 27 February 2009 in accordance with Commission Regulation (EC) No 950/2006 and/or Council Regulation (EC) No 508/2007 of 7 May 2007 opening tariff quotas for imports into Bulgaria and Romania of raw cane sugar for

supply to refineries in the marketing years 2006/07, 2007/08 and 2008/09 ⁽³⁾, for a total quantity equal to or exceeding the quantity available for order number 09.4351 (July-September 2009).

- (2) In these circumstances, the Commission should establish an allocation coefficient for licences to be issued in proportion to the quantity available and/or inform the Member States that the limit established has been reached,

HAS ADOPTED THIS REGULATION:

Article 1

Licences shall be issued within the quantitative limits set in the Annex to this Regulation in respect of import licence applications submitted from 23 to 27 February 2009, in accordance with Article 4(2) of Regulation (EC) No 950/2006 and/or Article 3 of Regulation (EC) No 508/2007.

Article 2

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

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

Done at Brussels, 4 March 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 178, 1.7.2006, p. 1.

⁽³⁾ OJ L 122, 11.5.2007, p. 1.

ANNEX

ACP/India Preferential Sugar
Chapter IV of Regulation (EC) No 950/2006
2008/09 marketing year

Order No	Country	Week of 23.2.2009-27.2.2009: percentage of requested quantity to be granted	Limit
09.4331	Barbados	100	
09.4332	Belize	0	Reached
09.4333	Côte d'Ivoire	100	
09.4334	Republic of the Congo	100	
09.4335	Fiji	100	
09.4336	Guyana	100	
09.4337	India	0	Reached
09.4338	Jamaica	100	
09.4339	Kenya	100	
09.4340	Madagascar	100	
09.4341	Malawi	100	
09.4342	Mauritius	100	
09.4343	Mozambique	0	Reached
09.4344	Saint Kitts and Nevis	—	
09.4345	Suriname	—	
09.4346	Swaziland	0	Reached
09.4347	Tanzania	100	
09.4348	Trinidad and Tobago	100	
09.4349	Uganda	—	
09.4350	Zambia	100	
09.4351	Zimbabwe	0	Reached

ACP/India Preferential Sugar
Chapter IV of Regulation (EC) No 950/2006
July-September 2009 marketing year

Order No	Country	Week of 23.2.2009-27.2.2009: percentage of requested quantity to be granted	Limit
09.4331	Barbados	—	Reached
09.4332	Belize	100	
09.4333	Côte d'Ivoire	—	
09.4334	Republic of the Congo	—	
09.4335	Fiji	—	
09.4336	Guyana	—	
09.4337	India	0	
09.4338	Jamaica	—	
09.4339	Kenya	—	
09.4340	Madagascar	—	
09.4341	Malawi	—	
09.4342	Mauritius	—	
09.4343	Mozambique	100	
09.4344	Saint Kitts and Nevis	—	
09.4345	Suriname	—	
09.4346	Swaziland	100	
09.4347	Tanzania	—	
09.4348	Trinidad and Tobago	—	
09.4349	Uganda	—	
09.4350	Zambia	—	
09.4351	Zimbabwe	100	

Complementary sugar
Chapter V of Regulation (EC) No 950/2006
2008/09 marketing year

Order No	Country	Week of 23.2.2009-27.2.2009: percentage of requested quantity to be granted	Limit
09.4315	India	—	
09.4316	ACP Protocol signatory countries	—	

CXL Concessions Sugar
Chapter VI of Regulation (EC) No 950/2006
2008/09 marketing year

Order No	Country	Week of 23.2.2009-27.2.2009: percentage of requested quantity to be granted	Limit
09.4317	Australia	0	Reached
09.4318	Brazil	0	Reached
09.4319	Cuba	0	Reached
09.4320	Other third countries	0	Reached

Balkans sugar
Chapter VII of Regulation (EC) No 950/2006
2008/09 marketing year

Order No	Country	Week of 23.2.2009-27.2.2009: percentage of requested quantity to be granted	Limit
09.4324	Albania	100	Reached
09.4325	Bosnia and Herzegovina	0	
09.4326	Serbia and Kosovo (*)	100	
09.4327	Former Yugoslav Republic of Macedonia	100	
09.4328	Croatia	100	

(*) As defined by United Nations Security Council Resolution 1244 of 10 June 1999.

Exceptional import sugar and industrial import sugar
Chapter VIII of Regulation (EC) No 950/2006
2008/09 marketing year

Order No	Type	Week of 23.2.2009-27.2.2009: percentage of requested quantity to be granted	Limit
09.4380	Exceptional	—	
09.4390	Industrial	100	

Additional EPA sugar
Chapter VIIIa of Regulation (EC) No 950/2006
2008/09 marketing year

Order No	Country	Week of 23.2.2009-27.2.2009: percentage of requested quantity to be granted	Limit
09.4431	Comoros, Madagascar, Mauritius, Seychelles, Zambia, Zimbabwe	100	
09.4432	Burundi, Kenya, Rwanda, Tanzania, Uganda	100	
09.4433	Swaziland	100	
09.4434	Mozambique	0	Reached
09.4435	Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago	0	Reached
09.4436	Dominican Republic	0	Reached
09.4437	Fiji, Papua New Guinea	100	

Import of sugar under the transitional tariff quotas opened for Bulgaria and Romania
Article 1 of Regulation (EC) No 508/2007
2008/09 marketing year

Order No	Type	Week of 23.2.2009-27.2.2009: percentage of requested quantity to be granted	Limit
09.4365	Bulgaria	0	Reached
09.4366	Romania	100	

II

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

DECISIONS

COUNCIL

COUNCIL DECISION

of 10 February 2009

amending Annex 2, Schedule A, to the Common Consular Instructions on visas for the diplomatic missions and consular posts, in relation to visa requirements for holders of Indonesian diplomatic and service passports

(2009/171/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Council Regulation (EC) No 789/2001 of 24 April 2001 reserving to the Council implementing powers with regard to certain detailed provisions and practical procedures for examining visa applications ⁽¹⁾, and in particular Article 1(1) thereof,

Having regard to the initiative of Austria,

Whereas:

- (1) Annex 2, Schedule A, to the Common Consular Instructions on visas for the diplomatic missions and consular posts ⁽²⁾ contains the list of countries whose nationals are not subject to a visa requirement in one or more Schengen States when they are holders of diplomatic, official or service passports, but who are subject to this requirement when they are holders of ordinary passports.
- (2) Austria wishes to exempt holders of Indonesian diplomatic and service passports from visa requirements. The Common Consular Instructions should therefore be amended accordingly.
- (3) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the

European Community, Denmark is not taking part in the adoption of this Decision, and is not bound by it or subject to its application. Given that this Decision builds upon the Schengen *acquis* under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 5 of the said Protocol, decide within a period of six months after the Council has adopted this Decision whether it will implement it in its national law.

- (4) As regards Iceland and Norway, this Decision constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded between the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis* ⁽³⁾, which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement ⁽⁴⁾.
- (5) This Decision constitutes a development of provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* ⁽⁵⁾; the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.

⁽¹⁾ OJ L 116, 26.4.2001, p. 2.

⁽²⁾ OJ C 326, 22.12.2005, p. 1.

⁽³⁾ OJ L 176, 10.7.1999, p. 36.

⁽⁴⁾ OJ L 176, 10.7.1999, p. 31.

⁽⁵⁾ OJ L 131, 1.6.2000, p. 43.

- (6) This Decision constitutes a development of provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* ⁽¹⁾; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (7) As regards Switzerland, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* ⁽²⁾ which fall within the area referred to in Article 1, point B of Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2008/146/EC ⁽³⁾.
- (8) As regards Liechtenstein, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation concerning the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* which fall within the area referred to in Article 1, point B of Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2008/261/EC ⁽⁴⁾.
- (9) As regards Cyprus, this Decision constitutes an act building upon the Schengen *acquis* or otherwise related to it within the meaning of Article 3(2) of the 2003 Act of Accession.
- (10) This Decision constitutes an act building upon the Schengen *acquis* or otherwise related to it within the meaning of Article 4(2) of the 2005 Act of Accession,

HAS ADOPTED THIS DECISION:

Article 1

In Annex 2, Schedule A, to the Common Consular Instructions, the letters 'D' and 'S' shall be inserted in the 'AT' column against the entry for Indonesia.

Article 2

This Decision shall apply from 1 March 2009.

Article 3

This Decision is addressed to the Member States in accordance with the Treaty establishing the European Community.

Done at Brussels, 10 February 2009.

For the Council
The President
M. KALOUSEK

⁽¹⁾ OJ L 64, 7.3.2002, p. 20.
⁽²⁾ OJ L 53, 27.2.2008, p. 52.
⁽³⁾ OJ L 53, 27.2.2008, p. 1.
⁽⁴⁾ OJ L 83, 26.3.2008, p. 3.

CORRIGENDA**Corrigendum to Council Decision 2008/421/EC of 5 June 2008 on the application of the provisions of the Schengen *acquis* relating to the Schengen Information System in the Swiss Confederation**

(Official Journal of the European Union L 149 of 7 June 2008)

On page 76, Annex I, second sentence of footnote 7:

for: 'The manual was amended by Commission Decisions 2008/333/EC (OJ L 123, 8.5.2008, p. 1) and 2008/334/JHA (OJ L 123, 8.5.2008, p. 39).';

read: 'The manual was amended by Commission Decisions 2006/757/EC (OJ L 317, 16.11.2006, p. 1) and 2006/758/EC (OJ L 317, 16.11.2006, p. 41).'
