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<sup>(1)</sup> Text with EEA relevance

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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.

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DECISIONS

**Commission**

2009/431/EC:

- ★ **Commission Decision of 29 May 2009 granting a derogation requested by the United Kingdom of Great Britain and Northern Ireland with regard to England, Scotland and Wales pursuant to Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources** (*notified under document number C(2009) 3853*) ..... 48

## I

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

## REGULATIONS

**COMMISSION REGULATION (EC) No 468/2009****of 5 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) <sup>(1)</sup>,

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

Whereas:

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 6 June 2009.

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

Done at Brussels, 5 June 2009.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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

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

## ANNEX

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

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	MA	32,7
	MK	43,9
	TR	55,6
	ZZ	44,1
0707 00 05	MK	24,8
	TR	98,6
	ZZ	61,7
0709 90 70	TR	113,3
	ZZ	113,3
0805 50 10	AR	70,4
	TR	60,0
	ZA	64,1
	ZZ	64,8
0808 10 80	AR	114,0
	BR	74,1
	CA	69,7
	CL	88,3
	CN	85,0
	NA	101,9
	NZ	103,9
	US	124,3
	ZA	73,4
	ZZ	92,7
0809 10 00	TN	169,2
	TR	209,1
	ZZ	189,2
0809 20 95	US	453,6
	ZZ	453,6

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

## DIRECTIVES

## DIRECTIVE 2009/32/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 23 April 2009

## on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients

(Recast)

(Text with EEA relevance)

- THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
- Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,
- Having regard to the proposal from the Commission,
- Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,
- Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(2)</sup>,
- Whereas:
- (1) Council Directive 88/344/EEC of 13 June 1988 on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients <sup>(3)</sup> has been substantially amended several times <sup>(4)</sup>. Since further amendments are to be made, it should be recast in the interests of clarity.
- (2) Differences between national laws relating to extraction solvents hinder the free movement of foodstuffs and may create conditions of unequal competition, thereby directly affecting the functioning of the internal market.
- (3) OJ C 224, 30.8.2008, p. 87.
- (4) Opinion of the European Parliament of 23 September 2008 (not yet published in the Official Journal) and Council Decision of 23 March 2009.
- (5) OJ L 157, 24.6.1988, p. 28.
- (6) See Annex II, Part A.
- (3) The approximation of those laws is therefore necessary if the free movement of foodstuffs is to be achieved.
- (4) Laws relating to extraction solvents for use in foodstuffs should take account primarily of human health requirements but also, within the limits required for the protection of health, of economic and technical needs.
- (5) Such approximation should involve the establishment of a single list of extraction solvents for the preparation of foodstuffs or food ingredients. General purity criteria should also be specified.
- (6) The use of an extraction solvent under conditions of good manufacturing practice should result in the removal of all or the major part of the solvent residues from the foodstuff or food ingredient.
- (7) Under such conditions, the presence of residues or derivatives in the final foodstuff or food ingredient may be unintentional but technically unavoidable.
- (8) Although in general a specific limitation is useful, it need not be laid down for substances listed in Part I of Annex I which have been found acceptable from the point of view of safety to the consumer when used under conditions of good manufacturing practice.
- (9) To take account of protection of public health, the conditions of use of other extraction solvents listed in Parts II and III of Annex I and maximum residue values permitted in food and food ingredients should be established.
- (10) Specific purity criteria for extraction solvents and methods of analysis and sampling of extraction solvents in and on foodstuffs should be established.

- (11) Should the use of an extraction solvent provided for in this Directive appear to constitute a health risk as a result of new information, Member States should be able to suspend or limit such use, or to reduce existing limits, pending a decision at Community level.
- (12) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(1)</sup>.
- (13) In particular, the Commission should be empowered to amend the list of extraction solvents which may be used during the processing of the raw materials, of foodstuffs, of food components or of food ingredients, and the specification of their conditions of use and maximum residue limits, and to adopt specific purity criteria for extraction solvents and the methods of analysis necessary to verify compliance with the general and specific purity criteria as well as methods of analysis and sampling of extraction solvents in and on foodstuffs. Since those measures are of general scope and are designed to amend non-essential elements of this Directive, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (14) On grounds of efficiency, the normal time-limits for the regulatory procedure with scrutiny should be curtailed for the adoption of amendments of the list of extraction solvents which may be used during the processing of the raw materials, of foodstuffs, of food components or of food ingredients, and the specification of their conditions of use and maximum residue limits, and for the adoption of specific purity criteria for extraction solvents.
- (15) When, on imperative grounds of urgency, in particular where a risk to human health exists, the normal time-limits for the regulatory procedure with scrutiny cannot be complied with, the Commission should be able to apply the urgency procedure provided for in Article 5a(6) of Decision 1999/468/EC for the adoption of amendments of the list of extraction solvents which may be used during the processing of the raw materials, of foodstuffs, of food components or of food ingredients, and the specification of their conditions of use and maximum residue limits, and for the adoption of specific purity criteria for extraction solvents, as well as for the adoption of amendments to this Directive when it is established that the use in foodstuffs of any substance listed in Annex I or the level of one or more of the components referred to in Article 3 contained in such substances might endanger human health although it complies with the conditions laid down in this Directive.
- (16) The new elements introduced into this Directive only concern the committee procedures. They therefore do not need to be transposed by the Member States.
- (17) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the Directives set out in Annex II, Part B,

HAVE ADOPTED THIS DIRECTIVE:

#### Article 1

1. This Directive applies to extraction solvents used or intended for use in the production of foodstuffs or food ingredients.

This Directive shall not apply to extraction solvents used in the production of food additives, vitamins and other nutritional additives, unless such food additives, vitamins or nutritional additives are listed in Annex I.

However, the Member States shall ensure that the use of food additives, vitamins and other nutritional additives does not result in foodstuffs containing extraction solvent residue levels dangerous to human health.

This Directive shall apply without prejudice to the provisions adopted under more specific Community rules.

2. For the purposes of this Directive:

(a) 'solvent' means any substance for dissolving a foodstuff or any component thereof, including any contaminant present in or on that foodstuff;

(b) 'extraction solvent' means a solvent which is used in an extraction procedure during the processing of raw materials, of foodstuffs, or of components or ingredients of these products and which is removed but which may result in the unintentional, but technically unavoidable, presence of residues or derivatives in the foodstuff or food ingredient.

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23.

#### Article 2

1. Member States shall authorise the use as extraction solvents in the manufacture of foodstuffs or food ingredients of those substances and materials listed in Annex I, under the conditions of use and where appropriate within the maximum residue limits specified in that Annex.

Member States may not prohibit, restrict or obstruct the marketing of foodstuffs or food ingredients on grounds relating to the extraction solvents used or their residues if these comply with the provisions of this Directive.

2. Member States shall not authorise the use of other substances and materials as extraction solvents, nor extend the conditions of use or permitted residues of the extraction solvents listed in Annex I beyond those specified therein.

3. Water to which substances regulating acidity or alkalinity may have been added and other food substances which possess solvent properties are authorised as extraction solvents in the manufacture of foodstuffs or food ingredients.

#### Article 3

Member States shall take all necessary measures to ensure that the substances and materials listed as extraction solvents in Annex I comply with the following general and specific purity criteria:

- (a) they shall not contain a toxicologically dangerous amount of any element or substance;
- (b) subject to any exceptions deriving from the specific purity criteria adopted in accordance with point (d) of Article 4, they shall not contain more than 1 mg/kg of arsenic or more than 1 mg/kg of lead;
- (c) they shall satisfy the specific purity criteria adopted in accordance with point (d) of Article 4.

#### Article 4

The Commission shall adopt the following:

- (a) the necessary amendments to Annex I in the light of scientific and technical progress in the field of the use of solvents, their conditions of use and maximum residue limits;

- (b) the methods of analysis necessary to verify compliance with the general and specific purity criteria provided for in Article 3;

- (c) the procedure for taking samples and the methods for qualitative and quantitative analysis of the extraction solvents listed in Annex I and used in foodstuffs or food ingredients;

- (d) if necessary, the specific purity criteria for the extraction solvents listed in Annex I, and in particular maximum permitted limits of mercury and cadmium in the extraction solvents.

The measures referred to in points (b) and (c) of the first subparagraph, designed to amend non-essential elements of this Directive, *inter alia*, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 6(2).

The measures referred to in points (a) and (d) of the first subparagraph, designed to amend non-essential elements of this Directive, *inter alia*, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 6(3).

Where necessary, the measures referred to in points (a) and (d) of the first subparagraph shall be adopted in accordance with the urgency procedure referred to in Article 6(4).

#### Article 5

1. Where a Member State, as a result of new information or of a reassessment of existing information made since this Directive was adopted, has detailed grounds for establishing that the use in foodstuffs of any substance listed in Annex I or the level of one or more of the components referred to in Article 3 contained in such substances might endanger human health although it complies with the conditions laid down in this Directive, that Member State may temporarily suspend or restrict application of the provisions in question in its territory. It shall immediately inform the other Member States and the Commission thereof and give reasons for its decision.

2. The Commission shall examine as soon as possible the evidence given by the Member State concerned and consult the Committee referred to in Article 6(1), and shall then deliver its opinion forthwith and take the appropriate measures, which may replace the measures referred to in paragraph 1 of this Article.

3. If the Commission considers that amendments to this Directive are necessary in order to resolve the difficulties mentioned in paragraph 1 and to ensure the protection of human health, it shall adopt those amendments.

Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the urgency procedure referred to in Article 6(4).

Any Member State which has adopted safeguard measures may in that event retain them until the amendments enter into force in its territory.

#### Article 6

1. The Commission shall be assisted by the Standing Committee on the Food Chain and Animal Health, set up by Article 58 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety <sup>(1)</sup>.

2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

3. Where reference is made to this paragraph, Article 5a(1) to (4) and (5)(b) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The periods laid down in Article 5a(3)(c), (4)(b) and (4)(e) of Decision 1999/468/EC shall be set at two months, one month and two months respectively.

4. Where reference is made to this paragraph, Article 5a(1), (2), (4) and (6) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

#### Article 7

1. Member States shall take all necessary measures to ensure that the substances listed in Annex I and intended for use as extraction solvents in foodstuffs may not be marketed unless their packaging, containers or labels carry the following particulars in such a way as to be easily visible, clearly legible and indelible:

- (a) the commercial name as indicated in Annex I;
- (b) a clear indication that the material is of a quality suitable for use for the extraction of food or food ingredients;
- (c) a reference by which the batch or lot may be identified;
- (d) the name or business name and address of the manufacturer or packer or of a seller established within the Community;
- (e) the net quantity given as units of volume;
- (f) if necessary, the special storage conditions or conditions of use.

2. By way of derogation from paragraph 1, the particulars specified in points (c), (d), (e) and (f) of that paragraph may appear only on the trade documents relating to the batch or lot which are to be supplied with or prior to the delivery.

3. This Article shall be without prejudice to more precise or more extensive Community provisions regarding weights and measures or provisions applying to the classification, packaging and labelling of dangerous substances and mixtures.

4. Member States shall refrain from laying down requirements more detailed than those already contained in this Article concerning the manner in which the particulars provided are to be shown.

Each Member State shall, however, ensure that the sale of extraction solvents within its territory is prohibited if the particulars provided for in this Article do not appear in a language easily understood by purchasers, unless other measures have been taken to ensure that the purchaser is informed. This provision shall not prevent such particulars from being indicated in various languages.

#### Article 8

1. This Directive shall also apply to extraction solvents used or intended for use in the production of foodstuffs or food ingredients imported into the Community.

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



2. This Directive shall not apply to extraction solvents or foodstuffs intended for export outside the Community.

*Article 9*

Directive 88/344/EEC, as amended by the acts listed in Annex II, Part A, is repealed, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the Directives set out in Annex II, Part B.

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

*Article 10*

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

*Article 11*

This Directive is addressed to the Member States.

Done at Strasbourg, 23 April 2009.

*For the European Parliament*

*The President*

H.-G. PÖTTERING

*For the Council*

*The President*

P. NEČAS

## ANNEX I

**EXTRACTION SOLVENTS WHICH MAY BE USED DURING THE PROCESSING OF RAW MATERIALS, OF FOODSTUFFS, OF FOOD COMPONENTS OR OF FOOD INGREDIENTS**

## PART I

**Extraction solvents to be used in compliance with good manufacturing practice for all uses <sup>(1)</sup>**

Name:

Propane

Butane

Ethyl acetate

Ethanol

Carbon dioxide

Acetone <sup>(2)</sup>

Nitrous oxide

<sup>(1)</sup> An extraction solvent is considered as being used in compliance with good manufacturing practice if its use results only in the presence of residues or derivatives in technically unavoidable quantities presenting no danger to human health.

<sup>(2)</sup> The use of Acetone in the refining of olive-pomace oil is forbidden.

## PART II

**Extraction solvents for which conditions of use are specified**

Name	Conditions of use (summary description of extraction)	Maximum residue limits in the extracted foodstuff or food ingredient
Hexane <sup>(1)</sup>	Production or fractionation of fats and oils and production of cocoa butter	1 mg/kg in the fat or oil or cocoa butter
	Preparation of defatted protein products and defatted flours	10 mg/kg in the food containing the defatted protein products and the defatted flours
		30 mg/kg in the defatted soya products as sold to the final consumer
	Preparation of defatted cereal germs	5 mg/kg in the defatted cereal germs
Methyl acetate	Decaffeination of, or removal of irritants and bitterings from coffee and tea	20 mg/kg in the coffee or tea
	Production of sugar from molasses	1 mg/kg in the sugar
Ethylmethylketone <sup>(2)</sup>	Fractionation of fats and oils	5 mg/kg in the fat or oil
	Decaffeination of, or removal of irritants and bitterings from coffee and tea	20 mg/kg in the coffee or tea
Dichloromethane	Decaffeination of, or removal of irritants and bitterings from coffee and tea	2 mg/kg in the roasted coffee and 5 mg/kg in the tea
Methanol	For all uses	10 mg/kg
Propan-2-ol	For all uses	10 mg/kg

<sup>(1)</sup> Hexane means a commercial product consisting essentially of acyclic saturated hydrocarbons containing six carbon atoms and distilling between 64 °C and 70 °C. The combined use of Hexane and Ethylmethylketone is forbidden.

<sup>(2)</sup> The level of n-Hexane in this solvent should not exceed 50 mg/kg. The combined use of Hexane and Ethylmethylketone is forbidden.

## PART III

**Extraction solvents for which conditions of use are specified**

Name	Maximum residue limits in the foodstuff due to the use of extraction solvents in the preparation of flavourings from natural flavouring materials
Diethyl ether	2 mg/kg
Hexane <sup>(1)</sup>	1 mg/kg
Cyclohexane	1 mg/kg
Methyl acetate	1 mg/kg
Butan-1-ol	1 mg/kg
Butan-2-ol	1 mg/kg
Ethylmethylketone <sup>(1)</sup>	1 mg/kg
Dichloromethane	0,02 mg/kg
Propan-1-ol	1 mg/kg
1,1,1,2-tetrafluoroethane	0,02 mg/kg

<sup>(1)</sup> The combined use of Hexane and Ethylmethylketone is forbidden.

## ANNEX II

## PART A

**Repealed Directive with list of its successive amendments  
(referred to in Article 9)**

Council Directive 88/344/EEC  
(OJ L 157, 24.6.1988, p. 28)

Council Directive 92/115/EEC  
(OJ L 409, 31.12.1992, p. 31)

Directive 94/52/EC of the European Parliament and of the Council  
(OJ L 331, 21.12.1994, p. 10)

Directive 97/60/EC of the European Parliament and of the Council  
(OJ L 331, 3.12.1997, p. 7)

Regulation (EC) No 1882/2003 of the European Parliament and of the Council  
(OJ L 284, 31.10.2003, p. 1)

Point 9 of Annex III only

## PART B

**Time-limits for transposition into national law  
(referred to in Article 9)**

Directive	Time-limit for transposition
88/344/EEC	13 June 1991
92/115/EEC	a. 1 July 1993 b. 1 January 1994 <sup>(1)</sup>
94/52/EC	7 December 1995
97/60/EC	a. 27 October 1998 b. 27 April 1999 <sup>(2)</sup>

<sup>(1)</sup> In accordance with Article 2(1) of Directive 92/115/EEC:

- 'Member States shall amend their laws, regulations and administrative provisions in such a way as to:
- permit trade in products complying with this Directive at the latest by 1 July 1993,
  - prohibit trade in products not complying with this Directive with effect from 1 January 1994.'

<sup>(2)</sup> In accordance with Article 2(1) of Directive 97/60/EC:

- 'Member States shall amend their laws, regulations and administrative provisions so as to:
- authorise trade in products complying with Directive 88/344/EEC, as amended by this Directive by 27 October 1998 at the latest;
  - ban trade in products not complying with Directive 88/344/EEC, as amended by this Directive, as from 27 April 1999. However, products placed on the market or labelled before that date and not complying with Directive 88/344/EEC, as amended by this Directive, may be marketed until stocks are used up.'

## ANNEX III

## Correlation Table

Directive 88/344/EEC	This Directive
Article 1(1)	Article 1(1)
Article 1(3)	Article 1(2)
Article 2(1)	Article 2(1)
Article 2(2)	Article 2(2)
Article 2(3)	—
Article 2(4)	Article 2(3)
Article 3	Article 3
Article 4	Article 4
Article 5	Article 5
Article 6(1)	Article 6(1)
Article 6(2)	—
Article 6(3)	—
—	Article 6(2)
—	Article 6(3)
—	Article 6(4)
Article 7	Article 7
Article 8	Article 8
Article 9	—
—	Article 9
—	Article 10
Article 10	Article 11
Annex	Annex I
—	Annex II
—	Annex III

**DIRECTIVE 2009/40/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL****of 6 May 2009****on roadworthiness tests for motor vehicles and their trailers****(Recast)****(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

Having consulted the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(2)</sup>,

Whereas:

- (1) Council Directive 96/96/EC of 20 December 1996 on the approximation of the laws of the Member States relating to roadworthiness tests for motor vehicles and their trailers <sup>(3)</sup> has been substantially amended several times <sup>(4)</sup>. Since further amendments are to be made, it should be recast in the interests of clarity.
- (2) Within the framework of the common transport policy, certain road traffic within the Community should operate under the most favourable circumstances as regards both safety and competitive conditions applying to carriers in the Member States.
- (3) The growth of road traffic and the resultant increase in danger and nuisances present all Member States with safety problems of a similar nature and seriousness.
- (4) Testing during the lifecycle of a vehicle should be relatively simple, quick and inexpensive.
- (5) The minimum Community standards and methods to be used for testing the items listed in this Directive should therefore be defined in separate Directives.

(6) It is necessary to adapt rapidly to technical progress the standards and methods laid down in the separate Directives and, in order to facilitate implementation of the measures required for this purpose, to establish a procedure for close cooperation between the Member States and the Commission within a committee on the adaptation to technical progress of the Directive on roadworthiness tests for motor vehicles and their trailers.

(7) With regard to braking systems it is difficult to set values for such matters as air pressure settings and build-up times, given the variance in the equipment and methods within the Community.

(8) It is recognised by all concerned with vehicle testing that the method of testing and, in particular, whether the vehicle is tested in a laden, part-laden or unladen condition, can influence the degree of confidence testers have as to the roadworthiness of the braking system.

(9) The prescription of brake force reference values for various laden conditions for each vehicle model should help restore that confidence. This Directive should enable testing under this regime as an alternative to testing against minimum performance values for each vehicle category.

(10) With regard to braking systems the scope of this Directive should relate in the main to vehicles which have been granted component type-approval in accordance with Council Directive 71/320/EEC of 26 July 1971 on the approximation of the laws of the Member States relating to the braking devices of certain categories of motor vehicles and their trailers <sup>(5)</sup> although it is recognised that certain types of vehicle have been granted such approval in accordance with national standards which may differ from the requirements of that Directive.

(11) Member States may extend the scope of the braking test to include vehicles or test items outside the scope of this Directive.

(12) Member States may make the braking test more stringent or increase the frequency of testing.

<sup>(1)</sup> OJ C 224, 30.8.2008, p. 66.

<sup>(2)</sup> Opinion of the European Parliament of 23 September 2008 (not yet published in the Official Journal) and Council Decision of 30 March 2009.

<sup>(3)</sup> OJ L 46, 17.2.1997, p. 1.

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

<sup>(5)</sup> OJ L 202, 6.9.1971, p. 37.

- (13) This Directive is intended to maintain emissions at a low level throughout the useful life of a vehicle by means of regular exhaust emission tests and to ensure that vehicles which are major polluters are withdrawn from service until they are brought to a proper state of maintenance.
- (14) Bad tuning and inadequate maintenance are detrimental not only to the engine but also to the environment since they cause increased pollution and fuel consumption. It is important that environment-friendly transport be developed.
- (15) In the case of compression-ignition (diesel) engines measurement of the opacity of the exhaust fumes is deemed to be an adequate indicator of the condition of the vehicle's state of maintenance, with regard to emissions.
- (16) For positive-ignition (petrol) engines, measurement of carbon monoxide emissions from the exhaust pipe when the engine is idling is deemed to be an adequate indicator of the vehicle's state of maintenance, with regard to emissions.
- (17) The failure rate in exhaust-emission tests for vehicles which have not been regularly maintained may well be high.
- (18) In the case of petrol-engined vehicles for which the type-approval standards specify that they must be equipped with advanced emission control systems such as three-way catalytic converters which are lambda-probe controlled, the regular emission test standards must be more stringent than for conventional vehicles.
- (19) Directive 98/69/EC of the European Parliament and of the Council of 13 October 1998 relating to measures to be taken against air pollution by emissions from motor vehicles <sup>(1)</sup> requires the introduction, from 2000, of on-board diagnostic (OBD) systems for petrol-driven cars and light commercial vehicles to monitor the functioning of the vehicle's emission control system in service. Similarly, from 2003, OBD systems are required also for new diesel vehicles.
- (20) Member States may, if appropriate, exclude from the scope of this Directive certain vehicles that are considered to be of historic interest. They may also establish their own testing standards for such vehicles. However, such a right must not lead to the application of stricter standards than those which the vehicles concerned were originally designed to meet.
- (21) Simple, common diagnostic systems are available that can be used by testing organisations to test the vast majority of the speed limiters equipped. For those vehicles that are not accessible by such readily available diagnostic tools, the authorities will need to either make use of available equipment from the original vehicle manufacturer or provide for the acceptance of appropriate test certification from the vehicle manufacturer or its franchise organisation.
- (22) Periodic verification of the correct functioning of the speed limiter should be facilitated for the vehicles that are fitted with the new recording equipment (digital tachograph) in accordance with Council Regulation (EC) No 2135/98 of 24 September 1998 amending Regulation (EEC) No 3821/85 on recording equipment in road transport and Directive 88/599/EEC concerning the application of Regulations (EEC) No 3820/85 and (EEC) No 3821/85 <sup>(2)</sup>. Since the year 2003, new vehicles are fitted with such equipment.
- (23) Technical requirements relating to taxis and ambulances are similar to those for private cars. The items to be checked may therefore be similar, although the frequency of tests is different.
- (24) Each Member State must ensure, within its own area of jurisdiction, that roadworthiness tests are conducted methodically and to a high standard.
- (25) The Commission should verify the practical application of this Directive.
- (26) Since the objectives of the proposed action, namely to harmonise the rules on roadworthiness tests, to prevent distortion of competition as between road hauliers and to guarantee that vehicles are properly checked and maintained, cannot be achieved by the Member States acting alone and can therefore, by reason of the scale of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (27) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(3)</sup>.

<sup>(1)</sup> OJ L 350, 28.12.1998, p. 1.

<sup>(2)</sup> OJ L 274, 9.10.1998, p. 1.

<sup>(3)</sup> OJ L 184, 17.7.1999, p. 23.

- (28) In particular, the Commission should be empowered to define certain minimum standards and methods for testing and to adapt them to technical progress. Since those measures are of general scope and are designed to amend non-essential elements of this Directive by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (29) This Directive should be without prejudice to the obligations of the Member States relating to the time limits for transposition into national law of the Directives set out in Annex III, Part B,

HAVE ADOPTED THIS DIRECTIVE:

#### CHAPTER I

##### GENERAL PROVISIONS

###### Article 1

1. In each Member State, motor vehicles registered in that State and their trailers and semi-trailers shall undergo periodic roadworthiness tests in accordance with this Directive.

2. The categories of vehicles to be tested, the frequency of the roadworthiness tests and the items which must be tested are listed in Annexes I and II.

###### Article 2

The roadworthiness tests provided for in this Directive shall be carried out by the Member State, or by a public body entrusted with the task by the State or by bodies or establishments designated and directly supervised by the State, including duly authorised private bodies. In particular, where establishments designated as vehicle testing centres also perform motor vehicle repairs, Member States shall make every effort to ensure the objectivity and high quality of the vehicle testing.

###### Article 3

1. Member States shall take such measures as they deem necessary to make it possible to prove that a vehicle has passed a roadworthiness test complying with at least the provisions of this Directive.

These measures shall be notified to the other Member States and to the Commission.

2. Each Member State shall, on the same basis as if it had itself issued the proof, recognise the proof issued in another Member State showing that a motor vehicle registered on the

territory of that other State, together with its trailer or semi-trailer, has passed a roadworthiness test complying with at least the provisions of this Directive.

3. Member States shall apply suitable procedures to establish, as far as practicable, that the brake performance of the vehicles registered in their territory meets the requirements specified in this Directive.

#### CHAPTER II

##### EXCEPTIONS

###### Article 4

1. Member States shall have the right to exclude from the scope of this Directive vehicles belonging to the armed forces, the forces of law and order and the fire service.

2. Member States may, after consulting the Commission, exclude from the scope of this Directive, or subject to special provisions, certain vehicles operated or used in exceptional conditions and vehicles which are never, or hardly ever, used on public highways, including vehicles of historic interest which were manufactured before 1 January 1960 or which are temporarily withdrawn from circulation.

3. Member States may, after consulting the Commission, set their own testing standards for vehicles considered to be of historic interest.

###### Article 5

Notwithstanding the provisions of Annexes I and II, Member States may:

- (a) bring forward the date for the first compulsory roadworthiness test and, where appropriate, require the vehicle to be submitted for testing prior to registration;
- (b) shorten the interval between two successive compulsory tests;
- (c) make the testing of optional equipment compulsory;
- (d) increase the number of items to be tested;
- (e) extend the periodic test requirement to other categories of vehicles;
- (f) prescribe special additional tests;
- (g) require for vehicles registered on their territory higher minimum standards for braking efficiency than those specified in Annex II and include a test on vehicles with heavier loads, provided such requirements do not exceed those of the vehicle's original type-approval.



## CHAPTER III

## FINAL PROVISIONS

## Article 6

1. The Commission shall adopt the separate Directives necessary to define the minimum standards and methods for testing the items listed in Annex II, as well as any amendments necessary to adapt those standards and methods to technical progress.

2. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 7(2).

## Article 7

1. The Commission shall be assisted by a committee on the adaptation to technical progress of the Directive on road-worthiness tests for motor vehicles and their trailers.

2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

## Article 8

No later than three years after the introduction of regular testing of speed limitation devices, the Commission shall examine whether, on the basis of the experience gained, the tests laid down are sufficient to detect defective or manipulated speed limitation devices or whether the rules need to be amended.

## Article 9

Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field governed by this Directive.

## Article 10

Directive 96/96/EC, as amended by the acts listed in Annex III, Part A, is repealed, without prejudice to the obligations of the Member States relating to the time limits for transposition into national law of the Directives set out in Annex III, Part B.

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

## Article 11

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

## Article 12

This Directive is addressed to the Member States.

Done at Strasbourg, 6 May 2009.

For the European Parliament  
The President  
H.-G. PÖTTERING

For the Council  
The President  
J. KOHOUT

## ANNEX I

## CATEGORIES OF VEHICLES SUBJECT TO ROADWORTHINESS TESTS AND FREQUENCY OF THE TESTS

Categories of vehicle	Frequency of tests
1. Motor vehicles used for the carriage of passengers and with more than eight seats, excluding the driver's seat	One year after the date on which the vehicle was first used, and thereafter annually
2. Motor vehicles used for the carriage of goods and having a maximum permissible mass exceeding 3 500 kg	One year after the date on which the vehicle was first used, and thereafter annually
3. Trailers and semi-trailers with a maximum permissible mass exceeding 3 500 kg	One year after the date on which the vehicle was first used, and thereafter annually
4. Taxis, ambulances	One year after the date on which the vehicle was first used, and thereafter annually
5. Motor vehicles having at least four wheels, normally used for the road carriage of goods and with a maximum permissible mass not exceeding 3 500 kg, excluding agricultural tractors and machinery	Four years after the date on which the vehicle was first used, and thereafter every two years
6. Motor vehicles having at least four wheels, used for the carriage of passengers and with not more than eight seats excluding the driver's seat	Four years after the date on which the vehicle was first used, and thereafter every two years

## ANNEX II

## ITEMS TO BE COMPULSORILY TESTED

The test must cover at least the items listed below, provided that these are related to the obligatory equipment of the vehicle being tested in the Member State concerned.

The tests covered by this Annex may be carried out visually without disassembly of vehicle parts.

Where the vehicle is found to be defective with regard to the test items below, the competent authorities in the Member States must adopt a procedure for setting the conditions under which the vehicle may be used before passing another roadworthiness test.

## VEHICLES IN CATEGORIES 1, 2, 3, 4, 5 AND 6

## 1. Braking systems

The following items are to be included in the roadworthiness test of vehicle braking systems. The test results achieved during the checks on the braking systems must be equivalent as far as is practicable to the technical requirements of Directive 71/320/EEC.

<i>Items to be checked/tested</i>	<i>Reasons for failure</i>
1.1. Mechanical condition and operation	
1.1.1. Footbrake pedal pivot	<ul style="list-style-type: none"> <li>— too tight</li> <li>— bearing worn</li> <li>— excessive wear/play</li> </ul>
1.1.2. Pedal condition and travel of the brake operating device	<ul style="list-style-type: none"> <li>— excessive or insufficient reserve travel</li> <li>— brake control not releasing correctly</li> <li>— anti-slip provision on brake pedal missing, loose or worn smooth</li> </ul>
1.1.3. Vacuum pump or compressor and reservoirs	<ul style="list-style-type: none"> <li>— time taken to build up air pressure/vacuum for the effective operation of the brakes is excessive</li> <li>— insufficient air pressure/vacuum to give assistance for at least two applications of the brake after the warning device has operated (or gauge shows unsafe reading)</li> <li>— air leak causing a noticeable drop in pressure or audible air leaks</li> </ul>
1.1.4. Low pressure warning indicator or gauge	<ul style="list-style-type: none"> <li>— malfunctioning or defective low pressure indicator/air pressure gauge</li> </ul>
1.1.5. Hand-operated brake control valve	<ul style="list-style-type: none"> <li>— cracked or damaged control, excessive wear</li> <li>— malfunction of control valve</li> <li>— control insecure on valve spindle or valve unit insecure</li> <li>— connections loose or leak in system</li> <li>— unsatisfactory operation</li> </ul>
1.1.6. Parking brake, lever control, parking brake ratchet	<ul style="list-style-type: none"> <li>— parking brake ratchet not holding correctly</li> <li>— excessive wear at lever pivot or ratchet mechanism</li> <li>— excessive movement of lever indicating incorrect adjustment</li> </ul>
1.1.7. Braking valves (foot valves, unloaders, governors, etc.)	<ul style="list-style-type: none"> <li>— damaged, excessive air leakage</li> <li>— excessive discharge of oil from compressor</li> <li>— insecure/inadequate mounting</li> <li>— discharge of hydraulic brake fluid</li> </ul>
1.1.8. Couplings for trailer brakes	<ul style="list-style-type: none"> <li>— defective isolation taps or self-sealing valve</li> <li>— insecure/inadequate mounting</li> <li>— excessive leaks</li> </ul>

<i>Items to be checked/tested</i>	<i>Reasons for failure</i>
1.1.9. Energy storage reservoir pressure tank	<ul style="list-style-type: none"> <li>— damaged, corroded, leaking</li> <li>— drain device inoperative</li> <li>— insecure/inadequate mounting</li> </ul>
1.1.10. Brake servo units, master cylinder (hydraulic systems)	<ul style="list-style-type: none"> <li>— servo unit is defective or ineffective</li> <li>— master cylinder defective or leaking</li> <li>— master cylinder insecure</li> <li>— insufficient quantity of brake fluid</li> <li>— master cylinder reservoir cap missing</li> <li>— brake fluid warning lamp illuminated or defective</li> <li>— incorrect functioning of brake fluid level warning device</li> </ul>
1.1.11. Rigid brake pipes	<ul style="list-style-type: none"> <li>— risk of failure or fracture</li> <li>— leaks from pipes or connections to coupling</li> <li>— damaged or excessively corroded</li> <li>— misplaced</li> </ul>
1.1.12. Flexible brake hoses	<ul style="list-style-type: none"> <li>— risk of failure or fracture</li> <li>— damaged, chafing, brake hoses too short, twisted</li> <li>— leaks from hoses or couplings</li> <li>— hose bulging under pressure</li> <li>— porosity</li> </ul>
1.1.13. Brake coverings (lining pads)	<ul style="list-style-type: none"> <li>— excessive wear</li> <li>— contaminated (oil, grease, etc.)</li> </ul>
1.1.14. Brake drums, brake discs	<ul style="list-style-type: none"> <li>— excessive wear, excessive scoring, cracks, insecure or fractured</li> <li>— contaminated (oil, grease, etc.)</li> <li>— backplate insecure</li> </ul>
1.1.15. Brake cables, rods, levers linkage	<ul style="list-style-type: none"> <li>— cables damaged, knotted</li> <li>— excessively worn or corroded</li> <li>— cable or rod joint insecure</li> <li>— cable guide defective</li> <li>— any restriction to free movement of the braking system</li> <li>— any abnormal movement of levers/rods/linkage indicating maladjustment or excessive wear</li> </ul>
1.1.16. Brake actuators (including spring brakes or hydraulic wheel cylinders)	<ul style="list-style-type: none"> <li>— cracked or damaged</li> <li>— leaking</li> <li>— insecure/inadequate mounting</li> <li>— excessively corroded</li> <li>— excessive travel of operating piston or diaphragm mechanism</li> <li>— dust protection cover missing or excessively damaged</li> </ul>
1.1.17. Load sensing valve	<ul style="list-style-type: none"> <li>— defective linkage</li> <li>— incorrect adjustment</li> <li>— seized, not working</li> <li>— missing</li> </ul>
1.1.18. Automatic slack adjusters indicating	<ul style="list-style-type: none"> <li>— seized or abnormal movement, excessive wear or wrong adjustment</li> <li>— defective</li> </ul>

<i>Items to be checked/tested</i>	<i>Reasons for failure</i>
1.1.19. Retarder system (where fitted or required)	<ul style="list-style-type: none"> <li>— insecure connectors or mountings</li> <li>— defective</li> </ul>
1.2. Service brake performance and efficiency	
1.2.1. Performance (progressively increased to maximum effort)	<ul style="list-style-type: none"> <li>— inadequate braking effort on one or more wheels</li> <li>— braking effort from any wheel is less than 70 % of the highest recorded effort from another wheel on the same axle. In the case of brake testing on the road, the vehicle's deviation from a straight line is excessive</li> <li>— no gradual variation of brake effort (grabbing)</li> <li>— abnormal time lag in brake operation at any wheel</li> <li>— excessive fluctuation of brake effort due to distorted discs or oval drums</li> </ul>
1.2.2. Efficiency	<ul style="list-style-type: none"> <li>— a braking ratio which relates to the maximum authorised mass or, in the case of semi-trailers, to the sum of the authorised axle loads where practicable, less than the following: minimum braking efficiency: category 1: 50 % <sup>(1)</sup> category 2: 43 % <sup>(2)</sup> category 3: 40 % <sup>(3)</sup> category 4: 50 % category 5: 45 % <sup>(4)</sup> category 6: 50 %</li> <li>— or a braking effort less than the reference values if specified by the vehicle manufacturer for the vehicle axle <sup>(5)</sup></li> </ul>
1.3. Secondary (emergency) brake performance and efficiency (if met by separate system)	
1.3.1. Performance	<ul style="list-style-type: none"> <li>— brake inoperative on one side</li> <li>— braking effort from any wheel is less than 70 % of the highest recorded effort from another wheel on the same axle</li> <li>— no gradual variation of efficiency (grabbing)</li> <li>— automatic brake system not working in the case of trailers</li> </ul>
1.3.2. Efficiency	<ul style="list-style-type: none"> <li>— for all vehicle categories, a braking ratio less than 50 % <sup>(6)</sup> of the service brake performance defined in 1.2.2 in relation to the maximum authorised mass or, in the case of semi-trailers, to the sum of the authorised axle loads</li> </ul>
1.4. Parking brake performance and efficiency	
1.4.1. Performance	<ul style="list-style-type: none"> <li>— brake inoperative on one side</li> </ul>
1.4.2. Efficiency	<ul style="list-style-type: none"> <li>— for all vehicle categories, a braking ratio less than 16 % in relation to the maximum authorised mass, or, for motor vehicles, less than 12 % in relation to the maximum authorised combination mass of the vehicle, whichever is greater</li> </ul>
1.5. Retarder or exhaust brake system performance	<ul style="list-style-type: none"> <li>— no gradual variation of efficiency (retarder)</li> <li>— defective</li> </ul>

<i>Items to be checked/tested</i>	<i>Reasons for failure</i>
1.6. Anti-lock braking	— malfunction of the anti-lock warning device — defective

(<sup>1</sup>) 48 % for category 1 vehicles not fitted with ABS, or type-approved before 1 October 1991 (date of prohibition of first putting into circulation without EC component type-approval) (Directive 71/320/EEC).

(<sup>2</sup>) 45 % for vehicles registered after 1988 or from the date of application of Directive 71/320/EEC, under Member States' national legislation, whichever is the later.

(<sup>3</sup>) 43 % for semi-trailers and draw-bar trailers registered after 1988 or from the date of application of Directive 71/320/EEC, under Member States' national legislation, whichever is the later.

(<sup>4</sup>) 50 % for category 5 vehicles registered after 1988 or from the date of application of Directive 71/320/EEC, under Member States' national legislation, whichever is the later.

(<sup>5</sup>) The reference value for the vehicle axle is the braking effort (expressed in newtons) necessary to achieve this minimum prescribed braking force at the particular weight that the vehicle is presented.

(<sup>6</sup>) For category 2 and 5 vehicles the minimum secondary brake performance must be 2,2 m/s<sup>2</sup> (as the secondary brake performance was not covered by Directive 71/320/EEC).

VEHICLES IN CATEGORIES 1, 2 AND 3	VEHICLES IN CATEGORIES 4, 5 AND 6
<b>2. Steering and steering wheel</b>	<b>2. Steering</b>
2.1. Mechanical condition	2.1. Mechanical condition
2.2. Steering wheel	2.2. Steering play
2.3. Steering play	2.3. Steering system attachment
2.4. Wheel bearings	
<b>3. Visibility</b>	<b>3. Visibility</b>
3.1. Field of vision	3.1. Field of vision
3.2. Condition of glass	3.2. Condition of glass
3.3. Rear-view mirrors	3.3. Rear-view mirrors
3.4. Windscreen wipers	3.4. Windscreen wipers
3.5. Screen washers	3.5. Screen washers
<b>4. Lamps, reflectors and electrical equipment</b>	<b>4. Lighting equipment</b>
4.1. Main and dipped-beam headlamps	4.1. Main and dipped-beam headlamps
4.1.1. Condition and operation	4.1.1. Condition and operation
4.1.2. Alignment	4.1.2. Alignment
4.1.3. Switches	4.1.3. Switches
4.1.4. Visual efficiency	
4.2. Side lamps and end-outline marker lamps	4.2. Condition and operation, condition of lenses, colour and visual efficiency of:

VEHICLES IN CATEGORIES 1, 2 AND 3	VEHICLES IN CATEGORIES 4, 5 AND 6
4.2.1. Condition and operation  4.2.2. Colour and visual efficiency	4.2.1. Side and rear lamps  4.2.2. Stop lamps  4.2.3. Direction-indicator lamps  4.2.4. Reserving lamps  4.2.5. Fog lamps  4.2.6. Rear registration plate lamps  4.2.7. Retro reflectors  4.2.8. Hazard warning lamps
4.3. Stop lamps  4.3.1. Condition and operation  4.3.2. Colour and visual efficiency	
4.4. Direction-indicator lamps  4.4.1. Condition and operation  4.4.2. Colour and visual efficiency  4.4.3. Switches  4.4.4. Flashing frequency	
4.5. Front and rear fog lamps  4.5.1. Position  4.5.2. Condition and operation  4.5.3. Colour and visual efficiency	
4.6. Reversing lamps  4.6.1. Condition and operation  4.6.2. Colour and visual efficiency	

VEHICLES IN CATEGORIES 1, 2 AND 3	VEHICLES IN CATEGORIES 4, 5 AND 6
4.7. Rear registration plate lamp	
4.8. Retro reflectors — condition and colour	
4.9. Telltales	
4.10. Electrical connections between drawing vehicle and trailer or semi-trailer	
4.11. Electrical wiring	
<b>5. Axles, wheels, tyres, suspension</b>	<b>5. Axles, wheels, tyres, suspension</b>
5.1. Axles	5.1. Axles
5.2. Wheels and tyres	5.2. Wheels and tyres
5.3. Suspension	5.3. Suspension
<b>6. Chassis and chassis attachments</b>	<b>6. Chassis and chassis attachments</b>
6.1. Chassis or frame and attachments	6.1. Chassis or frame and attachments
6.1.1. General condition	6.1.1. General condition
6.1.2. Exhaust pipes and silencers	6.1.2. Exhaust pipes and silencers
6.1.3. Fuel tank or pipes	6.1.3. Fuel tank or pipes
6.1.4. Geometric properties and condition of rear protective device, heavy lorries	6.1.4. Spare-wheel carrier
6.1.5. Spare-wheel carrier	6.1.5. Security of coupling mechanism (if fitted)
6.1.6. Coupling mechanism on drawing vehicles, trailers and semi-trailers	
6.2. Cab and bodywork	6.2. Bodywork
6.2.1. General condition	6.2.1. Structural condition
6.2.2. Mounting	6.2.2. Doors and locks
6.2.3. Doors and locks	
6.2.4. Floor	
6.2.5. Driver's seat	
6.2.6. Running boards	
<b>7. Other equipment</b>	<b>7. Other equipment</b>
7.1. Safety belts	7.1. Mounting of driver's seat
7.2. Fire extinguisher	7.2. Mounting of battery
7.3. Locks and anti-theft device	7.3. Audible warning device
7.4. Warning triangle	7.4. Warning triangle
7.5. First-aid kit	7.5. Safety belts
7.5.1. Security of mountings	7.5.2. Condition of belts
7.5.3. Operation	
7.6. Wheel chock(s)	
7.7. Audible warning device	



VEHICLES IN CATEGORIES 1, 2 AND 3	VEHICLES IN CATEGORIES 4, 5 AND 6
7.8. Speedometer	
7.9. Tachograph (presence of, and integrity of seals) <ul style="list-style-type: none"> <li>— check validity of tachograph plate if required by Regulation (EEC) No 3821/85 <sup>(1)</sup></li> <li>— check, if in doubt, whether the nominal circumference or size of tyre matches the data given on the tachograph plate</li> <li>— where practical, check that the seals of the tachograph and, where appropriate, any other means of protecting the connections against fraudulent manipulation are intact</li> </ul>	
7.10. Speed limitation device <ul style="list-style-type: none"> <li>— where possible, check whether speed limiter is fitted as required by Directive 92/6/EEC <sup>(2)</sup></li> <li>— check validity of speed limiter plate</li> <li>— where practical, check that the seals of the speed limiter and, where appropriate, any other means of protecting the connections against fraudulent manipulation are intact</li> <li>— check where practical that the speed limitation device prevents vehicles mentioned in Article 2 and Article 3 of Directive 92/6/EEC from exceeding the prescribed values</li> </ul>	
<b>8. Nuisance</b>	<b>8. Nuisance</b>
8.1. Noise	8.1. Noise
<p><sup>(1)</sup> Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport (OJ L 370, 31.12.1985, p. 8).</p> <p><sup>(2)</sup> Council Directive 92/6/EEC of 10 February 1992 on the installation and use of speed limitation devices for certain categories of motor vehicles in the Community (OJ L 57, 2.3.1992, p. 27).</p>	

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VEHICLES IN CATEGORIES 1, 2, 3, 4, 5 AND 6

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## 8.2. Exhaust emissions

## 8.2.1. Motor vehicles equipped with positive-ignition engines and fuelled by petrol

(a) Where the exhaust emissions are not controlled by an advanced emission control system such as a three-way catalytic converter that is lambda-probe controlled:

1. Visual inspection of the exhaust system in order to check that it is complete and in a satisfactory condition and that there are no leaks.
2. Visual inspection of any emission control equipment fitted by the manufacturer in order to check that it is complete and in a satisfactory condition and that there are no leaks.

After a reasonable period of engine conditioning (taking account of manufacturer's recommendations) the carbon monoxide (CO) content of the exhaust gases is measured when the engine is idling (no load).

The maximum permissible CO content in the exhaust gases is that stated by the vehicle manufacturer. Where this information is not available or where the Member States' competent authorities decide not to use it as a reference value, the CO content must not exceed the following:

- (i) for vehicles registered or put into service for the first time between the date from which Member States required the vehicles to comply with Directive 70/220/EEC <sup>(1)</sup> and 1 October 1986: CO — 4,5 % vol.;

<sup>(1)</sup> Council Directive 70/220/EEC of 20 March 1970 on the approximation of the laws of the Member States on measures to be taken against air pollution by emissions from motor vehicles (OJ L 76, 6.4.1970, p. 1).

- (ii) for vehicles registered or put into service for the first time after 1 October 1986 — 3,5 % vol.
- (b) Where the exhaust emissions are controlled by an advanced emission control system such as a three-way catalytic converter that is lambda-probe controlled:
  1. Visual inspection of the exhaust system in order to check that it is complete and in a satisfactory condition and that there are no leaks.
  2. Visual inspection of any emission control equipment fitted by the manufacturer in order to check that it is complete and in a satisfactory condition and that there are no leaks.
  3. Determination of the efficiency of the vehicle's emission control system by measuring the lambda value and the CO content of the exhaust gases in accordance with point 4 or with the procedures proposed by the manufacturers and approved at the time of type-approval. For each of the tests the engine is conditioned in accordance with the vehicle manufacturer's recommendations.
  4. Exhaust pipe emissions — limit values

The maximum permissible CO content in the exhaust gases is that stated by the vehicle manufacturer.

Where this information is not available the CO content must not exceed the following:

- (i) Measurement at engine idling speed:

The maximum permissible CO content in the exhaust gases must not exceed 0,5 % vol. and for vehicles that have been type-approved according to the limit values shown in row A or row B of the table in point 5.3.1.4 of Annex I to Directive 70/220/EEC; the maximum CO content must not exceed 0,3 % vol. Where compliance with Directive 70/220/EEC is not possible then the above shall apply to vehicles registered or first put into service after 1 July 2002.

- (ii) Measurement at high idle speed (no load), engine speed to be at least 2 000 min<sup>-1</sup>:

CO content: maximum 0,3 % vol. and for vehicles that have been type-approved according to the limit values shown in row A or row B of the table in point 5.3.1.4 of Annex I to Directive 70/220/EEC; the maximum CO content must not exceed 0,2 % vol. Where compliance with Directive 70/220/EEC is not possible then the above shall apply to vehicles registered or first put into service after 1 July 2002.

Lambda:  $1 \pm 0,03$  or in accordance with the manufacturer's specifications.

- (iii) For motor vehicles equipped with on-board diagnostic systems (OBD) in accordance with Directive 70/220/EEC Member States may as an alternative to the test specified in item (i) establish the correct functioning of the emission system through the appropriate reading of the OBD device and the simultaneous checking of the proper functioning of the OBD system.

#### 8.2.2. Motor vehicles equipped with compression-ignition (diesel) engines

- (a) Exhaust gas opacity to be measured during free acceleration (no load from idle up to cut-off speed) with gear lever in neutral and clutch engaged.
- (b) Vehicle preconditioning:
  1. Vehicles may be tested without preconditioning although for safety reasons checks should be made that the engine is warm and in a satisfactory mechanical condition.
  2. Except as specified in point (d)(5), no vehicle will be failed unless it has been preconditioned according to the following requirements:
    - (i) Engine shall be fully warm, for instance the engine oil temperature measured by a probe in the oil level dipstick tube to be at least 80 °C, or normal operating temperature if lower, or the engine block temperature measured by the level of infrared radiation to be at least an equivalent temperature. If, owing to vehicle configuration, this measurement is impractical, the establishment of the engine's normal operating temperature may be made by other means, for example by the operation of the engine cooling fan.
    - (ii) Exhaust system shall be purged by at least three free acceleration cycles or by an equivalent method.
- (c) Test procedure:
  1. Visual inspection of any emission control equipment fitted by the manufacturer in order to check that it is complete and in a satisfactory condition and that there are no leaks.
  2. Engine and any turbocharger fitted, to be at idle before the start of each free acceleration cycle. For heavy-duty diesels, this means waiting for at least 10 seconds after the release of the throttle.

3. To initiate each free acceleration cycle, the throttle pedal must be fully depressed quickly and continuously (in less than one second) but not violently, so as to obtain maximum delivery from the injection pump.
4. During each free acceleration cycle, the engine shall reach cut-off speed or, for vehicles with automatic transmissions, the speed specified by the manufacturer or if this data is not available then two-thirds of the cut-off speed, before the throttle is released. This could be checked, for instance, by monitoring engine speed or by allowing a sufficient time to elapse between initial throttle depression and release, which in the case of vehicles of category 1 and 2 of Annex I should be at least two seconds.

(d) Limit values:

1. The level of concentration must not exceed the level recorded on the plate pursuant to Directive 72/306/EEC <sup>(1)</sup>.
2. Where this information is not available or where Member States' competent authorities decide not to use it as a reference, the level of concentration must not exceed the level stated by the manufacturer or the limit values of the coefficient of absorption that are as follows:

Maximum coefficient of absorption for:

- naturally aspirated diesel engines = 2,5 m<sup>-1</sup>,
- turbo-charged diesel engines = 3,0 m<sup>-1</sup>,
- a limit of 1,5 m<sup>-1</sup> shall apply to the following vehicles that have been type-approved according to the limit values shown in:

- (a) row B of the table in point 5.3.1.4 of Annex I to Directive 70/220/EEC (Light Duty Vehicle Diesel — Euro 4);
- (b) row B1 of the tables in point 6.2.1 of Annex I to Directive 88/77/EEC <sup>(2)</sup> (Heavy Duty Vehicle Diesel — Euro 4);
- (c) row B2 of the tables in point 6.2.1 of Annex I to Directive 88/77/EEC (Heavy Duty Vehicle Diesel — Euro 5);
- (d) row C of the tables in point 6.2.1 of Annex I to Directive 88/77/EEC (Heavy Duty Vehicle — EEV)

or limit values in later amendments of Directive 70/220/EEC or limit values in later amendments of Directive 88/77/EEC or equivalent values where use is made of equipment of a type different from that used for EC type-approval.

Where compliance with point 5.3.1.4 of Annex I to Directive 70/220/EEC or with point 6.2.1 of Annex I to Directive 88/77/EEC is not possible then the above shall apply to vehicles registered or first put into service after 1 July 2008.

3. Vehicles registered or put into service for the first time before 1 January 1980 are exempted from these requirements.
4. Vehicles shall only be failed if the arithmetic means of at least the last three free acceleration cycles are in excess of the limit value. This may be calculated by ignoring any measurement that departs significantly from the measured mean, or the result of any other statistical calculation that takes account of the scattering of the measurements. Member States may limit the number of test cycles.

<sup>(1)</sup> Council Directive 72/306/EEC of 2 August 1972 on the approximation of the laws of the Member States relating to the measures to be taken against the emission of pollutants from diesel engines for use in vehicles (OJ L 190, 20.8.1972, p. 1).

<sup>(2)</sup> Council Directive 88/77/EEC of 3 December 1987 on the approximation of the laws of the Member States relating to the measures to be taken against the emission of gaseous and particulate pollutants from compression-ignition engines for use in vehicles, and the emission of gaseous pollutants from positive ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles (OJ L 36, 9.2.1988, p. 33).

5. To avoid unnecessary testing, Member States may, by way of exception from the provisions of point 8.2.2(d)(4), fail vehicles which have measured values significantly in excess of the limit values after less than three free acceleration cycles or after the purging cycles (or equivalent) specified in point 8.2.2(b)2(ii). Equally to avoid unnecessary testing, Member States may, by way of exception from the provisions of point 8.2.2(d)(4), pass vehicles which have measured values significantly below the limits after less than three free acceleration cycles or after the purging cycles (or equivalent) specified in point 8.2.2(b)2(ii).

#### 8.2.3. Test equipment

Vehicle emissions are tested using equipment designed to establish accurately whether the limit values prescribed or indicated by the manufacturer have been complied with.

- 8.2.4. Where, during EC type-approval, a type of vehicle is found not to have satisfied the limit values laid down by this directive, the Member States may lay down higher limit values for that type of vehicle on the basis of proof supplied by the manufacturer. They must forthwith inform the Commission thereof and it in turn must inform the other Member States.

VEHICLES IN CATEGORIES 1, 2 AND 3	VEHICLES IN CATEGORIES 4, 5 AND 6
8.3. Suppression of radio interference	
<b>9. Supplementary tests for public transport vehicles</b>	
9.1. Emergency exit(s) (including hammers for breaking windows), signs indicating emergency exit(s)	
9.2. Heating system	
9.3. Ventilation system	
9.4. Seat layout	
9.5. Interior lighting	
<b>10. Vehicle identification</b>	<b>10. Vehicle identification</b>
10.1. Registration plate	10.1. Registration plate
10.2. Chassis number	10.2. Chassis number

## ANNEX III

## PART A

**Repealed Directive with list of its successive amendments  
(referred to in Article 10)**

Council Directive 96/96/EC  
(OJ L 46, 17.2.1997, p. 1)

Commission Directive 1999/52/EC  
(OJ L 142, 5.6.1999, p. 26)

Commission Directive 2001/9/EC  
(OJ L 48, 17.2.2001, p. 18)

Commission Directive 2001/11/EC  
(OJ L 48, 17.2.2001, p. 20)

Commission Directive 2003/27/EC  
(OJ L 90, 8.4.2003, p. 41)

Regulation (EC) No 1882/2003 of the European Parliament  
and of the Council  
(OJ L 284, 31.10.2003, p. 1)

only Annex III, point 68

## PART B

**Time limits for transposition into national law  
(referred to in Article 10)**

Directive	Time limit for transposition
96/96/EC	9 March 1998
1999/52/EC	30 September 2000
2001/9/EC	9 March 2002
2001/11/EC	9 March 2003
2003/27/EC	1 January 2004

## ANNEX IV

## CORRELATION TABLE

Directive 96/96/EC	This Directive
Articles 1 to 4	Articles 1 to 4
Article 5, introductory wording	Article 5, introductory wording
Article 5, first to seventh indents	Article 5, points (a) to (g)
Article 6	—
Article 7	Article 6(1)
—	Article 6(2)
Article 8(1)	Article 7(1)
Article 8(2), first subparagraph	Article 7(2)
Article 8(2), second subparagraph	—
Article 8(3)	—
Article 9(1)	—
Article 9(2)	Article 8
Article 10	—
Article 11(1)	—
Article 11(2)	Article 9
Article 11(3)	—
—	Article 10
Article 12	Article 11
Article 13	Article 12
Annexes I and II	Annexes I and II
Annexes III and IV	—
—	Annex III
—	Annex IV

**DIRECTIVE 2009/42/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of 6 May 2009**

**on statistical returns in respect of carriage of goods and passengers by sea**

**(Recast)**

**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 285(1) thereof,

Having regard to the proposal from the Commission,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(1)</sup>,

Whereas:

- (1) Council Directive 95/64/EC of 8 December 1995 on statistical returns in respect of carriage of goods and passengers by sea <sup>(2)</sup> has been substantially amended several times <sup>(3)</sup>. Since further amendments are to be made, it should be recast in the interests of clarity.
- (2) To carry out the tasks entrusted to it in the context of the common maritime transport policy, the Commission (Eurostat) should have at its disposal comparable, reliable, synchronised and regular statistical data on the scale and development of the carriage of goods and passengers by sea to and from the Community, between Member States and for domestic sea transport.
- (3) It is also important for Member States and economic operators to have a good knowledge of the maritime transport market.
- (4) The collection of Community statistical data on a comparable or harmonised basis makes it possible to establish an integrated system providing reliable, consistent and up-to-date information.
- (5) The data on the transport of goods and passengers by sea have to be made comparable between Member States and between the different modes of transport.
- (6) In accordance with the principle of subsidiarity, the creation of common statistical standards enabling harmonised information to be produced can only be tackled efficiently at Community level. Data will be collected in each Member State under the authority of the bodies and institutions in charge of compiling official statistics.

- (7) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(4)</sup>.
- (8) In particular, the Commission should be empowered to adopt certain detailed rules for implementing this Directive. Since those measures are of general scope and are designed to amend non-essential elements of this Directive, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (9) The new elements introduced into this Directive only concern the committee procedures. They therefore do not need to be transposed by the Member States.
- (10) This Directive should be without prejudice to the obligations of the Member States relating to the time limits for transposition into national law of the Directive set out in Annex IX, Part B,

HAVE ADOPTED THIS DIRECTIVE:

*Article 1*

**Collection of statistical data**

Member States shall collect Community statistics on the carriage of goods and passengers by seagoing vessels calling at ports in their territories.

*Article 2*

**Definitions**

For the purposes of this Directive:

- (a) 'carriage of goods and passengers by sea' means the movement of goods and passengers using seagoing vessels, on voyages which are undertaken wholly or partly at sea.

The scope of this Directive shall also include goods:

- (i) shipped to offshore installations;
- (ii) reclaimed from the seabed and unloaded in ports.

<sup>(1)</sup> Opinion of the European Parliament of 21 October 2008 (not yet published in the Official Journal) and Council Decision of 23 April 2009.

<sup>(2)</sup> OJ L 320, 30.12.1995, p. 25.

<sup>(3)</sup> See Annex IX, Part A.

<sup>(4)</sup> OJ L 184, 17.7.1999, p. 23.

Bunkers and stores supplied to vessels shall be excluded from the scope of this Directive;

- (b) 'seagoing vessels' means vessels other than those which navigate exclusively in inland waters or in waters within, or closely adjacent to, sheltered waters or areas where port regulations apply.

This Directive shall not apply to fish-catching vessels, fish-processing vessels, vessels for drilling and exploration, tugs, pusher craft, research and survey vessels, dredgers, naval vessels or vessels used solely for non-commercial purposes;

- (c) 'port' means a place having facilities for merchant ships to moor and to load or unload cargo or to disembark or embark passengers to or from vessels;
- (d) 'nationality of the maritime transport operator' means that corresponding to the country in which the effective centre of the transport operator's commercial activity is located;
- (e) 'maritime transport operator' means any person by whom or on behalf of whom a contract for the transport of goods or persons by sea is concluded with a shipper or a passenger.

### Article 3

#### Data collection characteristics

1. Member States shall collect data relating to:
- (a) cargo and passenger information;
- (b) information on the vessel.

Vessels with a gross tonnage of less than 100 may be excluded from the data collection.

2. The characteristics of the data collection, namely the statistical variables in each domain and the nomenclatures for their classification, as well as their periodicity of observation, are set out in Annexes I to VIII.
3. The data collection shall be based, in so far as possible, on available sources, limiting the burden on respondents.
4. The Commission shall adapt the data collection characteristics and the content of Annexes I to VIII to economic and technical developments in so far as such adaptation does not involve a substantial increase in cost for the Member States and/or in the burden on respondents.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 10(3).

### Article 4

#### Ports

1. For the purposes of this Directive, the Commission shall draw up a list of ports, coded and classified according to countries and maritime coastal areas.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 10(3).

2. Each Member State shall select from the list referred to in paragraph 1 any port handling more than one million tonnes of goods or recording more than 200 000 passenger movements annually.

For each port selected, detailed data are to be provided, in conformity with Annex VIII, for the domains (goods and passengers) in which that port meets the selection criterion, and with summary data, if appropriate, for the other domain.

3. For the ports which are not selected from the list, summary data are to be provided in conformity with Annex VIII, data set A3.

### Article 5

#### Accuracy of statistics

The methods of collecting data shall be such that Community sea transport statistics display the precision required for the statistical data sets described in Annex VIII.

The Commission shall draw up the standards of accuracy.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 10(3).

### Article 6

#### Processing of the results of the data collection

Member States shall process the statistical information collected pursuant to Article 3, in order to obtain comparable statistics, with the standard of accuracy referred to in Article 5.

### Article 7

#### Transmission of the results of the data collection

1. Member States shall transmit the results of the data collection referred to in Article 3 to the Commission (Eurostat), including the data declared confidential by the Member States pursuant to domestic legislation or practice concerning statistical confidentiality, in accordance with Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics <sup>(1)</sup>.

<sup>(1)</sup> OJ L 87, 31.3.2009, p. 164.



2. The results shall be transmitted in accordance with the structure of the statistical data sets defined in Annex VIII. The technical details for transmission of the results shall be specified in accordance with the management procedure referred to in Article 10(2).

3. The transmission of the results shall take place within five months of the end of the period of observation for data of quarterly periodicity and within eight months for data of annual periodicity.

The first transmission shall cover the first quarter of 1997.

#### Article 8

##### Reports

Member States shall provide the Commission (Eurostat) with all relevant information on the methods used in compiling the data. They shall also forward details of substantial changes in the methods used to collect the data.

#### Article 9

##### Dissemination of statistical data

The Commission (Eurostat) shall disseminate appropriate statistical data with a periodicity comparable to that of the results transmitted.

The arrangements for publication or dissemination of the statistical data by the Commission (Eurostat) shall be adopted in accordance with the management procedure referred to in Article 10(2).

#### Article 10

##### Committee procedure

1. The Commission shall be assisted by the European Statistical System Committee set up by Regulation (EC) No 223/2009.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at three months.

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

#### Article 11

##### Communication of national provisions

Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field governed by this Directive.

#### Article 12

##### Repeal

Directive 95/64/EC, as amended by the acts listed in Annex IX, Part A, is repealed, without prejudice to the obligations of the Member States relating to the time limits for transposition into national law of the Directive set out in Annex IX, Part B.

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

#### Article 13

##### Entry into force

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

#### Article 14

##### Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 6 May 2009.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J. KOHOUT

## ANNEX I

## VARIABLES AND DEFINITIONS

## 1. Statistical Variables

(a) *Cargo and passenger information*

- Gross weight of goods in tonnes,
- type of cargo, according to the nomenclature shown in Annex II,
- description of the goods, using the nomenclature shown in Annex III,
- reporting port,
- direction of movement, whether inwards or outwards,
- for inward cargo: the port of loading (i.e. the port in which the cargo was loaded on to the ship in which it arrived in the reporting port) using individual ports in the European Economic Area (EEA) countries shown in the port list, and the maritime coastal areas outside the EEA countries, shown in Annex IV,
- for outward cargo: the port of unloading (i.e. the port in which the cargo is to be unloaded from the ship in which it left the reporting port) using individual ports in the EEA countries shown in the port list, and the maritime coastal areas outside the EEA countries, shown in Annex IV,
- number of passengers starting or finishing a voyage as well as number of cruise passengers on a cruise passenger excursion.

For goods carried in containers or ro-ro units, the following additional particulars shall be provided:

- total number of containers (with and without cargo),
- number of containers without cargo,
- total number of mobile (ro-ro) units with and without cargo,
- number of mobile (ro-ro) units without cargo.

(b) *Information on the vessel*

- Number of vessels;
- deadweight of vessels or gross tonnage;
- country or territory of registration of vessels, using the nomenclature shown in Annex V;
- type of vessels, using the nomenclature shown in Annex VI;
- size of vessels, using the nomenclature shown in Annex VII.

## 2. Definitions

## (a) 'Freight container' means an article of transport equipment:

1. of a permanent nature and accordingly strong enough to be suitable for repeated use;
2. specially designed to facilitate the carriage of goods by one or more modes of transport, without intermediate reloading;
3. fitted with devices permitting its ready handling, particularly its transfer from one mode of transport to another;
4. so designed as to be easy to fill and empty;
5. having a length of 20 feet or more.

- (b) 'Ro-ro unit' means wheeled equipment for carrying cargo, such as a truck, trailer or semi-trailer, which can be driven or towed on to a vessel. Port or ships' trailers are included in this definition. Classifications should follow United Nations ECE Recommendation No 21 'Codes for types of cargo, packages and packaging materials'.
  - (c) 'Container cargo' means containers with or without cargo which are lifted on or off the vessels which carry them by sea.
  - (d) 'Ro-ro cargo' means goods, whether or not in containers, on ro-ro units, and ro-ro units which are rolled on and off the vessels which carry them by sea.
  - (e) 'Gross weight of goods' means the tonnage of goods carried, including packaging but excluding the tare weight of containers or ro-ro units.
  - (f) 'Deadweight (DWT)' means the difference in tonnes between the displacement of a ship on summer load-line in water with a specific gravity of 1,025 and the total weight of the ship, i.e. the displacement in tonnes of a ship without cargo, fuel, lubricating oil, ballast water, fresh water and drinking water in the tanks, usable supplies as well as passengers, crew and their possessions.
  - (g) 'Gross tonnage' means the measure of the overall size of a ship determined in accordance with the provisions of the International Convention on Tonnage Measurement of Ships, 1969.
  - (h) 'Cruise passenger' means a sea passenger making a sea journey on a cruise ship. Passengers on day excursions are excluded.
  - (i) 'Cruise ship' means a passenger ship intended to provide passengers with a full tourist experience. All passengers have cabins. Facilities for entertainment aboard are included. Ships operating normal ferry services are excluded, even if some passengers treat the service as a cruise. In addition, cargo-carrying vessels able to carry a very limited number of passengers with their own cabins are also excluded. Ships intended solely for day excursions are also excluded.
  - (j) 'Cruise passenger excursion' means a short visit by a cruise passenger to a tourist attraction associated with a port while retaining a cabin on board.
-

## ANNEX II

## TYPE OF CARGO CLASSIFICATION

Category <sup>(1)</sup>	Code 1 digit	Code 2 digits	Description	Tonnage	Number
Liquid bulk	1	1X	Liquid bulk goods (no cargo unit)	X	
		11	Liquefied gas	X	
		12	Crude oil	X	
		13	Oil products	X	
		19	Other liquid bulk goods	X	
Dry bulk	2	2X	Dry bulk goods (no cargo unit)	X	
		21	Ores	X	
		22	Coal	X	
		23	Agricultural products (e.g. grain, soya, tapioca)	X	
		29	Other dry bulk goods	X	
Containers	3	3X	Large containers	X <sup>(2)</sup>	X
		31	20 ft freight units	X <sup>(2)</sup>	X
		32	40 ft freight units	X <sup>(2)</sup>	X
		33	Freight units > 20 ft and < 40 ft	X <sup>(2)</sup>	X
		34	Freight units > 40 ft	X <sup>(2)</sup>	X
Roll-on roll-off (self-propelled)	5	5X	Mobile self-propelled units	X	X
		51	Road goods vehicles and accompanying trailers	X <sup>(2)</sup>	X
		52	Passenger cars, motorcycles and accompanying trailers/ caravans		X <sup>(3)</sup>
		53	Passenger buses		X <sup>(3)</sup>
		54	Trade vehicles (including import/export motor vehicles)	X	X <sup>(3)</sup>
		56	Live animals on the hoof	X	X <sup>(3)</sup>
		59	Other mobile self-propelled units	X	X
Roll-on roll-off (non-self-propelled)	6	6X	Mobile non-self-propelled units	X	X
		61	Unaccompanied road goods trailers and semi-trailers	X <sup>(2)</sup>	X
		62	Unaccompanied caravans and other road, agricultural and industrial vehicles		X <sup>(3)</sup>
		63	Rail wagons, shipborne port-to-port trailers, and shipborne barges engaged in goods transport	X <sup>(2)</sup>	X
		69	Other mobile non-self-propelled units	X	X
Other general cargo (including small containers)	9	9X	Other cargo, not elsewhere specified	X	
		91	Forestry products	X	
		92	Iron and steel products	X	
		99	Other general cargo	X	

<sup>(1)</sup> These categories are consistent with United Nations ECE Recommendation No 21.

<sup>(2)</sup> The quantity recorded is the gross weight of the goods including packaging but excluding the tare weight of containers and ro-ro units.

<sup>(3)</sup> Only total number of units.

## ANNEX III

## NST 2007

Division	Description
01	Products of agriculture, hunting, and forestry; fish and other fishing products
02	Coal and lignite; crude petroleum and natural gas
03	Metal ores and other mining and quarrying products; peat; uranium and thorium
04	Food products, beverages and tobacco
05	Textiles and textile products; leather and leather products
06	Wood and products of wood and cork (except furniture); articles of straw and plaiting materials; pulp, paper and paper products; printed matter and recorded media
07	Coke and refined petroleum products
08	Chemicals, chemical products, and man-made fibres; rubber and plastic products; nuclear fuel
09	Other non-metallic mineral products
10	Basic metals; fabricated metal products, except machinery and equipment
11	Machinery and equipment n.e.c.; office machinery and computers; electrical machinery and apparatus n.e.c.; radio, television and communication equipment and apparatus; medical, precision and optical instruments; watches and clocks
12	Transport equipment
13	Furniture; other manufactured goods n.e.c.
14	Secondary raw materials; municipal wastes and other wastes
15	Mail, parcels
16	Equipment and material utilised in the transport of goods
17	Goods moved in the course of household and office removals; baggage transported separately from passengers; motor vehicles being moved for repair; other non-market goods n.e.c.
18	Grouped goods: a mixture of types of goods which are transported together
19	Unidentifiable goods: goods which for any reason cannot be identified and therefore cannot be assigned to groups 01-16
20	Other goods n.e.c.

## ANNEX IV

**MARITIME COASTAL AREAS**

The nomenclature to be used is the Geonomenclature (the nomenclature of countries and territories for the external trade statistics of the Community and statistics of trade between Member States, drawn up in accordance with Article 9 of Council Regulation (EC) No 1172/95 of 22 May 1995 on the statistics relating to the trading of goods by the Community and its Member States with non-member countries <sup>(1)</sup>) in force in the year to which the data refer.

The code consists of four digits: the ISO alpha 2 standard code for each country from the abovementioned nomenclature, followed by two zeros (e.g. code GR00 for Greece), except for countries which are divided into two or more maritime coastal areas, which are identified by a fourth digit other than zero (from 1 to 7), as below:

<i>Code</i>	<i>Maritime coastal areas</i>
FR01	France: Atlantic and North Sea
FR02	France: Mediterranean
FR03	French overseas departments: French Guiana
FR04	French overseas departments: Martinique and Guadeloupe
FR05	French overseas departments: Réunion
DE01	Germany: North Sea
DE02	Germany: Baltic
DE03	Germany: Inland
GB01	United Kingdom
GB02	Isle of Man
GB03	Channels Islands
ES01	Spain: Atlantic (North)
ES02	Spain: Mediterranean and Atlantic (South), including the Balearic and Canary Islands
SE01	Sweden: Baltic
SE02	Sweden: North Sea
TR01	Turkey: Black Sea
TR02	Turkey: Mediterranean
RU01	Russia: Black Sea
RU02	Russia: Baltic
RU03	Russia: Asia
MA01	Morocco: Mediterranean
MA02	Morocco: West Africa
EG01	Egypt: Mediterranean
EG02	Egypt: Red Sea
IL01	Israel: Mediterranean
IL02	Israel: Red Sea
SA01	Saudi Arabia: Red Sea
SA02	Saudi Arabia: Gulf
US01	United States of America: Atlantic (North)
US02	United States of America: Atlantic (South)
US03	United States of America: Gulf
US04	United States of America: Pacific (South)
US05	United States of America: Pacific (North)

<sup>(1)</sup> OJ L 118, 25.5.1995, p. 10.

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<i>Code</i>	<i>Maritime coastal areas</i>
US06	United States of America: Great Lakes
US07	Puerto Rico
CA01	Canada: Atlantic
CA02	Canada: Great Lakes and Upper Saint Lawrence
CA03	Canada: West Coast
CO01	Colombia: North Coast
CO02	Colombia: West Coast
	<i>With the additional codes</i>
ZZ01	Offshore installations
ZZ02	Aggregates and not elsewhere specified

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## ANNEX V

**NATIONALITY OF REGISTRATION OF VESSELS**

The nomenclature to be used is the Geonomenclature (the nomenclature of countries and territories for the external trade statistics of the Community and statistics of trade between Member States drawn up in accordance with Article 9 of Regulation (EC) No 1172/95) in force in the year to which the data refer.

The code consists of four digits: the ISO alpha 2 standard code for each country from the above-mentioned nomenclature, followed by two zeros (e.g. code GR00 for Greece), except for countries with more than one register which are identified by a fourth digit other than zero, as below:

FR01	France
FR02	French Antarctic Territory (including the Kerguelen Islands)
IT01	Italy — first register
IT02	Italy — international register
GB01	United Kingdom
GB02	Isle of Man
GB03	Channel Islands
GB04	Gibraltar
DK01	Denmark
DK02	Denmark (DIS)
PT01	Portugal
PT02	Portugal (MAR)
ES01	Spain
ES02	Spain (Rebeca)
NO01	Norway
NO02	Norway (NIS)
US01	United States of America
US02	Puerto Rico

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## ANNEX VI

## TYPE OF SHIP CLASSIFICATION (ICST-COM)

	Type	Ship categories included
10	Liquid bulk	Oil tanker Chemical tanker LG tanker Tanker barge Other tanker
20	Dry bulk	Bulk/oil carrier Bulk carrier
31	Container	Full container
32	Specialised	Barge carrier Chemical carrier Irradiated fuel Livestock carrier Vehicle carrier Other specialised
33	General cargo, non-specialised	Reefer Ro-ro passenger Ro-ro container Other ro-ro cargo Combination carrier general cargo/passenger Combination carrier general cargo/container Single-decker Multi-decker
34	Dry cargo barge	Deck barge Hopper barge Lash-seabee barge Open dry cargo barge Covered dry cargo barge Other dry cargo barge nes
35	Passenger	Passenger (excluding cruise passengers)
36	Cruise Passenger	Cruise ships only
41	Fishing	Fish catching (*) Fish processing (*)
42	Offshore activities	Drilling and exploration (*) Offshore support (*)
43	Tugs	Tugs (*) Pusher craft (*)
49	Miscellaneous	Dredgers (*) Research/survey (*) Other vessel nes (*)
XX	Unknown	Unknown type of vessel

(\*) Not covered by this Directive.

## ANNEX VII

## VESSEL SIZE CLASSES

in deadweight (DWT) or in gross tonnage (GT)

This classification applies only to vessels with a gross tonnage of 100 or more.

Class	Lower limit		Upper limit	
	DWT	GT	DWT	GT
01	—	100	up to 499	up to 499
02	500	500	999	999
03	1 000	1 000	1 999	1 999
04	2 000	2 000	2 999	2 999
05	3 000	3 000	3 999	3 999
06	4 000	4 000	4 999	4 999
07	5 000	5 000	5 999	5 999
08	6 000	6 000	6 999	6 999
09	7 000	7 000	7 999	7 999
10	8 000	8 000	8 999	8 999
11	9 000	9 000	9 999	9 999
12	10 000	10 000	19 999	19 999
13	20 000	20 000	29 999	29 999
14	30 000	30 000	39 999	39 999
15	40 000	40 000	49 999	49 999
16	50 000	50 000	79 999	79 999
17	80 000	80 000	99 999	99 999
18	100 000	100 000	149 999	149 999
19	150 000	150 000	199 999	199 999
20	200 000	200 000	249 999	249 999
21	250 000	250 000	299 999	299 999
22	≥ 300 000	≥ 300 000	—	—

NB: If vessels with a gross tonnage of less than 100 were to be included pursuant to this Directive, they would be allocated class code '99'.

## ANNEX VIII

## STRUCTURE FOR STATISTICAL DATA SETS

The data sets specified in this Annex define the periodicity for the maritime transport statistics required by the Community. Each data set defines a cross-classification of a limited set of dimensions at different levels of the nomenclatures, aggregated across all other dimensions, for which statistics of good quality are required.

The conditions for collecting data set B1 shall be decided by the Council on a proposal from the Commission in the light of the results of the pilot study carried out during a three-year transitional period, as provided for in Article 10 of Directive 95/64/EC and concerning the feasibility and the cost to Member States and to the respondents of collecting those items of information.

## SUMMARY AND DETAILED STATISTICS

- The data sets to be provided for selected ports for goods and passengers are A1, A2, B1, C1, D1, E1, F1 and/or F2,
- The data sets to be provided for selected ports for goods but not for passengers are A1, A2, A3, B1, C1, E1, F1 and/or F2,
- The data sets to be provided for selected ports for passengers but not for goods are A3, D1, F1 and/or F2,
- The data set to be provided for selected ports and for ports which are not selected (for either goods or passengers) is A3,

**Data set A1:** Seaborne transport in the main European ports by port, type of cargo and relation

Periodicity: quarterly

	Variables	Coding detail	Nomenclature
Dimensions	Data set	Two-character alphanumeric	A1
	Reference year	Four-character alphanumeric	(e.g. 1997)
	Reference quarter	One-character alphanumeric	(1, 2, 3, 4)
	Reporting port	Five-character alphanumeric	Selected EEA ports in the port list
	Direction	One-character alphanumeric	Inwards, outwards (1, 2)
	Port of loading/unloading	Five-character alphanumeric	EEA-ports in the port list
	Relation	Four-character alphanumeric	Maritime coastal areas, Annex IV
	Type of cargo	One-character alphanumeric	Type of cargo, Annex II

Data: Gross weight of goods in tonnes.

**Data set A2:** Non-unit-load seaborne transport in the main European ports, by port, type of cargo and relation

Periodicity: quarterly

	Variables	Coding detail	Nomenclature
Dimensions	Data set	Two-character alphanumeric	A2
	Reference year	Four-character alphanumeric	(e.g. 1997)
	Reference quarter	One-character alphanumeric	(1, 2, 3, 4)
	Reporting port	Five-character alphanumeric	Selected EEA ports in the port list
	Direction	One-character alphanumeric	Inwards, outwards (1, 2)
	Port of loading/unloading	Five-character alphanumeric	EEA-ports in the port list
	Relation	Four-character alphanumeric	Maritime coastal areas, Annex IV
	Type of cargo	Two-character alphanumeric	Type of cargo, (non-unit-load only) Annex II (subcategories 1X, 11, 12, 13, 19, 2X, 21, 22, 23, 29, 9X, 91, 92 and 99)

Data: Gross weight of goods in tonnes.

**Data set A3:** Data required for both selected ports and ports for which detailed statistics are not required (see Article 4(3))

Periodicity: annual

	Variables	Coding detail	Nomenclature
Dimensions	Data set	Two-character alphanumeric	A3
	Reference year	Four-character alphanumeric	(e.g. 1997)
	Reference quarter	One-character alphanumeric	(0)
	Reporting port	Five-character alphanumeric	All ports in the port list
	Direction	One-character alphanumeric	Inwards, outwards (1, 2)

Data: Gross weight of goods in tonnes.

Number of passengers (excluding cruise passengers).

Number of cruise passengers starting and ending a cruise.

Number of cruise passengers on cruise passenger excursion: direction: inwards (1) only - (optional).

**Data set B1:** Seaborne transport in the main European ports, by port, type of cargo, goods and relation

Periodicity: annual

	Variables	Coding detail	Nomenclature
Dimensions	Data set	Two-character alphanumeric	B1
	Reference year	Four-character alphanumeric	(e.g. 1997)
	Reference quarter	One-character alphanumeric	(0)
	Reporting port	Five-character alphanumeric	Selected EEA ports in the port list
	Direction	One-character alphanumeric	Inwards, outwards (1, 2)
	Port of loading/unloading	Five-character alphanumeric	EEA-ports in the port list
	Relation	Four-character alphanumeric	Maritime coastal areas, Annex IV
	Type of cargo	One-character alphanumeric	Type of cargo, Annex II
	Commodity	Two-character alphanumeric	Goods nomenclature, Annex III

Data: Gross weight of goods in tonnes.

**Data set C1:** Unit-load seaborne transport in the main European ports, by port, type of cargo, relation and loaded status

Periodicity: quarterly

	Variables	Coding detail	Nomenclature
Dimensions	Data set	Two-character alphanumeric	C1
	Reference year	Four-character alphanumeric	(e.g. 1997)
	Reference quarter	One-character alphanumeric	(1, 2, 3, 4)
	Reporting port	Five-character alphanumeric	Selected EEA ports in the port list
	Direction	One-character alphanumeric	Inwards, outwards (1, 2)
	Port of loading/unloading	Five-character alphanumeric	EEA-ports in the port list
	Relation	Four-character alphanumeric	Maritime coastal areas, Annex IV
	Type of cargo	Two-character alphanumeric	Type of cargo (container, ro-ro only) Annex II (subcategories 3X, 31, 32, 33, 34, 5X, 51, 52, 53, 54, 56, 59, 6X, 61, 62, 63 and 69)

Data: Gross weight of goods in tonnes (type of cargo: subcategories 3X, 31, 32, 33, 34, 5X, 51, 54, 56, 59, 6X, 61, 62, 63 and 69).  
Number of units (type of cargo: subcategories 3X, 31, 32, 33, 34, 5X, 51, 52, 53, 54, 56, 59, 6X, 61, 62, 63 and 69).  
Number of units without cargo (type of cargo: subcategories 3X, 31, 32, 33, 34, 5X, 51, 59, 6X, 61, 63 and 69).

**Data set D1:** Passenger transport in the main European ports, by relation and nationality of registration of vessel

Periodicity: quarterly

	Variables	Coding detail	Nomenclature
Dimensions	Data set	Two-character alphanumeric	D1
	Reference year	Four-character alphanumeric	(e.g. 1997)
	Reference quarter	One-character alphanumeric	(1, 2, 3, 4)
	Reporting port	Five-character alphanumeric	Selected EEA ports in the port list
	Direction	One-character alphanumeric	Inwards, outwards (1, 2)
	Port of loading/unloading	Five-character alphanumeric	EEA-ports in the port list
	Relation	Four-character alphanumeric	Maritime coastal areas, Annex IV
	Nationality of registration of vessel	Four-character alphanumeric	Nationality of registration of vessels, Annex V

Data: Number of passengers excluding cruise passengers starting and ending a cruise and cruise passengers on excursion

**Data set E1:** Seaborne transport in the main European ports, by port, type of cargo, relation and nationality of registration of vessels

Periodicity: annual

	Variables	Coding detail	Nomenclature
Dimensions	Data set	Two-character alphanumeric	E1
	Reference year	Four-character alphanumeric	(e.g. 1997)
	Reference quarter	One-character alphanumeric	(0)
	Reporting port	Five-character alphanumeric	Selected EEA ports in the port list
	Direction	One-character alphanumeric	Inwards, outwards (1, 2)
	Port of loading/unloading	Five-character alphanumeric	EEA-ports in the port list
	Relation	Four-character alphanumeric	Maritime coastal areas, Annex IV
	Type of cargo	One-character alphanumeric	Type of cargo, Annex II
	Nationality of registration of vessel	Four-character alphanumeric	Nationality of registration of vessels, Annex V

Data: Gross weight of goods in tonnes.

**Data set F1:** European port vessel traffic in the main European ports, by port, type and size of vessels loading or unloading cargo, embarking or disembarking passengers (including cruise passengers on cruise passenger excursion)

Periodicity: quarterly

	Variables	Coding detail	Nomenclature
Dimensions	Data set	Two-character alphanumeric	F1
	Reference year	Four-character alphanumeric	(e.g. 1997)
	Reference quarter	One-character alphanumeric	(1, 2, 3, 4)
	Reporting port	Five-character alphanumeric	Selected EEA ports in the port list
	Direction	One-character alphanumeric	Inwards, outwards (1, 2)
	Type of vessel	Two-character alphanumeric	Type of ship, Annex VI
	Size of vessel DWT	Two-character alphanumeric	Deadweight size classes, Annex VII

Data: Number of vessels;  
Deadweight of vessels in tonnes.

**Data set F2:** European port vessel traffic in the main European ports, by port, type and size of vessels loading or unloading cargo, embarking or disembarking passengers (including cruise passengers on cruise passenger excursion)

Periodicity: quarterly

	Variables	Coding detail	Nomenclature
Dimensions	Data set	Two-character alphanumeric	F2
	Reference year	Four-character alphanumeric	(e.g. 1997)
	Reference quarter	One-character alphanumeric	(1, 2, 3, 4)
	Reporting port	Five-character alphanumeric	Selected EEA ports in the port list
	Direction	One-character alphanumeric	Inwards, outwards (1, 2)
	Type of vessel	Two-character alphanumeric	Type of ship, Annex VI
	Size of vessel GT	Two-character alphanumeric	Gross tonnage size classes, Annex VII

Data: Number of vessels;  
Gross tonnage of vessels.

## ANNEX IX

**PART A****Repealed Directive with list of its successive amendments**

(referred to in Article 12)

Council Directive 95/64/EC  
(OJ L 320, 30.12.1995, p. 25).

Commission Decision 98/385/EC  
(OJ L 174, 18.6.1998, p. 1) only Article 3

Commission Decision 2000/363/EC  
(OJ L 132, 5.6.2000, p. 1) only Article 1

Regulation (EC) No 1882/2003 of the European  
Parliament and of the Council  
(OJ L 284, 31.10.2003, p. 1) only point 20 of Annex II

Commission Decision 2005/366/EC  
(OJ L 123, 17.5.2005, p. 1) only Article 1

Commission Regulation (EC) No 1304/2007  
(OJ L 290, 8.11.2007, p. 14) only Article 1

**PART B****Time limit for transposition into national law**

(referred to in Article 12)

Directive	Time limit for transposition
95/64/EC	31 December 1996



## ANNEX X

## CORRELATION TABLE

Directive 95/64/EC	This Directive
Article 1	Article 1
Article 2(1), first subparagraph	Article 2, point (a), first subparagraph
Article 2(1), second subparagraph, points (a) and (b)	Article 2, point (a), second subparagraph, points (i) and (ii)
Article 2(1), third subparagraph	Article 2, point (a), third subparagraph
Article 2(2) to (5)	Article 2, points (b) to (e)
Article 3	Article 3
Article 4(1)	Article 4(1)
Article 4(2), first subparagraph	Article 4(2), first subparagraph
Article 4(2), second subparagraph	—
Article 4(2), third subparagraph	Article 4(2), second subparagraph
Article 4(3)	Article 4(3)
Articles 5, 6 and 7	Articles 5, 6 and 7
Article 8(1)	Article 8
Article 8(2)	—
Article 9	Article 9
Article 10	—
Article 11	—
Article 12	—
Article 13(1) and (2)	Article 10(1) and (2)
—	Article 10(3)
Article 13(3)	—
Article 14(1)	—
Article 14(2)	Article 11
—	Article 12
Article 15	Article 13
Article 16	Article 14
Annexes I to VIII	Annexes I to VIII
—	Annex IX
—	Annex X

## II

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

## DECISIONS

## COMMISSION

## COMMISSION DECISION

of 29 May 2009

**granting a derogation requested by the United Kingdom of Great Britain and Northern Ireland with regard to England, Scotland and Wales pursuant to Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources**

(notified under document number C(2009) 3853)

(Only the English version is authentic)

(2009/431/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Commission a request for a derogation under the third subparagraph of paragraph 2 of Annex III to Directive 91/676/EEC with regard to England, Scotland and Wales.

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources<sup>(1)</sup>, and in particular the third subparagraph of paragraph 2 of Annex III thereto,

- (3) The requested derogation concerns the intention of the United Kingdom of Great Britain and Northern Ireland to allow the application in England, Scotland and Wales of up to 250 kg nitrogen per hectare per year from livestock manure in grassland farms. Approximately 1 950 holdings in England, Scotland and Wales corresponding to 1,3 % of total farms, 1,5 % of the utilised agricultural land and 21 % of the total dairy livestock are estimated to be encompassed by the derogation.

Whereas:

- (1) If the amount of manure that a Member State intends to apply per hectare each year is different from the one specified in the first sentence of the second subparagraph of paragraph 2 of Annex III to Directive 91/676/EEC and in point (a) thereof, that amount has to be fixed so as not to prejudice the achievement of the objectives specified in Article 1 of that Directive and has to be justified on the basis of objective criteria, such as, in the present case, long growing seasons and crops with high nitrogen uptake.

- (4) The legislation implementing Directive 91/676/EEC, including designation of vulnerable zones and establishment of the action programme in England (Regulations 2008 No 2349), Scotland (Regulations 2008 No 298) and Wales (Regulations 2008 No 3143), has been adopted and applies in tandem with this Decision.

- (2) On 14 January 2009, the United Kingdom of Great Britain and Northern Ireland submitted to the

- (5) The designated vulnerable zones to which the action programmes apply cover 68 % of the total area of England, 14 % of the total area of Scotland and 4 % of the total area of Wales.

<sup>(1)</sup> OJ L 375, 31.12.1991, p. 1.

(6) Water quality data submitted show that for groundwater in England 83 % of groundwater bodies have mean nitrate concentrations below 50 mg/l nitrate and 58 % concentrations below 25 mg/l nitrate. For Scotland and Wales, over 90 % of groundwater bodies have mean nitrate concentrations of less than 50 mg/l nitrate, and over 70 % have concentrations below 25 mg/l. For surface waters in England more than 50 % of monitoring sites have mean nitrate concentrations below 25 mg/l and no more than 9 % have over 50 mg/l nitrate. For Scotland and Wales over 90 % of monitoring sites have mean nitrate concentrations below 25 mg/l and no sites have over 50 mg/l nitrate.

(7) Dairy cattle, beef cattle and sheep are the main types of grazing livestock in England, Scotland and Wales and livestock numbers show a decreasing trend in the period 1995-2007 (13 % reduction for cattle and 22 % for sheep and lamb). Around 48 % of the total production of livestock manure is handled as solid manure coming from straw based systems, 52 % of all livestock manure is handled as slurry.

(8) The use of chemical fertilisers in the last 20 years has reduced with 42 % for nitrogen and 49 % for phosphorus. The use of chemical nitrogen on dairy grassland has reduced by 37 % since 1999 and amounts to 128 kg N/ha in 2007. The OECD national nitrogen and phosphorus balances show for the period 1985 and 2002 a decline for the nitrogen balance from 46 to 22 kg N/ha and for the phosphorus balance from 15 to 12 kg P/ha.

(9) Grasslands occupy 69 % of the total agricultural area in England, Scotland and Wales of which 46 % is extensive and 54 % managed grassland. 31 % of the total agricultural area is arable land.

(10) The supporting documents presented in the notification show that the proposed amount of 250 kg per hectare per year nitrogen from grazing livestock manure in grassland farms is justified on the basis of objective criteria such as high net precipitation, long growing seasons and high yields of grass with high nitrogen uptake.

(11) The Commission, after examination of the request, considers that the proposed amount of 250 kg per hectare will not prejudice the achievement of the objectives of Directive 91/676/EEC, subject to certain strict conditions being met.

(12) This Decision should be applicable in connection with the action programmes for England, Scotland and Wales for the period 2009 to 2012.

(13) The measures provided for in this Decision are in accordance with the opinion of the Nitrates Committee set up pursuant to Article 9 of Directive 91/676/EEC,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The derogation requested by the United Kingdom of Great Britain and Northern Ireland with regard to England, Scotland and Wales for the purpose of allowing a higher amount of livestock manure than that provided for in the first sentence of the second subparagraph of paragraph 2 of Annex III to Directive 91/676/EEC and in point (a) thereof, is granted, subject to the conditions laid down in this Decision.

#### *Article 2*

##### **Definitions**

For the purpose of this Decision, the following definitions shall apply:

- (a) 'grassland farms' means holdings where 80 % or more of the agricultural area available for manure application is grass;
- (b) 'grazing livestock' means cattle (with the exclusion of veal calves), sheep, deer, goats and horses;
- (c) 'grass' means permanent grassland or temporary grassland (temporary implying leys of less than four years).

#### *Article 3*

##### **Scope**

This Decision is to be applied to grassland farms on an individual basis and subject to the conditions set out in Articles 4, 5 and 6.

#### *Article 4*

##### **Annual authorisation and commitment**

1. Farmers who want to benefit from a derogation shall submit an application to the competent authorities annually.

2. Together with the annual application referred to in paragraph 1 they shall undertake in writing to fulfil the conditions provided for in Articles 5 and 6.

3. The competent authorities shall ensure that all the applications for derogation are submitted to administrative control. Where the control demonstrates that the conditions provided for in Articles 5 and 6 are not fulfilled, the applicant shall be informed thereof. In this instance, the application shall be considered to be refused.

#### Article 5

##### Application of manure and other fertilisers

1. The amount of livestock manure from grazing livestock applied to the land each year on grassland farms, including by the animals themselves, shall not exceed the amount of manure containing 250 kg nitrogen per hectare, subject to the conditions laid down in paragraphs 2 to 7.

2. The total nitrogen inputs shall not exceed the foreseeable nutrient demand of the considered crop and take into account the supply from the soil.

3. A fertilisation plan shall be kept for each farm describing the crop rotation of the farmland and the planned application of manure and nitrogen and phosphate fertilisers. It shall be available in the farm each calendar year by 1 March at the latest.

The fertilisation plan shall include the following:

- (a) the number of livestock, a description of the housing and storage system, including the volume of manure storage available;
- (b) a calculation of manure nitrogen (less losses in housing and storage) and phosphorus produced in the farm;
- (c) the crop rotation and area of each crop, including a sketch map indicating location of individual fields;
- (d) the foreseeable nitrogen and phosphorus crop requirements;
- (e) the amount and the type of manure delivered outside the farm or to the farm;
- (f) results of soil analysis related to nitrogen and phosphorus soil status if available;
- (g) nitrogen and phosphorus application from manure over each field;

(h) application of nitrogen and phosphorus with chemical and other fertilisers over each field.

Plans shall be revised no later than seven days following any changes in agricultural practices to ensure consistency between plans and actual agricultural practices.

4. Fertilisation accounts, including information related to management of nitrogen and phosphorus inputs, shall be kept by each farm. They shall be submitted to the competent authority for each calendar year.

5. Each grassland farm benefiting from derogation shall accept that the application referred to in paragraph 1 of Article 4, the fertilisation plan and the fertilisation accounts can be subject to control.

6. Results of nitrogen and phosphorus analysis in soil shall be available for each farm benefiting from a derogation. Sampling and analysis must be carried out at least once every four years for each homogeneous area of the farm, with regard to crop rotation and soil characteristics. At least one analysis per five hectares of farmland shall be required.

7. Livestock manure shall not be spread in the autumn before grass cultivation.

#### Article 6

##### Land management

Eighty per cent or more of the area available for manure application on farms shall be cultivated with grass. Farmers benefiting from an individual derogation shall carry out the following measures:

- (a) temporary grassland on sandy soils shall be ploughed in spring;
- (b) ploughed grass on all soil types shall be followed immediately by a crop with high nitrogen demand;
- (c) crop rotation shall not include leguminous or other plants fixing atmospheric nitrogen. This however will not apply to clover in grassland with less than 50 % clover or to other leguminous plants that are under-sown with grass.

*Article 7***Other measures**

This derogation shall be applied without prejudice to the measures needed to comply with other Community legislation for the protection of public and animal health and of the environment.

*Article 8***Monitoring**

1. Maps showing the percentage of grassland farms, percentage of livestock and percentage of agricultural land covered by an individual derogation in each district, shall be drawn by the competent authority and shall be updated every year. Those maps shall be submitted to the Commission annually, attached to the report referred to in Article 10 of this Decision.

2. Monitoring of the farms covered by the action programme and the derogation shall be carried out at farm field scale and in agricultural monitoring catchments. The reference monitoring catchments shall be representative of the different soil types, levels of intensity and fertilisation practices.

3. Survey and nutrient analysis as referred to in Article 5 of this Decision shall provide data on local land use, crop rotations and agricultural practices on farms benefiting from individual derogations. Those data can be used for model-based calculations of the magnitude of nitrate leaching and phosphorus losses from fields where up to 250 kg nitrogen per hectare per year in manure from grazing livestock is applied.

4. Monitoring of shallow groundwater, soil water, drainage water and streams in farms belonging to the agricultural catchment monitoring sites shall provide data on nitrate and phosphorus concentration in water leaving the root zone and entering groundwater and surface water.

5. A reinforced water monitoring shall be conducted for agricultural catchments located in proximity to most vulnerable water bodies.

6. A study shall be conducted in order to collect, by the end of the derogation period, detailed scientific information on intensive grassland systems in order to improve nutrient management. This study will focus on nutrient losses, including nitrates leaching, denitrification losses and phosphate losses, under intensive dairy production systems in representative areas.

*Article 9***Controls**

1. The competent national authority shall carry out administrative controls in respect of all farms benefiting from an individual derogation for the assessment of compliance with the maximum amount of 250 kg nitrogen per hectare per year from grazing livestock manure, with nitrogen maximum fertilisation rates and conditions on land use.

2. A programme of field inspections shall be established based on risk analysis, results of controls of the previous years and results of general random controls of legislation implementing Directive 91/676/EEC. The field inspections shall cover at least 3 % of farms benefiting from an individual derogation in respect to the conditions set out in Articles 5 and 6.

*Article 10***Reporting**

1. The competent authority shall submit the results of the monitoring every year to the Commission, with a concise report on water quality evolution and evaluation practice. The report shall provide information on how the evaluation of the implementation of the derogation conditions is carried on through controls at farm level and include information on non compliant farms based on results of administrative and field inspections.

The first report shall be transmitted by June 2010, and subsequently every year by June.

2. The results thus obtained will be taken into consideration by the Commission with regard to an eventual new request for derogation.

*Article 11***Application**

This Decision shall apply in the context of the regulations implementing the action programme in England (Regulations 2008 No 2349), Scotland (Regulations 2008 No 298) and Wales (Regulations 2008 No 3143). It shall expire on 31 December 2012.

*Article 12*

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 29 May 2009.

*For the Commission*

Stavros DIMAS

*Member of the Commission*





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