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Contents

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

REGULATIONS

Commission Regulation (EC) No 458/2009 of 4 June 2009 establishing the standard import values for determining the entry price of certain fruit and vegetables 1

★ **Commission Regulation (EC) No 459/2009 of 29 May 2009 amending Regulation (EC) No 1249/96 on rules of application (cereal sector import duties) for Council Regulation (EEC) No 1766/92..... 3**

★ **Commission Regulation (EC) No 460/2009 of 4 June 2009 amending Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards International Financial Reporting Interpretations Committee's (IFRIC) Interpretation 16 ⁽¹⁾ 6**

Commission Regulation (EC) No 461/2009 of 4 June 2009 fixing the export refunds on milk and milk products 15

Commission Regulation (EC) No 462/2009 of 4 June 2009 fixing the maximum export refund for butter in the framework of the standing invitation to tender provided for in Regulation (EC) No 619/2008 19

Commission Regulation (EC) No 463/2009 of 4 June 2009 fixing the maximum export refund for skimmed milk powder in the framework of the standing invitation to tender provided for in Regulation (EC) No 619/2008..... 21

⁽¹⁾ Text with EEA relevance

(Continued overleaf)

Commission Regulation (EC) No 464/2009 of 4 June 2009 amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EC) No 945/2008 for the 2008/2009 marketing year	22
Commission Regulation (EC) No 465/2009 of 4 June 2009 fixing the maximum buying-in price for butter for the 6th individual invitation to tender within the tendering procedure opened by Regulation (EC) No 186/2009.....	24
Commission Regulation (EC) No 466/2009 of 4 June 2009 fixing the maximum buying-in price for skimmed milk powder for the 4th individual invitation to tender within the tendering procedure opened by Regulation (EC) No 310/2009	25
Commission Regulation (EC) No 467/2009 of 4 June 2009 fixing the rates of the refunds applicable to milk and milk products exported in the form of goods not covered by Annex I to the Treaty	26

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

DECISIONS

Commission

2009/427/EC:

- ★ **Commission Decision of 3 June 2009 establishing the expert group for technical advice on organic production** 29

2009/428/EC:

- ★ **Commission Decision of 4 June 2009 amending, for the purposes of adapting to technical progress, the Annex to Directive 2002/95/EC of the European Parliament and of the Council as regards the exemption for an application of lead as impurity in RIG Faraday rotators used for fibre optic communication systems (notified under document number C(2009) 4165) ⁽¹⁾** 32



⁽¹⁾ Text with EEA relevance

I

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

REGULATIONS

COMMISSION REGULATION (EC) No 458/2009**of 4 June 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 June 2009.

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

Done at Brussels, 4 June 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	69,6
	MA	137,6
	TR	56,3
	ZZ	87,8
0707 00 05	MK	27,4
	TR	136,5
	ZZ	82,0
0709 90 70	TR	114,7
	ZZ	114,7
0805 50 10	AR	56,1
	TR	60,0
	ZA	58,9
	ZZ	58,3
0808 10 80	AR	113,4
	BR	74,1
	CA	69,7
	CL	88,7
	CN	90,6
	NZ	105,9
	US	120,6
	UY	71,7
	ZA	72,0
	ZZ	89,6
0809 10 00	TR	235,2
	ZZ	235,2
0809 20 95	US	453,6
	ZZ	453,6

⁽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 459/2009**of 29 May 2009****amending Regulation (EC) No 1249/96 on rules of application (cereal sector import duties) for
Council Regulation (EEC) No 1766/92**

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 143(b) in conjunction with Article 4 thereof,

Whereas:

- (1) Annex IVa of Commission Regulation (EC) No 1249/96 ⁽²⁾ contains blank certificates of conformity authorised by the Government of the United States of America for exports of high-quality common wheat and high-quality durum wheat to the European Community. The American authorities have informed the Commission of an amendment to their blank certificates, which should therefore be amended.

- (2) Regulation (EC) No 1249/96 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Annex IVa of Regulation (EC) No 1249/96 is hereby replaced by the text 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, 29 May 2009.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 161, 29.6.1996, p. 125.

ANNEX

ANNEX IVa

BLANK CERTIFICATE OF CONFORMITY AUTHORISED BY THE GOVERNMENT OF THE UNITED STATES
OF AMERICA FOR COMMON WHEATFORM FGIS-909
JAN 07UNITED STATES DEPARTMENT OF AGRICULTURE
FEDERAL GRAIN INSPECTION SERVICE
U.S. GRAIN STANDARDS ACT

Approved OMB No. 0580-0013

OFFICIAL EXPORT INSPECTION CERTIFICATE

ORIGINAL
US-XXXX-X-XXXX
NOT NEGOTIABLE

LEVEL OF INSPECTION:

ISSUED AT:

DATE OF SERVICE:

IDENTIFICATION:

LOCATION:

QUANTITY: (this is NOT a weight certificate)

GRADE AND KIND:

RESULTS:

REMARKS:



I CERTIFY THAT THE SERVICES SPECIFIED ABOVE WERE PERFORMED WITH THE RESULTS STATED.

APPLICANT NAME:

NAME OR SIGNATURE:

ISSUING OFFICE:

This certificate is issued under the authority of the United States Grain Standards Act, as amended (7 U.S.C. 71 et seq.), and the regulations thereunder (7 CFR 800.0 et seq.). It is issued to show the kind, class, grade, quality, condition, or quantity of grain; or the condition of a carrier or container for the storage or transportation of grain; or other facts relating to grain as determined by official personnel. The statements on the certificate are considered true at the time and place the inspection or weighing service was performed. The certificate shall not be considered representative of the lot if the grain is transhipped or is otherwise transferred from the identified carrier or container or if grain or other material is added to or removed from the total lot. If this certificate is not canceled by a superseding certificate, it is receivable by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein. This certificate does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or other Federal law.

WARNING: Any person who shall knowingly falsely make, issue, alter, forge, or counterfeit this certificate, or participate in any such actions, or otherwise violate provisions in the U.S. Grain Standards Act, the U.S. Warehouse Act, or related Federal laws is subject to criminal, civil, and administrative penalties. The conduct of all services and the licensing of personnel under the regulations governing such services shall be accomplished without discrimination as to race, color, religion, sex, national origin, age, or handicap.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information is 0580-0013. The time required to disclose this recordkeeping requirement is to average 39.097 hours per recordkeeper annually, including the time to retain such records, and to notify, disclose, and report to third parties such recordkeeping requirements.

**BLANK CERTIFICATE OF CONFORMITY AUTHORISED BY THE GOVERNMENT OF THE UNITED STATES
OF AMERICA FOR DURUM WHEAT**FORM FGIS-909
JAN 07UNITED STATES DEPARTMENT OF AGRICULTURE
FEDERAL GRAIN INSPECTION SERVICE
U.S. GRAIN STANDARDS ACT

Approved OMB No. 0580-0013

OFFICIAL EXPORT INSPECTION CERTIFICATE**ORIGINAL**
US-XXXX-X-XXXX
NOT NEGOTIABLE

LEVEL OF INSPECTION:

ISSUED AT:

DATE OF SERVICE:

IDENTIFICATION:

LOCATION:

QUANTITY: (this is NOT a weight certificate)

GRADE AND KIND:

RESULTS:

REMARKS:



APPLICANT NAME:

I CERTIFY THAT THE SERVICES SPECIFIED ABOVE WERE PERFORMED WITH THE RESULTS STATED.

NAME OR SIGNATURE:

ISSUING OFFICE:

This certificate is issued under the authority of the United States Grain Standards Act, as amended (7 U.S.C. 71 et seq.), and the regulations thereunder (7 CFR 800.0 et seq.). It is issued to show the kind, class, grade, quality, condition, or quantity of grain; or the condition of a carrier or container for the storage or transportation of grain; or other facts relating to grain as determined by official personnel. The statements on the certificate are considered true at the time and place the inspection or weighing service was performed. The certificate shall not be considered representative of the lot if the grain is transshipped or is otherwise transferred from the identified carrier or container or if grain or other material is added to or removed from the total lot. If this certificate is not canceled by a superseding certificate, it is receivable by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein. This certificate does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or other Federal law.

WARNING: Any person who shall knowingly falsely make, issue, alter, forge, or counterfeit this certificate, or participate in any such actions, or otherwise violate provisions in the U.S. Grain Standards Act, the U.S. Warehouse Act, or related Federal laws is subject to criminal, civil, and administrative penalties. The conduct of all services and the licensing of personnel under the regulations governing such services shall be accomplished without discrimination as to race, color, religion, sex, national origin, age, or handicap.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information is 0580-0013. The time required to disclose this recordkeeping requirement is to average 39.097 hours per recordkeeper annually, including the time to retain such records, and to notify, disclose, and report to third parties such recordkeeping requirements.⁷

COMMISSION REGULATION (EC) No 460/2009

of 4 June 2009

amending Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards International Financial Reporting Interpretations Committee's (IFRIC) Interpretation 16

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards ⁽¹⁾, and in particular Article 3(1) thereof,

Whereas:

- (1) By Commission Regulation (EC) No 1126/2008 ⁽²⁾ certain international standards and interpretations that were in existence at 15 October 2008 were adopted.
- (2) On 3 July 2008, the International Financial Reporting Interpretations Committee (IFRIC) published IFRIC Interpretation 16 *Hedges of a Net Investment in a Foreign Operation*, hereinafter 'IFRIC 16'. IFRIC 16 is an interpretation that provides clarification on how to apply the requirements of International Accounting Standard (IAS) 21 and IAS 39 in cases when an entity hedges the foreign currency risk arising from its net investments in foreign operations.
- (3) The consultation with the Technical Expert Group (TEG) of the European Financial Reporting Advisory Group (EFRAG) confirms that IFRIC 16 meets the technical criteria for adoption set out in Article 3(2) of Regulation (EC) No 1606/2002. In accordance with Commission Decision 2006/505/EC of 14 July 2006 setting up a Standards Advice Review Group to advise the

Commission on the objectivity and neutrality of the European Financial Reporting Advisory Group's (EFRAG's) opinions ⁽³⁾, the Standards Advice Review Group considered EFRAG's opinion on endorsement and advised the Commission that it is well-balanced and objective.

- (4) Regulation (EC) No 1126/2008 should therefore be amended accordingly.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Accounting Regulatory Committee,

HAS ADOPTED THIS REGULATION:

Article 1

In the Annex to Regulation (EC) No 1126/2008, International Financial Reporting Interpretations Committee's (IFRIC) Interpretation 16 *Hedges of a Net Investment in a Foreign Operation* is inserted as set out in the Annex to this Regulation.

Article 2

Each company shall apply IFRIC 16, as set out in the Annex to this Regulation, at the latest, as from the commencement date of its first financial year starting after 30 June 2009.

Article 3

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

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

Done at Brussels, 4 June 2009.

For the Commission

Charlie McCREEVY

Member of the Commission

⁽¹⁾ OJ L 243, 11.9.2002, p. 1.

⁽²⁾ OJ L 320, 29.11.2008, p. 1.

⁽³⁾ OJ L 199, 21.7.2006, p. 33.

ANNEX

INTERNATIONAL ACCOUNTING STANDARDS

IFRIC 16	IFRIC Interpretation 16 <i>Hedges of a Net Investment in a Foreign Operation</i>
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IFRIC INTERPRETATION 16***Hedges of a Net Investment in a Foreign Operation*****REFERENCES**

- IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors*
- IAS 21 *The Effects of Changes in Foreign Exchange Rates*
- IAS 39 *Financial Instruments: Recognition and Measurement*

BACKGROUND

- 1 Many reporting entities have investments in foreign operations (as defined in IAS 21 paragraph 8). Such foreign operations may be subsidiaries, associates, joint ventures or branches. IAS 21 requires an entity to determine the functional currency of each of its foreign operations as the currency of the primary economic environment of that operation. When translating the results and financial position of a foreign operation into a presentation currency, the entity is required to recognise foreign exchange differences in other comprehensive income until it disposes of the foreign operation.
- 2 Hedge accounting of the foreign currency risk arising from a net investment in a foreign operation will apply only when the net assets of that foreign operation are included in the financial statements ⁽¹⁾. The item being hedged with respect to the foreign currency risk arising from the net investment in a foreign operation may be an amount of net assets equal to or less than the carrying amount of the net assets of the foreign operation.
- 3 IAS 39 requires the designation of an eligible hedged item and eligible hedging instruments in a hedge accounting relationship. If there is a designated hedging relationship, in the case of a net investment hedge, the gain or loss on the hedging instrument that is determined to be an effective hedge of the net investment is recognised in other comprehensive income and is included with the foreign exchange differences arising on translation of the results and financial position of the foreign operation.
- 4 An entity with many foreign operations may be exposed to a number of foreign currency risks. This Interpretation provides guidance on identifying the foreign currency risks that qualify as a hedged risk in the hedge of a net investment in a foreign operation.
- 5 IAS 39 allows an entity to designate either a derivative or a non-derivative financial instrument (or a combination of derivative and non-derivative financial instruments) as hedging instruments for foreign currency risk. This Interpretation provides guidance on where, within a group, hedging instruments that are hedges of a net investment in a foreign operation can be held to qualify for hedge accounting.
- 6 IAS 21 and IAS 39 require cumulative amounts recognised in other comprehensive income relating to both the foreign exchange differences arising on translation of the results and financial position of the foreign operation and the gain or loss on the hedging instrument that is determined to be an effective hedge of the net investment to be reclassified from equity to profit or loss as a reclassification adjustment when the parent disposes of the foreign operation. This Interpretation provides guidance on how an entity should determine the amounts to be reclassified from equity to profit or loss for both the hedging instrument and the hedged item.

SCOPE

- 7 This Interpretation applies to an entity that hedges the foreign currency risk arising from its net investments in foreign operations and wishes to qualify for hedge accounting in accordance with IAS 39. For convenience this Interpretation refers to such an entity as a parent entity and to the financial statements in which the net assets of foreign operations are included as consolidated financial statements. All references to a parent entity apply equally to an entity that has a net investment in a foreign operation that is a joint venture, an associate or a branch.
- 8 This Interpretation applies only to hedges of net investments in foreign operations; it should not be applied by analogy to other types of hedge accounting.

⁽¹⁾ This will be the case for consolidated financial statements, financial statements in which investments are accounted for using the equity method, financial statements in which venturers' interests in joint ventures are proportionately consolidated (subject to change as proposed in ED 9 *Joint Arrangements* published by the International Accounting Standards Board in September 2007) and financial statements that include a branch.

ISSUES

- 9 Investments in foreign operations may be held directly by a parent entity or indirectly by its subsidiary or subsidiaries. The issues addressed in this Interpretation are:
- (a) *the nature of the hedged risk and the amount of the hedged item for which a hedging relationship may be designated:*
 - (i) whether the parent entity may designate as a hedged risk only the foreign exchange differences arising from a difference between the functional currencies of the parent entity and its foreign operation, or whether it may also designate as the hedged risk the foreign exchange differences arising from the difference between the presentation currency of the parent entity's consolidated financial statements and the functional currency of the foreign operation;
 - (ii) if the parent entity holds the foreign operation indirectly, whether the hedged risk may include only the foreign exchange differences arising from differences in functional currencies between the foreign operation and its immediate parent entity, or whether the hedged risk may also include any foreign exchange differences between the functional currency of the foreign operation and any intermediate or ultimate parent entity (i.e. whether the fact that the net investment in the foreign operation is held through an intermediate parent affects the economic risk to the ultimate parent);
 - (b) *where in a group the hedging instrument can be held:*
 - (i) whether a qualifying hedge accounting relationship can be established only if the entity hedging its net investment is a party to the hedging instrument or whether any entity in the group, regardless of its functional currency, can hold the hedging instrument;
 - (ii) whether the nature of the hedging instrument (derivative or non-derivative) or the method of consolidation affects the assessment of hedge effectiveness;
 - (c) *what amounts should be reclassified from equity to profit or loss as reclassification adjustments on disposal of the foreign operation:*
 - (i) when a foreign operation that was hedged is disposed of, what amounts from the parent entity's foreign currency translation reserve in respect of the hedging instrument and in respect of that foreign operation should be reclassified from equity to profit or loss in the parent entity's consolidated financial statements;
 - (ii) whether the method of consolidation affects the determination of the amounts to be reclassified from equity to profit or loss.

CONSENSUS

Nature of the hedged risk and amount of the hedged item for which a hedging relationship may be designated

- 10 Hedge accounting may be applied only to the foreign exchange differences arising between the functional currency of the foreign operation and the parent entity's functional currency.
- 11 In a hedge of the foreign currency risks arising from a net investment in a foreign operation, the hedged item can be an amount of net assets equal to or less than the carrying amount of the net assets of the foreign operation in the consolidated financial statements of the parent entity. The carrying amount of the net assets of a foreign operation that may be designated as the hedged item in the consolidated financial statements of a parent depends on whether any lower level parent of the foreign operation has applied hedge accounting for all or part of the net assets of that foreign operation and that accounting has been maintained in the parent's consolidated financial statements.
- 12 The hedged risk may be designated as the foreign currency exposure arising between the functional currency of the foreign operation and the functional currency of any parent entity (the immediate, intermediate or ultimate parent entity) of that foreign operation. The fact that the net investment is held through an intermediate parent does not affect the nature of the economic risk arising from the foreign currency exposure to the ultimate parent entity.
- 13 An exposure to foreign currency risk arising from a net investment in a foreign operation may qualify for hedge accounting only once in the consolidated financial statements. Therefore, if the same net assets of a foreign operation are hedged by more than one parent entity within the group (for example, both a direct and an indirect parent entity) for the same risk, only one hedging relationship will qualify for hedge accounting in the consolidated financial statements of the ultimate parent. A hedging relationship designated by one parent entity in its consolidated financial statements need not be maintained by another higher level parent entity. However, if it is not maintained by the higher level parent entity, the hedge accounting applied by the lower level parent must be reversed before the higher level parent's hedge accounting is recognised.

Where the hedging instrument can be held

- 14 A derivative or a non-derivative instrument (or a combination of derivative and non-derivative instruments) may be designated as a hedging instrument in a hedge of a net investment in a foreign operation. The hedging instrument(s) may be held by any entity or entities within the group (except the foreign operation that itself is being hedged), as long as the designation, documentation and effectiveness requirements of IAS 39 paragraph 88 that relate to a net investment hedge are satisfied. In particular, the hedging strategy of the group should be clearly documented because of the possibility of different designations at different levels of the group.
- 15 For the purpose of assessing effectiveness, the change in value of the hedging instrument in respect of foreign exchange risk is computed by reference to the functional currency of the parent entity against whose functional currency the hedged risk is measured, in accordance with the hedge accounting documentation. Depending on where the hedging instrument is held, in the absence of hedge accounting the total change in value might be recognised in profit or loss, in other comprehensive income, or both. However, the assessment of effectiveness is not affected by whether the change in value of the hedging instrument is recognised in profit or loss or in other comprehensive income. As part of the application of hedge accounting, the total effective portion of the change is included in other comprehensive income. The assessment of effectiveness is not affected by whether the hedging instrument is a derivative or a non-derivative instrument or by the method of consolidation.

Disposal of a hedged foreign operation

- 16 When a foreign operation that was hedged is disposed of, the amount reclassified to profit or loss as a reclassification adjustment from the foreign currency translation reserve in the consolidated financial statements of the parent in respect of the hedging instrument is the amount that IAS 39 paragraph 102 requires to be identified. That amount is the cumulative gain or loss on the hedging instrument that was determined to be an effective hedge.
- 17 The amount reclassified to profit or loss from the foreign currency translation reserve in the consolidated financial statements of a parent in respect of the net investment in that foreign operation in accordance with IAS 21 paragraph 48 is the amount included in that parent's foreign currency translation reserve in respect of that foreign operation. In the ultimate parent's consolidated financial statements, the aggregate net amount recognised in the foreign currency translation reserve in respect of all foreign operations is not affected by the consolidation method. However, whether the ultimate parent uses the direct or the step-by-step method of consolidation⁽¹⁾ may affect the amount included in its foreign currency translation reserve in respect of an individual foreign operation. The use of the step-by-step method of consolidation may result in the reclassification to profit or loss of an amount different from that used to determine hedge effectiveness. This difference may be eliminated by determining the amount relating to that foreign operation that would have arisen if the direct method of consolidation had been used. Making this adjustment is not required by IAS 21. However, it is an accounting policy choice that should be followed consistently for all net investments.

EFFECTIVE DATE

- 18 An entity shall apply this Interpretation for annual periods beginning on or after 1 October 2008. Earlier application is permitted. If an entity applies this Interpretation for a period beginning before 1 October 2008, it shall disclose that fact.

TRANSITION

- 19 IAS 8 specifies how an entity applies a change in accounting policy resulting from the initial application of an Interpretation. An entity is not required to comply with those requirements when first applying the Interpretation. If an entity had designated a hedging instrument as a hedge of a net investment but the hedge does not meet the conditions for hedge accounting in this Interpretation, the entity shall apply IAS 39 to discontinue that hedge accounting prospectively.

⁽¹⁾ The direct method is the method of consolidation in which the financial statements of the foreign operation are translated directly into the functional currency of the ultimate parent. The step-by-step method is the method of consolidation in which the financial statements of the foreign operation are first translated into the functional currency of any intermediate parent(s) and then translated into the functional currency of the ultimate parent (or the presentation currency if different).

Appendix

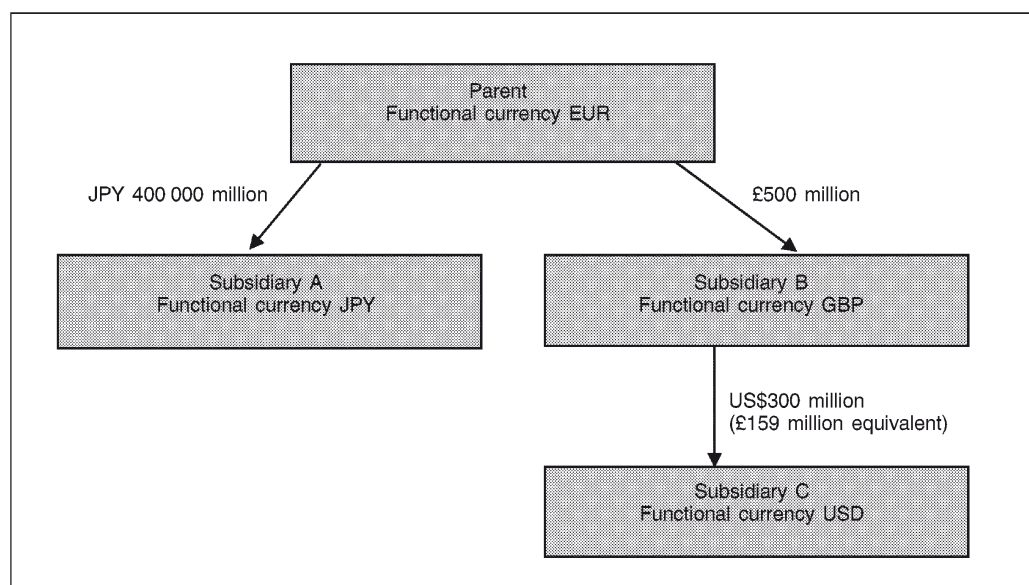
Application guidance

This appendix is an integral part of the Interpretation.

- AG1 This appendix illustrates the application of the Interpretation using the corporate structure illustrated below. In all cases the hedging relationships described would be tested for effectiveness in accordance with IAS 39, although this testing is not discussed in this appendix. Parent, being the ultimate parent entity, presents its consolidated financial statements in its functional currency of euro (EUR). Each of the subsidiaries is wholly-owned. Parent's £500 million net investment in Subsidiary B (functional currency pounds sterling (GBP)) includes the £159 million equivalent of Subsidiary B's US\$300 million net investment in Subsidiary C (functional currency US dollars (USD)). In other words, Subsidiary B's net assets other than its investment in Subsidiary C are £341 million.

Nature of hedged risk for which a hedging relationship may be designated (paragraphs 10-13)

- AG2 Parent can hedge its net investment in each of Subsidiaries A, B and C for the foreign exchange risk between their respective functional currencies (Japanese yen (JPY), pounds sterling and US dollars) and euro. In addition, Parent can hedge the USD/GBP foreign exchange risk between the functional currencies of Subsidiary B and Subsidiary C. In its consolidated financial statements, Subsidiary B can hedge its net investment in Subsidiary C for the foreign exchange risk between their functional currencies of US dollars and pounds sterling. In the following examples the designated risk is the spot foreign exchange risk because the hedging instruments are not derivatives. If the hedging instruments were forward contracts, Parent could designate the forward foreign exchange risk.



Amount of hedged item for which a hedging relationship may be designated (paragraphs 10-13)

- AG3 Parent wishes to hedge the foreign exchange risk from its net investment in Subsidiary C. Assume that Subsidiary A has an external borrowing of US\$300 million. The net assets of Subsidiary A at the start of the reporting period are JPY 400 000 million including the proceeds of the external borrowing of US\$300 million.
- AG4 The hedged item can be an amount of net assets equal to or less than the carrying amount of Parent's net investment in Subsidiary C (US\$300 million) in its consolidated financial statements. In its consolidated financial statements Parent can designate the US\$300 million external borrowing in Subsidiary A as a hedge of the EUR/USD spot foreign exchange risk associated with its net investment in the US\$300 million net assets of Subsidiary C. In this case, both the EUR/USD foreign exchange difference on the US\$300 million external borrowing in Subsidiary A and the EUR/USD foreign exchange difference on the US\$300 million net investment in Subsidiary C are included in the foreign currency translation reserve in Parent's consolidated financial statements after the application of hedge accounting.

AG5 In the absence of hedge accounting, the total USD/EUR foreign exchange difference on the US\$300 million external borrowing in Subsidiary A would be recognised in Parent's consolidated financial statements as follows:

- USD/JPY spot foreign exchange rate change, translated to euro, in profit or loss, and
- JPY/EUR spot foreign exchange rate change in other comprehensive income.

Instead of the designation in paragraph AG4, in its consolidated financial statements Parent can designate the US\$300 million external borrowing in Subsidiary A as a hedge of the GBP/USD spot foreign exchange risk between Subsidiary C and Subsidiary B. In this case, the total USD/EUR foreign exchange difference on the US\$300 million external borrowing in Subsidiary A would instead be recognised in Parent's consolidated financial statements as follows:

- the GBP/USD spot foreign exchange rate change in the foreign currency translation reserve relating to Subsidiary C,
- GBP/JPY spot foreign exchange rate change, translated to euro, in profit or loss, and
- JPY/EUR spot foreign exchange rate change in other comprehensive income.

AG6 Parent cannot designate the US\$300 million external borrowing in Subsidiary A as a hedge of both the EUR/USD spot foreign exchange risk and the GBP/USD spot foreign exchange risk in its consolidated financial statements. A single hedging instrument can hedge the same designated risk only once. Subsidiary B cannot apply hedge accounting in its consolidated financial statements because the hedging instrument is held outside the group comprising Subsidiary B and Subsidiary C.

Where in a group can the hedging instrument be held (paragraphs 14 and 15)?

AG7 As noted in paragraph AG5, the total change in value in respect of foreign exchange risk of the US\$300 million external borrowing in Subsidiary A would be recorded in both profit or loss (USD/JPY spot risk) and other comprehensive income (EUR/JPY spot risk) in Parent's consolidated financial statements in the absence of hedge accounting. Both amounts are included for the purpose of assessing the effectiveness of the hedge designated in paragraph AG4 because the change in value of both the hedging instrument and the hedged item are computed by reference to the euro functional currency of Parent against the US dollar functional currency of Subsidiary C, in accordance with the hedge documentation. The method of consolidation (i.e. direct method or step-by-step method) does not affect the assessment of the effectiveness of the hedge.

Amounts reclassified to profit or loss on disposal of a foreign operation (paragraphs 16 and 17)

AG8 When Subsidiary C is disposed of, the amounts reclassified to profit or loss in Parent's consolidated financial statements from its foreign currency translation reserve (FCTR) are:

- (a) in respect of the US\$300 million external borrowing of Subsidiary A, the amount that IAS 39 requires to be identified, ie the total change in value in respect of foreign exchange risk that was recognised in other comprehensive income as the effective portion of the hedge; and
- (b) in respect of the US\$300 million net investment in Subsidiary C, the amount determined by the entity's consolidation method. If Parent uses the direct method, its FCTR in respect of Subsidiary C will be determined directly by the EUR/USD foreign exchange rate. If Parent uses the step-by-step method, its FCTR in respect of Subsidiary C will be determined by the FCTR recognised by Subsidiary B reflecting the GBP/USD foreign exchange rate, translated to Parent's functional currency using the EUR/GBP foreign exchange rate. Parent's use of the step-by-step method of consolidation in prior periods does not require it to or preclude it from determining the amount of FCTR to be reclassified when it disposes of Subsidiary C to be the amount that it would have recognised if it had always used the direct method, depending on its accounting policy.

Hedging more than one foreign operation (paragraphs 11, 13 and 15)

AG9 The following examples illustrate that in the consolidated financial statements of Parent, the risk that can be hedged is always the risk between its functional currency (euro) and the functional currencies of Subsidiaries B and C. No matter how the hedges are designated, the maximum amounts that can be effective hedges to be included in the foreign currency translation reserve in Parent's consolidated financial statements when both foreign operations are hedged are US\$300 million for EUR/USD risk and £341 million for EUR/GBP risk. Other changes in value due to changes in foreign exchange rates are included in Parent's consolidated profit or loss. Of course, it would be possible for Parent to designate US\$300 million only for changes in the USD/GBP spot foreign exchange rate or £500 million only for changes in the GBP/EUR spot foreign exchange rate.

Parent holds both USD and GBP hedging instruments

AG10 Parent may wish to hedge the foreign exchange risk in relation to its net investment in Subsidiary B as well as that in relation to Subsidiary C. Assume that Parent holds suitable hedging instruments denominated in US dollars and pounds sterling that it could designate as hedges of its net investments in Subsidiary B and Subsidiary C. The designations Parent can make in its consolidated financial statements include, but are not limited to, the following:

- (a) US\$300 million hedging instrument designated as a hedge of the US\$300 million of net investment in Subsidiary C with the risk being the spot foreign exchange exposure (EUR/USD) between Parent and Subsidiary C and up to £341 million hedging instrument designated as a hedge of £341 million of the net investment in Subsidiary B with the risk being the spot foreign exchange exposure (EUR/GBP) between Parent and Subsidiary B.
- (b) US\$300 million hedging instrument designated as a hedge of the US\$300 million of net investment in Subsidiary C with the risk being the spot foreign exchange exposure (GBP/USD) between Subsidiary B and Subsidiary C and up to £500 million hedging instrument designated as a hedge of £500 million of the net investment in Subsidiary B with the risk being the spot foreign exchange exposure (EUR/GBP) between Parent and Subsidiary B.

AG11 The EUR/USD risk from Parent's net investment in Subsidiary C is a different risk from the EUR/GBP risk from Parent's net investment in Subsidiary B. However, in the case described in paragraph AG10(a), by its designation of the USD hedging instrument it holds, Parent has already fully hedged the EUR/USD risk from its net investment in Subsidiary C. If Parent also designated a GBP instrument it holds as a hedge of its £500 million net investment in Subsidiary B, £159 million of that net investment, representing the GBP equivalent of its USD net investment in Subsidiary C, would be hedged twice for GBP/EUR risk in Parent's consolidated financial statements.

AG12 In the case described in paragraph AG10(b), if Parent designates the hedged risk as the spot foreign exchange exposure (GBP/USD) between Subsidiary B and Subsidiary C, only the GBP/USD part of the change in the value of its US\$300 million hedging instrument is included in Parent's foreign currency translation reserve relating to Subsidiary C. The remainder of the change (equivalent to the GBP/EUR change on £159 million) is included in Parent's consolidated profit or loss, as in paragraph AG5. Because the designation of the USD/GBP risk between Subsidiaries B and C does not include the GBP/EUR risk, Parent is also able to designate up to £500 million of its net investment in Subsidiary B with the risk being the spot foreign exchange exposure (GBP/EUR) between Parent and Subsidiary B.

Subsidiary B holds the USD hedging instrument

AG13 Assume that Subsidiary B holds US\$300 million of external debt the proceeds of which were transferred to Parent by an inter-company loan denominated in pounds sterling. Because both its assets and liabilities increased by £159 million, Subsidiary B's net assets are unchanged. Subsidiary B could designate the external debt as a hedge of the GBP/USD risk of its net investment in Subsidiary C in its consolidated financial statements. Parent could maintain Subsidiary B's designation of that hedging instrument as a hedge of its US\$300 million net investment in Subsidiary C for the GBP/USD risk (see paragraph 13) and Parent could designate the GBP hedging instrument it holds as a hedge of its entire £500 million net investment in Subsidiary B. The first hedge, designated by Subsidiary B, would be assessed by reference to Subsidiary B's functional currency (pounds sterling) and the second hedge, designated by Parent, would be assessed by reference to Parent's functional currency (euro). In this case, only the GBP/USD risk from Parent's net investment in Subsidiary C has been hedged in Parent's consolidated financial statements by the USD hedging instrument, not the entire EUR/USD risk. Therefore, the entire EUR/GBP risk from Parent's £500 million net investment in Subsidiary B may be hedged in the consolidated financial statements of Parent.

- AG14 However, the accounting for Parent's £159 million loan payable to Subsidiary B must also be considered. If Parent's loan payable is not considered part of its net investment in Subsidiary B because it does not satisfy the conditions in IAS 21 paragraph 15, the GBP/EUR foreign exchange difference arising on translating it would be included in Parent's consolidated profit or loss. If the £159 million loan payable to Subsidiary B is considered part of Parent's net investment, that net investment would be only £341 million and the amount Parent could designate as the hedged item for GBP/EUR risk would be reduced from £500 million to £341 million accordingly.
- AG15 If Parent reversed the hedging relationship designated by Subsidiary B, Parent could designate the US\$300 million external borrowing held by Subsidiary B as a hedge of its US\$300 million net investment in Subsidiary C for the EUR/USD risk and designate the GBP hedging instrument it holds itself as a hedge of only up to £341 million of the net investment in Subsidiary B. In this case the effectiveness of both hedges would be computed by reference to Parent's functional currency (euro). Consequently, both the USD/GBP change in value of the external borrowing held by Subsidiary B and the GBP/EUR change in value of Parent's loan payable to Subsidiary B (equivalent to USD/EUR in total) would be included in the foreign currency translation reserve in Parent's consolidated financial statements. Because Parent has already fully hedged the EUR/USD risk from its net investment in Subsidiary C, it can hedge only up to £341 million for the EUR/GBP risk of its net investment in Subsidiary B.
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COMMISSION REGULATION (EC) No 461/2009
of 4 June 2009
fixing the export refunds on milk and milk products

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 164(2), in conjunction with Article 4, thereof,

Whereas:

- (1) Article 162(1) of Regulation (EC) No 1234/2007 provides that the difference between prices on the world market for the products listed in Part XVI of Annex I to that Regulation and prices for those products on the Community market may be covered by an export refund.
- (2) Given the present situation on the market in milk and milk products, export refunds should be fixed in accordance with the rules and certain criteria provided for in Articles 162, 163, 164, 167, 169 and 170 of Regulation (EC) No 1234/2007.
- (3) Article 164(1) of Regulation (EC) No 1234/2007 provides that export refunds may vary according to destination, especially where the world market situation, the

specific requirements of certain markets or obligations resulting from agreements concluded in accordance with Article 300 of the Treaty make this necessary.

- (4) Export refunds for the Dominican Republic have been differentiated to take into account the reduced custom duties applied on imports under the import tariff quota under the Memorandum of Understanding between the European Community and the Dominican Republic on import protection for milk powder in the Dominican Republic ⁽²⁾, approved by Council Decision 98/486/EC ⁽³⁾. Due to a changed market situation in the Dominican Republic, characterised by increased competition for milk powder, the quota is no longer fully used. In order to maximise the use of the quota, the differentiation of export refunds for the Dominican Republic should be abolished.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Export refunds as provided for in Article 164 of Regulation (EC) No 1234/2007 shall be granted on the products and for the amounts set out in the Annex to this Regulation, subject to the conditions provided for in Article 3(2) of Commission Regulation (EC) No 1282/2006 ⁽⁴⁾.

Article 2

This Regulation shall enter into force on 5 June 2009.

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

Done at Brussels, 4 June 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 218, 6.8.1998, p. 46.

⁽³⁾ OJ L 218, 6.8.1998, p. 45.

⁽⁴⁾ OJ L 234, 29.8.2006, p. 4.

ANNEX

Export refunds on milk and milk products applicable from 5 June 2009

Product code	Destination	Unit of measurement	Refunds	Product code	Destination	Unit of measurement	Refunds
0401 30 31 9100	L20	EUR/100 kg	10,43	0402 29 19 9900	L20	EUR/100 kg	31,00
0401 30 31 9400	L20	EUR/100 kg	16,34	0402 29 99 9100	L20	EUR/100 kg	31,17
0401 30 31 9700	L20	EUR/100 kg	18,02	0402 29 99 9500	L20	EUR/100 kg	33,13
0401 30 39 9100	L20	EUR/100 kg	10,43	0402 91 10 9370	L20	EUR/100 kg	3,08
0401 30 39 9400	L20	EUR/100 kg	16,34	0402 91 30 9300	L20	EUR/100 kg	3,64
0401 30 39 9700	L20	EUR/100 kg	18,02	0402 91 99 9000	L20	EUR/100 kg	20,56
0401 30 91 9100	L20	EUR/100 kg	20,56	0402 99 10 9350	L20	EUR/100 kg	7,92
0401 30 99 9100	L20	EUR/100 kg	20,56	0402 99 31 9300	L20	EUR/100 kg	10,43
0401 30 99 9500	L20	EUR/100 kg	30,26	0403 90 11 9000	L20	EUR/100 kg	21,00
0402 10 11 9000	L20	EUR/100 kg	21,00	0403 90 13 9200	L20	EUR/100 kg	21,00
0402 10 19 9000	L20	EUR/100 kg	21,00	0403 90 13 9300	L20	EUR/100 kg	28,17
0402 10 99 9000	L20	EUR/100 kg	21,00	0403 90 13 9500	L20	EUR/100 kg	29,24
0402 21 11 9200	L20	EUR/100 kg	21,00	0403 90 13 9900	L20	EUR/100 kg	31,00
0402 21 11 9300	L20	EUR/100 kg	28,17	0403 90 33 9400	L20	EUR/100 kg	28,17
0402 21 11 9500	L20	EUR/100 kg	29,24	0403 90 59 9310	L20	EUR/100 kg	10,43
0402 21 11 9900	L20	EUR/100 kg	31,00	0403 90 59 9340	L20	EUR/100 kg	16,34
0402 21 17 9000	L20	EUR/100 kg	21,00	0403 90 59 9370	L20	EUR/100 kg	18,02
0402 21 19 9300	L20	EUR/100 kg	28,17	0404 90 21 9120	L20	EUR/100 kg	17,91
0402 21 19 9500	L20	EUR/100 kg	29,24	0404 90 21 9160	L20	EUR/100 kg	21,00
0402 21 19 9900	L20	EUR/100 kg	31,00	0404 90 23 9120	L20	EUR/100 kg	21,00
0402 21 91 9100	L20	EUR/100 kg	31,17	0404 90 23 9130	L20	EUR/100 kg	28,17
0402 21 91 9200	L20	EUR/100 kg	31,34	0404 90 23 9140	L20	EUR/100 kg	29,24
0402 21 91 9350	L20	EUR/100 kg	31,63	0404 90 23 9150	L20	EUR/100 kg	31,00
0402 21 99 9100	L20	EUR/100 kg	31,17	0404 90 81 9100	L20	EUR/100 kg	21,00
0402 21 99 9200	L20	EUR/100 kg	31,34	0404 90 83 9110	L20	EUR/100 kg	21,00
0402 21 99 9300	L20	EUR/100 kg	31,63	0404 90 83 9130	L20	EUR/100 kg	28,17
0402 21 99 9400	L20	EUR/100 kg	33,13	0404 90 83 9150	L20	EUR/100 kg	29,24
0402 21 99 9500	L20	EUR/100 kg	33,66	0404 90 83 9170	L20	EUR/100 kg	31,00
0402 21 99 9600	L20	EUR/100 kg	35,77	0405 10 11 9500	L20	EUR/100 kg	63,41
0402 21 99 9700	L20	EUR/100 kg	36,93	0405 10 11 9700	L20	EUR/100 kg	65,00
0402 29 15 9200	L20	EUR/100 kg	21,00				
0402 29 15 9300	L20	EUR/100 kg	28,17				
0402 29 15 9500	L20	EUR/100 kg	29,24				
0402 29 19 9300	L20	EUR/100 kg	28,17				
0402 29 19 9500	L20	EUR/100 kg	29,24				

Product code	Destination	Unit of measurement	Refunds	Product code	Destination	Unit of measurement	Refunds
0405 10 19 9500	L20	EUR/100 kg	63,41	0406 30 39 9500	L04	EUR/100 kg	4,62
0405 10 19 9700	L20	EUR/100 kg	65,00		L40	EUR/100 kg	5,77
0405 10 30 9100	L20	EUR/100 kg	63,41	0406 30 39 9700	L04	EUR/100 kg	4,96
0405 10 30 9300	L20	EUR/100 kg	65,00		L40	EUR/100 kg	6,20
0405 10 30 9700	L20	EUR/100 kg	65,00	0406 30 39 9930	L04	EUR/100 kg	5,31
0405 10 50 9500	L20	EUR/100 kg	63,41		L40	EUR/100 kg	6,64
0405 10 50 9700	L20	EUR/100 kg	65,00	0406 30 39 9950	L04	EUR/100 kg	5,11
0405 10 90 9000	L20	EUR/100 kg	67,38		L40	EUR/100 kg	6,39
0405 20 90 9500	L20	EUR/100 kg	59,45	0406 40 50 9000	L04	EUR/100 kg	12,47
0405 20 90 9700	L20	EUR/100 kg	61,83		L40	EUR/100 kg	15,59
0405 90 10 9000	L20	EUR/100 kg	78,71	0406 40 90 9000	L04	EUR/100 kg	13,82
0405 90 90 9000	L20	EUR/100 kg	65,00		L40	EUR/100 kg	17,28
0406 10 20 9640	L04	EUR/100 kg	11,78	0406 90 13 9000	L04	EUR/100 kg	17,58
	L40	EUR/100 kg	14,72		L40	EUR/100 kg	21,98
0406 10 20 9650	L04	EUR/100 kg	9,82	0406 90 15 9100	L04	EUR/100 kg	18,17
	L40	EUR/100 kg	12,27		L40	EUR/100 kg	22,71
0406 10 20 9830	L04	EUR/100 kg	7,03	0406 90 17 9100	L04	EUR/100 kg	18,17
	L40	EUR/100 kg	8,79		L40	EUR/100 kg	22,71
0406 10 20 9850	L04	EUR/100 kg	6,85	0406 90 21 9900	L04	EUR/100 kg	17,60
	L40	EUR/100 kg	8,56		L40	EUR/100 kg	22,00
0406 20 90 9913	L04	EUR/100 kg	8,54	0406 90 23 9900	L04	EUR/100 kg	15,93
	L40	EUR/100 kg	10,68		L40	EUR/100 kg	19,91
0406 20 90 9915	L04	EUR/100 kg	11,61	0406 90 25 9900	L04	EUR/100 kg	15,53
	L40	EUR/100 kg	14,51		L40	EUR/100 kg	19,41
0406 20 90 9917	L04	EUR/100 kg	12,34	0406 90 27 9900	L04	EUR/100 kg	14,06
	L40	EUR/100 kg	15,42		L40	EUR/100 kg	17,58
0406 20 90 9919	L04	EUR/100 kg	13,79	0406 90 32 9119	L04	EUR/100 kg	13,02
	L40	EUR/100 kg	17,24		L40	EUR/100 kg	16,28
0406 30 31 9730	L04	EUR/100 kg	5,29	0406 90 35 9190	L04	EUR/100 kg	18,63
	L40	EUR/100 kg	6,61		L40	EUR/100 kg	23,29
0406 30 31 9930	L04	EUR/100 kg	5,69	0406 90 35 9990	L04	EUR/100 kg	18,63
	L40	EUR/100 kg	7,11		L40	EUR/100 kg	23,29
0406 30 31 9950	L04	EUR/100 kg	5,17	0406 90 37 9000	L04	EUR/100 kg	17,58
	L40	EUR/100 kg	6,46		L40	EUR/100 kg	21,98
				0406 90 61 9000	L04	EUR/100 kg	20,31
					L40	EUR/100 kg	25,39

Product code	Destination	Unit of measurement	Refunds	Product code	Destination	Unit of measurement	Refunds
0406 90 63 9100	L04	EUR/100 kg	19,93	0406 90 86 9200	L04	EUR/100 kg	17,30
	L40	EUR/100 kg	24,91		L40	EUR/100 kg	21,63
0406 90 63 9900	L04	EUR/100 kg	19,93	0406 90 86 9400	L04	EUR/100 kg	17,60
	L40	EUR/100 kg	24,91		L40	EUR/100 kg	22,00
0406 90 69 9910	L04	EUR/100 kg	19,56	0406 90 86 9900	L04	EUR/100 kg	18,12
	L40	EUR/100 kg	24,45		L40	EUR/100 kg	22,65
0406 90 73 9900	L04	EUR/100 kg	16,20	0406 90 87 9300	L04	EUR/100 kg	15,89
	L40	EUR/100 kg	20,25		L40	EUR/100 kg	19,86
0406 90 75 9900	L04	EUR/100 kg	16,61	0406 90 87 9400	L04	EUR/100 kg	15,61
	L40	EUR/100 kg	20,76		L40	EUR/100 kg	19,51
0406 90 76 9300	L04	EUR/100 kg	14,65	0406 90 87 9951	L04	EUR/100 kg	16,12
	L40	EUR/100 kg	18,31		L40	EUR/100 kg	20,15
0406 90 76 9400	L04	EUR/100 kg	16,41	0406 90 87 9971	L04	EUR/100 kg	16,12
	L40	EUR/100 kg	20,51		L40	EUR/100 kg	20,15
0406 90 76 9500	L04	EUR/100 kg	15,02	0406 90 87 9973	L04	EUR/100 kg	15,82
	L40	EUR/100 kg	18,77		L40	EUR/100 kg	19,78
0406 90 78 9100	L04	EUR/100 kg	16,53	0406 90 87 9974	L04	EUR/100 kg	16,85
	L40	EUR/100 kg	20,66		L40	EUR/100 kg	21,06
0406 90 78 9300	L04	EUR/100 kg	15,87	0406 90 87 9975	L04	EUR/100 kg	16,50
	L40	EUR/100 kg	19,84		L40	EUR/100 kg	20,63
0406 90 79 9900	L04	EUR/100 kg	13,22	0406 90 87 9979	L04	EUR/100 kg	15,93
	L40	EUR/100 kg	16,53		L40	EUR/100 kg	19,91
0406 90 81 9900	L04	EUR/100 kg	16,41	0406 90 88 9300	L04	EUR/100 kg	13,82
	L40	EUR/100 kg	20,51		L40	EUR/100 kg	17,28
0406 90 85 9930	L04	EUR/100 kg	18,12	0406 90 88 9500	L04	EUR/100 kg	13,52
	L40	EUR/100 kg	22,65		L40	EUR/100 kg	16,90
0406 90 85 9970	L04	EUR/100 kg	16,61				
	L40	EUR/100 kg	20,76				

The destinations are defined as follows:

L20: All destinations with the exception of:

- (a) third countries: Andorra, Holy See (Vatican City State), Liechtenstein and the United States of America;
- (b) territories of the EU Member States not forming part of the customs territory of the Community: the Faeroe Islands, Greenland, Heligoland, Ceuta, Melilla, the Communes of Livigno and Campione d'Italia, and the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control;
- (c) European territories for whose external relations a Member State is responsible and not forming part of the customs territory of the Community: Gibraltar
- (d) the destinations referred to in Article 36(1), Article 44(1) and Article 45(1) of Commission Regulation (EC) No 800/1999 (OJ L 102, 17.4.1999, p. 11).

L04: Albania, Bosnia and Herzegovina, Serbia, Kosovo (*), Montenegro and the former Yugoslav Republic of Macedonia.

L40: All destinations with the exception of:

- (a) third countries: L04, Andorra, Iceland, Liechtenstein, Norway, Switzerland, Holy See (Vatican City State), the United States of America, Croatia, Turkey, Australia, Canada, New Zealand and South Africa;
- (b) territories of the EU Member States not forming part of the customs territory of the Community: the Faeroe Islands, Greenland, Heligoland, Ceuta, Melilla, the Communes of Livigno and Campione d'Italia, and the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control;
- (c) European territories for whose external relations a Member State is responsible and not forming part of the customs territory of the Community: Gibraltar.
- (d) the destinations referred to in Article 36(1), Article 44(1) and Article 45(1) of Commission Regulation (EC) No 800/1999 (OJ L 102, 17.4.1999, p. 11).

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

COMMISSION REGULATION (EC) No 462/2009**of 4 June 2009****fixing the maximum export refund for butter in the framework of the standing invitation to tender provided for in Regulation (EC) No 619/2008**

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 164(2), in conjunction with Article 4, thereof,

Whereas:

- (1) Commission Regulation (EC) No 619/2008 of 27 June 2008 opening a standing invitation to tender for export refunds concerning certain milk products ⁽²⁾ provides for a standing invitation to tender procedure.
- (2) Pursuant to Article 6 of Commission Regulation (EC) No 1454/2007 of 10 December 2007 laying down common rules for establishing a tender procedure for fixing export refunds for certain agricultural products ⁽³⁾, and following an examination of the tenders submitted in response to

the invitation to tender, it is appropriate to fix a maximum export refund for the tendering period ending on 2 June 2009.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the standing invitation to tender opened by Regulation (EC) No 619/2008, for the tendering period ending on 2 June 2009, the maximum amount of refund for the products and destinations referred to in Article 1(a) and (b) and in Article 2 respectively of that Regulation shall be as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 5 June 2009.

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

Done at Brussels, 4 June 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 168, 28.6.2008, p. 20.

⁽³⁾ OJ L 325, 11.12.2007, p. 69.

ANNEX

(EUR/100 kg)

Product	Export refund Code	Maximum amount of export refund for exports to the destinations referred to in Article 2 of Regulation (EC) No 619/2008
Butter	ex 0405 10 19 9700	70,00
Butteroil	ex 0405 90 10 9000	84,50

COMMISSION REGULATION (EC) No 463/2009**of 4 June 2009****fixing the maximum export refund for skimmed milk powder in the framework of the standing invitation to tender provided for in Regulation (EC) No 619/2008**

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 164(2), in conjunction with Article 4, thereof,

Whereas:

(1) Commission Regulation (EC) No 619/2008 of 27 June 2008 opening a standing invitation to tender for export refunds concerning certain milk products ⁽²⁾ provides for a standing invitation to tender procedure.

(2) Pursuant to Article 6 of Commission Regulation (EC) No 1454/2007 of 10 December 2007 laying down common rules for establishing a tender procedure for fixing export

refunds for certain agricultural products ⁽³⁾ and following an examination of the tenders submitted in response to the invitation to tender, it is appropriate to fix a maximum export refund for the tendering period ending on 2 June 2009.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the standing invitation to tender opened by Regulation (EC) No 619/2008, for the tendering period ending on 2 June 2009, the maximum amount of refund for the product and destinations referred to in Article 1(c) and in Article 2 of that Regulation shall be EUR 24,00/100 kg.

Article 2

This Regulation shall enter into force on 5 June 2009.

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

Done at Brussels, 4 June 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 168, 28.6.2008, p. 20.

⁽³⁾ OJ L 325, 11.12.2007, p. 69.

COMMISSION REGULATION (EC) No 464/2009**of 4 June 2009****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EC) No 945/2008 for the 2008/2009 marketing year**

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 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector ⁽²⁾, and in particular Article 36(2), second subparagraph, second sentence thereof,

Whereas:

- (1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups

for the 2008/2009 marketing year are fixed by Commission Regulation (EC) No 945/2008 ⁽³⁾. These prices and duties have been last amended by Commission Regulation (EC) No 395/2009 ⁽⁴⁾.

- (2) The data currently available to the Commission indicate that those amounts should be amended in accordance with the rules and procedures laid down in Regulation (EC) No 951/2006,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties applicable to imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Regulation (EC) No 945/2008 for the 2008/2009, marketing year, are hereby amended as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 5 June 2009.

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

Done at Brussels, 4 June 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. 24.

⁽³⁾ OJ L 258, 26.9.2008, p. 56.

⁽⁴⁾ OJ L 119, 14.5.2009, p. 21.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 5 June 2009

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 11 10 ⁽¹⁾	27,01	3,18
1701 11 90 ⁽¹⁾	27,01	8,03
1701 12 10 ⁽¹⁾	27,01	3,05
1701 12 90 ⁽¹⁾	27,01	7,60
1701 91 00 ⁽²⁾	30,72	9,87
1701 99 10 ⁽²⁾	30,72	5,35
1701 99 90 ⁽²⁾	30,72	5,35
1702 90 95 ⁽³⁾	0,31	0,34

⁽¹⁾ For the standard quality defined in point III of Annex IV to Regulation (EC) No 1234/2007.⁽²⁾ For the standard quality defined in point II of Annex IV to Regulation (EC) No 1234/2007.⁽³⁾ Per 1 % sucrose content.

COMMISSION REGULATION (EC) No 465/2009**of 4 June 2009****fixing the maximum buying-in price for butter for the 6th individual invitation to tender within the tendering procedure opened by Regulation (EC) No 186/2009**

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 43, in conjunction with Article 4 thereof,

Whereas:

(1) Commission Regulation (EC) No 186/2009 ⁽²⁾ has opened buying-in of butter by a tendering procedure for the period expiring on 31 August 2009, in accordance with the conditions provided for in Commission Regulation (EC) No 105/2008 of 5 February 2008 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in butter ⁽³⁾.

(2) In the light of the tenders received in response to individual invitations to tender, a maximum buying-in price is to be fixed or a decision to make no award is to be

taken, in accordance with Article 16(2) of Regulation (EC) No 105/2008.

(3) In the light of the tenders received for the 6th individual invitation to tender, a maximum buying-in price should be fixed.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 6th individual invitation to tender for the buying-in of butter within the tendering procedure opened by Regulation (EC) No 186/2009, in respect of which the time limit for the submission of tenders expired on 2 June 2009, the maximum buying-in price shall be EUR 220,00/100 kg.

Article 2

This Regulation shall enter into force on 5 June 2009.

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

Done at Brussels, 4 June 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 64, 10.3.2009, p. 3.

⁽³⁾ OJ L 32, 6.2.2008, p. 3.

COMMISSION REGULATION (EC) No 466/2009**of 4 June 2009****fixing the maximum buying-in price for skimmed milk powder for the 4th individual invitation to tender within the tendering procedure opened by Regulation (EC) No 310/2009**

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 43, in conjunction with Article 4 thereof,

Whereas:

- (1) Commission Regulation (EC) No 310/2009 ⁽²⁾ has opened buying-in of skimmed milk powder by a tendering procedure for the period expiring on 31 August 2009, in accordance with the conditions provided for in Commission Regulation (EC) No 214/2001 of 12 January 2001 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in skimmed milk powder ⁽³⁾.
- (2) In the light of the tenders received in response to individual invitations to tender, a maximum buying-in price is to be fixed or a decision to make no award is to be

taken, in accordance with Article 17 of Regulation (EC) No 214/2001.

- (3) In the light of the tenders received for the 4th individual invitation to tender, a maximum buying-in price should be fixed.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

For the 4th individual invitation to tender for the buying-in of skimmed milk powder within the tendering procedure opened by Regulation (EC) No 310/2009, in respect of which the time limit for the submission of tenders expired on 2 June 2009, the maximum buying-in price shall be EUR 167,90/100 kg.

Article 2

This Regulation shall enter into force on 5 June 2009.

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

Done at Brussels, 4 June 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 97, 16.4.2009, p. 13.

⁽³⁾ OJ L 37, 7.2.2001, p. 100.

COMMISSION REGULATION (EC) No 467/2009**of 4 June 2009****fixing the rates of the refunds applicable to milk and milk products exported in the form of goods not covered by Annex I to the Treaty**

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 164(2) thereof,

Whereas:

(4) Article 11 of the Agreement on Agriculture concluded under the Uruguay Round lays down that the export refund for a product contained in a good may not exceed the refund applicable to that product when exported without further processing.

(5) However, in the case of certain milk products exported in the form of goods not covered by Annex I to the Treaty, there is a danger that, if high refund rates are fixed in advance, the commitments entered into in relation to those refunds may be jeopardised. In order to avert that danger, it is therefore necessary to take appropriate precautionary measures, but without precluding the conclusion of long-term contracts. The fixing of specific refund rates for the advance fixing of refunds in respect of those products should enable those two objectives to be met.

(1) Article 162(1)b of Regulation (EC) No 1234/2007 provides that the difference between prices in international trade for the products referred to in Article 1(1)(p) and listed in Part XVI of Annex I to that Regulation and prices within the Community may be covered by an export refund where these goods are exported in the form of goods listed in Part IV of Annex XX to that Regulation.

(6) Article 15(2) of Regulation (EC) No 1043/2005 provides that, when the rate of the refund is being fixed, account is to be taken, where appropriate, of production refunds, aids or other measures having equivalent effect applicable in all Member States in accordance with the Regulation on the common organisation of the agricultural markets to the basic products listed in Annex I to Regulation (EC) No 1043/2005 or to assimilated products.

(2) Commission Regulation (EC) No 1043/2005 of 30 June 2005 implementing Council Regulation (EC) No 3448/93 as regards the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds ⁽²⁾, specifies the products for which a rate of refund is to be fixed, to be applied where these products are exported in the form of goods listed in Part IV of Annex XX to Regulation (EC) No 1234/2007.

(7) Article 100(1) of Regulation (EC) No 1234/2007 provides for the payment of aid for Community-produced skimmed milk processed into casein if such milk and the casein manufactured from it fulfil certain conditions.

(3) In accordance with the second paragraph, subparagraph (a) of Article 14 of Regulation (EC) No 1043/2005, the rate of the refund per 100 kilograms for each of the basic products in question is to be fixed for a period of the same duration as that for which refunds are fixed for the same products exported unprocessed.

(8) Commission Regulation (EC) No 1898/2005 of 9 November 2005 laying down detailed rules for implementing Council Regulation (EC) No 1255/1999 as regards measures for the disposal of cream, butter and concentrated butter ⁽³⁾, lays down that butter and cream at reduced prices should be made available to industries which manufacture certain goods.

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 172, 5.7.2005, p. 24.

⁽³⁾ OJ L 308, 25.11.2005, p. 1.

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

HAS ADOPTED THIS REGULATION:

Article 1

The rates of the refunds applicable to the basic products listed in Annex I to Regulation (EC) No 1043/2005 and in Part XVI of Annex I to Regulation (EC) No 1234/2007, and exported in the form of goods listed in Part IV of Annex XX to Regulation (EC) No 1234/2007, shall be fixed as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 5 June 2009.

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

Done at Brussels, 4 June 2009.

For the Commission

Heinz ZOUREK

Director-General Enterprise and Industry

ANNEX

Rates of the refunds applicable from 5 June 2009 to certain milk products exported in the form of goods not covered by Annex I to the Treaty ⁽¹⁾

(EUR/100 kg)

CN code	Description	Rate of refund	
		In case of advance fixing of refunds	Other
ex 0402 10 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content not exceeding 1,5 % by weight (PG 2):		
	(a) on exportation of goods of CN code 3501	—	—
	(b) on exportation of other goods	21,00	21,00
ex 0402 21 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content of 26 % by weight (PG 3):		
	(a) where goods incorporating, in the form of products assimilated to PG 3, reduced-price butter or cream obtained pursuant to Regulation (EC) No 1898/2005 are exported	36,15	36,15
	(b) on exportation of other goods	31,00	31,00
ex 0405 10	Butter, with a fat content by weight of 82 % (PG 6):		
	(a) where goods containing reduced-price butter or cream which have been manufactured in accordance with the conditions provided for in Regulation (EC) No 1898/2005 are exported	65,00	65,00
	(b) on exportation of goods of CN code 2106 90 98 containing 40 % or more by weight of milk fat	66,52	66,52
	(c) on exportation of other goods	65,00	65,00

⁽¹⁾ The rates set out in this Annex are not applicable to exports to

- (a) third countries: Andorra, the Holy See (Vatican City State), Liechtenstein, the United States of America and the goods listed in Tables I and II of Protocol 2 to the Agreement between the European Community and the Swiss Confederation of 22 July 1972 exported to the Swiss Confederation.
- (b) territories of EU Member States not forming part of the customs territory of the Community: Ceuta, Melilla, the Communes of Livigno and Campione d'Italia, Heligoland, Greenland, the Faeroe Islands and the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control.
- (c) European territories for whose external relations a Member State is responsible and not forming part of the customs territory of the Community: Gibraltar.
- (d) the destinations referred to in Article 36(1), Article 44(1) and Article 45(1) of Commission Regulation (EC) No 800/1999 (OJ L 102, 17.4.1999, p. 11).

II

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

DECISIONS

COMMISSION

COMMISSION DECISION

of 3 June 2009

establishing the expert group for technical advice on organic production

(2009/427/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Whereas:

general, for any other matter relating to the area of organic production. These are complex and time consuming exercises, for which a high degree of specialisation is required.

(4) It is therefore necessary to set up a group of experts in the field of organic production and to define its tasks and its structure.

(1) Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 ⁽¹⁾, defines objectives and principles applicable to organic production and lays down basic requirements with regard to production, labelling and control of organic products in the plant, livestock and aquaculture production.

(5) The group should help to ensure easy access to highly qualified technical expertise in a wide range of fields related to organic production.

(2) With the Communication from the Commission to the Council and to the European Parliament on a European action plan for organic food and farming adopted in June 2004 ⁽²⁾, the Commission intends to assess the situation and to lay down the basis for policy development, thereby providing an overall strategic vision for the contribution of organic farming to the common agricultural policy. In particular, the European action plan for organic food and farming recommends, in action 11, establishing an independent expert panel for technical advice.

(6) The group should be composed of scientists and other experts with competences related to organic production and should deliver independent, excellent and transparent technical advice to the Commission.

(3) The Commission may need technical advice to decide on the authorisation of the use of products, substances and techniques in organic farming and processing, to develop or improve organic production rules and, more in

(7) Rules on disclosure of information by members of the group should be provided for, without prejudice to the Commission's rules on security as set out in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom ⁽³⁾.

(8) Personal data relating to members of the group should be processed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽⁴⁾,

⁽¹⁾ OJ L 189, 20.7.2007, p. 1.

⁽²⁾ SEC(2004) 739.

⁽³⁾ OJ L 317, 3.12.2001, p. 1.

⁽⁴⁾ OJ L 8, 12.1.2001, p. 1.

HAS DECIDED AS FOLLOWS:

Article 1

The ‘expert group for technical advice on organic production’

The expert group for technical advice on organic production, hereinafter referred to as ‘the group’, is hereby set up.

Article 2

Task

The group's task shall be to assist the Commission in:

- (a) evaluating products, substances and techniques which can be used in organic production, taking into account objectives and principles laid down in Regulation (EC) No 834/2007;
- (b) improving existing rules and developing new production rules;
- (c) bringing about an exchange of experience and good practices in the field of organic production.

Article 3

Consultation

1. The Commission may consult the group on any matter relating to the area of organic production.
2. The chairperson of the group may advise the Commission that it is desirable to consult the group on a specific question.

Article 4

Membership — Appointment

1. The group shall be composed of 13 members.
2. The members of the group shall be appointed by the Commission from specialists with competence in the areas referred to in Articles 2 and 3(1) and who have responded to the public call for applications. The Commission may also establish a pool list of candidates that could not be appointed as permanent members although they were considered suitable for a position in the group in the course of the selection procedure.
3. This pool list can be used to appoint replacements for members of the group or to appoint as members of the sub-groups.
4. The members of the group and of the sub-groups shall be appointed in a personal capacity and shall advise the Commission independently of any outside influence.
5. Members of the group are appointed for a three-year renewable term of office and may not serve for more than three consecutive mandates. They shall remain in office until

such time as they are replaced in accordance with paragraph 6 or their term of office ends.

6. Members who are no longer capable of contributing effectively to the group's deliberations, who resign or who do not comply with the conditions set out in paragraph 4 of this Article, or Article 287 of the Treaty, may be replaced for the remainder of their term of office.

7. Members appointed in a personal capacity shall each year sign an undertaking to act in the public interest and a declaration indicating the absence or existence of any interest which may undermine their objectivity. They shall also declare at each meeting any specific interest which may be considered as prejudicial to their independence in relation to the items on the agenda.

8. The names of members appointed in a personal capacity in the group and in the sub-groups and those included in the pool list shall be published on the Internet site of the Directorate-General for Agriculture and Rural Development and in the Register of Expert Groups. These names shall be collected, processed and published in accordance with Regulation (EC) No 45/2001.

Article 5

Operation

1. The group elects a chairperson and two vice-chairpersons from its members by a simple majority.
2. In agreement with the Directorate-General for Agriculture and Rural Development, sub-groups may be set up to examine specific questions under terms of reference established by the group. Such groups shall be dissolved as soon as their mandates are fulfilled. Sub-groups shall be composed of up to seven members from the members of the group or from the pool list referred to in Article 4(3).
3. The Commission's representative may ask experts or observers with specific competence on a subject on the agenda to participate in the group's or sub-group's deliberations if this is useful or necessary.
4. Information obtained by participating in the deliberations of a group or sub-group shall not be divulged if, in the opinion of the Commission, that information relates to confidential matters.
5. The group and its sub-groups shall normally meet on Commission premises in accordance with the procedures and schedule established by it. The Commission shall provide secretarial services. Other Commission officials with an interest in the proceedings may attend meetings of the group and its sub-groups.
6. The group shall adopt its rules of procedure on the basis of the standard rules of procedure adopted by the Commission ⁽¹⁾.

⁽¹⁾ SEC(2005) 1004.

7. The Commission may publish on the Internet, in the original language of the document concerned, the agenda, the minutes, any summary, conclusion, or partial conclusion or working document of the group.

Article 6

Meeting expenses

The Commission shall reimburse travel and, where appropriate, subsistence expenses for members and experts in connection with the group's activities in accordance with the Commission's rules on the compensation of external experts.

No remuneration shall be paid for the services rendered under this Decision.

Meeting expenses are reimbursed within the limits of the annual budget allocated to the group by the responsible Commission services.

Article 7

Entry into force

The decision shall take effect on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels, 3 June 2009.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

COMMISSION DECISION

of 4 June 2009

amending, for the purposes of adapting to technical progress, the Annex to Directive 2002/95/EC of the European Parliament and of the Council as regards the exemption for an application of lead as impurity in RIG Faraday rotators used for fibre optic communication systems

*(notified under document number C(2009) 4165)***(Text with EEA relevance)**

(2009/428/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment ⁽¹⁾, and in particular Article 5(1)(c) thereof,

Whereas:

- (1) Directive 2002/95/EC requires the Commission to review the exempting for certain materials and components of electric and electronic equipment from Article 4(1) of that Directive.
- (2) Having carried out the required technical and scientific assessment, the Commission considers that RIG (rare earth iron garnet) Faraday rotators which meet the maximum concentration values set by Directive 2002/95/EC are currently available and that the exemption granted in this regard should be reviewed.
- (3) Directive 2002/95/EC should therefore be amended accordingly.
- (4) Pursuant to Article 5(2) of Directive 2002/95/EC, the Commission has consulted the relevant parties. During the consultation the need to ensure that producers are given sufficient time for the appropriate qualification of RIG Faraday rotators with the restriction of lead as laid

down by Directive 2002/95/EC emerged. It should therefore be ensured that the health or consumer safety impacts caused by substitution are not likely to outweigh the environmental, health or consumer safety benefits of the substitution, in particular in safety-relevant equipment such as communication systems.

- (5) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 18 of Directive 2006/12/EC of the European Parliament and of the Council ⁽²⁾,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Directive 2002/95/EC is amended as set out in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 4 June 2009.

For the Commission
Stavros DIMAS
Member of the Commission

⁽¹⁾ OJ L 37, 13.2.2003, p. 19.

⁽²⁾ OJ L 114, 27.4.2006, p. 9.

ANNEX

In the Annex to Directive 2002/95/EC, point 22 is replaced by the following:

- '22. Lead as impurity in RIG (rare earth iron garnet) Faraday rotators used for fibre optic communication systems until 31 December 2009.'
-

GUIDELINES
EUROPEAN CENTRAL BANK

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 28 May 2009

amending Guideline ECB/2006/4 on the Eurosystem's provision of reserve management services in euro to central banks and countries located outside the euro area and to international organisations

(ECB/2009/11)

(2009/429/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,
Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Article 12.1, Article 14.3 and Article 23 thereof,

Whereas:

- (1) The replacement of the two-tier system with the single framework for eligible collateral common to all Eurosystem credit operations requires the amendment of the definition of 'reserves' in Guideline ECB/2006/4 of 7 April 2006 on the Eurosystem's provision of reserve management services in euro to central banks and countries located outside the euro area and to international organisations ⁽¹⁾.
- (2) Guideline ECB/2006/4 should also be amended to provide for a specific standardised Eurosystem reserve management service, i.e. the introduction of fixed-term deposit services on a principal basis,

HAS ADOPTED THIS GUIDELINE:

Article 1

Guideline ECB/2006/4 is amended as follows:

1. In Article 1 the definition of 'reserves' is replaced by the following:
— "reserves" shall mean the customer's eligible euro-denominated assets, i.e. cash and all securities that are included in the single framework set out in the Eurosystem eligible assets database, which contains the assets that are eligible for Eurosystem credit operations and is published and updated daily on the ECB's website, with

the exception of all of the following: (i) both the securities falling under "issuer group 3" (i.e. corporate and other issuers) and, for the remaining issuer groups, the securities falling under "liquidity category V" (asset-backed securities); (ii) assets exclusively held for the purpose of meeting the pension and related obligations of the customer vis-à-vis its former or existing staff; (iii) dedicated accounts opened with a Eurosystem member by a customer for public debt rescheduling purposes within the framework of international agreements; (iv) such other categories of euro-denominated assets as decided from time to time by the Governing Council.'

2. Article 2(4)(b) is replaced by the following:

'(b) fixed-term deposit services:

- on an agency basis, or
- on a principal basis.'

Article 2

1. This Guideline is addressed to the national central banks of the Member States that have adopted the euro.
2. This Guideline shall enter into force on 1 July 2009.

Done at Frankfurt am Main, 28 May 2009.

For the Governing Council of the ECB
The President of the ECB
Jean-Claude TRICHET

⁽¹⁾ OJ L 107, 20.4.2006, p. 54.

CORRIGENDA**Corrigendum to Commission Regulation (EC) No 407/2009 of 14 May 2009 amending Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein**

(Official Journal of the European Union L 123 of 19 May 2009)

On page 26, Annex, headed column 'Annex B', the species '*Ortalis vetula* (III Guatemala/Honduras)' and '*Pauxi pauxi* (III Columbia)' should be moved to headed column 'Annex C'.

GUIDELINES

European Central Bank

2009/429/EC:

- ★ Guideline of the European Central Bank of 28 May 2009 amending Guideline ECB/2006/4 on the Eurosystem’s provision of reserve management services in euro to central banks and countries located outside the euro area and to international organisations (ECB/2009/11) 34

Corrigenda

- ★ Corrigendum to Commission Regulation (EC) No 407/2009 of 14 May 2009 amending Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein (OJ L 123, 19.5.2009) 35

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