

Official Journal

of the European Union

L 258



English edition

Legislation

Volume 52

1 October 2009

Contents

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

REGULATIONS

- ★ **Council Regulation (EC) No 913/2009 of 24 September 2009 terminating the new exporter review of Regulation (EC) No 1174/2005 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of hand pallet trucks and their essential parts originating in the People's Republic of China, re-imposing the duty with regard to imports from one exporter in this country and terminating the registration of these imports** 1
- Commission Regulation (EC) No 914/2009 of 30 September 2009 establishing the standard import values for determining the entry price of certain fruit and vegetables 4
- Commission Regulation (EC) No 915/2009 of 30 September 2009 fixing the import duties in the cereals sector applicable from 1 October 2009 6
- ★ **Commission Regulation (EC) No 916/2009 of 29 September 2009 establishing a prohibition of fishing for cod in I and IIb by vessels flying the flag of Germany** 9

DIRECTIVES

- ★ **Directive 2009/101/EC of the European Parliament and of the Council of 16 September 2009 on coordination of safeguards which, for the protection of the interests of members and third parties, are required by Member States of companies within the meaning of the second paragraph of Article 48 of the Treaty, with a view to making such safeguards equivalent⁽¹⁾** 11

2

⁽¹⁾ Text with EEA relevance

(Continued overleaf)

EN

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

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

★ Directive 2009/102/EC of the European Parliament and of the Council of 16 September 2009 in the area of company law on single-member private limited liability companies ⁽¹⁾	20
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----

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

DECISIONS

Council

2009/725/EC, Euratom:

★ Council Decision of 30 September 2009 appointing a new Member of the Commission of the European Communities	26
---------------------------------------------------------------------------------------------------------------------	----

Commission

2009/726/EC:

★ Commission Decision of 24 September 2009 concerning interim protection measures taken by France as regards the introduction onto its territory of milk and milk products coming from a holding where a classical scrapie case is confirmed (notified under document C(2009) 3580).....	27
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----

2009/727/EC:

★ Commission Decision of 30 September 2009 on emergency measures applicable to crustaceans imported from India and intended for human consumption or animal feed (notified under document C(2009) 7388) ⁽¹⁾	31
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----

2009/728/EC:

★ Commission Decision of 30 September 2009 extending without limitations the Community recognition of the Polish Register of Shipping ⁽¹⁾	34
------------------------------------------------------------------------------------------------------------------------------------------------------------	----



⁽¹⁾ Text with EEA relevance

I

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

REGULATIONS

COUNCIL REGULATION (EC) No 913/2009

of 24 September 2009

terminating the new exporter review of Regulation (EC) No 1174/2005 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of hand pallet trucks and their essential parts originating in the People's Republic of China, re-imposing the duty with regard to imports from one exporter in this country and terminating the registration of these imports

THE COUNCIL OF THE EUROPEAN UNION,

producer of hand pallet trucks and their essential parts originating in the People's Republic of China.

Having regard to the Treaty establishing the European Community,

(3) The request was lodged by Crown Equipment (Suzhou) Company Limited (Crown Suzhou or the applicant).

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ (the basic Regulation) and in particular Article 11(4) thereof,

(4) The applicant alleged that it operated under market economy conditions and that it did not export the product concerned to the European Community during the period of investigation on which the anti-dumping measures were based i.e. from 1 April 2003 to 31 March 2004 (the original investigation period) and that it was not related to any of the exporting producers of the product concerned which are subject to the measures in force. Furthermore, it claimed that it had started to export hand pallet trucks and their essential parts to the Community after the end of the original investigation period.

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

1. MEASURES IN FORCE

(1) By Regulation (EC) No 1174/2005⁽²⁾, the Council imposed a definitive anti-dumping duty and definitively collected the provisional duty imposed on imports of hand pallet trucks and their essential parts originating in the People's Republic of China. For the four companies with individual duties, the duties in force range from 7,6 % to 39,9 %. The duty applicable to all other companies is 46,7 %. Regulation (EC) No 684/2008⁽³⁾ clarified the scope of the anti-dumping measures imposed by Regulation (EC) No 1174/2005.

2.2. Initiation of a new exporter review

(5) Having determined, after consulting the Advisory Committee, that sufficient evidence existed to justify the initiation of a new exporter review in accordance with Article 11(4) of the basic Regulation and after the Community industry concerned had been given the opportunity to comment, the Commission initiated, by Regulation (EC) No 52/2009⁽⁴⁾, a review of Regulation (EC) No 1174/2005 with regard to the applicant (the review).

2. CURRENT INVESTIGATION

2.1. Request for review

(2) The Commission received a request for a new exporter review of Regulation (EC) No 1174/2005, pursuant to Article 11(4) of the basic Regulation, from one exporting

(6) Pursuant to Article 2 of Regulation (EC) No 52/2009, the anti-dumping duty of 46,7 % imposed by Regulation (EC) No 1174/2005 on imports of hand pallet trucks and their essential parts produced by the applicant was

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 189, 21.7.2005, p. 1.

⁽³⁾ OJ L 192, 19.7.2008, p. 1.

⁽⁴⁾ OJ L 17, 22.1.2009, p. 19.

repealed. Simultaneously, pursuant to Article 14(5) of the basic Regulation, customs authorities were directed to take appropriate steps to register such imports.

2.3. Product concerned

- (7) The product concerned is the same as that set out in Regulation (EC) No 1174/2005 as amended by Regulation (EC) No 684/2008, being hand pallet trucks and their essential parts, i.e. chassis and hydraulics, originating in the People's Republic of China, currently falling within CN codes ex 8427 90 00 and ex 8431 20 00. Hand pallet trucks are defined as trucks with wheels supporting lifting fork arms for handling pallets, designed to be manually pushed, pulled and steered, on smooth, level, hard surfaces, by a pedestrian operator using an articulated tiller. The hand pallet trucks are only designed to raise a load, by pumping the tiller, to a height sufficient for transporting and do not have any other additional functions or uses such as for example (i) to move and to lift the loads in order to place them higher or assist in storage of loads (high-lifters); (ii) to stack one pallet above the other (stackers); (iii) to lift the load to a working level (scissor lifts); or (iv) to lift and to weigh the loads (weighing trucks).

2.4. Parties concerned

- (8) The Commission officially advised the applicant, representatives of the Community industry and the representatives of the exporting country of the initiation of the review. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in Regulation (EC) No 52/2009.
- (9) The Commission services also sent a market economy treatment (MET) claim form and a questionnaire to the applicant and received the replies within the deadlines set for that purpose.

2.5. Review investigation period

- (10) The investigation of dumping covered the period from 1 January 2008 to 31 December 2008.

3. WITHDRAWAL OF THE REQUEST FOR A NEW EXPORTER REVIEW

- (11) By letter to the Commission dated 22 May 2009, Crown Suzhou formally withdrew its request for a new exporter review under Article 11(4) of the basic Regulation.
- (12) It was considered whether it would be warranted to continue the investigation *ex officio*. The Commission considered that the termination of the investigation would not affect the anti-dumping measure in force, that the duty rate applicable to all other companies would be re-imposed retroactively on Crown Suzhou

and that such termination would not be against the Community interest. On this basis, the investigation should be terminated.

- (13) Interested parties were informed of the intention to terminate the investigation and re-impose a definitive anti-dumping duty on imports of the product concerned produced and sold for export to the Community by Crown Suzhou and were given the opportunity to comment. However, no comments which could alter this decision were received.
- (14) It was therefore concluded that imports into the Community of hand pallet trucks and their essential parts, i.e. chassis and hydraulics, originating in the People's Republic of China, currently falling within CN codes ex 8427 90 00 and ex 8431 20 00 and produced and sold for export to the Community by Crown Suzhou should be subject to the country-wide duty applicable to all other companies (46,7 %) imposed by Regulation (EC) No 1174/2005 and that that rate of duty should therefore be re-imposed.

4. RETROACTIVE LEVYING OF THE ANTI-DUMPING DUTY

- (15) In the light of the above findings, the anti-dumping duty applicable to Crown Suzhou should be levied retroactively, from the date of entry into force of Regulation (EC) No 52/2009, on imports of the product concerned which have been made subject to registration pursuant to Article 3 of that Regulation.

5. DURATION OF THE MEASURES

- (16) The review does not affect the date on which the measures imposed by Regulation (EC) No 1174/2005 will expire pursuant to Article 11(2) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. The new exporter review initiated by Regulation (EC) No 52/2009 is hereby terminated and the anti-dumping duty applicable according to Article 1 of Regulation (EC) No 1174/2005 to all other companies (TARIC additional code A999) in the People's Republic of China is hereby imposed on imports identified in Article 1 of Regulation (EC) No 52/2009.

2. The anti-dumping duty applicable according to Article 1 of Regulation (EC) No 1174/2005 to all other companies in the People's Republic of China is hereby levied with effect from

23 January 2009 on imports of hand pallet trucks and their essential parts which have been registered pursuant to Article 3 of Regulation (EC) No 52/2009.

3. The customs authorities are hereby directed to cease the registration of imports carried out pursuant to Article 3 of Regulation (EC) No 52/2009.

4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

This Regulation shall enter into force on the 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, 24 September 2009.

For the Council

The President

C. BILDT

COMMISSION REGULATION (EC) No 914/2009
of 30 September 2009
establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 1 October 2009.

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

Done at Brussels, 30 September 2009.

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

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

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

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	MK	27,4
	ZZ	27,4
0707 00 05	TR	114,4
	ZZ	114,4
0709 90 70	TR	110,1
	ZZ	110,1
0805 50 10	AR	56,9
	CL	103,4
	TR	64,9
	UY	88,0
	ZA	75,8
	ZZ	77,8
0806 10 10	EG	109,7
	TR	98,0
	US	190,3
	ZZ	132,7
0808 10 80	BR	83,8
	CL	85,7
	NZ	75,7
	US	83,8
	ZA	73,5
	ZZ	80,5
0808 20 50	AR	81,8
	CN	48,7
	TR	101,8
	US	161,5
	ZA	70,1
	ZZ	92,8

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

COMMISSION REGULATION (EC) No 915/2009**of 30 September 2009****fixing the import duties in the cereals sector applicable from 1 October 2009**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 in respect of import duties in the cereals sector ⁽²⁾, and in particular Article 2(1) thereof,

Whereas:

(1) Article 136(1) of Regulation (EC) No 1234/2007 states that the import duty on products falling within CN codes 1001 10 00, 1001 90 91, ex 1001 90 99 (high quality common wheat), 1002, ex 1005 other than hybrid seed, and ex 1007 other than hybrids for sowing, is to be equal to the intervention price valid for such products on importation increased by 55 %, minus the cif import price applicable to the consignment in question. However, that duty may not exceed the rate of duty in the Common Customs Tariff.

(2) Article 136(2) of Regulation (EC) No 1234/2007 lays down that, for the purposes of calculating the import duty referred to in paragraph 1 of that Article, representative cif import prices are to be established on a regular basis for the products in question.

(3) Under Article 2(2) of Regulation (EC) No 1249/96, the price to be used for the calculation of the import duty on products of CN codes 1001 10 00, 1001 90 91, ex 1001 90 99 (high quality common wheat), 1002 00, 1005 10 90, 1005 90 00 and 1007 00 90 is the daily cif representative import price determined as specified in Article 4 of that Regulation.

(4) Import duties should be fixed for the period from 1 October 2009 and should apply until new import duties are fixed and enter into force,

HAS ADOPTED THIS REGULATION:

Article 1

From 1 October 2009, the import duties in the cereals sector referred to in Article 136(1) of Regulation (EC) No 1234/2007 shall be those fixed in Annex I to this Regulation on the basis of the information contained in Annex II.

Article 2

This Regulation shall enter into force on 1 October 2009.

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

Done at Brussels, 30 September 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 161, 29.6.1996, p. 125.

ANNEX I

Import duties on the products referred to in Article 136(1) of Regulation (EC) No 1234/2007 applicable from 1 October 2009

CN code	Description	Import duties ⁽¹⁾ (EUR/t)
1001 10 00	Durum wheat, high quality	7,27
	medium quality	17,27
	low quality	37,27
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	High quality common wheat, other than for sowing	0,00
1002 00 00	Rye	74,12
1005 10 90	Maize seed other than hybrid	32,00
1005 90 00	Maize, other than seed ⁽²⁾	32,00
1007 00 90	Grain sorghum other than hybrids for sowing	74,12

⁽¹⁾ For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal the importer may benefit, under Article 2(4) of Regulation (EC) No 1249/96, from a reduction in the duty of:

- 3 EUR/t, where the port of unloading is on the Mediterranean Sea, or
- 2 EUR/t, where the port of unloading is in Denmark, Estonia, Ireland, Latvia, Lithuania, Poland, Finland, Sweden, the United Kingdom or the Atlantic coast of the Iberian peninsula.

⁽²⁾ The importer may benefit from a flatrate reduction of EUR 24 per tonne where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

ANNEX II

Factors for calculating the duties laid down in Annex I

16.9.2009-29.9.2009

1. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

(EUR/t)

	Common wheat ⁽¹⁾	Maize	Durum wheat, high quality	Durum wheat, medium quality ⁽²⁾	Durum wheat, low quality ⁽³⁾	Barley
Exchange	Minnéapolis	Chicago	—	—	—	—
Quotation	137,25	88,56	—	—	—	—
Fob price USA	—	—	125,82	115,82	95,82	58,97
Gulf of Mexico premium	—	18,38	—	—	—	—
Great Lakes premium	10,11	—	—	—	—	—

⁽¹⁾ Premium of 14 EUR/t incorporated (Article 4(3) of Regulation (EC) No 1249/96).

⁽²⁾ Discount of 10 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

⁽³⁾ Discount of 30 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

2. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Freight costs: Gulf of Mexico–Rotterdam: 18,08 EUR/t

Freight costs: Great Lakes–Rotterdam: 23,94 EUR/t

COMMISSION REGULATION (EC) No 916/2009
of 29 September 2009
establishing a prohibition of fishing for cod in I and IIb by vessels flying the flag of Germany

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ⁽¹⁾, and in particular Article 26(4) thereof,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to common fisheries policy ⁽²⁾, and in particular Article 21(3) thereof,

Whereas:

- (1) Council Regulation (EC) No 43/2009 of 16 January 2009 fixing for 2009 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in Community waters and for Community vessels, in waters where catch limitations are required ⁽³⁾, lays down quotas for 2009.
- (2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2009.

- (3) It is therefore necessary to prohibit fishing for that stock and its retention on board, transhipment and landing,

HAS ADOPTED THIS REGULATION:

Article 1

Quota exhaustion

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2009 shall be deemed to be exhausted from the date set out in that Annex.

Article 2

Prohibitions

Fishing for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. It shall be prohibited to retain on board, tranship or land such stock caught by those vessels after that date.

Article 3

Entry into force

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

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

Done at Brussels, 29 September 2009.

For the Commission

Fokion FOTIADIS

Director-General for Maritime Affairs and Fisheries

⁽¹⁾ OJ L 358, 31.12.2002, p. 59.

⁽²⁾ OJ L 261, 20.10.1993, p. 1.

⁽³⁾ OJ L 22, 26.1.2009, p. 1.

ANNEX

No	20/T&Q
Member State	Germany
Stock	COD 1/2B.
Species	Cod (<i>Gadus morhua</i>)
Zone	I and IIb
Date	3.9.2009

DIRECTIVES

DIRECTIVE 2009/101/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 16 September 2009

on coordination of safeguards which, for the protection of the interests of members and third parties, are required by Member States of companies within the meaning of the second paragraph of Article 48 of the Treaty, with a view to making such safeguards equivalent

(codified version)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 44(2)(g) thereof,

Having regard to the General Programme for the abolition of restrictions on freedom of establishment ⁽¹⁾, and in particular Title VI thereof,

Having regard to the proposal from the Commission,

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

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

(1) First Council Directive 68/151/EEC of 9 March 1968 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community ⁽⁴⁾ has been substantially amended several times ⁽⁵⁾. In the interests of clarity and rationality that Directive should be codified.

(2) The coordination of national provisions concerning disclosure, the validity of obligations entered into by, and the nullity of, companies limited by shares or

otherwise having limited liability is of special importance, particularly for the purpose of protecting the interests of third parties.

(3) The basic documents of the company should be disclosed in order that third parties may be able to ascertain their contents and other information concerning the company, especially particulars of the persons who are authorised to bind the company.

(4) Without prejudice to substantive requirements and formalities established by the national law of the Member States, companies should be able to choose to file their compulsory documents and particulars by paper means or by electronic means.

(5) Interested parties should be able to obtain from the register a copy of such documents and particulars by paper means as well as by electronic means.

(6) Member States should be allowed to decide to keep the national gazette, designated for publication of compulsory documents and particulars, in paper form or electronic form, or to provide for disclosure by equally effective means.

(7) Cross-border access to company information should be facilitated by allowing, in addition to the mandatory disclosure made in one of the languages permitted in the company's Member State, voluntary registration in additional languages of the required documents and particulars. Third parties acting in good faith should be able to rely on the translations thereof.

(8) It is appropriate to clarify that the statement of the compulsory particulars set out in this Directive should be included in all company letters and order forms, whether they are in paper form or use any other medium. In the light of technological developments, it is also appropriate to provide that these statements be placed on any company website.

⁽¹⁾ OJ 2, 15.1.1962, p. 36/62.

⁽²⁾ OJ C 204, 9.8.2008, p. 25.

⁽³⁾ Opinion of the European Parliament of 17 June 2008 (not yet published in the Official Journal) and Council Decision of 13 July 2009.

⁽⁴⁾ OJ L 65, 14.3.1968, p. 8.

⁽⁵⁾ See Annex I, Part A.

- (9) The protection of third parties should be ensured by provisions which restrict to the greatest possible extent the grounds on which obligations entered into in the name of the company are not valid.
- Ireland:
Companies incorporated with limited liability;
- (10) It is necessary, in order to ensure certainty in the law as regards relations between the company and third parties, and also between members, to limit the cases in which nullity can arise and the retroactive effect of a declaration of nullity, and to fix a short time limit within which third parties may enter objection to any such declaration.
- Greece:
ανώνυμη εταιρία, εταιρία περιορισμένης ευθύνης, ετερόρρυθμη κατά μετοχές εταιρία;
- Spain:
la sociedad anónima, la sociedad comanditaria por acciones, la sociedad de responsabilidad limitada;
- (11) 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,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER 1

SCOPE

Article 1

The coordination measures prescribed by this Directive shall apply to the laws, regulations and administrative provisions of the Member States relating to the following types of company:

— Belgium:

naamloze vennootschap,	société anonyme,
commanditaire vennootschap op aandelen,	société en commandite par actions,
personenvennootschap met beperkte aansprakelijkheid;	société de personnes à responsabilité limitée;

— Bulgaria:

акционерно дружество, дружество с ограничена отговорност, командитно дружество с акции;

— Czech Republic:

společnost s ručením omezeným, akciová společnost;

— Denmark:

aktieselskab, kommanditaktieselskab, anpartsselskab;

— Germany:

die Aktiengesellschaft, die Kommanditgesellschaft auf Aktien, die Gesellschaft mit beschränkter Haftung;

— Estonia:

aktsiaselts, osühing;

— France:

société anonyme, société en commandite par actions, société à responsabilité limitée, société par actions simplifiée;

— Italy:

società per azioni, società in accomandita per azioni, società a responsabilità limitata;

— Cyprus:

δημόσιες εταιρείες περιορισμένης ευθύνης με μετοχές ή με εγγύηση, ιδιωτικές εταιρείες περιορισμένης ευθύνης με μετοχές ή με εγγύηση;

— Latvia:

akciju sabiedrība, sabiedrība ar ierobežotu atbildību, komandītsabiedrība;

— Lithuania:

akcinė bendrovė, uždaroji akcinė bendrovė;

— Luxembourg:

société anonyme, société en commandite par actions, société à responsabilité limitée;

— Hungary:

részvénytársaság, korlátolt felelősségű társaság;

— Malta:

kumpannija pubblika/public limited liability company, kumpannija privata/private limited liability company;

- The Netherlands:
naamloze vennootschap, besloten vennootschap met beperkte aansprakelijkheid;
- Austria:
die Aktiengesellschaft, die Gesellschaft mit beschränkter Haftung;
- Poland:
spółka z ograniczoną odpowiedzialnością, spółka komandytowo-akcyjna, spółka akcyjna;
- Portugal:
a sociedade anónima de responsabilidade limitada, a sociedade em comandita por acções, a sociedade por quotas de responsabilidade limitada;
- Romania:
societate pe acţiuni, societate cu răspundere limitată, societate în comandită pe acţiuni;
- Slovenia:
delniška družba, družba z omejeno odgovornostjo, komaditna delniška družba;
- Slovakia:
akciová spoločnosť, spoločnosť s ručením obmedzeným;
- Finland:
yksityinen osakeyhtiö/privat aktiebolag, julkinen osakeyhtiö/publikt aktiebolag;
- Sweden:
aktiebolag;
- United Kingdom:
Companies incorporated with limited liability.
- (a) the instrument of constitution, and the statutes if they are contained in a separate instrument;
- (b) any amendments to the instruments mentioned in point (a), including any extension of the duration of the company;
- (c) after every amendment of the instrument of constitution or of the statutes, the complete text of the instrument or statutes as amended to date;
- (d) the appointment, termination of office and particulars of the persons who either as a body constituted pursuant to law or as members of any such body:
- (i) are authorised to represent the company in dealings with third parties and in legal proceedings; it must be apparent from the disclosure whether the persons authorised to represent the company may do so alone or must act jointly;
- (ii) take part in the administration, supervision or control of the company;
- (e) at least once a year, the amount of the capital subscribed, where the instrument of constitution or the statutes mention an authorised capital, unless any increase in the capital subscribed necessitates an amendment of the statutes;
- (f) the accounting documents for each financial year which are required to be published in accordance with Council Directives 78/660/EEC ⁽¹⁾, 83/349/EEC ⁽²⁾, 86/635/EEC ⁽³⁾ and 91/674/EEC ⁽⁴⁾;
- (g) any change of the registered office of the company;
- (h) the winding-up of the company;
- (i) any declaration of nullity of the company by the courts;

CHAPTER 2

DISCLOSURE

Article 2

Member States shall take the measures required to ensure compulsory disclosure by companies as referred to in Article 1 of at least the following documents and particulars:

⁽¹⁾ Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54(3)(g) of the Treaty on the annual accounts of certain types of companies (OJ L 222, 14.8.1978, p. 11).

⁽²⁾ Seventh Council Directive 83/349/EEC of 13 June 1983 based on the Article 54(3)(g) of the Treaty on consolidated accounts (OJ L 193, 18.7.1983, p. 1).

⁽³⁾ Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions (OJ L 372, 31.12.1986, p. 1).

⁽⁴⁾ Council Directive 91/674/EEC of 19 December 1991 on the annual accounts and consolidated accounts of insurance undertakings (OJ L 374, 31.12.1991, p. 7).

- (j) the appointment of liquidators, particulars concerning them, and their respective powers, unless such powers are expressly and exclusively derived from law or from the statutes of the company;
- (k) the termination of the liquidation and, in Member States where striking off the register entails legal consequences, the fact of any such striking off.

Article 3

1. In each Member State, a file shall be opened in a central register, commercial register or companies register, for each of the companies registered therein.

2. For the purposes of this Article, 'by electronic means' shall mean that the information is sent initially and received at its destination by means of electronic equipment for the processing (including digital compression) and storage of data, and entirely transmitted, conveyed and received in a manner to be determined by Member States by wire, by radio, by optical means or by other electromagnetic means.

3. All documents and particulars which must be disclosed pursuant to Article 2 shall be kept in the file, or entered in the register; the subject matter of the entries in the register must in every case appear in the file.

Member States shall ensure that the filing by companies, as well as by other persons and bodies required to make or assist in making notifications, of all documents and particulars which must be disclosed pursuant to Article 2 is possible by electronic means. In addition, Member States may require all, or certain categories of, companies to file all, or certain types of, such documents and particulars by electronic means.

All documents and particulars referred to in Article 2 which are filed, whether by paper means or by electronic means, shall be kept in the file, or entered in the register, in electronic form. To this end, Member States shall ensure that all such documents and particulars which are filed by paper means are converted by the register to electronic form.

The documents and particulars referred to in Article 2 that have been filed by paper means up to 31 December 2006 shall not be required to be converted automatically into electronic form by the register. Member States shall nevertheless ensure that they are converted into electronic form by the register upon receipt of an application for disclosure by electronic means submitted in accordance with the measures adopted to give effect to paragraph 4.

4. A copy of the whole or any part of the documents or particulars referred to in Article 2 must be obtainable on application. Applications may be submitted to the register by paper means or by electronic means as the applicant chooses.

Copies as referred to in the first subparagraph must be obtainable from the register by paper means or by electronic means as the applicant chooses. This shall apply in the case of all documents and particulars already filed. However, Member States may decide that all, or certain types of, documents and particulars filed by paper means on or before a date which may not be later than 31 December 2006 shall not be obtainable from the register by electronic means if a specified period has elapsed between the date of filing and the date of the application submitted to the register. Such specified period may not be less than 10 years.

The price of obtaining a copy of the whole or any part of the documents or particulars referred to in Article 2, whether by paper means or by electronic means, shall not exceed the administrative cost thereof.

Paper copies supplied shall be certified as 'true copies', unless the applicant dispenses with such certification. Electronic copies supplied shall not be certified as 'true copies', unless the applicant explicitly requests such a certification.

Member States shall take the necessary measures to ensure that certification of electronic copies guarantees both the authenticity of their origin and the integrity of their contents, by means at least of an advanced electronic signature within the meaning of Article 2(2) of Directive 1999/93/EC⁽¹⁾.

5. Disclosure of the documents and particulars referred to in paragraph 3 shall be effected by publication in the national gazette designated for that purpose by the Member State, either of the full text or of a partial text, or by means of a reference to the document which has been deposited in the file or entered in the register. The national gazette designated for that purpose may be kept in electronic form.

Member States may decide to replace publication in the national gazette with equally effective means, which shall entail at least the use of a system whereby the information disclosed can be accessed in chronological order through a central electronic platform.

⁽¹⁾ Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures (OJ L 13, 19.1.2000, p. 12).

6. The documents and particulars may be relied on by the company as against third parties only after they have been disclosed in accordance with paragraph 5, unless the company proves that the third parties had knowledge thereof.

However, with regard to transactions taking place before the sixteenth day following the disclosure, the documents and particulars shall not be relied on as against third parties who prove that it was impossible for them to have had knowledge thereof.

7. Member States shall take the necessary measures to avoid any discrepancy between what is disclosed in accordance with paragraph 5 and what appears in the register or file.

However, in cases of discrepancy, the text disclosed in accordance with paragraph 5 may not be relied on as against third parties; such third parties may nevertheless rely thereon, unless the company proves that they had knowledge of the texts deposited in the file or entered in the register.

Third parties may, moreover, always rely on any documents and particulars in respect of which the disclosure formalities have not yet been completed, save where non-disclosure causes them not to have effect.

Article 4

1. Documents and particulars which must be disclosed pursuant to Article 2 shall be drawn up and filed in one of the languages permitted by the language rules applicable in the Member State in which the file referred to in Article 3(1) is opened.

2. In addition to the mandatory disclosure referred to in Article 3, Member States shall allow documents and particulars referred to in Article 2 to be disclosed voluntarily in accordance with Article 3 in any official language(s) of the Community.

Member States may prescribe that the translation of such documents and particulars be certified.

Member States shall take the necessary measures to facilitate access by third parties to the translations voluntarily disclosed.

3. In addition to the mandatory disclosure referred to in Article 3, and to the voluntary disclosure provided for under paragraph 2 of this Article, Member States may allow the

documents and particulars concerned to be disclosed, in accordance with Article 3, in any other language(s).

Member States may prescribe that the translation of such documents and particulars be certified.

4. In cases of discrepancy between the documents and particulars disclosed in the official languages of the register and the translation voluntarily disclosed, the latter may not be relied upon as against third parties. Third parties may nevertheless rely on the translations voluntarily disclosed, unless the company proves that the third parties had knowledge of the version which was the subject of the mandatory disclosure.

Article 5

Member States shall prescribe that letters and order forms, whether they are in paper form or use any other medium, are to state the following particulars:

- (a) the information necessary in order to identify the register in which the file mentioned in Article 3 is kept, together with the number of the company in that register;
- (b) the legal form of the company, the location of its registered office and, where appropriate, the fact that the company is being wound up.

Where, in those documents, mention is made of the capital of the company, the reference shall be to the capital subscribed and paid up.

Member States shall prescribe that company websites are to contain at least the particulars mentioned in the first paragraph and, if applicable, a reference to the capital subscribed and paid up.

Article 6

Each Member State shall determine by which persons the disclosure formalities are to be carried out.

Article 7

Member States shall provide for appropriate penalties at least in the case of:

- (a) failure to disclose accounting documents as required by Article 2(f);

- (b) omission from commercial documents or from any company website of the compulsory particulars provided for in Article 5.

CHAPTER 3

VALIDITY OF OBLIGATIONS ENTERED INTO BY THE COMPANY

Article 8

If, before a company being formed has acquired legal personality, action has been carried out in its name and the company does not assume the obligations arising from such action, the persons who acted shall, without limit, be jointly and severally liable therefor, unless otherwise agreed.

Article 9

Completion of the formalities of disclosure of the particulars concerning the persons who, as an organ of the company, are authorised to represent it shall constitute a bar to any irregularity in their appointment being relied upon as against third parties unless the company proves that such third parties had knowledge thereof.

Article 10

1. Acts done by the organs of the company shall be binding upon it even if those acts are not within the objects of the company, unless such acts exceed the powers that the law confers or allows to be conferred on those organs.

However, Member States may provide that the company shall not be bound where such acts are outside the objects of the company, if it proves that the third party knew that the act was outside those objects or could not in view of the circumstances have been unaware of it; disclosure of the statutes shall not of itself be sufficient proof thereof.

2. The limits on the powers of the organs of the company, arising under the statutes or from a decision of the competent organs, may not be relied on as against third parties, even if they have been disclosed.

3. If the national law provides that authority to represent a company may, in derogation from the legal rules governing the subject, be conferred by the statutes on a single person or on several persons acting jointly, that law may provide that such a provision in the statutes may be relied on as against third parties on condition that it relates to the general power of representation; the question whether such a provision in the statutes can be relied on as against third parties shall be governed by Article 3.

CHAPTER 4

NULLITY OF THE COMPANY

Article 11

In all Member States whose laws do not provide for preventive, administrative or judicial control, at the time of formation of a company, the instrument of constitution, the company statutes and any amendments to those documents shall be drawn up and certified in due legal form.

Article 12

The laws of the Member States may not provide for the nullity of companies otherwise than in accordance with the following provisions:

- (a) nullity must be ordered by decision of a court of law;
- (b) nullity may be ordered only on the grounds:
 - (i) that no instrument of constitution was executed or that the rules of preventive control or the requisite legal formalities were not complied with;
 - (ii) that the objects of the company are unlawful or contrary to public policy;
 - (iii) that the instrument of constitution or the statutes do not state the name of the company, the amount of the individual subscriptions of capital, the total amount of the capital subscribed or the objects of the company;
 - (iv) of failure to comply with the provisions of the national law concerning the minimum amount of capital to be paid up;
 - (v) of the incapacity of all the founder members;
 - (vi) that, contrary to the national law governing the company, the number of founder members is less than two.

Apart from the foregoing grounds of nullity, a company shall not be subject to any cause of non-existence, absolute nullity, relative nullity or declaration of nullity.

Article 13

1. The question whether a decision of nullity pronounced by a court of law may be relied on as against third parties shall be governed by Article 3. Where the national law entitles a third party to challenge the decision, he may do so only within six months of public notice of the decision of the court being given.

2. Nullity shall entail the winding-up of the company, as may dissolution.

3. Nullity shall not of itself affect the validity of any commitments entered into by or with the company, without prejudice to the consequences of the company's being wound up.

4. The laws of each Member State may make provision for the consequences of nullity as between members of the company.

5. Holders of shares in the capital shall remain obliged to pay up the capital agreed to be subscribed by them but which has not been paid up, to the extent that commitments entered into with creditors so require.

CHAPTER 5

GENERAL PROVISIONS

Article 14

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.

Article 15

The Commission shall present to the European Parliament and to the Council, by no later than 1 January 2012, a report, together with a proposal, if appropriate, for amendment of the provisions of Article 2(f) and Articles 3, 4, 5 and 7 in the light of the experience acquired in applying those

provisions, of their aims and of the technological developments observed at the time.

Article 16

Directive 68/151/EEC, as amended by the acts listed in Annex I, Part A, is hereby 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 17

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

Article 18

This Directive is addressed to the Member States.

Done at Strasbourg, 16 September 2009.

For the European Parliament
The President
J. BUZEK

For the Council
The President
C. MALMSTRÖM

ANNEX I

PART A

Repealed Directive with list of its successive amendments

(referred to in Article 16)

Council Directive 68/151/EEC
(OJ L 65, 14.3.1968, p. 8)

Point III.H of Annex I to the 1972 Act of Accession
(OJ L 73, 27.3.1972, p. 89)

Point III.C of Annex I to the 1979 Act of Accession
(OJ L 291, 19.11.1979, p. 89)

Point II.D of Annex I to the 1985 Act of Accession
(OJ L 302, 15.11.1985, p. 157)

Point XI.A of Annex I to the 1994 Act of Accession
(OJ C 241, 29.8.1994, p. 194)

Directive 2003/58/CE of the European Parliament and of
the Council (OJ L 221, 4.9.2003, p. 13)

Point 1.4.A of Annex II to the 2003 Act of Accession
(OJ L 236, 23.9.2003, p. 338)

Council Directive 2006/99/EC
(OJ L 363, 20.12.2006, p. 137)

Only point A.1 of the Annex

PART B

List of time limits for transposition into national law

(referred to in Article 16)

Directive	Time limit for transposition
68/151/EEC	11 September 1969
2003/58/EC	30 December 2006
2006/99/EC	1 January 2007

ANNEX II

CORRELATION TABLE

Directive 68/151/EEC	This Directive
Article 1	Article 1
Article 2	Article 2
Article 3(1)	Article 3(1)
Article 3(2)	Article 3(3)
Article 3(3)	Article 3(4)
Article 3(4)	Article 3(5)
Article 3(5)	Article 3(6)
Article 3(6), first and second subparagraphs	Article 3(7), first and second subparagraphs
Article 3(7)	Article 3(7), third subparagraph
Article 3(8)	Article 3(2)
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	Article 11
Article 11, introductory wording	Article 12, introductory wording
Article 11, point 1	Article 12, point (a)
Article 11, point 2, introductory wording	Article 12, point (b), introductory wording
Article 11, point 2, points (a) to (f)	Article 12, point (b), points (i) to (vi)
Article 12	Article 13
Article 13, first, second and third paragraphs	—
Article 13, fourth paragraph	Article 14
Article 14	Article 18
—	Article 15
—	Article 16
—	Article 17
—	Annex I
—	Annex II

DIRECTIVE 2009/102/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 16 September 2009

in the area of company law on single-member private limited liability companies

(codified version)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 44 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

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

Whereas:

- (1) Twelfth Council Company Law Directive 89/667/EEC of 21 December 1989 on single-member private limited-liability companies ⁽³⁾ has been substantially amended several times ⁽⁴⁾. In the interests of clarity and rationality the said Directive should be codified.
- (2) Certain safeguards which, for the protection of the interests of members and others, are required by Member States of companies and firms within the meaning of the second paragraph of Article 48 of the Treaty should be coordinated with a view to making such safeguards equivalent throughout the Community.
- (3) In this field, First Council Directive 68/151/EEC of 9 March 1968 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community ⁽⁵⁾, Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54(3)(g) of the Treaty on the annual accounts of certain types of companies ⁽⁶⁾ and Seventh Council Directive 83/349/EEC of 13 June 1983 based on Article 54(3)(g) of the Treaty on consolidated accounts ⁽⁷⁾, respectively concerning disclosure, the

validity of commitments, nullity, annual accounts and consolidated accounts, apply to all share-capital companies. However, Second Council Directive 77/91/EEC of 13 December 1976 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent ⁽⁸⁾, Third Council Directive 78/855/EEC of 9 October 1978 based on Article 54(3)(g) of the Treaty concerning mergers of public limited liability companies ⁽⁹⁾, and Sixth Council Directive 82/891/EEC of 17 December 1982 based on Article 54(3)(g) of the Treaty, concerning the division of public limited liability companies ⁽¹⁰⁾, relating respectively to formation and capital, mergers and divisions, apply only to public limited liability companies.

- (4) A legal instrument is required allowing the limitation of liability of the individual entrepreneur throughout the Community, without prejudice to the laws of the Member States, which, in exceptional circumstances, require that entrepreneur to be liable for the obligations of his undertaking.
- (5) A private limited liability company may be a single-member company from the time of its formation, or may become one because its shares have come to be held by a single shareholder. Pending the coordination of national provisions on the laws relating to groups, Member States may lay down certain special provisions and penalties for cases where a natural person is the sole member of several companies or where a single-member company or any other legal person is the sole member of a company. The sole aim of this power is to take account of the differences which exist in certain national laws. For that purpose, Member States may in specific cases lay down restrictions on the use of single-member companies or remove the limits on the liabilities of sole members. Member States are free to lay down rules to cover the risks that single-member companies may present as a consequence of having single members, particularly in order to ensure that the subscribed capital is paid.
- (6) The fact that all the shares have come to be held by a single shareholder and the identity of the sole member should be disclosed by an entry in a register accessible to the public.

⁽¹⁾ OJ C 77, 31.3.2009, p. 42.

⁽²⁾ Opinion of the European Parliament of 18 November 2008 (not yet published in the Official Journal) and Council Decision of 13 July 2009.

⁽³⁾ OJ L 395, 30.12.1989, p. 40.

⁽⁴⁾ See Annex II, Part A.

⁽⁵⁾ OJ L 65, 14.3.1968, p. 8.

⁽⁶⁾ OJ L 222, 14.8.1978, p. 11.

⁽⁷⁾ OJ L 193, 18.7.1983, p. 1.

⁽⁸⁾ OJ L 26, 31.1.1977, p. 1.

⁽⁹⁾ OJ L 295, 20.10.1978, p. 36.

⁽¹⁰⁾ OJ L 378, 31.12.1982, p. 47.

- (7) Decisions taken by the sole member exercising the powers of the general meeting should be recorded in writing.
- (8) Contracts between a sole member and his company as represented by him should likewise be recorded in writing, in so far as such contracts do not relate to current operations concluded under normal conditions.
- (9) This Directive should be without prejudice to the obligations of the Member States relating to the time limits for transposition into national law and application of the Directives set out in Annex II, Part B,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

The coordination measures prescribed by this Directive shall apply to the laws, regulations and administrative provisions of the Member States relating to the types of company listed in Annex I.

Article 2

1. A company may have a sole member when it is formed and also when all its shares come to be held by a single person (single-member company).

2. Member States may, pending coordination of national laws relating to groups, lay down special provisions or penalties for cases where:

- (a) a natural person is the sole member of several companies; or
- (b) a single-member company or any other legal person is the sole member of a company.

Article 3

Where a company becomes a single-member company because all its shares come to be held by a single person, that fact, together with the identity of the sole member, must either be recorded in the file or entered in the register as referred to in Article 3(1) and (2) of Directive 68/151/EEC or be entered in a register kept by the company and accessible to the public.

Article 4

1. The sole member shall exercise the powers of the general meeting of the company.

2. Decisions taken by the sole member in the field referred to in paragraph 1 shall be recorded in minutes or drawn up in writing.

Article 5

1. Contracts between the sole member and his company as represented by him shall be recorded in minutes or drawn up in writing.

2. Member States need not apply paragraph 1 to current operations concluded under normal conditions.

Article 6

Where a Member State allows single-member companies as defined by Article 2(1) in the case of public limited companies as well, this Directive shall apply.

Article 7

A Member State need not allow the formation of single-member companies where its legislation provides that an individual entrepreneur may set up an undertaking the liability of which is limited to a sum dedicated to a stated activity, on condition that safeguards are laid down for such undertakings which are equivalent to those imposed by this Directive or by any other Community provisions applicable to the companies referred to in Article 1.

Article 8

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

Article 9

Directive 89/667/EEC, as amended by the acts listed in Annex II, Part A, is repealed, without prejudice to the obligations of the Member States relating to the time limits for transposition into national law and application of the Directives set out in Annex II, Part B.

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

Article 10

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

Article 11

This Directive is addressed to the Member States.

Done at Strasbourg, 16 September 2009.

For the European Parliament

The President

J. BUZEK

For the Council

The President

C. MALMSTRÖM

ANNEX I

Types of companies referred to in Article 1

- *Belgium*:
'société privée à responsabilité limitée/besloten vennootschap met beperkte aansprakelijkheid',
- *Bulgaria*:
'дружество с ограничена отговорност, акционерно дружество',
- *Czech Republic*:
'společnost s ručením omezeným',
- *Denmark*:
'anpartsselskaber',
- *Germany*:
'Gesellschaft mit beschränkter Haftung',
- *Estonia*:
'aktsiaselts, osuühing',
- *Ireland*:
'private company limited by shares or by guarantee',
- *Greece*:
'εταιρεία περιορισμένης ευθύνης',
- *Spain*:
'sociedad de responsabilidad limitada',
- *France*:
'société à responsabilité limitée',
- *Italy*:
'società a responsabilità limitata',
- *Cyprus*:
'ιδιωτική εταιρεία περιορισμένης ευθύνης με μετοχές ή με εγγύηση',
- *Latvia*:
'sabiedrība ar ierobežotu atbildību',
- *Lithuania*:
'uždaroji akcinė bendrovė',
- *Luxembourg*:
'société à responsabilité limitée',
- *Hungary*:
'korlátolt felelősségű társaság, részvénytársaság',
- *Malta*:
'kumpannija privata/Private limited liability company',
- *The Netherlands*:
'besloten vennootschap met beperkte aansprakelijkheid',
- *Austria*:
'Aktiengesellschaft, Gesellschaft mit beschränkter Haftung',

- *Poland:*
'spółka z ograniczoną odpowiedzialnością',
 - *Portugal:*
'sociedade por quotas',
 - *Romania:*
'societate cu răspundere limitată',
 - *Slovenia:*
'družba z omejeno odgovornostjo',
 - *Slovakia:*
'spoločnosť s ručením obmedzeným',
 - *Finland:*
'osaakeyhtiö/aktiebolag',
 - *Sweden:*
'aktiebolag',
 - *United Kingdom:*
'private company limited by shares or by guarantee'.
-

ANNEX II

PART A

Repealed Directive with list of its successive amendments

(referred to in Article 9)

Council Directive 89/667/EEC
(OJ L 395, 30.12.1989, p. 40)

Annex I, point XIA of the 1994 Act of Accession
(OJ C 241, 29.8.1994, p. 194)

Annex II, point 4.A of the 2003 Act of Accession
(OJ L 236, 23.9.2003, p. 338)

Council Directive 2006/99/EC
(OJ L 363, 20.12.2006, p. 137)

Only point A.4 of the Annex

PART B

List of time limits for transposition into national law and application

(referred to in Article 9)

Directive	Time limit for transposition	Date of application
89/667/EEC	31 December 1991	1 January 1993 in the case of companies already in existence on 1 January 1992
2006/99/EC	1 January 2007	

ANNEX III

CORRELATION TABLE

Directive 89/667/EEC	This Directive
Article 1, introductory wording	Article 1
Article 1, first to 27th indent	Annex I
Articles 2 to 7	Articles 2 to 7
Article 8(1)	—
Article 8(2)	—
Article 8(3)	Article 8
—	Article 9
—	Article 10
Article 9	Article 11
—	Annex I
—	Annex II
—	Annex III

II

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

DECISIONS

COUNCIL

COUNCIL DECISION

of 30 September 2009

appointing a new Member of the Commission of the European Communities

(2009/725/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the second paragraph of Article 215 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 128 thereof,

Whereas, in a letter dated 21 September 2009, Mr Ján FIGEL resigned from his post as a Member of the Commission with effect from 1 October 2009. He should be replaced for the remainder of his term of office,

HAS DECIDED AS FOLLOWS:

Article 1

Mr Maroš ŠEFČOVIČ is hereby appointed a Member of the Commission for the period from 1 October 2009 to 31 October 2009.

Article 2

This Decision shall take effect on 1 October 2009.

Article 3

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

Done at Brussels, 30 September 2009.

For the Council

The President

C. BILDT

COMMISSION

COMMISSION DECISION

of 24 September 2009

concerning interim protection measures taken by France as regards the introduction onto its territory of milk and milk products coming from a holding where a classical scrapie case is confirmed

(notified under document C(2009) 3580)

(Only the French text is authentic)

(2009/726/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to 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⁽¹⁾, and in particular Article 54(2) thereof,

Whereas:

- (1) Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies⁽²⁾ applies to the production and placing on the market of live animals and products of animal origin.
- (2) Annex VII to Regulation (EC) No 999/2001 lays down the measures to be taken in the event of suspicion or confirmation of a transmissible spongiform encephalopathy (TSE) in ovine or caprine animals in the Community. The rules for the placing on the market in the Community and for the importation into the Community of those animals and products thereof are laid down in Annexes VIII and IX thereto.
- (3) Regulation (EC) No 178/2002 lays down rules governing food and feed in general, and food and feed safety in particular, at Community and national level. Article 53 of

that Regulation provides that, where it is evident that food or feed originating in the Community or imported from a third country is likely to constitute a serious risk to human health, animal health or the environment, and that such risk cannot be contained satisfactorily by means of measures taken by the Member State(s) concerned, the Commission is to immediately adopt certain measures which may include the suspension of the placing on the market or importation of the food of animal origin in question.

- (4) In addition, Article 54 of Regulation (EC) No 178/2002 provides that where a Member State officially informs the Commission of the need to take emergency measures, and where the Commission has not acted in accordance with Article 53 of that Regulation, the Member State may adopt interim protective measures and it is to immediately inform the other Member States and the Commission thereof. In that case, within 10 working days the Commission is to put the matter before the Standing Committee on the Food Chain and Animal Health (SCoFCAH) with a view to the extension, amendment or abrogation of the national interim protective measures. Pending the adoption of Community measures, the Member State may maintain its national interim protective measures.
- (5) On 8 March 2007, the European Food Safety Authority (EFSA) adopted an Opinion of the Scientific Panel on Biological Hazards on a request from the European Commission on certain aspects related to the risk of TSE in ovine and caprine animals⁽³⁾. In that opinion, EFSA concluded that: 'There is no evidence for an epidemiological or molecular link between classical and/or atypical scrapie and TSEs in humans. The BSE agent is the only TSE agent identified as zoonotic. However, in view of their diversity it is currently not possible to exclude transmissibility to humans of other animal TSE agents'⁽⁴⁾.

⁽¹⁾ OJ L 31, 1.2.2002, p. 1.

⁽²⁾ OJ L 147, 31.5.2001, p. 1.

⁽³⁾ *The EFSA Journal* (2007), 466, pp. 1-10.

⁽⁴⁾ See point 4 of the opinion.

- (6) Following that Opinion, Commission Regulation (EC) No 727/2007 of 26 June 2007 amending Annexes I, III, VII and X to Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies⁽¹⁾ was adopted. Regulation (EC) No 727/2007 provided for the discontinuation of the obligation to cull the entire flock and provided for certain alternative measures to culling in the event of confirmation of an outbreak of TSE in a holding of ovine or caprine animals and where the presence of bovine spongiform encephalopathy (BSE) had been excluded. Following an action of annulment and demand for interim measures brought by France against certain provisions of this Regulation, by Order of 28 September 2007 of the Judge hearing the application for interim measures⁽²⁾, the Court suspended the application of the contested provisions pending delivery of a final judgment in the main action.
- (7) On 24 January 2008, following a request from the Commission, EFSA adopted a scientific and technical clarification in the interpretation of some facets of the conclusions of its Opinion of 8 March 2007 on certain aspects related to the risk of TSEs in ovine and caprine animals⁽³⁾, which had been considered at the time of the adoption of Regulation (EC) No 727/2007.
- (8) After considering that clarification in detail and after having examined the possible choices available to it in its role as risk manager, the Commission adopted Regulation (EC) No 746/2008 of 17 June 2008 amending Annex VII to Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies⁽⁴⁾. Regulation (EC) No 746/2008, in essence, maintains the provisions already provided for in Regulation (EC) No 727/2007. Following new actions brought by France, by Order of 30 October 2008 of the President of the Court of First Instance⁽⁵⁾, the Court suspended the application of the relevant provisions pending delivery of a final judgment in which the legality of the risk management measures taken by the Commission by Regulation (EC) No 746/2008 will be fully assessed.
- (9) On 6 November 2008, EFSA published an Opinion of the Scientific Panel on Biological Hazards on a request from the European Commission on the human and animal exposure risk related to transmissible spongiform encephalopathies (TSEs) from milk and milk products derived from small ruminants⁽⁶⁾. In that Opinion, EFSA concluded that classical scrapie can be transmitted from ewe to lamb via milk or colostrums. EFSA also stated that the use of milk and milk products from a flock with classical scrapie may carry a TSE exposure risk for humans and animals. It also concluded that the breeding programmes for scrapie resistance in sheep can be expected to reduce human and animal exposure associated with small ruminants dairy products. As regards the atypical scrapie, it further concluded that the apparent restricted dissemination of the agent in the organism of affected individuals could limit the transmissibility through milk. As regards BSE, it noted that no information is available concerning the presence of infectivity or PrP^{Sc} in colostrum or milk from small ruminants affected with BSE. However, because of the early and progressive peripheral dissemination of the BSE agent in experimentally infected susceptible sheep, it concluded that the occurrence of infectivity in colostrum and milk of BSE infected susceptible small ruminants would be likely.
- (10) On 6 November 2008, the French Food Safety Agency (AFSSA) published an Opinion on the risk of classical scrapie spreading via the milk of small ruminant animals⁽⁷⁾ where it reached the same conclusions as regard the transmissibility of classical scrapie from ewe to lamb via milk or colostrums as the EFSA Opinion. With regard to the TSE exposure for humans, the AFSSA considered that consumption of milk or milk products from infected herds of small ruminants or those suspected of infection could result in excess consumer exposure and recommended 'that marketing of the milk and milk products from the herd be prohibited for human foods' in view of the high potential incidence of the disease in herds suffering from classical scrapie.
- (11) On 7 November 2008, based on the EFSA and AFSSA opinions, France adopted measures limited to the national market and banning the use of milk and milk products coming from scrapie infected flocks in France for food and feed purposes.⁽⁸⁾
- (12) On 11 and 26 November 2008, the consequences to be drawn from these new scientific elements have been examined in SCoFCAH.

(1) OJ L 165, 27.6.2007, p. 8.

(2) Case T-257/07 R, *France v Commission* [2007] ECR II-4153.

(3) Scientific Report of the Panel on Biological Hazards on a request from the European Commission on 'Scientific and technical clarification in the interpretation and consideration of some facets of the conclusions of its Opinion of 8 March 2007 on certain aspects related to the risk of transmissible spongiform encephalopathies (TSEs) in ovine and caprine animals'. *The EFSA Journal* (2008), 626, pp. 1-11.

(4) OJ L 202, 31.7.2008, p. 11.

(5) Case T-257/07 R II, *France v Commission* (O) C 327, 20.12.2008, p. 26).

(6) *The EFSA Journal* (2008) 849, pp. 1-37.

(7) AFSSA opinion of 8 October 2008 on the possible animal and public health consequences of new available scientific findings on the intra-species transmission of the classical scrapie agent by milk (<http://www.afssa.fr/Documents/ESST2008sa0115EN.pdf>).

(8) Arrêté du 7 novembre 2008 modifiant l'arrêté du 27 janvier 2003 fixant les mesures de police sanitaire relatives à la tremblante caprine (JORF, 8.11.2008, p. 17160).

- (13) During the SCoFCAH meeting of 11 November 2008, taking into account the new scientific evidence and in particular the proven transmissibility of classical scrapie through milk from ewe to lamb, a draft proposal for a Commission Regulation amending Annexes VII and IX to Regulation (EC) No 999/2001 in order to ban the use of milk and milk products from scrapie-infected flocks for feed purposes, to accelerate the eradication procedure in dairy flocks infected by classical scrapie and to restrict the use of milk and milk products for food purposes on the national market was presented. However, as that last element did not receive the support of a majority of the Member States, the proposal was not put to a vote.
- (14) On 26 November 2008, an amended proposal for a Commission Regulation amending Annexes VII and IX to Regulation (EC) No 999/2001 in order to ban the use of milk and milk products coming from holdings with a classical scrapie case for feed purposes, was presented and supported by qualified majority in SCoFCAH. In an official declaration, the French delegation welcomed the adoption of that proposal and invited the Commission to present another proposal for a Commission Regulation amending Regulation (EC) No 999/2001, in order to provide for similar measures for food. In reply to that request, the Commission confirmed that discussions would continue in that respect for food.
- (15) Subsequently, Commission Regulation (EC) No 103/2009 of 3 February 2009 amending Annexes VII and IX to Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies ⁽¹⁾, was adopted. Regulation (EC) No 103/2009 provides for a number of amendments to be made to Annex VII to Regulation (EC) No 999/2001, including provision that in the case a confirmed TSE is classical scrapie, the milk and milk products derived from the animals to be destroyed on the holding cannot be used for the feeding of ruminants, except within that holding. In addition, the placing on the market of such products as feed for non-ruminants is to be limited to the territory of the Member State concerned. Finally, Regulation (EC) No 103/2009 provides for the acceleration of the eradication procedure in dairy flocks infected by classical scrapie in order to reduce the TSE exposure risk for humans.
- (16) On 18 December 2008, France requested the Commission to adopt emergency measures in accordance with Article 53(1) of Regulation (EC) No 178/2002, regarding the human exposure to the causal agents of classical scrapie. In addition, at the SCoFCAH meeting of 14 January 2009, France informed the delegations of the other Member States of that request.
- (17) On 20 January 2009, in line with the discussions following the presentation to the SCoFCAH on 26 November 2008 of a proposal for a Commission Regulation amending Annexes VII and IX to Regulation (EC) No 999/2001, the Commission pursued that discussion at working group level concerning the use for food purposes of milk and milk products from holdings with a classical scrapie case. It emerged from that discussion that the vast majority of Member States did not support the position adopted by France with regard to the necessity to take supplementary risk management measures restricting the use of such milk and milk products for food purposes.
- (18) By letter of 11 March 2009 addressed to France, the Commission confirmed that it did not intend to adopt any emergency measures regarding the use of milk and milk products for food purposes.
- (19) On 25 February 2009, France adopted a measure relating to the prohibition of import of milk and milk products for human consumption from ovine and caprine origin onto the French territory ⁽²⁾. On 9 March 2009, France notified those measures as interim protective measures to the Commission pursuant to Article 54(1) of Regulation (EC) No 178/2002. These measures provide that milk and milk products can be imported from another Member State onto the French territory if and only if they come from a holding which was not placed under an official movement restriction at the time of production and if and only if they do not come from animals which were to be destroyed or killed following the confirmation of a classical scrapie case.
- (20) Accordingly, the Commission has put the matter before the SCoFCAH at its meeting of 23 March 2009, with a view to the extension, amendment or abrogation of the national interim protective measures in accordance with Article 54(2) of Regulation (EC) No 178/2002.
- (21) As referred to in detail in the preamble to Regulation (EC) No 746/2008, and in particular recital 12 thereof, the EFSA acknowledges that there is no scientific evidence of any direct link between TSE in ovine and caprine animals, other than BSE, and TSE in humans even if the biodiversity of the disease agents in ovine and caprine animals is an important element which does not make it possible to exclude transmissibility to humans.

⁽¹⁾ OJ L 34, 4.2.2009, p. 11.

⁽²⁾ Arrêté du 25 février 2009 relatif à l'interdiction d'importation de laits, de produits laitiers et de produits contenant du lait d'origine ovine et caprine à risques au regard des encéphalopathies spongiformes transmissibles destinés à l'alimentation humaine (JORF, 5.3.2009, p. 4094).

- (22) The EFSA viewpoint that transmissibility to humans of TSE agents in ovine or caprine animals cannot be excluded is based on experimental studies on human species barrier and animal models (primates and mice). Those models, however, do not take into account genetic characteristics of humans which have a major influence on relative susceptibility to prion diseases. They also have limitations when extrapolating results to natural conditions, in particular regarding how well they represent the human species barrier and the uncertainty of how well the experimental inoculation route employed represents exposure under natural conditions. On that basis, it may be considered that although a risk of transmissibility to humans of TSE agents in ovine or caprine animals cannot be excluded, that risk would be extremely low, taking into account the fact that the evidence of transmissibility is based on experimental models which do not represent the natural conditions related to the real human species barrier and the real routes of infection.
- (23) A high level of protection of human life and health is assured in the pursuit of Community policies. Community measures governing food and feed must be based on an appropriate assessment of the possible risks for human and animal health and must, taking into account existing scientific evidence, maintain or, if scientifically justified, increase the level of protection of human and animal health. It is impossible, however, to consider the complete elimination of risk as a realistic objective for any risk management decision in matters regarding food safety, where the cost and benefits of risk-reducing measures have to be carefully weighed in order to ensure the measure's proportionality. It is the role and responsibility of the risk manager to decide the acceptable level of risk, taking into account all the elements present in a scientific risk assessment.
- (24) The Commission, in its role as risk manager at Community level, in close collaboration with the Member States, is responsible for establishing the acceptable level of risk and adopting measures that are the most appropriate for maintaining a high level of protection of public health. It has reviewed and assessed the most recent scientific information as regards the transmissibility of TSE to humans. It has assessed any risk that is present as being currently very low and acceptable. In addition to the rules related to feed and without taking disproportionate measures, the Commission has provided for the acceleration of the eradication procedure in dairy flocks infected by classical scrapie in its Regulation (EC) No 103/2009, which results in a further reduction of the TSE exposure for humans.
- (25) Therefore, based on the scientific evidence referred to in the scientific opinions available and also the consultations with the SCoFCAH, and pending the judgment of the Court of First Instance on the legality of the contested provisions of Regulation (EC) No 746/2008 which is pertinent also for the issue at stake in the notification made by France, the Commission, after having consulted the SCoFCAH, considers that the interim protective measures adopted by France go beyond what is necessary to avoid a serious risk to human health, even taking into account the precautionary principle.
- (26) Therefore, the Commission considers that the measures adopted by France on 25 February 2009 and notified to the Commission on 9 March 2009 should be suspended in accordance with Article 54(2) of Regulation (EC) No 178/2002 awaiting the delivery of a judgment in the case T-257/07 *France v Commission*.
- (27) 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*
- France shall suspend the application of its measures prohibiting the introduction onto its territory of milk and milk products for food purposes from holdings where a case of classical scrapie has been confirmed, until the Court of First Instance has rendered its final judgment in the case T-257/07 *France v Commission*.
- Article 2*
- France shall take the necessary measures to comply with this Decision at the latest by 16 October 2009.
- France shall inform the Commission of those measures.
- Article 3*
- This Decision is addressed to the French Republic.
- Done at Brussels, 24 September 2009.
- For the Commission*
Androulla VASSILIOU
Member of the Commission

COMMISSION DECISION

of 30 September 2009

on emergency measures applicable to crustaceans imported from India and intended for human consumption or animal feed

(notified under document C(2009) 7388)

(Text with EEA relevance)

(2009/727/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety⁽¹⁾, and in particular Article 53(1)(b)(ii) thereof,

Whereas:

(1) Regulation (EC) No 178/2002 lays down the general principles governing food and feed in general, and food and feed safety in particular, at Community and national level. It provides for emergency measures where it is evident that food or feed imported from a third country is likely to constitute a serious risk to human health, animal health or the environment, and that such risk cannot be contained satisfactorily by means of measures taken by the Member State(s) concerned.

(2) Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products⁽²⁾ provides that the production process of animals and primary products of animal origin is to be monitored for the purpose of detecting the presence of certain residues and substances in live animals, their excrements and body fluids and in tissue, animal products, animal feed and drinking water. Article 29 of Directive 96/23/EC requires that guarantees provided by third countries must have an effect at least equivalent to those provided for in this Directive.

(3) The results of the latest Community inspection visit to India have revealed shortcomings as regards the residue control system in live animals and animal products.

(4) Despite guarantees provided by India, Member States report to the Commission increased findings of nitrofurans and their metabolites in crustaceans imported from India and intended for human consumption or animal feed. The presence of those substances in food is forbidden by Council Regulation (EEC) No 2377/90⁽³⁾ and they present a serious risk for human health.

(5) These products of animal origin are also used in the manufacturing of feed for aquaculture animals. Nitrofurans or their metabolites are not authorised as feed additive following provisions of Regulation (EC) No 1831/2003 of the European Parliament and of the Council⁽⁴⁾. In addition, such products of animal origin which contain nitrofurans used as antibacterial substances are excluded from feed for farmed animals, since they are category 2 animal by-products in accordance with Regulation (EC) No 1774/2002 of the European Parliament and of the Council⁽⁵⁾.

(6) Therefore it is appropriate to adopt, at Community level, certain emergency measures applicable to importations of crustaceans of aquaculture origin from India in order to ensure the effective and uniform protection of human health in all Member States.

(7) Accordingly, Member States should allow importations of crustaceans of aquaculture origin from India only if it can be shown that they have been subjected to an analytical test at origin to verify that the concentration of nitrofurans or their metabolites are not in excess of the decision limit of the confirmatory analytical method used, in accordance with Commission Decision 2002/657/EC⁽⁶⁾.

(8) However, it is appropriate to authorise the importation of consignments that are not accompanied by the results of the analytical tests at origin, provided that the importing Member State ensures that those are tested on arrival at the Community border and kept under the official control until the results become available.

⁽¹⁾ OJ L 31, 1.2.2002, p. 1.

⁽²⁾ OJ L 125, 23.5.1996, p. 10.

⁽³⁾ OJ L 224, 18.8.1990, p. 1.

⁽⁴⁾ OJ L 268, 18.10.2003, p. 29.

⁽⁵⁾ OJ L 273, 10.10.2002, p. 1.

⁽⁶⁾ OJ L 221, 17.8.2002, p. 8.

- (9) This Decision should be reviewed in the light of the guarantees offered by India and on the basis of the results of the analytical tests carried out by the Member States.
- (10) 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

This Decision shall apply to consignments of crustaceans of aquaculture origin imported from India and intended for human consumption or animal feed (hereinafter referred to as 'consignments of crustaceans').

Article 2

1. Member States shall authorise the importation into the Community of the consignments of crustaceans provided that they are accompanied by the results of an analytical test carried out at origin to ensure that they do not present a danger to human health.
2. The analytical test must be carried out, in particular, with a view to detecting the presence of nitrofurans or their metabolites in conformity with Decision 2002/657/EC.

Article 3

1. By way of derogation from Article 2, Member States shall authorise the importation of consignments of crustaceans that are not accompanied by the results of an analytical test provided that the importing Member State ensures that each consignment undergoes all appropriate checks on arrival at the Community border to ensure that they do not present a danger to human health.
2. The consignments referred to in paragraph 1 shall be detained at the Community border until laboratory tests show that the metabolites of nitrofurans are not present at concentrations in excess of the Community Minimum Required Performance Limit (MRPL) of 1 µg/kg as defined in Decision 2002/657/EC.

Article 4

1. Member States shall immediately inform the Commission if the analytical test referred to in Article 3(2) reveals the

presence of metabolites of nitrofurans at concentrations in excess of the decision limit (CC-alpha) of the confirmatory analytical method used, in accordance with Article 6 of Decision 2002/657/EC.

2. If the analytical test reveals the presence of nitrofurans or their metabolites at concentrations in excess of the Community (MRPL) the consignments may not be placed on the market.

3. Member States shall use, for the submission of the information referred to in paragraph 2, the rapid alert system for food and feed set up by Regulation (EC) No 178/2002.

4. Member States shall submit to the Commission every 3 months a report of all the results of the analytical tests. The common reporting format, set out in the Annex to this Decision shall be used.

5. The reports shall be submitted during the month following each quarter (April, July, October, and January).

Article 5

All expenditure incurred in the application of this Decision shall be charged to the consignor, the consignee or the agent of either.

Article 6

Member States shall immediately inform the Commission of the measures they take to comply with this Decision.

Article 7

This Decision shall be reviewed on the basis of the guarantees offered by India, and the results of the analytical tests carried out by the Member States.

Article 8

This Decision is addressed to the Member States.

Done at Brussels, 30 September 2009.

For the Commission
Androulla VASSILIOU
Member of the Commission

COMMISSION DECISION**of 30 September 2009****extending without limitations the Community recognition of the Polish Register of Shipping****(Text with EEA relevance)**

(2009/728/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations ⁽¹⁾, and in particular Article 15 thereof,

Whereas:

- (1) By Decision 2006/660/EC ⁽²⁾, the Commission granted the Polish Register of Shipping a limited recognition for a period of three years. This recognition is granted to organisations known as classification societies, which fulfil all criteria other than those set out under paragraphs 2 and 3 of the 'General Minimum Criteria' section A of the Annex to Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations ⁽³⁾. The effects of this recognition were limited to the Czech Republic, Cyprus, Lithuania, Malta, Poland and Slovakia.
- (2) The Commission assessed the Polish Register of Shipping in accordance with Article 11(3) of Directive 94/57/EC. The assessment was based on the results of four fact-finding inspections performed in 2007 by experts of the European Maritime Safety Agency in accordance with Article 2(b)(iii) of Regulation (EC) No 1406/2002 of the European Parliament and of the Council ⁽⁴⁾. The Czech, Cypriot, Lithuanian, Maltese, Polish and Slovak administrations were invited to take part in the assessment. The Commission has also taken into consideration the findings of two further inspections carried out by the European Maritime Safety Agency in April and May 2009 in order to examine the activities of the Polish Register of Shipping in the supervision of new ship construction and to verify the corrective action implemented by the Polish Register of Shipping in response to the Commission's assessment.
- (3) Where shortcomings have been identified, the Polish Register of Shipping has promptly implemented appropriate and sufficient corrective action in most cases. The outstanding shortcomings mainly concern the implementation of its rules and procedures, particularly as regards the control of the quality of shipyards and verification of new constructions, the training and qualification of surveyors and transfer of class. The Polish Register of Shipping has therefore been invited to implement further corrective action in this respect. Despite their seriousness, these shortcomings do not at present warrant calling into question the overall quality of the organisation's main systems and control mechanisms.
- (4) In the meantime, Regulation (EC) No 391/2009 has entered into force. It provides that the organisations which, at the date of its entry into force, have been granted recognition in accordance with Directive 94/57/EC shall retain their recognition. Those recognitions have to be examined by the Commission by 17 June 2010, with a view to deciding whether the limitations are to be replaced by others or removed.
- (5) The information available to the Commission based on the assessment and inspections made shows that the Polish Register of Shipping in general complies with the requirements and obligations laid down in Regulation (EC) No 391/2009 in all trades and for all kinds of ships.
- (6) Based on the data last published by the Paris Memorandum of Understanding on Port State control, which concern the inspections carried out by the signatory parties until 2008, the rate of detention of ships for reasons relating to the certificates delivered to them by the Polish Register of Shipping in the period 2006-2008 remained at 0,77 % of the total number of inspections, while the average rate for recognised organisations was 0,34 %.
- (7) An extension of the Community recognition of the Polish Register of Shipping should enter into force on 29 September 2009 in order to ensure its continuity.
- (8) The measures provided for in this Decision are in accordance with the opinion of the COSS Committee set up by Article 12 of Regulation (EC) No 391/2009,

⁽¹⁾ OJ L 131, 28.5.2009, p. 11.

⁽²⁾ OJ L 272, 3.10.2006, p. 17.

⁽³⁾ OJ L 319, 12.12.1994, p. 20.

⁽⁴⁾ OJ L 208, 5.8.2002, p. 1.

HAS DECIDED AS FOLLOWS:

Article 1

The Community recognition of the Polish Register of Shipping is hereby extended without limitations with effect from 29 September 2009.

Article 2

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

Done at Brussels, 30 September 2009.

For the Commission

Antonio TAJANI

Vice-President

2009 SUBSCRIPTION PRICES (excluding VAT, including normal transport charges)

EU Official Journal, L + C series, paper edition only	22 official EU languages	EUR 1 000 per year (*)
EU Official Journal, L + C series, paper edition only	22 official EU languages	EUR 100 per month (*)
EU Official Journal, L + C series, paper + annual CD-ROM	22 official EU languages	EUR 1 200 per year
EU Official Journal, L series, paper edition only	22 official EU languages	EUR 700 per year
EU Official Journal, L series, paper edition only	22 official EU languages	EUR 70 per month
EU Official Journal, C series, paper edition only	22 official EU languages	EUR 400 per year
EU Official Journal, C series, paper edition only	22 official EU languages	EUR 40 per month
EU Official Journal, L + C series, monthly CD-ROM (cumulative)	22 official EU languages	EUR 500 per year
Supplement to the Official Journal (S series), tendering procedures for public contracts, CD-ROM, two editions per week	multilingual: 23 official EU languages	EUR 360 per year (= EUR 30 per month)
EU Official Journal, C series — recruitment competitions	Language(s) according to competition(s)	EUR 50 per year

(*) Sold in single issues: up to 32 pages: EUR 6
from 33 to 64 pages: EUR 12
over 64 pages: Priced individually.

Subscriptions to the *Official Journal of the European Union*, which is published in the official languages of the European Union, are available for 22 language versions. The Official Journal comprises two series, L (Legislation) and C (Information and Notices).

A separate subscription must be taken out for each language version.

In accordance with Council Regulation (EC) No 920/2005, published in Official Journal L 156 of 18 June 2005, the institutions of the European Union are temporarily not bound by the obligation to draft all acts in Irish and publish them in that language. Irish editions of the Official Journal are therefore sold separately.

Subscriptions to the Supplement to the Official Journal (S Series — tendering procedures for public contracts) cover all 23 official language versions on a single multilingual CD-ROM.

On request, subscribers to the *Official Journal of the European Union* can receive the various Annexes to the Official Journal. Subscribers are informed of the publication of Annexes by notices inserted in the *Official Journal of the European Union*.

Sales and subscriptions

Priced publications issued by the Publications Office are available from our commercial distributors. The list of commercial distributors is available at:

http://publications.europa.eu/others/agents/index_en.htm

EUR-Lex (<http://eur-lex.europa.eu>) offers direct access to European Union legislation free of charge. The *Official Journal of the European Union* can be consulted on this website, as can the Treaties, legislation, case-law and preparatory acts.

For further information on the European Union, see: <http://europa.eu>

