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

## I

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

## REGULATIONS

## COUNCIL REGULATION (EC) No 479/2009

of 25 May 2009

**on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community**

(Codified version)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the third subparagraph of Article 104(14) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament <sup>(1)</sup>,

Having regard to the opinion of the European Central Bank <sup>(2)</sup>,

Whereas:

of national and regional accounts in the Community and hereinafter referred to as 'ESA 95') <sup>(5)</sup>. Precise definitions referring to the classification codes of ESA 95 are required. Those definitions may be subject to revision in the context of the necessary harmonisation of national statistics or for other reasons. Any revision of ESA will be decided by the Council in accordance with the rules on competence and procedure laid down in the Treaty.

(3) Under ESA 95, interest flows under swap contracts and forward rate agreements (FRAs) are to be classified in the financial account and require specific treatment for the data transmitted under the excessive deficit procedure.

(4) The definition of 'debt' laid down in the Protocol on the excessive deficit procedure needs to be amplified by a reference to the classification codes of ESA 95.

(1) Council Regulation (EC) No 3605/93 of 22 November 1993 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community <sup>(3)</sup> has been substantially amended several times <sup>(4)</sup>. In the interests of clarity and rationality the said Regulation should be codified.

(2) The definitions of 'government', 'deficit' and 'investment' are laid down in the Protocol on the excessive deficit procedure by reference to the European System of Integrated Economic Accounts (ESA), replaced by the European system of national and regional accounts in the Community (adopted by Council Regulation (EC) No 2223/96 of 25 June 1996 on the European system

(5) In the case of financial derivatives, as defined in ESA 95, there is no nominal value identical to that for other debt instruments. Therefore, it is necessary that financial derivatives are not included with the liabilities making up government debt for the purposes of the Protocol on the excessive deficit procedure. For liabilities which are subject to agreements fixing the exchange rate, this rate should be taken into account in the conversion into national currency.

(6) ESA 95 provides a detailed definition of gross domestic product at current market prices, which is appropriate for the calculation of the ratios of government deficit to gross domestic product and of government debt to gross domestic product referred to in Article 104 of the Treaty.

<sup>(1)</sup> Opinion of 21 October 2008 (not yet published in the Official Journal).

<sup>(2)</sup> OJ C 88, 9.4.2008, p. 1.

<sup>(3)</sup> OJ L 332, 31.12.1993, p. 7.

<sup>(4)</sup> See Annex I.

<sup>(5)</sup> OJ L 310, 30.11.1996, p. 1.

- (7) Consolidated government interest expenditure is an important indicator for monitoring the budgetary situation in the Member States. Interest expenditure is intrinsically linked to government debt. Government debt to be reported to the Commission by the Member States has to be consolidated within the government sector. The levels of government debt and of interest expenditure should be made mutually consistent. The methodology of ESA 95 (point 1.58) recognises that, for certain kinds of analysis, consolidated aggregates are more significant than overall gross figures.
- (8) Pursuant to the terms of the Protocol on the excessive deficit procedure, the Commission is required to provide the statistical data to be used in that procedure.
- (9) The role of the Commission, as statistical authority, in that context is specifically exercised by Eurostat, on behalf of the Commission. As the Commission department responsible for carrying out the tasks devolving on the Commission as regards the production of Community statistics, Eurostat is required to execute its tasks in accordance with the principles of impartiality, reliability, relevance, cost-effectiveness, statistical confidentiality and transparency, as laid down in Commission Decision 97/281/EC of 21 April 1997 on the role of Eurostat as regards the production of Community statistics<sup>(1)</sup>. The implementation by the national and Community statistical authorities of the Recommendation of the Commission of 25 May 2005 on the independence, integrity and accountability of the national and Community authorities should enhance the principle of professional independence, adequacy of resources and quality of statistical data.
- (10) Eurostat is responsible, on behalf of the Commission, for assessing the quality of the data and for providing the data to be used within the context of the excessive deficit procedure, in accordance with Commission Decision 97/281/EC.
- (11) A permanent dialogue should be established between the Commission and the Member States' statistical authorities in order to ensure the quality both of the data reported by Member States and of the underlying government sector accounts compiled in accordance with ESA 95.
- (12) Detailed rules are required to organise prompt and regular reporting by the Member States to the Commission (Eurostat) of their planned and actual deficits and of the levels of their debt.
- (13) Pursuant to Article 104c(2) and (3) of the Treaty, the Commission is to monitor the development of the

budgetary situation and of the stock of government debt in the Member States and to examine compliance with budgetary discipline on the basis of criteria relating to government deficit and government debt. If a Member State does not fulfil the requirements under one or both criteria, it is necessary for the Commission to take into account all relevant factors. The Commission has to examine whether there is a risk of an excessive deficit in a Member State,

HAS ADOPTED THIS REGULATION:

## CHAPTER I

### DEFINITIONS

#### Article 1

1. For the purposes of the Protocol on the excessive deficit procedure and of this Regulation, the terms given in paragraphs 2 to 6 are defined according to the European system of national and regional accounts in the Community (hereinafter referred to as ESA 95), adopted by Regulation (EC) No 2223/96. The codes in brackets refer to ESA 95.

2. 'Government' means the sector of 'general government' (S.13), that is 'central government' (S.1311), 'state government' (S.1312), 'local government' (S.1313) and 'social security funds' (S.1314), to the exclusion of commercial operations, as defined in ESA 95.

The exclusion of commercial operations means that the sector of 'general government' (S.13) comprises only institutional units producing non-market services as their main activity.

3. 'Government deficit (surplus)' means the net borrowing (net lending) (EDP B.9) of the sector of 'general government' (S.13), as defined in ESA 95. The interest comprised in the government deficit is the interest (EDP D.41), as defined in ESA 95.

4. 'Government investment' means the gross fixed capital formation (P.51) of the sector of 'general government' (S.13), as defined in ESA 95.

5. 'Government debt' means the total gross debt at nominal value outstanding at the end of the year of the sector of 'general government' (S.13), with the exception of those liabilities the corresponding financial assets of which are held by the sector of 'general government' (S.13).

Government debt is constituted by the liabilities of general government in the following categories: currency and deposits (AF.2); securities other than shares, excluding financial derivatives (AF.33) and loans (AF.4), as defined in ESA 95.

<sup>(1)</sup> OJ L 112, 29.4.1997, p. 56.

The nominal value of a liability outstanding at the end of the year is the face value.

The nominal value of an index-linked liability corresponds to its face value adjusted by the index-related change in the value of the principal accrued to the end of the year.

Liabilities denominated in a foreign currency, or exchanged from one foreign currency through contractual agreements to one or more other foreign currencies shall be converted into the other foreign currencies at the rate agreed on in those contracts and shall be converted into the national currency on the basis of the representative market exchange rate prevailing on the last working day of each year.

Liabilities denominated in the national currency and exchanged through contractual agreements to a foreign currency shall be converted into the foreign currency at the rate agreed on in those contracts and shall be converted into the national currency on the basis of the representative market exchange rate prevailing on the last working day of each year.

Liabilities denominated in a foreign currency and exchanged through contractual agreements to the national currency shall be converted into the national currency at the rate agreed on in those contracts.

6. 'Gross domestic product' means gross domestic product at current market prices (GDP mp) (B.1\*g), as defined in ESA 95.

#### Article 2

1. 'Planned government deficit and government debt level figures' means the figures established for the current year by the Member States. They shall be the most recent official forecasts, taking into account the most recent budgetary decisions and economic developments and prospects. They should be produced in as short a time as possible before the reporting deadline.

2. 'Actual government deficit and government debt level figures' means estimated, provisional, half-finalised or final results for a past year. The planned data together with the actual data shall form a consistent time series as far as the definitions and concepts are concerned.

### CHAPTER II

#### RULES AND COVERAGE OF REPORTING

#### Article 3

1. Member States shall report to the Commission (Eurostat) their planned and actual government deficits and levels of government debt twice a year, the first time before 1 April of

the current year (year *n*) and the second time before 1 October of year *n*.

Member States shall inform the Commission (Eurostat) which national authorities are responsible for the excessive deficit procedure reporting.

2. Before 1 April of year *n*, Member States shall:

- (a) report to the Commission (Eurostat) their planned government deficit for year *n*, an up-to-date estimate of their actual government deficit for year *n-1* and their actual government deficits for years *n-2*, *n-3* and *n-4*;
- (b) simultaneously provide the Commission (Eurostat) with their planned data for year *n* and the actual data for years *n-1*, *n-2*, *n-3* and *n-4* of their corresponding public accounts budget deficits in accordance with the definition which is given most prominence nationally and with the figures which explain the transition between the public accounts budget deficit and their government deficit for the sub-sector S.1311;
- (c) simultaneously provide the Commission (Eurostat) with their actual data for years *n-1*, *n-2*, *n-3* and *n-4* of their corresponding working balances and with the figures which explain the transition between the working balances of each government sub-sector and their government deficit for the sub-sectors S.1312, S.1313 and S.1314;
- (d) report to the Commission (Eurostat) their planned level of government debt at the end of year *n* and their levels of actual government debt at the end of years *n-1*, *n-2*, *n-3* and *n-4*;
- (e) simultaneously provide the Commission (Eurostat), for years *n-1*, *n-2*, *n-3* and *n-4*, with the figures which explain the contribution of the government deficit and other factors relevant to the variation in the level of their government debt by sub-sector.

3. Before 1 October of year *n*, Member States shall report to the Commission (Eurostat) their:

- (a) updated planned government deficit for year *n* and their actual government deficits for years *n-1*, *n-2*, *n-3* and *n-4* and shall comply with the requirements of points (b) and (c) of paragraph 2;
- (b) updated planned level of government debt at the end of year *n* and their levels of actual government debt at the end of years *n-1*, *n-2*, *n-3* and *n-4*, and shall comply with the requirements of paragraph 2(e).

4. The figures for the planned government deficit reported to the Commission (Eurostat) in accordance with paragraphs 2 and 3 shall be expressed in national currency and in budget years.

The figures for actual government deficit and actual government debt level reported to the Commission (Eurostat) in accordance with paragraphs 2 and 3 shall be expressed in national currency and in calendar years, with the exception of the up-to-date estimates for year  $n-1$ , which may be expressed in budget years.

Where the budget year differs from the calendar year, Member States shall also report to the Commission (Eurostat) their figures for actual government deficit and actual government debt level in budget years for the two budget years preceding the current budget year.

#### Article 4

Member States shall, in accordance with the procedure laid down in Article 3(1), (2) and (3), provide the Commission (Eurostat) with the figures for their government investment expenditure and interest expenditure (consolidated).

#### Article 5

Member States shall provide the Commission (Eurostat) with a forecast of their gross domestic product for year  $n$  and the actual amount of their gross domestic product for years  $n-1$ ,  $n-2$ ,  $n-3$  and  $n-4$ , under the same timing conditions as those indicated in Article 3(1).

#### Article 6

1. Member States shall inform the Commission (Eurostat), as soon as it becomes available, of any major revision in their actual and planned government deficit and debt figures already reported.

2. Major revisions in the actual deficit and debt figures already reported shall be properly documented. In any case, revisions which result in the reference values as specified in the Protocol on the excessive deficit procedure being exceeded, or revisions which mean that a Member State's data no longer exceed the reference values, shall be reported and properly documented.

#### Article 7

Member States shall make public the actual deficit and debt data and other data for past years reported to the Commission (Eurostat) in accordance with Articles 3 to 6.

### CHAPTER III

## QUALITY OF DATA

### Article 8

1. The Commission (Eurostat) shall regularly assess the quality both of actual data reported by Member States and of the underlying government sector accounts compiled according to ESA 95 (hereinafter referred to as government accounts). Quality of actual data means compliance with accounting rules, completeness, reliability, timeliness, and consistency of the statistical data. The assessment will focus on areas specified in the inventories of Member States such as the delimitation of the government sector, the classification of government transactions and liabilities, and the time of recording.

2. Member States shall provide the Commission (Eurostat), as promptly as possible, with the relevant statistical information requested for the needs of the data quality assessment, without prejudice to the provisions relating to statistical confidentiality of Council Regulation (EC) No 322/97 of 17 February 1997 on Community Statistics <sup>(1)</sup>.

'Statistical information' referred to in the first subparagraph shall be limited to the information strictly necessary to check the compliance to ESA rules. In particular, statistical information means:

- (a) data from national accounts;
- (b) inventories;
- (c) EDP notification tables;
- (d) additional questionnaires and clarification related to the notifications.

The format of the questionnaires shall be defined by the Commission (Eurostat) after consultation of the Committee on Monetary, Financial and Balance of Payments Statistics (hereinafter referred to as CMFB).

3. The Commission (Eurostat) shall report regularly to the European Parliament and to the Council on the quality of the actual data reported by Member States. The report shall address the overall assessment of the actual data reported by Member States as regards to the compliance with accounting rules, completeness, reliability, timeliness, and consistency of the data.

### Article 9

1. Member States shall provide the Commission (Eurostat) with a detailed inventory of the methods, procedures and sources used to compile actual deficit and debt data and the underlying government accounts.

<sup>(1)</sup> OJ L 52, 22.2.1997, p. 1.



2. The inventories shall be prepared in accordance with guidelines adopted by the Commission (Eurostat) after consultation of CMFB.

3. The inventories shall be updated following revisions in the methods, procedures and sources adopted by Member States to compile their statistical data.

4. Member States shall make their inventories public.

5. The issues referred to in paragraphs 1, 2 and 3 may be addressed in the visits mentioned in Article 11.

#### Article 10

1. In the event of a doubt regarding the correct implementation of the ESA 95 accounting rules, the Member State concerned shall request clarification from the Commission (Eurostat). The Commission (Eurostat) shall promptly examine the issue and communicate its clarification to the Member State concerned and, when appropriate, to the CMFB.

2. For cases which are either complex or of general interest in the view of the Commission or the Member State concerned, the Commission (Eurostat) shall take a decision after consultation of the CMFB. The Commission (Eurostat) shall make decisions public, together with the opinion of the CMFB, without prejudice to the provisions relating to statistical confidentiality of Regulation (EC) No 322/97.

#### Article 11

1. The Commission (Eurostat) shall ensure a permanent dialogue with Member States' statistical authorities. To this end, the Commission (Eurostat) shall carry out in all Member States regular dialogue visits, as well as possible methodological visits.

2. The dialogue visits are designed to review reported data, to examine methodological issues, to discuss statistical processes and sources described in the inventories, and to assess compliance with the accounting rules. The dialogue visits shall be used to identify risks or potential problems about the quality of the reported data.

3. The methodological visits shall not go beyond the purely statistical domain. This shall be reflected in the composition of the delegations referred to in Article 12.

The methodological visits are designed to monitor the processes and the government accounts which justify the reported actual data and to draw detailed conclusions as to the quality of reported data, as defined in Article 8(1).

The methodological visits shall only be undertaken in cases where substantial risks or potential problems with the quality of the data are identified, especially as they relate to the methods, concepts and classification applied to the data, which Member States are obliged to report.

4. When organising dialogue and methodological visits, the Commission (Eurostat) shall transmit its provisional findings to the Member States concerned for comments.

#### Article 12

1. When carrying out methodological visits in Member States, the Commission (Eurostat) may request the assistance of national accounts experts, proposed by other Member States on a voluntary basis, and of officials from other Commission departments.

The list of national accounts experts from whom the Commission (Eurostat) may request assistance, shall be constituted on the basis of proposals sent to the Commission (Eurostat) by the national authorities responsible for the excessive deficit reporting.

2. Member States shall take all necessary measures to facilitate the methodological visits. Those visits should be confined to the national authorities involved in the excessive deficit procedure reporting. Member States shall, however, ensure that their services which are directly or indirectly involved in the production of government accounts and debt, and where necessary their national authorities which have a functional responsibility for the control of the public accounts, provide the Commission officials or other experts referred to in paragraph 1 with the assistance necessary to carry out their duties, including making documents available to justify the reported actual deficit and debt data and the underlying government accounts. Confidential records of the national statistical system shall only be provided to the Commission (Eurostat).

Without prejudice to the general obligation of the Member States to take all measures required to facilitate the methodological visits, the interlocutors of the Commission (Eurostat) for the methodological visits referred to in the first subparagraph are, in each Member State, the services responsible for the excessive deficit procedure reporting.

3. The Commission (Eurostat) shall ensure that officials and experts participating in these visits meet every guarantee as regards technical competence, professional independence and observance of confidentiality.

### Article 13

The Commission (Eurostat) shall report to the Economic and Financial Committee on the findings of dialogue and methodological visits, including any comments on these findings made by the Member State concerned. Those reports, along with any comments made by the Member State concerned, after having been transmitted to the Economic and Financial Committee, shall be made public, without prejudice to the provisions concerning statistical confidentiality in Regulation (EC) No 322/97.

## CHAPTER IV

### PROVISION OF DATA BY THE COMMISSION

#### (EUROSTAT)

### Article 14

1. The Commission (Eurostat) shall provide the actual government deficit and debt data for the application of the Protocol on the excessive deficit procedure, within three weeks after the reporting deadlines referred to in Article 3(1) or after revisions as referred to in Article 6(1). That provision of data shall be effected through publication.

2. The Commission (Eurostat) shall not delay the provision of the actual government deficit and debt data of Member States where a Member State has not reported its own data.

### Article 15

1. The Commission (Eurostat) may express a reservation on the quality of the actual data reported by the Member States. No later than three working days before the planned publication date, the Commission (Eurostat) shall communicate to the Member State concerned and to the President of the Economic and Financial Committee the reservation it intends to express and make public. Where the issue is resolved after publication of the data and the reservation, withdrawal of the reservation shall be made public immediately thereafter.

2. The Commission (Eurostat) may amend actual data reported by Member States and provide the amended data and a justification of the amendment where there is evidence that actual data reported by Member States do not comply with the requirements of Article 8(1). No later than three working

days before the planned publication date, the Commission (Eurostat) shall communicate to the Member State concerned and to the President of the Economic and Financial Committee the amended data and the justification for the amendment.

## CHAPTER V

### GENERAL PROVISIONS

### Article 16

1. Member States shall ensure that the actual data reported to the Commission (Eurostat) are provided in accordance with the principles established by Article 10 of Regulation (EC) No 322/97. In this regard, the responsibility of the national statistical authorities is to ensure the compliance of reported data with Article 1 of this Regulation and the underlying ESA 95 accounting rules.

2. Member States shall take all appropriate measures to ensure that officials responsible for the reporting of the actual data to the Commission (Eurostat) and of the underlying government accounts act in accordance with the principles established by Article 10 of Regulation (EC) No 322/97.

### Article 17

In the event of a revision of ESA 95 or of an amendment to its methodology decided on by the European Parliament and the Council or the Commission in accordance with the rules of competence and procedure laid down in the Treaty and in Regulation (EC) No 2223/96, the Commission shall introduce the new references to ESA 95 into Articles 1 and 3 of this Regulation.

### Article 18

Regulation (EC) No 3605/93 is repealed.

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

### Article 19

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

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

Done at Brussels, 25 May 2009.

For the Council  
The President  
J. ŠEBESTA



## ANNEX I

**Repealed Regulation with list of its successive amendments**

Council Regulation (EC) No 3605/93	(OJ L 332, 31.12.1993, p. 7).
Council Regulation (EC) No 475/2000	(OJ L 58, 3.3.2000, p. 1).
Commission Regulation (EC) No 351/2002	(OJ L 55, 26.2.2002, p. 23).
Council Regulation (EC) No 2103/2005	(OJ L 337, 22.12.2005, p. 1).

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## ANNEX II

## CORRELATION TABLE

Regulation (EC) No 3605/93	This Regulation
Section 1	Chapter I
Article 1(1) to (5)	Article 1(1) to (5)
Article 2	Article 1(6)
Article 3	Article 2
Section 2	Chapter II
Article 4(1)	Article 3(1)
Article 4(2), first to fifth indents	Article 3(2), points (a) to (e)
Article 4(3), first and second indents	Article 3(3), points (a) and (b)
Article 4(4)	Article 3(4)
Article 5	Article 4
Article 6	Article 5
Article 7	Article 6
Article 8	Article 7
Section 2a	Chapter III
Article 8a(1)	Article 8(1)
Article 8a(2), first subparagraph	Article 8(2), first subparagraph
Article 8a(2), second subparagraph, first to fourth indents	Article 8(2), second subparagraph, points (a) to (d)
Article 8a(2), third subparagraph	Article 8(2), third subparagraph
Article 8a(3)	Article 8(3)
Article 8b	Article 9
Article 8c	Article 10
Article 8d, first paragraph, first and second sentences	Article 11(1)
Article 8d, first paragraph, third sentence	Article 11(3), third subparagraph
Article 8d, second paragraph, first and second sentences	Article 11(2)
Article 8d, second paragraph, third sentence	Article 11(3), second subparagraph
Article 8d, second paragraph, fourth and fifth sentences	Article 11(3), first subparagraph
Article 8d, third paragraph	Article 11(4)
Article 8e	Article 12
Article 8f	Article 13
Section 2b	Chapter IV
Article 8g	Article 14
Article 8h	Article 15
Section 2c	Chapter V

Regulation (EC) No 3605/93	This Regulation
Article 8i	Article 16
Article 8j	Article 17
—	Article 18
—	Article 19
—	Annex I
—	Annex II

**COUNCIL REGULATION (EC, EURATOM) No 480/2009**  
**of 25 May 2009**  
**establishing a Guarantee Fund for external actions**  
**(Codified version)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 203 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament <sup>(1)</sup>,

Whereas:

(1) Council Regulation (EC, Euratom) No 2728/94 of 31 October 1994 establishing a Guarantee Fund for external actions <sup>(2)</sup> has been substantially amended several times <sup>(3)</sup>. In the interests of clarity and rationality the said Regulation should be codified.

(2) The general budget of the European Union is exposed to increased financial risk as a result of the guarantees covering loans to third countries.

(3) The European Council on 11 and 12 December 1992 concluded that considerations of prudent budgetary management and financial discipline called for the establishment of a new financial mechanism, and that accordingly a Guarantee Fund should be set up in order to cover the risks related to loans and guarantees covering loans granted to third countries or for projects executed in third countries. This need can be met by the establishment of a Guarantee Fund which may be drawn on to pay the Communities' creditors direct.

(4) Pursuant to the Interinstitutional Agreement between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management, adopted on 17 May 2006 <sup>(4)</sup>, the funding of the Guarantee Fund is provided for as an obligatory expenditure from the general budget of the European Union for the period from 2007 to 2013.

(5) Mechanisms exist for honouring guarantees when they are activated, in particular by drawing provisionally on cash resources, as provided for in Article 12 of Council Regulation (EC, Euratom) No 1150/2000 of 22 May 2000 implementing Decision 2000/597/EC, Euratom on the system of the Communities' own resources <sup>(5)</sup>.

(6) The Guarantee Fund should be constituted by the gradual payment of resources. The Fund should subsequently also receive interest on its invested resources and amounts recovered from defaulting debtors where the Fund has already honoured the guarantee.

(7) Experience of the functioning of the Guarantee Fund indicates that a ratio of 9 % between the Fund's resources and guaranteed liabilities in principal, increased by unpaid interest due, would be adequate.

(8) Payments to the Guarantee Fund equal to 9 % of the amount of each operation would seem sufficient to attain the target amount. The arrangements for making such payments should be defined.

(9) If the Guarantee Fund exceeds the target amount, the surplus should be paid back to the general budget of the European Union.

(10) The financial management of the Guarantee Fund should be entrusted to the European Investment Bank (hereinafter referred to as the 'EIB'). The financial management of the Fund should be subject to audit by the Court of Auditors in accordance with procedures agreed upon by the Court of Auditors, the Commission and the EIB.

(11) The Communities have granted loans and guaranteed loans to accession countries or for projects executed in those countries. Those loans and guarantees are covered by the Guarantee Fund and will remain outstanding or in force after the date of accession. From that date, they will cease to be external actions of the Communities and should therefore be covered directly by the general budget of the European Union and no longer by the Guarantee Fund.

<sup>(1)</sup> Opinion of 18 November 2008 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 293, 12.11.1994, p. 1.

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

<sup>(4)</sup> OJ C 139, 14.6.2006, p. 1.

<sup>(5)</sup> OJ L 130, 31.5.2000, p. 1.

(12) The Guarantee Fund covers defaults under loans issued by the EIB for which the Communities provide a guarantee under the EIB's external mandate. In addition, in line with the EIB's external mandate which took effect from 1 February 2007, the Fund should also cover defaults under loan guarantees issued by the EIB for which the Communities provide a guarantee.

(13) The Treaties do not provide any powers other than those pursuant to Article 308 of the EC Treaty and Article 203 of the Euratom Treaty for the adoption of this Regulation,

HAS ADOPTED THIS REGULATION:

#### Article 1

A Guarantee Fund (hereinafter referred to as the 'Fund') shall be established, the resources of which shall be used to repay the Communities' creditors in the event of default by the beneficiary of a loan granted or guaranteed by the Communities or of a loan guarantee issued by the European Investment Bank (hereinafter referred to as the 'EIB') for which the Communities provide a guarantee.

The lending and guarantee operations referred to in the first paragraph (hereinafter referred to as operations) shall be those carried out for the benefit of a third country or for the purpose of financing projects in third countries.

All operations carried out for the benefit of a third country or for the purpose of financing projects in a third country shall fall outside the scope of this Regulation, with effect from the date on which that country accedes to the European Union.

#### Article 2

The Fund shall be endowed by:

- one annual payment from the general budget of the European Union pursuant to Articles 5 and 6,
- interest on Fund resources invested,
- amounts recovered from defaulting debtors where the Fund has already honoured the guarantee.

#### Article 3

The Fund shall rise to an appropriate level (hereinafter referred to as the target amount).

The target amount shall be 9 % of the Communities' total outstanding capital liabilities arising from each operation, increased by unpaid interest due.

On the basis of the year-end  $n-1$  difference between the target amount and the value of the Fund's net assets, calculated at the beginning of the year  $n$ , any surplus shall be paid in one transaction to a special heading in the statement of revenue in the general budget of the European Union of the year  $n + 1$ .

#### Article 4

Following the accession of a new Member State to the European Union, the target amount shall be reduced by an amount calculated on the basis of the operations referred to in the third paragraph of Article 1.

In order to calculate the amount of the reduction, the percentage rate referred to in the second paragraph of Article 3 applicable on the date of accession shall be applied to the amount of those operations outstanding on that date.

The surplus shall be paid back to a special heading in the statement of revenue in the general budget of the European Union.

#### Article 5

Based on the year-end  $n-1$  difference between the target amount and the value of the Fund's net assets, calculated at the beginning of the year  $n$ , the required provisioning amount shall be paid into the Fund in one transaction in the year  $n + 1$  from the general budget of the European Union.

#### Article 6

1. If, as a result of one or more defaults, the activation of guarantees during year  $n-1$  exceeds EUR 100 million, the amount exceeding EUR 100 million shall be paid back into the Fund in annual tranches starting in year  $n + 1$  and continuing over the following years until full repayment (smoothing mechanism). The size of the annual tranche shall be the lesser of the following:

- EUR 100 million, or,
- the remaining amount due in accordance with the smoothing mechanism.

Any amount resulting from the activation of guarantees in years preceding year  $n-1$ , that has not yet been repaid in full due to the smoothing mechanism, shall be paid back before the smoothing mechanism for defaults occurring in year  $n-1$  or subsequent years can take effect. Such remaining amounts shall continue to be deducted from the maximum annual amount to be recovered from the general budget of the European Union under the smoothing mechanism until such time as the full amount has been paid back into the Fund.

2. The calculations based on the smoothing mechanism shall be made separately from the calculations referred to in the third paragraph of Article 3 and in Article 5. Nevertheless, they shall together result in one annual transfer. The amounts to be paid from the general budget of the European Union under the smoothing mechanism shall be treated as net assets of the Fund for the calculation pursuant to Articles 3 and 5.

3. If, as a result of the activation of guarantees following one or more major defaults, resources in the Fund fall below 80 % of the target amount, the Commission shall inform the budgetary authority thereof.

4. If, as a result of the activation of guarantees following one or more major defaults, resources in the Fund fall below 70 % of the target amount, the Commission shall submit a report on exceptional measures that may be required to replenish the Fund.

#### *Article 7*

The Commission shall entrust the financial management of the Fund to the EIB under a mandate on behalf of the Communities.

#### *Article 8*

The Commission shall, by 31 May of the following financial year, send to the European Parliament, the Council and the Court of Auditors an annual report on the situation of the Fund and the management thereof in the previous year.

#### *Article 9*

The revenue and expenditure account and the balance sheet relating to the Fund shall be attached to the Communities' revenue and expenditure account and balance sheet.

#### *Article 10*

Regulation (EC, Euratom) No 2728/94, is repealed.

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

#### *Article 11*

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

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

Done at Brussels, 25 May 2009.

*For the Council*  
*The President*  
J. ŠEBESTA

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## ANNEX I

**Repealed Regulation with list of its successive amendments**

Council Regulation (EC, Euratom) No 2728/94	(OJ L 293, 12.11.1994, p. 1).
Council Regulation (EC, Euratom) No 1149/1999	(OJ L 139, 2.6.1999, p. 1).
Council Regulation (EC, Euratom) No 2273/2004	(OJ L 396, 31.12.2004, p. 28).
Council Regulation (EC, Euratom) No 89/2007	(OJ L 22, 31.1.2007, p. 1).

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## ANNEX II

**Correlation table**

Regulation (EC, Euratom) No 2728/94	This Regulation
Articles 1, 2 and 3	Articles 1, 2 and 3
Article 3a	Article 4
Article 4	Article 5
Article 5	Article 6
Article 6	Article 7
Article 7	Article 8
Article 8	Article 9
Article 9	—
—	Article 10
Article 10, first paragraph	Article 11
Article 10, second paragraph	—
—	Annex I
—	Annex II

**COMMISSION REGULATION (EC) No 481/2009****of 9 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 10 June 2009.

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

Done at Brussels, 9 June 2009.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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<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	53,5
	ZZ	43,4
0707 00 05	JO	162,3
	MK	24,8
	TR	118,1
	ZZ	101,7
0709 90 70	TR	111,0
	ZZ	111,0
0805 50 10	AR	69,4
	TR	60,0
	ZA	64,5
	ZZ	64,6
0808 10 80	AR	81,1
	BR	71,1
	CA	69,7
	CL	80,1
	CN	88,3
	NA	101,9
	NZ	97,9
	US	115,8
	ZA	77,5
	ZZ	87,0
0809 10 00	TN	161,5
	TR	173,7
	ZZ	167,6
0809 20 95	TR	177,9
	US	453,6
	ZZ	315,8

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

**COMMISSION REGULATION (EC) No 482/2009****of 8 June 2009**

**amending Regulation (EC) No 1974/2006 laying down detailed rules for the application of Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and Regulation (EC) No 883/2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the keeping of accounts by the paying agencies, declarations of expenditure and revenue and the conditions for reimbursing expenditure under the EAGF and the EAFRD**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) <sup>(1)</sup>, and in particular Article 91 thereof,

Having regard to Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy <sup>(2)</sup>, and in particular Article 42 thereof,

Whereas:

- (1) Regulation (EC) No 1698/2005, which establishes the legal framework for the EAFRD support for rural development throughout the Community, has been amended by Council Regulation (EC) No 473/2009 of 25 May 2009 amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and Regulation (EC) No 1290/2005 on the financing of the common agricultural policy <sup>(3)</sup> to take into account the European Economic Recovery Plan which was approved by the European Council, at its meeting on 11 and 12 December 2008.
- (2) Consequently, Commission Regulation (EC) No 1974/2006 <sup>(4)</sup> should be complemented by additional detailed implementing rules.
- (3) Article 70(4b) of Regulation (EC) No 1698/2005 allows Member States to apply higher rates of co-financing by the EAFRD during 2009, subject to the overall rate of contribution from the EAFRD as provided for in Article 70(3) of that Regulation, being respected over the whole programming period. It is necessary to determine the procedure under which the Member States may use that possibility as well as the mechanism through which it will be ensured that the overall contribution rate from the EAFRD shall be respected over the whole programming period.

- (4) In order to facilitate the implementation of local development strategies and in particular the functioning of local action groups, as defined in Article 62 of Regulation (EC) No 1698/2005, the possibility to make advance payments related to their running costs should be provided.
- (5) In view of the general environmental benefit resulting from the transfer of a holding, or part of it, to an organisation having the objective of nature management, Member States should be allowed not to require the beneficiary for reimbursement in case the organisation does not take over the commitment given as a condition for the grant of assistance.
- (6) The implementation of the operations concerning investments associated with the maintenance, restoration and upgrading of the natural heritage and with the development of high natural value sites, provided in Article 57(a) of Regulation (EC) No 1698/2005, should be facilitated. Therefore, Member States should be allowed to fix the level of support for such operations on the basis of standard costs and standard assumptions of income foregone, as already provided for the operations of similar nature in accordance with Article 53 of Regulation (EC) No 1974/2006.
- (7) In order to allow Member States to benefit from Article 70(4b) of Regulation (EC) No 1698/2005 the rules for the calculation of the Community contribution in the context of the EAFRD accounts, provided for in Commission Regulation (EC) No 883/2006 <sup>(5)</sup>, should be adapted.
- (8) Regulations (EC) No 1974/2006 and (EC) No 883/2006 should therefore be amended accordingly.
- (9) In order to be consistent with the date of application of Regulation (EC) No 473/2009, to which the provisions of this Regulation are complementary, this Regulation should apply as of 1 January 2009. Such retroactive application should not infringe the principle of legal certainty of the beneficiaries concerned.

<sup>(1)</sup> OJ L 277, 21.10.2005, p. 1.

<sup>(2)</sup> OJ L 209, 11.8.2005, p. 1.

<sup>(3)</sup> OJ L 144, 9.6.2009, p. 3.

<sup>(4)</sup> OJ L 368, 23.12.2006, p. 15.

<sup>(5)</sup> OJ L 171, 23.6.2006, p. 1.

- (10) The measures provided for in this Regulation are in accordance with the opinion of the Rural Development Committee and the Committee on the Agricultural Funds,

HAS ADOPTED THIS REGULATION:

#### Article 1

Regulation (EC) No 1974/2006 is amended as follows:

1. Article 6(1) is amended as follows:

(a) the following point is inserted after point (b):

‘(ba) changes to the financing plan related to the implementation of Article 70(4b) of Regulation (EC) No 1698/2005;’

(b) point (c) is replaced by the following:

‘(c) other changes not covered by points (a), (b) and (ba) of this paragraph.’

2. the following Article is inserted after Article 8:

#### ‘Article 8a

1. Member States intending to make changes related to the implementation of Article 70(4b) of Regulation (EC) No 1698/2005 shall notify to the Commission an amended financing plan containing the increased rates of contribution from the EAFRD to be applied in 2009.

The procedure of Article 9 of this Regulation shall apply to changes notified in accordance with the first subparagraph.

2. After receiving the last declaration of expenditure for the year 2009, to be submitted by 31 January 2010 at the latest in accordance with Article 16(2) of Commission Regulation (EC) No 883/2006 (\*), the Commission shall calculate the maximum EAFRD contribution rates that may be applied for the remaining part of the programming period in order to respect the overall maximum EAFRD contribution rates as provided in paragraphs 3 and 4 of Article 70 of Regulation (EC) No 1698/2005. The details and the result of that calculation shall be communicated to the Member States by 15 February 2010.

3. Member States shall notify to the Commission, by 15 March 2010, a new financing plan containing new EAFRD contribution rates for the remainder of the programming period in conformity with the maximum rates calculated by the Commission according to paragraph 2.

If a Member State does not notify the new financing plan by this date or if the financing plan notified is not in conformity with the Commission’s calculation of the maximum rates, the latter shall become automatically applicable to that Member State’s rural development programme as from the declaration corresponding to expenditure incurred by the paying agency during the first quarter of 2010, and up to a revised financing plan compatible with the co-financing rates calculated by the Commission.

(\*) OJ L 171, 23.6.2006, p. 1’;

3. Article 38 is replaced by the following:

#### ‘Article 38

1. Running costs of local action groups as referred to in Article 63(c) of Regulation (EC) No 1698/2005 shall be eligible for Community support within a limit of 20 % of the total public expenditure of the local development strategy.

2. Local action groups may request the payment of an advance from the competent paying agencies if such possibility is included in the rural development programme. The amount of the advances shall not exceed 20 % of the public aid related to the running costs, and its payment shall be subject to the establishment of a bank guarantee or an equivalent guarantee corresponding to 110 % of the amount of the advance. The guarantee shall be released at the closure of the local development strategy at the latest.

Article 26(5) of Commission Regulation (EC) No 1975/2006 (\*) shall not apply for the payment referred to in the first subparagraph.

(\*) OJ L 368, 23.12.2006, p. 74’;

4. in Article 44(2), the following point is added:

‘(c) where the holding of a beneficiary is entirely or partly transferred to an organisation having the main objective of nature management in view of conservation of the environment, provided that the transfer aims at a permanent change of land use into nature conservation and that this is associated with a significant benefit to the environment.’;



5. in Article 53, paragraph 1 is replaced by the following:

‘1. Where appropriate Member States may fix the level of support provided for in Articles 31, 37 to 41, and 43 to 49 of Regulation (EC) No 1698/2005 on the basis of standard costs and standard assumptions of income foregone.

Without prejudice to the applicable material and procedural State aid rules the first subparagraph also applies to investments associated with maintenance, restoration and upgrading of the natural heritage and with the development of high natural value sites as referred to in Article 57(a) of Regulation (EC) No 1698/2005.’;

6. Annexes II and VII are amended in accordance with the Annex to this Regulation.

#### *Article 2*

In Article 17(1) of Regulation (EC) No 883/2006 the following second subparagraph is added:

‘By way of derogation from the first subparagraph, for expenditure paid by Member States between 1 April and 31 December 2009, the Community contribution shall be calculated on the basis of the financing plan in force on the last day of the reference period.’.

#### *Article 3*

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

It shall apply from 1 January 2009.

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

Done at Brussels, 8 June 2009.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

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## ANNEX

The Annexes to Regulation (EC) No 1974/2006 are amended as follows:

1. in Annex II, A, point 6.3 is replaced by the following:

‘6.3. Indicative budget related to operations referred to in Article 16a of Regulation (EC) 1698/2005 between 1 January 2009 and 31 December 2013 (Article 16a(3b) up to the amounts specified in Article 69(5a) of Regulation (EC) No 1698/2005).

Axis/measure	EAFRD contribution for 2009-2013
Axis 1	
Measure 111	...
Measure ...	...
<b>Total Axis 1</b>	...
Axis 2	
Measure 211	...
Measure ...	...
<b>Total Axis 2</b>	...
Axis 3	...
Measure 311	
Measure 321	
— Related to priorities listed in Article 16a(1), points (a) to (f) of Regulation (EC) No 1698/2005	
— Related to priorities listed in Article 16a(1), point (g) of Regulation (EC) No 1698/2005	
Measure ...	
<b>Total Axis 3</b>	...
— Related to priorities listed in Article 16a(1), points (a) to (f) of Regulation (EC) No 1698/2005	
— Related to priorities listed in Article 16a(1), point (g) of Regulation (EC) No 1698/2005	
Axis 4	...
Measure 411	
Measure 413	
— Related to priorities listed in Article 16a(1), points (a) to (f) of Regulation (EC) No 1698/2005	
— Related to priorities listed in Article 16a(1), point (g) of Regulation (EC) No 1698/2005	
Measure ...	
<b>Total Axis 4</b>	...
— Related to priorities listed in Article 16a(1), points (a) to (f) of Regulation (EC) No 1698/2005	
— Related to priorities listed in Article 16a(1), point (g) of Regulation (EC) No 1698/2005	

Axis/measure	EAFRD contribution for 2009-2013
<b>Total programme</b>	
Total under Axis 1, 2, 3 and 4 related to priorities listed in Article 16a(1), points (a) to (f) of Regulation (EC) No 1698/2005	...
Total under Axis 3 and 4 related to priorities listed in Article 16a(1), point (g) of Regulation (EC) No 1698/2005	

2. Annex VII, A is amended as follows:

(a) in point 2, the second paragraph is replaced by the following:

‘Each Member State receiving additional financial resources in accordance with Article 69(5a) of Regulation (EC) No 1698/2005 should include, for the first time in the annual report submitted in 2010, a separate chapter containing at least the same analysis as mentioned in the first paragraph as regards the operations related to the priorities mentioned in Article 16a(1) of that Regulation.’;

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

‘3a. The financial implementation of the programme as regards the **operations related to the new challenges and broadband infrastructure**, giving, for each measure, a statement of expenditures paid to beneficiaries after 1 January 2009 for types of operations referred to in Article 16a(1) of Regulation (EC) No 1698/2005 and up to the amounts referred to in Article 69(5a) of that Regulation.

The table summarising the financial implementation of these types of operations shall have at least the following information:

Axis/measure	Annual payment-year N	Cumulative payments from year 2009 to year N
Measure 111	...	...
Measure ...		
<b>Total Axis 1</b>	...	...
Measure 211	...	...
Measure ...		
<b>Total Axis 2</b>	...	...
Measure 311	...	...
Measure 321		
— Related to priorities listed in Article 16a(1), points (a) to (f) of Regulation (EC) No 1698/2005		
— Related to priorities listed in Article 16a(1), point (g) of Regulation (EC) No 1698/2005		
Measure ...		
<b>Total Axis 3</b>		...
— Related to priorities listed in Article 16a(1), points (a) to (f) of Regulation (EC) No 1698/2005		
— Related to priorities listed in Article 16a(1), point (g) of Regulation (EC) No 1698/2005		

Axis/measure	Annual payment-year N	Cumulative payments from year 2009 to year N
Measure 411		...
Measure 413		
— Related to priorities listed in Article 16a(1), points (a) to (f) of Regulation (EC) No 1698/2005		
— Related to priorities listed in Article 16a(1), point (g) of Regulation (EC) No 1698/2005		
Measure ...		
<b>Total Axis 4</b>	...	...
— Related to priorities listed in Article 16a(1), points (a) to (f) of Regulation (EC) No 1698/2005		
— Related to priorities listed in Article 16a(1), point (g) of Regulation (EC) No 1698/2005		
<b>Total programme</b>	...	...
Total under Axis 1, 2, 3 and 4 related to priorities listed in Article 16a(1), points (a) to (f) of Regulation (EC) No 1698/2005		
Total under Axis 3 and 4 related to priorities listed in Article 16a(1) point (g) of Regulation (EC) No 1698/2005		

**COMMISSION REGULATION (EC) No 483/2009****of 9 June 2009****amending Regulation (EC) No 820/2008 laying down measures for the implementation of the common basic standards on aviation security****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2320/2002 of the European Parliament and the Council of 16 December 2002 establishing common rules in the field of civil aviation security <sup>(1)</sup>, and in particular Article 4(2) thereof,

Whereas:

- (1) The Commission is required, by virtue of Regulation (EC) No 2320/2002, when necessary, to adopt measures for the implementation of common basic standards for aviation security throughout the Community. Such detailed measures are laid down by Commission Regulation (EC) No 820/2008 <sup>(2)</sup>.
- (2) The measures provided for by Regulation (EC) No 820/2008 on restricting liquids carried by passengers arriving on flights from third countries and transferring at Community airports are subject to review in the light of technical developments, operational implications at airports and the impact on passengers.
- (3) Such a review has shown that the restrictions on liquids carried by passengers arriving on flights from third countries and transferring at Community airports create

certain operational difficulties at these airports and cause inconvenience to the passengers concerned.

- (4) In particular, the Commission has verified certain security standards at airports in specific third countries and found them satisfactory, and that those countries have a good record of cooperation with the Community and its Member States. On that basis the Commission has decided to take steps to alleviate the problems identified above, in the case of passengers carrying liquids obtained at named airports in those countries.
- (5) Regulation (EC) No 820/2008 should be amended accordingly.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Civil Aviation Security,

HAS ADOPTED THIS REGULATION:

*Article 1*

Attachment 1 to Regulation (EC) No 820/2008 is amended as set out in the Annex to this Regulation.

*Article 2*

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

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

Done at Brussels, 9 June 2009.

*For the Commission*

Antonio TAJANI

*Vice-President*

<sup>(1)</sup> OJ L 355, 30.12.2002, p. 1.

<sup>(2)</sup> OJ L 221, 19.8.2008, p. 8.

## ANNEX

The following text shall be added to Attachment 1:

‘— Republic of Korea:

Seoul Incheon (ICN) airport

Pusan Gimhae (PUS) airport.’

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**COMMISSION REGULATION (EC) No 484/2009****of 9 June 2009****amending Regulation (EC) No 1975/2006 laying down detailed rules for the implementation of Council Regulation (EC) No 1698/2005, as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

for in Article 71(2), should be made generally applicable for the purpose of Regulation (EC) No 1698/2005.

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) <sup>(1)</sup>, and in particular Articles 51(4), 74(4) and 91 thereof,

Whereas:

(1) Following the amendments to Commission Regulation (EC) No 796/2004 of 21 April 2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulations (EC) No 1782/2003 and (EC) No 73/2009, as well as for the implementation of cross compliance provided for in Council Regulation (EC) No 479/2008 <sup>(2)</sup> the references to that Regulation contained in Commission Regulation (EC) No 1975/2006 <sup>(3)</sup> should be updated.

(2) Furthermore, Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 <sup>(4)</sup> is applicable from 1 January 2009. Regulation (EC) No 1975/2006 should therefore be adapted to take into account references to Regulation (EC) No 73/2009.

(3) Experience has shown that there are gaps and obsolete provisions in Regulation (EC) No 1975/2006 that should be filled or deleted in order to ensure correct understanding and consistency of the text.

(4) Certain provisions of Regulation (EC) No 796/2004, such as those allowing the announcement of on-the-spot checks contained in Article 23a, those defining the exceptions from the application of reductions and exclusions laid down in Article 68 and those provided

(5) For the sake of clarity, when applying the control rules concerning rural development support for certain measures under Axis 2 and Axis 4, as laid down in Part II, Title I, of Regulation (EC) No 1975/2006, reference should be made to the definition and principles of agricultural parcels contained in Regulation (EC) No 796/2004.

(6) As regards on-the-spot checks relating to the measure set out in Article 36(a)(iv) of Regulation (EC) No 1698/2005, it should be clarified that the 5 % minimum requirement has to be achieved at the measure level.

(7) Experience has shown that it is necessary to clarify certain provisions, especially as regards reductions in the case of over-declaration of certain area and animal-related measures and the accumulation of reductions.

(8) For the sake of clarity, certain references to European Agricultural Fund for Rural Development (EAFRD) year should be amended to refer to calendar year.

(9) The provision of Regulation (EC) No 1975/2006 concerning selection of the control sample for verification of cross-compliance should be redrafted to take account of the amended Article 45 of Regulation (EC) No 796/2004, and a new mechanism should be added to increase the effectiveness of the control system.

(10) To make for consistent application of reductions in cases of negligence or intentional non-compliance, it is necessary to specify the area of cross-compliance in which the minimum requirements for fertilisers and plant protection product use referred to in Article 39(3) of Regulation (EC) No 1698/2005 are to be classified.

(11) The order of the reductions to be applied in cases of accumulation of reductions in the context of verification of cross-compliance should be amended to ensure a more consistent sequence.

<sup>(1)</sup> OJ L 277, 21.10.2005, p. 1.

<sup>(2)</sup> OJ L 141, 30.4.2004, p. 18.

<sup>(3)</sup> OJ L 368, 23.12.2006, p. 74.

<sup>(4)</sup> OJ L 30, 31.1.2009, p. 16.

- (12) In order to cover non-area or animal-related measures, the requirement of a control report should be included as regards on-the-spot checks of support under Axis 1 and Axis 3 and certain measures under Axis 2 and Axis 4.
- (13) Experience has shown that it is necessary to clarify annual notification requirements.
- (14) Information on the results of any type of controls should be made available to all paying agencies responsible for the management of the different support schemes so that, where the findings so justify, they can apply cross-compliance and eligibility reductions at the same time.
- (15) Regulation (EC) No 1975/2006 should therefore be amended accordingly.
- (16) In order to allow sufficient time for Member States to adjust their control procedures and to avoid accountability problems that could occur in case the application starts in the middle of the year, this Regulation should apply from 1 January 2010. However, with a view to preserving legal certainty, the derogation on the reductions resulting from Article 138(1) of Commission Regulation (EC) No 1973/2004 of 29 October 2004 laying down detailed rules for the application of Council Regulation (EC) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials <sup>(1)</sup>, as applicable to the beneficiaries in Member States applying the single area payment scheme; should be maintained for aid applications relating to calendar year 2009.
- (17) The measures provided for in this Regulation are in accordance with the opinion of the Rural Development Committee,

HAS ADOPTED THIS REGULATION:

#### Article 1

Regulation (EC) No 1975/2006 is amended as follows:

1. Article 2 is replaced by the following:

#### ‘Article 2

#### **Application of Regulation (EC) No 796/2004**

Without prejudice to specific provisions of this Regulation, Articles 5, 22, 23, 23a(1), 68, 69, 71(2) and 73 of Regulation (EC) No 796/2004 shall apply *mutatis mutandis*.’;

2. Article 7 is replaced by the following:

#### ‘Article 7

#### **Application of Regulation (EC) No 796/2004**

Article 2(10), (22) and (23) and Articles 9, 14(1a), 18 and 21 of Regulation (EC) No 796/2004 shall apply *mutatis mutandis* for the purpose of this Title.

Articles 2(1a), 6(1) and 8(1) of Regulation (EC) No 796/2004 shall also apply *mutatis mutandis*. However, for the measures referred to in Article 36(b)(iii), (iv) and (v) of Regulation (EC) No 1698/2005, Member States may establish appropriate alternative systems to uniquely identify the land subject to support.;

3. in Article 8, paragraph 3 is replaced by the following:

‘3. Articles 11(3), 12, 15 and 20 of Regulation (EC) No 796/2004 shall apply *mutatis mutandis* to payment claims under this Title. Further to the information referred to in Article 12(1)(d) of that Regulation, payment claims shall also contain the information set out in that provision with regard to non-agricultural land for which support is being claimed.’;

4. Article 12 is amended as follows:

- (a) paragraph 1 is replaced by the following:

‘1. The total number of on-the-spot checks related to payment claims presented during each calendar year shall cover at least 5 % of all beneficiaries subject to a commitment under one or more of the measures falling within the scope of this Title. However, for the measure set out in Article 36(a)(iv) of Regulation (EC) No 1698/2005 this minimum requirement has to be achieved at the measure level.

Applicants found not to be eligible after administrative checks shall not form part of the overall number of beneficiaries referred to in the first subparagraph.’;

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

‘3. The control sample referred to in the first subparagraph of paragraph 1 shall be selected in accordance with Article 27 of Regulation (EC) No 796/2004.’;

<sup>(1)</sup> OJ L 345, 20.11.2004, p. 1.

5. Article 16 is amended as follows:

(a) paragraphs 1 and 2 are replaced by the following:

'1. The basis for calculation of the aid in respect of area-related measures shall be established in accordance with Article 50(1), (3) and (7) of Regulation (EC) No 796/2004.

For the purpose of the application of this Article, areas declared by a beneficiary which receive the same rate of aid under a certain area-related measure shall be considered as forming one crop group. However, where degressive aid amounts are used, the average of these values in relation to the respective areas declared shall be taken into account.

Where a maximum limit or a ceiling has been set for the area eligible for support, the number of hectares shown in the aid application shall be reduced to the limit or ceiling set.

2. Where the area declared for payment for the crop group concerned exceeds the area determined in accordance with Article 50(3) of Regulation (EC) No 796/2004, the aid shall be calculated on the basis of the area determined minus twice the difference where that difference is more than either 3 % or two hectares, but no more than 20 % of the area determined.

Where the difference is more than 20 % of the area determined, no aid shall be granted for the crop group concerned.

Where the difference is more than 50 %, the beneficiary shall be excluded once again from receiving aid up to the difference between the area declared and the area determined in accordance with Article 50(3) of Regulation (EC) No 796/2004.;

(b) paragraph 3 is deleted;

(c) paragraph 4 is replaced by the following:

'4. By way of derogation from paragraph 2 and the first subparagraph of paragraph 3, for beneficiaries in Member States applying the single area payment scheme as provided for in Article 122 of Council Regulation (EC) No 73/2009 (\*), and where the difference between the area declared and the area determined is more than 3 % but no more than 30 % of the area determined, the amount to be granted shall be reduced, as regards aid applications for the calendar year 2009, by twice the difference found.

Where the difference is more than 30 % of the area determined, no aid shall be granted for calendar year 2009.

(\*) OJ L 30, 31.1.2009, p. 16.;

(d) paragraphs 5 and 6 are replaced by the following:

'5. Where differences between the area declared and the area determined in accordance with Article 50(3) of Regulation (EC) No 796/2004 are the result of irregularities committed intentionally, the beneficiary shall be excluded from the aid to which he would have been entitled pursuant to that Article for the calendar year in question for the area-related measure concerned where that difference is more than 0,5 % of the area determined or more than one hectare.

Moreover, where that difference is more than 20 % of the area determined, the beneficiary shall be excluded once again from receiving aid up to the difference between the area declared and the area determined in accordance with Article 50(3) of Regulation (EC) No 796/2004.

6. The amount resulting from the exclusions provided for in the third subparagraph of paragraph 2 and in paragraph 5 of this Article shall be offset against aid payments under any of the support measures under Regulation (EC) No 1698/2005 or Regulation (EC) No 73/2009 to which the beneficiary concerned is entitled in the context of applications he lodges in the course of the three calendar years following the calendar year of the finding. If the amount cannot be fully offset against those payments, the outstanding balance shall be cancelled.;

6. Article 17 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. The basis for the calculation of the aid in respect of animal-related measures shall be established in accordance with Article 57 of Regulation (EC) No 796/2004.;

(b) paragraph 3 is replaced by the following:

'3. By way of derogation from the third subparagraph of Article 59(2) and the second subparagraph of Article 59(4) of Regulation (EC) No 796/2004, the amount resulting from the exclusion shall be offset against aid payments under any of the support measures under Regulation (EC) No 1698/2005 or Regulation (EC) No 73/2009 to which the beneficiary concerned is entitled in respect of any applications he lodges in the three calendar years following the calendar year of the finding. Where the amount cannot be fully offset against those payments, the outstanding balance shall be cancelled.;

7. Article 18 is amended as follows:

(a) paragraph 3 is replaced by the following:

‘3. Where non-respect results from irregularities committed intentionally, the beneficiary shall be excluded from the measure in question both for the calendar year concerned and for the following calendar year.’;

(b) paragraph 4 is deleted;

8. in Article 19, paragraph 2 is replaced by the following:

‘2. Articles 4(2) and 22 of Regulation (EC) No 73/2009 and Article 2(2), (2a) and (31) to (36) and Articles 41, 42, 43, 46, 47 and 48 of Regulation (EC) No 796/2004 shall apply with regard to controls of cross-compliance.’;

9. Articles 20 and 21 are replaced by the following:

*‘Article 20*

#### **On-the-spot checks**

1. As regards the requirements and standards for which it is responsible, the competent control authority shall carry out on-the-spot checks on at least 1 % of all beneficiaries submitting payment claims under Article 36(a)(i) to (v) and (b)(i), (iv) and (v) of Regulation (EC) No 1698/2005.

2. The second and third subparagraphs of Article 44(1), Article 44(1a) and (2) of Regulation (EC) No 796/2004 shall apply.

*Article 21*

#### **Selection of the control sample**

1. Article 45(1), (1a) and (1b) of Regulation (EC) No 796/2004 shall apply as regards selection of the control sample for carrying out on-the-spot checks referred to in Article 20 of this Regulation.

2. The samples of beneficiaries to be checked in accordance with Article 20 shall be selected from the sample of beneficiaries which were already selected pursuant to Article 12 and to whom the relevant requirements or standards apply.

3. However, the samples of beneficiaries to be checked in accordance with Article 20 of this Regulation may be selected from the population of beneficiaries submitting

payment claims under Article 36(a)(i) to (v) and (b)(i), (iv) and (v) of Regulation (EC) No 1698/2005 who are under obligation to meet the respective requirements or standards.

4. It may be decided to proceed by a combination of the procedures set out in paragraphs 2 and 3 where such a combination increases the effectiveness of the control system.’;

10. in Article 22, paragraph 1 is replaced by the following:

‘1. Article 22 of Regulation (EC) No 73/2009 and Articles 2(2), (2a) and (31) to (36), 41 and 65(4) of Regulation (EC) No 796/2004 shall apply with regard to reductions or exclusions to be applied following any finding of non-compliance.’;

11. Articles 23 and 24 are replaced by the following:

*‘Article 23*

#### **Calculation of reductions and exclusions**

1. Without prejudice to Article 51(2) of Regulation (EC) No 1698/2005, where non-compliance is determined, a reduction shall be applied to the overall amount of aid under Article 36(a)(i) to (v) and (b)(i), (iv) and (v) of that Regulation that has been, or is to be, granted to the beneficiary concerned following payment claims he has submitted or will submit in the course of the calendar year of the finding.

Where non-compliance is due to negligence on the part of the beneficiary, the reduction shall be calculated in accordance with the rules set out in Article 66 of Regulation (EC) No 796/2004.

In the case of intentional non-compliance, the reduction shall be calculated in accordance with Article 67(1) of Regulation (EC) No 796/2004.

2. For the purposes of calculating the reduction referred to in paragraph 1, the minimum requirements for the use of fertilisers and plant protection products as defined in Article 39(3) of Regulation (EC) No 1698/2005 shall be considered as part of the area of “environment” and the area of “public, animal and plant health” respectively, as defined in Article 5(1) of Regulation (EC) No 73/2009. They are each equalised to an “act” within the meaning of Article 2(32) of Regulation (EC) No 796/2004.

*Article 24***Accumulation of reductions**

Where there is an accumulation of reductions, they shall be applied first in accordance with Articles 16 or 17 of this Regulation, then in accordance with Article 18 of this Regulation, then for late submission in accordance with Article 21 of Regulation (EC) No 796/2004, then in accordance with Article 14(1a) of Regulation (EC) No 796/2004 and finally in accordance with Articles 22 and 23 of this Regulation.;

12. Article 27 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. The expenditure controlled shall represent at least 4 % of the eligible public expenditure that has been declared to the Commission each calendar year and at least 5 % of the eligible public expenditure declared to the Commission over the whole programming period.;

(b) paragraph 5 is deleted;

13. in Article 28(1), point (a) is replaced by the following:

‘(a) that the payment claims submitted by the beneficiary can be supported by accounting or other documents held by the bodies or firms carrying out the operations supported.;

14. the following Article 28a is inserted:

*‘Article 28a***Control report**

On-the-spot checks under this Section shall be the subject of a control report. Article 28 of Regulation (EC) No 796/2004 shall apply *mutatis mutandis*.;

15. in Article 30, paragraph 3 is replaced by the following:

‘3. The ex-post checks shall cover each calendar year at least 1 % of eligible public expenditure for operations referred to in paragraph 1 for which the final payment has been made from the EAFRD. They shall be carried out within 12 months of the end of the respective calendar year.;

16. Article 31 is amended as follows:

(a) in paragraph 1, the fourth subparagraph is replaced by the following:

‘However, no reduction shall be applied if the beneficiary can demonstrate that he/she is not at fault for the inclusion of the ineligible amount.

The reductions shall be applied *mutatis mutandis* to ineligible expenditure identified during checks under Articles 27 and 30.;

(b) paragraph 2 is replaced by the following:

‘2. Where a beneficiary is found to have intentionally made a false declaration, the operation in question shall be excluded from support from the EAFRD and any amounts already paid for that operation shall be recovered. Moreover, the beneficiary shall be excluded from receiving support under the same measure for the calendar year in question and for the following calendar year.;

(c) paragraph 3 is deleted.

17. Article 34 is replaced by the following:

*‘Article 34***Notifications**

Member States shall send to the Commission by 15 July each year a report:

(a) covering the results of the checks on payment claims submitted under Title I during the previous calendar year and relating, in particular, to the following points:

(i) the number of payment claims for each measure, the total amount checked for these claims, as well as the total area and total number of animals covered by on-the-spot checks under Articles 12 and 20;

(ii) for area-related support, the total area broken down by individual aid scheme;

(iii) for animal-related measures, the total number of animals broken down by individual aid scheme;

(iv) the result of the checks carried out, indicating the reductions and exclusions applied pursuant to Articles 16, 17, 18 and 23;

(b) covering the results of administrative checks for measures under Title II during the previous calendar year pursuant to Article 26 and the reductions and exclusions applied pursuant to Article 31;



- (c) covering the results of the on-the-spot checks for measures under Title II and representing at least 4 % of the public expenditure that has been declared to the Commission in the previous calendar year pursuant to Article 27 and the reductions and exclusions applied pursuant to Article 31;
- (d) covering the results of ex-post checks during the previous calendar year pursuant to Article 30 and indicating the number of checks carried out, the amount of expenditure verified and the reductions and exclusions applied pursuant to Article 31.;

18. Article 36 is replaced by the following:

*'Article 36*

**Reporting of controls to the paying agencies**

1. Where, for a beneficiary, more than one paying agency is responsible for the management of different payments as laid down under Article 36(a)(i) to (v) and (b)(i), (iv) and (v) of Regulation (EC) No 1698/2005, under Article 2(d) of Regulation (EC) No 73/2009 and under Articles 11, 12 and 98 of Council Regulation (EC) No 479/2008 (\*), Member States shall ensure that determined non-compliances and, where appropriate, the corresponding reductions and exclusions are brought to the attention of all paying agencies involved in those payments.

2. Where controls are not carried out by the paying agency, the Member State shall ensure that sufficient information on the controls carried out is received by the paying agency. It is for the paying agency to define its needs for information.

The information referred to in the first subparagraph may be a report on every control carried out or, if appropriate, be in the form of a summary report.

3. A sufficient audit trail shall be maintained. An indicative description of the requirements of a satisfactory audit trail is given in the Annex.

4. The paying agency shall have the right to verify the quality of controls carried out by other bodies, and to receive all other information it needs for the execution of its functions.

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(\*) OJ L 148, 6.6.2008, p. 1.'

*Article 2*

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

It shall apply from 1 January 2010 with the exception of point 5(c) of Article 1, which shall apply from 1 January 2009.

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

Done at Brussels, 9 June 2009.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

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## COMMISSION REGULATION (EC) No 485/2009

of 9 June 2009

**amending Annex II to Council Regulation (EEC) No 2377/90 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin, as regards tiludronic acid and iron fumarate**

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2377/90 of 26 June 1990 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin <sup>(1)</sup>, and in particular Article 3 thereof,

Having regard to the opinions of the European Medicines Agency formulated by the Committee for Medicinal Products for Veterinary Use,

Whereas:

- (1) All pharmacologically active substances used in the Community in veterinary medicinal products intended for food-producing animals should be evaluated in accordance with Regulation (EEC) No 2377/90.
- (2) The substance tiludronic acid in the form of disodium salt is currently included in Annex II to Regulation (EEC) No 2377/90 only for *Equidae* species for intravenous use.
- (3) The Committee for Medicinal Products for Veterinary Use (hereinafter 'CVMP') has received an application for the extension of the existing entry for tiludronic acid in the form of disodium salt to include poultry. Having examined the available data on the residue studies for poultry, the CVMP concluded that there is no need to establish maximum residue limits (hereinafter 'MRLs') for tiludronic acid in the form of disodium salt for poultry.
- (4) However, given the fact that residue studies were conducted only after subcutaneous administration and taking into account that with 12 to 24 hours after administration residues intake from tissues, including injection site would represent 88 % of the estimated acceptable daily intake, the CVMP concluded that the extension was possible only for parenteral use and for use in laying and breeder birds. Therefore, the current entry in Annex II to Regulation (EEC) No 2377/90 for

tiludronic acid in the form of disodium salt should be amended so that this substance could be used for parenteral use in poultry species (laying and breeder birds).

- (5) The substance iron fumarate is currently not included in the Annexes to Regulation (EEC) No 2377/90.
- (6) The CVMP has received an application to consider whether the substance iron fumarate should be covered by assessments performed for other iron salts with existing entries in Annex II to Regulation (EEC) No 2377/90, for use in all food producing species.
- (7) Having examined the assessments performed and considering that fumaric acid is a permitted food additive under European Parliament and Council Directive 95/2/EC <sup>(2)</sup>, the CVMP concluded that the assessments performed for the substances with existing entries in Annex II to Regulation (EEC) No 2377/90, should also apply to iron fumarate. The CVMP considered that no further assessment for iron fumarate is necessary and that there is no need to establish MRLs for iron fumarate. It recommended the inclusion of that substance in Annex II for all food producing species. Therefore this substance should be inserted in Annex II to Regulation (EEC) No 2377/90 for all food producing species.
- (8) Regulation (EEC) No 2377/90 should therefore be amended accordingly.
- (9) An adequate period should be allowed before the applicability of this Regulation in order to enable Member States to make any adjustment which may be necessary in the light of this Regulation to the authorisations to place the veterinary medicinal products concerned on the market which have been granted in accordance with Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to veterinary medicinal products <sup>(3)</sup>.
- (10) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Veterinary Medicinal Products,

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

<sup>(2)</sup> OJ L 61, 18.3.1995, p. 1.

<sup>(3)</sup> OJ L 311, 28.11.2001, p. 1.

HAS ADOPTED THIS REGULATION:

*Article 1*

Annex II to Regulation (EEC) No 2377/90 is amended in accordance with the Annex to this Regulation.

*Article 2*

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

It shall apply from 9 August 2009.

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

Done at Brussels, 9 June 2009.

*For the Commission*  
Günter VERHEUGEN  
*Vice-President*

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## ANNEX

Annex II to Regulation (EEC) No 2377/90 is amended as follows:

(a) In point 2, the entry for 'Tiludronic acid (in the form of disodium salt)' is replaced by the following:

2. Organic compounds

Pharmacologically active Substance(s)	Animal species	Other provisions
'Tiludronic acid (in the form of disodium salt)	Equidae	For intravenous use only
	Poultry	For parenteral use only and for use in laying and breeder birds only'

(b) In point 3, the new entry for 'Iron fumarate' is inserted after the entry for Iron dextran as follows:

3. Substances generally recognised as safe

Pharmacologically active Substance(s)	Animal species	Other provisions
'Iron fumarate	All food producing species'	

**COMMISSION REGULATION (EC) No 486/2009****of 9 June 2009****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EC) No 945/2008 for the 2008/2009 marketing year**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (single CMO Regulation) <sup>(1)</sup>,

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

Whereas:

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

for the 2008/2009 marketing year are fixed by Commission Regulation (EC) No 945/2008 <sup>(3)</sup>. These prices and duties have been last amended by Commission Regulation (EC) No 464/2009 <sup>(4)</sup>.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 10 June 2009.

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

Done at Brussels, 9 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 178, 1.7.2006, p. 24.

<sup>(3)</sup> OJ L 258, 26.9.2008, p. 56.

<sup>(4)</sup> OJ L 139, 5.6.2009, p. 22.

## ANNEX

**Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 10 June 2009**

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 11 10 <sup>(1)</sup>	28,35	2,78
1701 11 90 <sup>(1)</sup>	28,35	7,36
1701 12 10 <sup>(1)</sup>	28,35	2,65
1701 12 90 <sup>(1)</sup>	28,35	6,93
1701 91 00 <sup>(2)</sup>	31,93	9,27
1701 99 10 <sup>(2)</sup>	31,93	4,76
1701 99 90 <sup>(2)</sup>	31,93	4,76
1702 90 95 <sup>(3)</sup>	0,32	0,34

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

## DIRECTIVES

## COUNCIL DIRECTIVE 2009/55/EC

of 25 May 2009

**on tax exemptions applicable to the permanent introduction from a Member State of the personal property of individuals****(Codified version)**

THE COUNCIL OF THE EUROPEAN UNION,

should therefore be made subject to limits and conditions.

Having regard to the Treaty establishing the European Community, and in particular Article 93 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament <sup>(1)</sup>,Having regard to the opinion of the European Economic and Social Committee <sup>(2)</sup>,

Whereas:

(5) The adoption of harmonising measures with regard to excise duty and value added tax has made rules on tax exemptions and duty-free allowances superfluous in those areas.

(6) 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 I, Part B,

HAS ADOPTED THIS DIRECTIVE:

(1) Council Directive 83/183/EEC of 28 March 1983 on tax exemptions applicable to permanent imports from a Member State of the personal property of individuals <sup>(3)</sup> has been substantially amended several times <sup>(4)</sup>. In the interests of clarity and rationality the said Directive should be codified.

(2) In order for the people of the Member States to become more aware of the activities of the Community, measures to benefit private individuals should be maintained in order to ensure internal market conditions in the Community.

(3) In particular, the tax obstacles to the introduction by private individuals of personal property into one Member State from another Member State are such as to hinder the free movement of persons within the Community. Therefore, these obstacles should be eliminated as far as possible by the introduction of tax exemptions.

(4) Those tax exemptions may apply only to the introduction of goods which are not of a commercial or speculative nature. The application of the exemptions

## CHAPTER I

## GENERAL PROVISIONS

## Article 1

## Scope

1. Every Member State shall, subject to the conditions and in the cases hereinafter set out, exempt personal property introduced permanently from another Member State by private individuals from consumption taxes which normally apply to such property.

2. The following shall not be covered by this Directive:

(a) value added tax;

(b) excise duty;

(c) specific and/or periodical duties and taxes connected with the use within the country of property referred to in paragraph 1, such as for instance motor vehicle registration fees, road taxes and television licences.

<sup>(1)</sup> Opinion of 16 December 2008 (not yet published in the Official Journal).

<sup>(2)</sup> Opinion of 17 September 2008, OJ C 77, 31.3.2009, p. 148.

<sup>(3)</sup> OJ L 105, 23.4.1983, p. 64.

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

## Article 2

### Conditions relating to property

1. For the purposes of this Directive, 'personal property' means property for the personal use of the persons concerned or the needs of their household. Such property must not, by reason of its nature or quantity, reflect any commercial interest, nor be intended for an economic activity within the meaning of Article 9(1) and Articles 10 to 13 of Council Directive 2006/112/EC<sup>(1)</sup>. However, the tools or instruments necessary to the person concerned for the exercise of his trade or profession shall also be treated as personal property.

2. The exemption for which Article 1 makes provision shall be granted for personal property:

- (a) which has been acquired under the general conditions of taxation in force in the domestic market of one of the Member States and which is not the subject, on the grounds of exit from the Member State of origin, of any exemption or any refund of consumption tax. For the purposes of this Directive, goods acquired under the conditions referred to in Article 151 of Directive 2006/112/EC with the exception of point (e) of the first subparagraph of paragraph 1 thereof shall be deemed to have met those conditions;
- (b) of which the person concerned has had the actual use before the change of residence is effected or the secondary residence established. In the case of motor-driven road vehicles (including their trailers), caravans, mobile homes, pleasure boats and private aircraft, Member States may require that the person concerned should have had the use of them for a period of at least six months before the change of residence.

For the goods referred to in the second sentence of point (a), Member States may require:

- (i) in the case of motor-driven road vehicles (including their trailers), caravans, mobile homes, pleasure boats and private aircraft, that the person concerned should have had the use of them for a period of at least 12 months before the change of residence;
- (ii) in the case of other goods, that the person concerned should have had the use of them for a period of at least six months before the change of residence.

3. The competent authorities shall demand proof that the conditions in paragraph 2 have been satisfied in the case of motor-driven road vehicles (including their trailers), caravans, mobile homes, pleasure boats and private aircraft. In the case

of other property, they shall demand such proof only where there are grave suspicions of fraud.

## Article 3

### Introduction conditions

The introduction of the property may be carried out all at once or in stages within the periods laid down in Articles 7 to 10 respectively.

## Article 4

### Obligations subsequent to introduction

The motor-driven road vehicles (including their trailers), caravans, mobile homes, pleasure boats and private aircraft introduced shall not be disposed of, hired out or lent during the period of 12 months following their tax exempt introduction, except in circumstances duly justified to the satisfaction of the competent authorities of the Member State of destination.

## Article 5

### Specific conditions for certain types of property

The exemption on the introduction of riding horses, motor-driven road vehicles (including their trailers), caravans, mobile homes, pleasure boats and private aircraft shall be granted only if the private individual transfers his normal residence to the Member State of destination.

## Article 6

### General rules for determining residence

1. For the purposes of this Directive, 'normal residence' means the place where a person usually lives, that is for at least 185 days in each calendar year, because of personal and occupational ties or, in the case of a person with no occupational ties, because of personal ties which show close links between that person and the place where he is living.

However, the normal residence of a person whose occupational ties are in a different place from his personal ties and who consequently lives in turn in different places situated in two or more Member States shall be regarded as being the place of his personal ties, provided that such person returns there regularly. This last condition need not be met where the person is living in a Member State in order to carry out a task of a definite duration. Attendance at a university or school shall not imply transfer of normal residence.

2. Individuals shall give proof of their place of normal residence by any appropriate means, such as their identity card or any other valid document.

<sup>(1)</sup> OJ L 347, 11.12.2006, p. 1.

3. Where the competent authorities of the Member State of destination have doubts as to the validity of a statement as to normal residence made in accordance with paragraph 2, or for the purpose of certain specific controls, they may ask for any information they require or for additional proof.

## CHAPTER II

### INTRODUCTION OF PERSONAL PROPERTY IN CONNECTION WITH A TRANSFER OF NORMAL RESIDENCE

#### Article 7

1. The exemption for which Article 1 makes provision shall be granted, subject to the conditions laid down in Articles 2 to 5, in respect of personal property introduced by a private individual when transferring his normal residence.

The grant of the exemption shall, without prejudice to any Community transit procedure which may apply, be subject to the drawing-up of an inventory of the property on plain paper accompanied, if the State so requires, by a declaration, the model for and content of which shall be defined in accordance with the procedure referred to in Article 248a(2) of Council Regulation (EEC) No 2913/92 <sup>(1)</sup>. No reference to value may be demanded on the inventory of the property.

2. The last of the property must be introduced not later than 12 months after the transfer of normal residence. Where, in accordance with Article 3, the property is introduced in stages within that period, only on the occasion of the first introduction may Member States require the submission of a full inventory to which reference may also be made in the event of subsequent removals by other customs offices. Such inventory may be supplemented subject to the agreement of the competent authorities of the Member State of destination.

## CHAPTER III

### INTRODUCTION OF PERSONAL PROPERTY IN CONNECTION WITH THE FURNISHING OR RELINQUISHMENT OF A SECONDARY RESIDENCE

#### Article 8

1. The exemption for which Article 1 makes provision shall be granted, subject to the conditions laid down in Articles 2 to 5, for personal property introduced by a private individual to furnish a secondary residence.

This exemption shall be granted only where:

(a) the person concerned is the owner of the secondary residence or is renting it for a period of at least 12 months;

(b) the property introduced corresponds to the normal furniture of the secondary residence.

2. The exemption shall also be granted, subject to the conditions mentioned in paragraph 1, where, following the relinquishment of a secondary residence, property is introduced to the normal residence or to another secondary residence, provided that the property in question has actually been in the possession of the person concerned, and that he has had the use of it, before establishment of a second residence.

The last of the property must be introduced not later than 12 months after the secondary residence has been relinquished.

## CHAPTER IV

### INTRODUCTION OF PROPERTY ON MARRIAGE

#### Article 9

1. Without prejudice to Articles 2 to 5, any person shall on marrying be entitled to exemption from the taxes referred to in Article 1(1) when introducing into the Member State to which he intends to transfer his normal residence personal property which he has acquired or of which he has had the use, provided that:

(a) such introduction takes place within a period beginning two months before the marriage date envisaged and ending four months after the actual marriage date;

(b) the person concerned provides evidence that his marriage has taken place or that the necessary preliminary formalities for the marriage have been undertaken.

2. Exemption shall also be granted in respect of presents customarily given on the occasion of a marriage which are received by a person fulfilling the conditions laid down in paragraph 1 from persons having their normal place of residence in a Member State other than the Member State of destination. The exemption shall apply to presents of a unit value of not more than EUR 350. Member States may, however, grant an exemption of more than EUR 350, provided that the value of each exempt present does not exceed EUR 1 400.

<sup>(1)</sup> OJ L 302, 19.10.1992, p. 1.



3. Member States may make the granting of the exemption dependent on the provision of an adequate guarantee, where property is introduced before the date of the marriage.

4. Where the individual fails to provide proof of his marriage within four months of the date given for such marriage, the taxes shall be due on the date of introduction.

#### CHAPTER V

### INTRODUCTION OF THE PERSONAL PROPERTY OF A DECEASED PERSON, ACQUIRED BY INHERITANCE

#### Article 10

By way of derogation from Articles 2(2) and (3), 4 and 5(2), but without prejudice to the other provisions contained in Articles 2, 3 and 5, any private individual who acquires by inheritance (*causa mortis*) the ownership or the beneficial ownership of personal property of a deceased person which is situated within a Member State shall be entitled to exemption from the taxes referred to in Article 1(1) when introducing such property into another Member State in which he has a residence, provided that:

- (a) such individual provides the competent authorities of the Member State of destination with a declaration issued by a notary or other competent authority in the Member State of origin that the property he is introducing has been acquired by inheritance;
- (b) the property is introduced not more than two years after the date on which such individual enters into possession of the property.

#### CHAPTER VI

### FINAL PROVISIONS

#### Article 11

1. Member States shall endeavour to reduce as far as possible the introduction formalities for private individuals within the limits and subject to the conditions laid down in this Directive and shall endeavour to avoid introduction formalities entailing controls which result in substantial unloading and reloading at the entry into the Member State of destination.

2. Member States may retain and/or introduce more liberal conditions for granting tax exemptions than those laid down in this Directive, with the exception of those laid down in Article 2(2)(a).

3. Without prejudice to Article 2(2), Member States may not, by virtue of this Directive, apply within the Community tax exemptions less favourable than those which they accord to imports by private individuals of personal property from third countries.

#### Article 12

1. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive, and in particular any resulting from the application of the provisions of Article 11(2) and (3). The Commission shall inform the other Member States thereof.

2. Every two years the Commission shall, after consulting the Member States, send the European Parliament and the Council a report on the implementation of this Directive in the Member States.

#### Article 13

Directive 83/183/EEC, as amended by the Directives listed in Annex I, 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 I, 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 II.

#### Article 14

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

#### Article 15

This Directive is addressed to the Member States.

Done at Brussels, 25 May 2009.

For the Council  
The President  
J. ŠEBESTA

## ANNEX I

## PART A

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

(referred to in Article 13)

Council Directive 83/183/EEC  
(OJ L 105, 23.4.1983, p. 64).

Council Directive 89/604/EEC  
(OJ L 348, 29.11.1989, p. 28).

Council Directive 91/680/EEC  
(OJ L 376, 31.12.1991, p. 1).

Only as regards Article 2(2), third indent

Council Directive 92/12/EEC  
(OJ L 76, 23.3.1992, p. 1).

Only as regards Article 23(3), second indent

## PART B

**List of time limits for transposition into national law**

(referred to in Article 13)

Directive	Time limit for transposition
83/183/EEC	1 January 1984
89/604/EEC	1 July 1990
91/680/EEC	1 January 1993 <sup>(1)</sup>
92/12/EEC	1 January 1993 <sup>(2)</sup>

<sup>(1)</sup> Member States shall bring into force such laws, regulations and administrative provisions as are necessary for their arrangements thus adapted to Article 1, points 1 to 20 and points 22, 23 and 24 and Article 2 of Directive 91/680/EEC to enter into force on 1 January 1993.

<sup>(2)</sup> With regard to Article 9(3) the Kingdom of Denmark is authorised to introduce the laws, regulations and administrative provisions required for complying with this provision by 1 January 1993 at the latest.

## ANNEX II

## CORRELATION TABLE

Directive 83/183/EEC	This Directive
Article 1(1)	Article 1(1)
—	Article 1(2), point (a)
—	Article 1(2), point (b)
Article 1(2)	Article 1(2), point (c)
Article 2(1)	Article 2(1)
Article 2(2), first subparagraph, point (a)	Article 2(2), first subparagraph, point (a)
Article 2(2), first subparagraph, point (b)	Article 2(2), first subparagraph, point (b)
Article 2(2), second subparagraph, introductory wording	Article 2(2), second subparagraph, introductory wording
Article 2(2), second subparagraph, first indent	Article 2(2), second subparagraph, point (i)
Article 2(2), second subparagraph, second indent	Article 2(2), second subparagraph, point (ii)
Article 2(2), second subparagraph, final wording	—
Article 2(3)	Article 2(3)
Article 3	Article 3
Article 4	Article 4
Article 5(1)	—
Article 5(2)	Article 5
Article 6	Article 6
Article 7(1)(a)	Article 7(1), first subparagraph
Article 7(1)(b)	Article 7(1), second subparagraph
Article 7(2)	Article 7(2)
Article 8(1), first subparagraph	Article 8(1), first subparagraph
Article 8(1), second subparagraph, introductory wording	Article 8(1), second subparagraph, introductory wording
Article 8(1), second subparagraph, points (i) and (ii)	Article 8(1), second subparagraph, points (a) and (b)
Article 8(2)	Article 8(2)
Articles 9, 10 and 11	Articles 9, 10 and 11
Article 12(1)	—
Article 12(2)	Article 12(1)
Article 12(3)	Article 12(2)
—	Article 13
—	Article 14
Article 13	Article 15
—	Annex I
—	Annex II

## II

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

## DECISIONS

## COUNCIL

## DECISION No 2/2009 OF THE ACP-EC COMMITTEE OF AMBASSADORS

of 16 February 2009

on the appointment of the Director of the Centre for the Development of Enterprise (CDE)

(2009/435/EC)

THE ACP-EC COMMITTEE OF AMBASSADORS,

HAS DECIDED AS FOLLOWS:

Having regard to the ACP-EC Partnership Agreement, signed in Cotonou on 23 June 2000 <sup>(1)</sup>, as revised by the Agreement amending the said Partnership Agreement, signed in Luxembourg on 25 June 2005 <sup>(2)</sup>, and in particular Article 2(7) of Annex III thereto,

Whereas:

- (1) The previous Director of the CDE, who was appointed on 1 March 2005 for a term of office ending on 28 February 2010, tendered his resignation with effect from 23 August 2007.
- (2) At the end of its proceedings, a joint selection committee established by both sides proposed the appointment of Mr Maboussou THIAM (Senegal) as Director of the Centre for the Development of Enterprise for the remainder of the current term of office,

*Sole Article*

Without prejudice to any subsequent decisions that the Committee might have to take, under its prerogatives, Mr Maboussou THIAM is hereby appointed Director of the Centre for the Development of Enterprise with effect from 1 March 2009, for a term of office ending on 28 February 2010.

Done at Brussels, 16 February 2009.

*For the ACP-EC Committee of Ambassadors*  
*The Chairman*  
M. VICENOVÁ

<sup>(1)</sup> OJ L 317, 15.12.2000, p. 3.

<sup>(2)</sup> OJ L 209, 11.8.2005, p. 27.

## COUNCIL DECISION

of 5 May 2009

**correcting Directive 2008/73/EC simplifying procedures of listing and publishing information in the veterinary and zootechnical fields**

(2009/436/EC)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament <sup>(1)</sup>,

Whereas:

(1) Directive 2008/73/EC <sup>(2)</sup> amended a total of 23 Council acts to provide, inter alia, for simplified procedures of listing and publishing information in the veterinary and zootechnical fields.

(2) Directive 2008/73/EC entered into force on 3 September 2008. Member States are to bring into force the laws, regulations and administrative provisions necessary to comply with that Directive by 1 January 2010. However, that Directive did not provide that the Member States were to apply those provisions from that date.

(3) For the sake of legal certainty, Directive 2008/73/EC should be corrected to ensure that the amendments made to the various Council acts by that Directive, in order to provide for those simplified procedures, are uniformly applied by the Member States from 1 January 2010. Directive 2008/73/EC should therefore be corrected so that it also applies from that date. Accordingly, that Directive should also be corrected in order to provide that the Member States are to apply those provisions from that date.

(4) However, certain other amendments made by Directive 2008/73/EC to Directives 64/432/EEC <sup>(3)</sup> and 90/426/EEC <sup>(4)</sup> do not concern the simplified procedures and therefore they do not require the deferred date of application by the Member States of 1 January 2010. Those amendments concern respectively the adoption of specific animal health measures in accordance with

the procedure laid down in Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(5)</sup> and correct an outdated reference.

(5) In order to ensure a smooth transition to the new simplified procedures of listing and publishing information in the veterinary and zootechnical fields, it should be provided that transitional provisions may be adopted in accordance with the procedure laid down in Decision 1999/468/EC.

(6) To ensure legal certainty and continuity, this Decision should apply from 3 September 2008, the date of entry into force of Directive 2008/73/EC.

(7) Directive 2008/73/EC should therefore be corrected accordingly,

HAS ADOPTED THIS DECISION:

*Article 1*

Directive 2008/73/EC is hereby corrected as follows:

1. paragraph 2 of Article 20 shall be deleted;
2. the following Articles shall be inserted:

*'Article 23a***Transitional provisions**

Transitional provisions may be adopted in accordance with the procedure referred to in Article 23b(2).

*Article 23b***Committee procedure**

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 <sup>(\*)</sup>.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

<sup>(1)</sup> Opinion of 2 April 2009 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 219, 14.8.2008, p. 40.

<sup>(3)</sup> OJ L 121, 29.7.1964, p. 1977/64.

<sup>(4)</sup> OJ L 224, 18.8.1990, p. 42.

<sup>(5)</sup> OJ L 184, 17.7.1999, p. 23.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

(\*) 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 (OJ L 31, 1.2.2002, p. 1).;

3. Article 24(1) shall be replaced by the following:

‘1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 January 2010. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 1 January 2010.

When Member States adopt those provisions, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.’;

4. Article 25 shall be replaced by the following:

‘Article 25

**Entry into force and applicability**

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

It shall apply from 1 January 2010, with the exception of Article 1(1) and (5) and Articles 7, 23a and 23b.’

*Article 2*

This Decision shall apply from 3 September 2008.

*Article 3*

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

*Article 4*

This Decision is addressed to the Member States.

Done at Brussels, 5 May 2009.

*For the Council*

*The President*

M. KALOUSEK

# COMMISSION

## COMMISSION DECISION

of 8 June 2009

**amending Decision 2007/268/EC on the implementation of surveillance programmes for avian influenza in poultry and wild birds to be carried out in the Member States**

(notified under document number C(2009) 4228)

(Text with EEA relevance)

(2009/437/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field <sup>(1)</sup> and in particular the fourth subparagraph of Article 24(2) and Article 24(10) thereof,

Having regard to Council Directive 2005/94/EC of 20 December 2005 on Community measures for the control of avian influenza and repealing Directive 92/40/EEC <sup>(2)</sup> and in particular Article 4(2) thereof,

Whereas:

- (1) Commission Decision 2007/268/EC <sup>(3)</sup> lays down guidelines for the performance of the surveillance programmes for avian influenza in poultry and wild birds to be carried out by the Member States. Those guidelines include provisions on the submission of laboratory results to the Community Reference Laboratory for avian influenza.
- (2) Since the adoption of Decision 2007/268/EC, the Commission has introduced an online system for reporting laboratory results obtained during surveillance in poultry and wild birds. It is appropriate that that online system be used for the purposes of the reporting obligations provided for in Decision 2007/268/EC.
- (3) In addition, Decision 2007/268/EC provides that all positive serological findings are to be confirmed by the National Laboratories for avian influenza by a haemagglutination-inhibition test, using designated strains supplied by the Community Reference Laboratory for avian influenza. It is appropriate that the strains used for confirmation of the avian influenza H5 subtype be

replaced by other strains, which may achieve the same diagnostic parameters in a more rapid and cost-efficient manner.

- (4) Decision 2007/268/EC should therefore be amended accordingly.
- (5) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee of the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

### Article 1

Decision 2007/268/EC is amended as follows:

1. Annex I is amended as follows:

- (a) in Part A, Section A.2, point 4 is replaced by the following:

‘4. The competent authority shall ensure that all positive and negative results of both serological and virological laboratory investigations obtained during surveillance are reported to the Commission through the Commission’s online system. These results must be reported every three months and entered into the online system within four weeks following the end of the three months period.’;

- (b) in Part B, point 2 is replaced by the following:

‘2. Specific protocols to accompany the sending of samples and diagnostic material to the CRL shall be provided by the CRL. A good exchange of information between the CRL and the NL must be ensured. The CRL shall provide technical support and keep an enlarged stock of diagnostic reagents.’

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

<sup>(2)</sup> OJ L 10, 14.1.2006, p. 16.

<sup>(3)</sup> OJ L 115, 3.5.2007, p. 3.

(c) in Part D, point 3 is replaced by the following:

‘3. All positive serological findings shall be confirmed by the NL by a haemagglutination-inhibition test, using designated strains supplied by the CRL:

(a) for **H5** subtype:

(i) Initial testing using teal/England/7894/06 (H5N3);

(ii) Testing of all positives with chicken/Scotland/59(H5N1) to eliminate N3 cross reactive antibodies

(b) for **H7** subtype:

(i) Initial testing using Turkey/England/647/77 (H7N7);

(ii) Testing of all positive with African Starling/983/79 (H7N1) to eliminate N7 cross reactive antibodies.’;

2. in Annex II, Part A, Section A2, point 3 is replaced by the following:

‘3. The competent authority shall ensure that all positive and negative results of both serological and virological laboratory investigations obtained during surveillance are reported to the Commission through the Commission’s online system. These results must be reported every three months and entered into the online system within four weeks following the end of the three months period.’

#### *Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 8 June 2009.

*For the Commission*  
Androulla VASSILIOU  
Member of the Commission



## COMMISSION DECISION

of 8 June 2009

**recognising in principle the completeness of the dossier submitted for detailed examination in view of the possible inclusion of orange oil in Annex I to Council Directive 91/414/EEC**

*(notified under document number C(2009) 4232)***(Text with EEA relevance)**

(2009/438/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection on the market <sup>(1)</sup>, and in particular Article 6(3) thereof,

Whereas:

(1) Directive 91/414/EEC provides for the development of a Community list of active substances authorised for incorporation in plant protection products.

(2) A dossier for the active substance orange oil was submitted by Vivagro Sarl to the authorities of France on 22 February 2008 with an application to obtain its inclusion in Annex I to Directive 91/414/EEC.

(3) The authorities of France have indicated to the Commission that, on preliminary examination, the dossier for the active substance concerned appears to satisfy the data and information requirements set out in Annex II to Directive 91/414/EEC. The dossier submitted appears also to satisfy the data and information requirements set out in Annex III to Directive 91/414/EEC in respect of one plant protection product containing the active substance concerned. In accordance with Article 6(2) of Directive 91/414/EEC, the dossier was subsequently forwarded by the respective applicant to the Commission and other Member States, and was referred to the Standing Committee on the Food Chain and Animal Health.

(4) By this Decision it should be formally confirmed at Community level that the dossier is considered as satisfying in principle the data and information requirements set out in Annex II and, for at least one plant protection product containing the active substance concerned, the requirements set out in Annex III to Directive 91/414/EEC.

(5) This Decision should not prejudice the right of the Commission to request the applicant to submit further data or information in order to clarify certain points in the dossier.

(6) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

*Article 1*

Without prejudice to Article 6(4) of Directive 91/414/EEC, the dossier concerning the active substance identified in the Annex to this Decision, which was submitted to the Commission and the Member States with a view to obtaining the inclusion of that substance in Annex I to that Directive, satisfies in principle the data and information requirements set out in Annex II to that Directive.

The dossier also satisfies the data and information requirements set out in Annex III to that Directive in respect of one plant protection product containing the active substance, taking into account the uses proposed.

<sup>(1)</sup> OJ L 230, 19.8.1991, p. 1.

*Article 2*

The rapporteur Member State shall pursue the detailed examination for the dossier referred to in Article 1 and shall communicate to the Commission the conclusions of its examination accompanied by a recommendation on the inclusion or non-inclusion in Annex I to Directive 91/414/EEC of the active substance referred to in Article 1 and any conditions for that inclusion as soon as possible and at the latest within a period of one year from the date of publication of this Decision in the *Official Journal of the European Union*.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 8 June 2009.

*For the Commission*

Androulla VASSILIOU

*Member of the Commission*

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*ANNEX***ACTIVE SUBSTANCE CONCERNED BY THIS DECISION**

Common Name, CIPAC Identification Number	Applicant	Date of application	Rapporteur Member State
Orange oil CIPAC-No: not applicable	VIVAGRO Sarl	22 February 2008	FR

**CORRIGENDA****Corrigendum to Council Directive 92/119/EEC of 17 December 1992 introducing general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease**

*(Official Journal of the European Communities L 62 of 15 March 1993)*

On page 69, Article 2, point 3:

*for:* '3. vector: any wild vertebrate or invertebrate animal which, by mechanical or biological means, is liable to transmit and spread the agent of the disease in question;'

*read:* '3. vector: any vertebrate or invertebrate animal which, by mechanical or biological means, is liable to transmit and spread the agent of the disease in question;'.  
  

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## Commission

2009/437/EC:

- ★ **Commission Decision of 8 June 2009 amending Decision 2007/268/EC on the implementation of surveillance programmes for avian influenza in poultry and wild birds to be carried out in the Member States** (*notified under document number C(2009) 4228*) <sup>(1)</sup> ..... 45

2009/438/EC:

- ★ **Commission Decision of 8 June 2009 recognising in principle the completeness of the dossier submitted for detailed examination in view of the possible inclusion of orange oil in Annex I to Council Directive 91/414/EEC** (*notified under document number C(2009) 4232*) <sup>(1)</sup> ..... 47

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## Corrigenda

- ★ **Corrigendum to Council Directive 92/119/EEC of 17 December 1992 introducing general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease (OJ L 62, 15.3.1993)** ..... 49

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