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Contents

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

REGULATIONS

- ★ **Council Regulation (EC) No 951/2009 of 9 October 2009 amending Regulation (EC) No 2533/98 concerning the collection of statistical information by the European Central Bank** 1
- Commission Regulation (EC) No 952/2009 of 13 October 2009 establishing the standard import values for determining the entry price of certain fruit and vegetables 7
- ★ **Commission Regulation (EC) No 953/2009 of 13 October 2009 on substances that may be added for specific nutritional purposes in foods for particular nutritional uses ⁽¹⁾** 9
- ★ **Commission Regulation (EC) No 954/2009 of 13 October 2009 amending for the 114th time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban** 20
- Commission Regulation (EC) No 955/2009 of 13 October 2009 amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EC) No 877/2009 for the 2009/10 marketing year 23

1

⁽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.

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

DECISIONS

Council

2009/754/EC:

- ★ **Council Decision of 24 September 2009 appointing one Spanish member and one Spanish alternate member of the Committee of the Regions** 25

Commission

2009/755/EC:

- ★ **Commission Decision of 13 October 2009 concerning the adoption of a financing decision towards a preparatory action on control posts for 2009** 26

I

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

REGULATIONS

COUNCIL REGULATION (EC) No 951/2009

of 9 October 2009

amending Regulation (EC) No 2533/98 concerning the collection of statistical information by the European Central Bank

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the 'Statute'), and in particular to Article 5.4 thereof,

Having regard to the recommendation of the European Central Bank ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Commission ⁽³⁾,

After consulting the European Data Protection Supervisor,

Acting in accordance with the procedure laid down in Article 107(6) of the Treaty establishing the European Community and in Article 42 of the Statute,

Whereas:

(1) Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank ⁽⁴⁾ is a key component in the legal framework supporting the statistical information collection tasks of the European Central Bank (ECB) assisted by the national central banks. The ECB has consistently relied on it to carry out and monitor the coordinated collection of statistical information necessary to undertake the tasks of the European System of Central Banks (ESCB).

(2) In order to maintain Regulation (EC) No 2533/98 as an effective instrument for the ECB to carry out the statistical information collection tasks of the ESCB and to guarantee the continued availability to the ECB of statistical information of the necessary quality and covering the entire range of tasks of the ESCB it is essential to review the scope of the reporting requirements that the named Regulation imposes. In this context, attention needs to be paid not only to the performance of the tasks of the ESCB and to its independence, but also to the statistical principles laid down in this Regulation.

(3) It is necessary to amend Regulation (EC) No 2533/98 to enable the ECB to collect the statistical information needed to undertake the ESCB's tasks referred to in the Treaty. Accordingly, the purposes for which statistical information may be collected should also comprise the compilation of macro-prudential statistics required for the performance of the ESCB's tasks under Article 105 of the Treaty.

(4) The scope of the reporting requirements necessary for the performance of the ESCB's tasks should also take into account structural developments in the financial markets and address related statistical information requirements that were less apparent when Regulation (EC) No 2533/98 was adopted. For that reason, it is necessary to allow the collection of statistical information from the entire sector of financial corporations, and in particular from the insurance corporations and pension funds, which represent the second largest sub-sector of financial corporations in the euro area in terms of financial assets.

(5) In order to allow for the continued compilation of balance of payments statistics of sufficient quality, it is necessary to clarify the reporting requirements imposed in connection with data on all positions and transactions between the residents of participating Member States.

⁽¹⁾ OJ C 251, 3.10.2008, p. 1.

⁽²⁾ Opinion delivered on 24 March 2009 (not yet published in the Official Journal).

⁽³⁾ Opinion delivered on 13 January 2009 (not yet published in the Official Journal).

⁽⁴⁾ OJ L 318, 27.11.1998, p. 8.

- (6) Researchers increasingly require access to confidential statistical information which does not allow direct identification in order to analyse and understand developments within sectors and across countries. Therefore, it is important to allow the ECB and the national central banks to grant to scientific research bodies access to such detailed statistical information at the ESCB level, while maintaining strict confidentiality safeguards.
- (7) To minimise the reporting burden and to enable the efficient development, production and dissemination of high-quality statistics, and the proper performance of the ESCB's tasks, the ECB prioritises statistical needs and assesses the reporting burden. For the same reason, it is necessary to allow the maximum use of existing information, surveys, administrative data, statistical registers and other sources available, including an exchange of confidential statistical information within the ESCB and with the European Statistical System (ESS).
- (8) European statistics are developed, produced and disseminated by both the ESCB and the ESS but under separate legal frameworks, reflecting their respective governance structures. Regulation (EC) No 2533/98 should therefore apply without prejudice to Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics ⁽¹⁾.
- (9) European statistics are developed, produced and disseminated by the ESCB in accordance with the statistical principles of impartiality, objectivity, professional independence, cost-effectiveness, statistical confidentiality, minimisation of the reporting burden and high output quality, including reliability. These principles are defined and further elaborated by the ECB and published on its website as a public commitment concerning European statistics produced by the ESCB. These principles are similar to the statistical principles laid down in Regulation (EC) No 223/2009.
- (10) The development, production and dissemination of European statistics should take into account best practice and the relevant European and international statistical standards.
- (11) In line with Article 5.1 of the Statute, the ESCB and the ESS cooperate closely to ensure the coherence necessary to develop, produce and disseminate European statistics. In particular, the ESCB and the ESS cooperate when elaborating their own statistical principles, when designing their respective statistical work programmes and when striving to reduce the overall response burden. To this end the exchange of appropriate information related to the ESCB and the ESS statistical work programmes between the relevant ESCB and ESS committees, as well as between the ECB and the Commission, is of particular importance to maximise the benefits of good cooperation and to avoid duplication in collecting statistical information.
- (12) The ESS members need part of the data collected by the ESCB for the development, production and dissemination of European statistics within the meaning of Article 1 of Regulation (EC) No 223/2009. Appropriate arrangements for making the respective data available to the ESS members should therefore be set up.
- (13) Furthermore, it is important to ensure close cooperation between the ESCB and the ESS, and notably to foster the exchange of confidential statistical information between the two systems for statistical purposes, in the light of Article 285 of the Treaty and Article 5 of the Statute.
- (14) In order to enhance transparency, the statistics compiled on the basis of the statistical information collected from financial sector institutions by the ESCB should be made publicly available but a high level of protection of confidential information should be guaranteed.
- (15) Confidential statistical information collected and supplied to a member of the ESCB by an ESS authority should not be used for purposes that are not exclusively statistical, such as for administrative or tax purposes or legal proceedings or for the purposes referred to in Articles 6 and 7 of Regulation (EC) No 2533/98. In this respect, it is necessary to ensure the physical and logical protection of this confidential statistical information and ensure that no unlawful disclosure or use for non-statistical purposes occurs.
- (16) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽²⁾ has entered into force and must be complied with in the development, production and dissemination of statistics by the ESCB,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2533/98 is amended as follows:

1. Article 1 is replaced by the following:

'Article 1

Definitions

For the purposes of this Regulation:

1. "the ECB's statistical reporting requirements" shall mean the statistical information which reporting agents are required to provide and which is necessary for the tasks of the ESCB to be performed;

⁽¹⁾ OJ L 87, 31.3.2009, p. 164.

⁽²⁾ OJ L 8, 12.1.2001, p. 1.

1a. "European statistics" shall mean statistics that are: (i) necessary to undertake the ESCB's tasks as referred to in the Treaty; (ii) determined in the ESCB's statistical work programme; and (iii) developed, produced and disseminated in conformity with the statistical principles referred to in Article 3a;

2. "reporting agents" shall mean the legal and natural persons and the entities and branches referred to in Article 2(3) which are subject to the ECB's statistical reporting requirements;

3. "participating Member State" shall mean a Member State which has adopted the single currency in accordance with the Treaty;

4. "resident" and "residing" shall mean having a centre of economic interest in the economic territory of a country as described in Chapter 1(1.30) of Annex A to Council Regulation (EC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community (*); in this context, "cross-border positions" and "cross-border transactions" shall mean respectively positions and transactions in the assets and/or liabilities of residents of participating Member States seen as one economic territory vis-à-vis residents of non-participating Member States and/or residents of third countries;

5. "international investment position" shall mean the balance sheet of the stock of cross-border financial assets and liabilities;

6. "electronic money" shall mean an electronic store of monetary value on a technical device, including prepaid cards, that may be widely used for making payments to entities other than the issuer without necessarily involving bank accounts in the transaction, but acting as a prepaid bearer instrument;

7. "use for statistical purposes" shall mean the exclusive use for the development and production of statistical results and statistical analyses;

8. "development" shall mean activities aiming at setting up, strengthening and improving the statistical methods, standards and procedures used for the production and dissemination of statistics as well as at designing new statistics and indicators;

9. "production" shall mean all the activities related to the collection, storage, processing and analysis necessary for compiling statistics;

10. "dissemination" shall mean the activity of making statistics, statistical analyses and non-confidential information accessible to users;

11. "statistical information" shall mean aggregated and individual data, indicators and related metadata;

12. "confidential statistical information" shall mean statistical information which allows reporting agents or any other legal or natural person, entity or branch to be

identified, either directly from their name or address or from an officially allocated identification code, or indirectly through deduction, thereby disclosing individual information. To determine whether a reporting agent or any other legal or natural person, entity or branch is identifiable, account shall be taken of all the means that might reasonably be used by a third party to identify the said reporting agent or the other legal or natural person, entity or branch.

(*) OJ L 310, 30.11.1996, p. 1.'

2. Article 2 is amended as follows:

(a) Paragraph 1 is replaced by the following:

'1. For the fulfilment of the ECB's statistical reporting requirements, the ECB, assisted by the national central banks in accordance with Article 5.2 of the Statute, shall have the right to collect statistical information within the limits of the reference reporting population and of what is necessary to carry out the tasks of the ESCB. Information may be collected in particular in the area of monetary and financial statistics, banknote statistics, payments and payment systems statistics, financial stability statistics, balance of payments statistics and international investment position statistics. When necessary to perform the tasks of the ESCB, additional information may be collected also in other areas in duly justified cases. The information that is collected for the fulfilment of the ECB's statistical reporting requirements shall be further specified in the ESCB's statistical work programme.'

(b) Paragraph 2 is replaced by the following:

'2. In this respect, the reference reporting population shall comprise the following reporting agents:

(a) legal and natural persons residing in a Member State and falling within the sector "financial corporations" as defined in ESA 95;

(b) post office giro institutions residing in a Member State;

(c) legal and natural persons residing in a Member State, to the extent that they hold cross-border positions or have carried out cross-border transactions;

(d) legal and natural persons residing in a Member State, to the extent that they have issued securities or electronic money;

(e) legal and natural persons residing in a participating Member State, to the extent that they hold financial positions vis-à-vis residents of other participating Member States or have carried out financial transactions with residents of other participating Member States.'

(c) The following paragraph is added:

‘4. In duly justified cases, such as for financial stability statistics, the ECB shall have the right to collect from the legal and natural persons referred to in paragraph 2(a), and from the entities and branches referred to in paragraph 3, statistical information on a consolidated basis, including information on the entities controlled by such legal and natural persons and entities. The ECB shall specify the extent of the consolidation.’

3. The following Article is inserted after Article 2:

‘Article 2a

Cooperation with the ESS

To minimise the reporting burden and guarantee the coherence necessary to produce European statistics, the ESCB and the ESS shall cooperate closely, while complying with the statistical principles laid down in Article 3a.’

4. Article 3 is replaced by the following:

‘Article 3

Modalities for the definition of statistical reporting requirements

In defining and imposing its statistical reporting requirements, the ECB shall specify the actual reporting population within the limits of the reference reporting population as defined in Article 2. Without prejudice to the fulfilment of its statistical reporting requirements, the ECB:

- (a) shall use existing statistics as far as possible;
- (b) shall take into account the relevant European and international statistical standards;
- (c) may fully or partly exempt specific classes of reporting agents from its statistical reporting requirements.

Before adopting a regulation as referred to in Article 5 concerning new statistics, the ECB shall assess the merits and costs of the collection of the new statistical information in question. It shall in particular take into account the specific collection characteristics, the size of the reporting population and the periodicity, and the statistical information already held by the statistical authorities or administrations.’

5. The following Article is inserted after Article 3:

‘Article 3a

Statistical principles underlying European statistics produced by the ESCB

The development, production and dissemination of European statistics by the ESCB shall be governed by the principles of impartiality, objectivity, professional independence, cost-effectiveness, statistical confidentiality, minimisation of the reporting burden and high output quality, including relia-

bility and the definitions of these principles shall be adopted, elaborated on and published by the ECB. These principles are similar to the statistical principles of Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics (*).

(*) OJ L 87, 31.3.2009, p. 164.’

6. Article 8 is replaced by the following:

‘Article 8

Protection and use of confidential statistical information collected by the ESCB

The following rules shall apply to prevent the unlawful use and disclosure of confidential statistical information provided by the reporting agent or other legal or natural person, entity or branch to an ESCB member or transmitted within the ESCB:

1. The ESCB shall use confidential statistical information exclusively for the exercise of the tasks of the ESCB except in any of the following circumstances:
 - (a) if the reporting agent or the other legal or natural person, entity or branch which can be identified, has explicitly given its consent to the use of the said statistical information for other purposes;
 - (b) for transmission to the members of ESS in accordance with Article 8a(1);
 - (c) for granting scientific research bodies access to confidential statistical information which does not allow direct identification, and with the prior explicit consent of the authority which provided the information;
 - (d) as regards national central banks, if the said statistical information is used in the field of prudential supervision or, in accordance with Article 14.4 of the Statute, for the exercise of functions other than those specified in the Statute.
2. Reporting agents shall be informed of the statistical and other administrative uses, to which statistical information provided by them, may be put. Reporting agents shall have the right to obtain information concerning the legal basis for the transmission and the protective measures adopted.
3. The ESCB members shall take all the necessary regulatory, administrative, technical and organisational measures to ensure the physical and logical protection of confidential statistical information. The ECB shall define common rules and implement minimum standards to prevent unlawful disclosure and unauthorised use of confidential statistical information.

4. Transmission of confidential statistical information within the ESCB that has been collected pursuant to Article 5 of the Statute shall take place:

- (a) to the extent and at the level of detail necessary for the performance of the tasks of the ESCB referred to in the Treaty; or
- (b) provided that such transmission is necessary for the efficient development, production or dissemination of statistics under Article 5 of the Statute or for increasing their quality.

5. The ECB may decide on the collection and transmission, to the extent and level of detail necessary, within the ESCB of confidential information originally collected for purposes other than those of Article 5 of the Statute, provided that this is necessary for the efficient development or production of statistics or for increasing their quality and that these statistics are necessary for the performance of the tasks of the ESCB referred to in the Treaty.

6. Confidential statistical information may be exchanged within the ESCB to grant scientific research bodies access to such information, in accordance with paragraphs 1(c) and 2.

7. Statistical information taken from sources which are available to the public in accordance with national legislation shall not be considered confidential.

8. Member States and the ECB shall adopt all necessary measures to ensure the protection of confidential statistical information, including the imposition of the appropriate enforcement measures in the event of an infringement.

This Article shall apply without prejudice to special national or Community provisions relating to the transmission of information other than confidential statistical information to the ECB and shall not apply to confidential statistical information initially transmitted between an ESS authority and an ESCB member, to which Article 8a shall apply.

This Article shall not prevent confidential statistical information collected for purposes other than, or in addition to, meeting the ECB's statistical reporting requirements from being used to meet those other purposes.'

7. The following Articles are inserted after Article 8:

'Article 8a

Exchange of confidential statistical information between the ESCB and the ESS

1. Without prejudice to national provisions on the exchange of confidential statistical information other than

information covered in this Regulation, the transmission of confidential statistical information between an ESCB member that collected the information and an ESS authority may take place provided that this transmission is necessary for the efficient development, production or dissemination, or for increasing the quality, of European statistics within the respective spheres of competence of the ESS and the ESCB and that this necessity has been justified.

2. Any further transmission beyond the first transmission must be explicitly authorised by the authority that collected the information.

3. The confidential statistical information which is transmitted between an ESS authority and an ESCB member shall not be used for purposes that are not exclusively statistical, such as for administrative or tax purposes or legal proceedings or for the purposes referred to in Articles 6 and 7.

4. Statistical information which the ESCB members receive from ESS authorities and which was obtained from sources lawfully available to the public and which remains available to the public according to national legislation shall not be considered confidential for the purpose of dissemination of statistics obtained from this statistical information.

5. Within their respective spheres of competence, the ESCB members shall take all necessary regulatory, administrative, technical and organisational measures to ensure the physical and logical protection of confidential statistical information (statistical disclosure control) provided by the ESS authorities.

6. Confidential statistical information provided by the ESS authorities shall only be accessible to staff working in statistical activities within their specific domain of work. These persons shall use these data exclusively for statistical purposes. They shall be subject to this restriction even after the cessation of their functions.

7. Member States and the ECB shall take appropriate measures to prevent and sanction any violations of the protection of confidential statistical information provided by the ESS authorities.

Article 8b

Confidentiality report

The ECB shall publish an annual confidentiality report on the measures adopted to safeguard the confidentiality of the statistical information referred to in Articles 8 and 8a.

*Article 8c***Protection of confidential information on individuals**

This Regulation shall apply without prejudice to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (*) and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and of the free movement of such data (**).

*Article 8d***Access to administrative records**

To reduce the burden on respondents, the national central banks and the ECB shall have access to relevant sources of administrative data within their respective public administration systems, to the extent that these data are necessary for the development, production and dissemination of European statistics.

The practical arrangements and the conditions for achieving effective access shall be determined where necessary by each Member State and the ECB, within their respective spheres of competence.

These data shall be used by the ESCB members exclusively for statistical purposes.

(*) OJ L 281, 23.11.1995, p. 31.

(**) OJ L 8, 12.1.2001, p. 1.

8. Annexes A and B are deleted.

*Article 2***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 Luxembourg, 9 October 2009.

For the Council
The President
Å. TORSTENSSON

COMMISSION REGULATION (EC) No 952/2009
of 13 October 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 14 October 2009.

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

Done at Brussels, 13 October 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	MA	77,2
	MK	24,8
	TR	100,7
	ZZ	67,6
0707 00 05	TR	88,3
	ZZ	88,3
0709 90 70	TR	97,8
	ZZ	97,8
0805 50 10	AR	81,2
	CL	77,4
	TR	74,3
	US	79,7
	UY	55,5
	ZA	74,6
0806 10 10	ZZ	73,8
	BR	195,6
	TR	105,2
	US	186,7
	ZZ	162,5
0808 10 80	BR	63,1
	CL	86,9
	NZ	74,7
	ZA	83,0
	ZZ	76,9
0808 20 50	CN	56,8
	TR	92,6
	ZA	89,8
	ZZ	79,7

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

COMMISSION REGULATION (EC) No 953/2009**of 13 October 2009****on substances that may be added for specific nutritional purposes in foods for particular nutritional uses****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2009/39/EC of the European Parliament and the Council of 6 May 2009 on foodstuffs intended for particular nutritional uses ⁽¹⁾, and in particular Article 4(3) thereof,

After consulting the European Food Safety Authority,

Whereas:

(1) A number of nutritional substances such as vitamins, minerals, amino acids and others may be added to foods for particular nutritional uses in order to ensure that the particular nutritional requirements of the persons for whom those foods are intended are fulfilled and/or in order to satisfy legal requirements laid down in specific directives adopted pursuant to Article 4(1) of Directive 2009/39/EC. The list of those substances had been established by Commission Directive 2001/15/EC of 15 February 2001 on substances that may be added for specific nutritional purposes in foods for particular nutritional uses ⁽²⁾ and, following requests submitted by interested parties, new substances have been evaluated by the European Food Safety Authority, and consequently, that list should be completed and updated. Furthermore, it is appropriate to introduce specifications for some vitamin and mineral substances for their identification.

(2) It is neither possible to define nutritional substances as a distinct group for the purpose of this Regulation nor to draw up at this stage an exhaustive list of all categories of nutritional substances that may be added in foodstuffs for particular nutritional uses.

(3) The range of foods for particular nutritional uses is very wide and diversified and the technological processes used for their manufacture are varied. For this reason, the widest possible choice of substances that can be safely used in the manufacture of foods for particular nutritional uses should be available for the categories of nutritional substances to be listed in this Regulation.

(4) The choice of substances should be based primarily on their safety and subsequently on their availability for use by humans and on their organoleptic and technological properties. Unless otherwise specified in provisions applicable to specific categories of foodstuffs, the inclusion of substances in the list of those that may be used in the manufacture of foodstuffs for particular nutritional uses does not mean that their addition to those foodstuffs is necessary or desirable.

(5) Where the addition of a nutritional substance has been judged necessary, this has been stipulated by specific rules in the relevant specific directives together with the appropriate quantitative conditions, as the case may be.

(6) In the absence of any specific rules or in the case of foodstuffs for particular nutritional uses not covered by specific directives, nutritional substances should be used in order to manufacture products that are in conformity with the definition of such products and fulfil the particular nutritional requirements of the persons for whom they are intended. The products in question must also be safe when used as instructed by the manufacturer.

(7) The provisions concerning the list of the nutritional substances that may be used in the manufacture of infant formulae and follow-on formulae and of processed cereal-based foods and baby foods for infants and young children are laid down in Commission Directive 2006/141/EC of 22 December 2006 on infant formulae and follow-on formulae and amending Directive 1999/21/EC ⁽³⁾, and Commission Directive 2006/125/EC of 5 December 2006 on processed cereal-based foods and baby foods for infants and young children ⁽⁴⁾. Therefore those provisions need not be repeated in this Regulation.

(8) A number of the nutritional substances may be added for technological purposes as additives, colourings, flavourings or other such uses including authorised oenological practices and processes provided for by relevant Community legislation. In this context specifications are adopted for them at Community level. It is appropriate that those specifications should be applicable for the substances whatever the purpose of their use in foodstuffs.

⁽¹⁾ OJ L 124, 20.5.2009, p. 21.

⁽²⁾ OJ L 52, 22.2.2001, p. 19.

⁽³⁾ OJ L 401, 30.12.2006, p. 1.

⁽⁴⁾ OJ L 339, 6.12.2006, p. 16.

- (9) Pending the adoption of purity criteria for the rest of the substances at Community level, and in order to ensure a high level of protection for public health, generally acceptable purity criteria recommended by international organisations or agencies including but not limited to the Joint FAO/WHO Expert Committee on Food Additives (JECFA) and EUP (European Pharmacopoeia) should apply. Member States should be permitted to maintain national rules setting stricter purity criteria, without prejudice to the rules set out in the Treaty.
- (10) Some specific nutrients or their derivatives have been identified as specifically necessary for the manufacture of some foodstuffs belonging to the group of foodstuffs for special medical purposes and their potential use should be reserved to the manufacture of these products.
- (11) For the sake of clarity, Directive 2001/15/EC and Commission Directive 2004/6/EC of 20 January 2004 derogating from Directive 2001/15/EC to postpone the application of the prohibition of trade to certain products⁽¹⁾ should be repealed and replaced by this Regulation.
- (12) The measures provided in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation shall apply to foods for particular nutritional uses, excluding those covered by Directive 2006/125/EC and Directive 2006/141/EC.

Article 2

Eligible substances

1. Among the substances belonging to the categories appearing in Annex to this Regulation, only those listed in that Annex, complying with the relevant specifications as necessary may be added for specific nutritional purposes in the manufacture of foodstuffs for particular nutritional uses covered by Directive 2009/39/EC.

2. Without prejudice to Regulation (EC) No 258/97 of the European Parliament and of the Council⁽²⁾, also substances not

belonging to the categories appearing in the Annex to this Regulation may be added for specific nutritional purposes in the manufacture of foods for particular nutritional uses.

Article 3

General requirements

1. The use of substances added for specific nutritional purposes shall result in the manufacture of safe products that fulfil the particular nutritional requirements of the persons for whom they are intended, as established by generally accepted scientific data.

2. Upon request by the competent authorities referred to in Article 11 of Directive 2009/39/EC, the manufacturer or, where appropriate, the importer shall produce the scientific work and the data establishing that the use of the substances complies with paragraph 1. If such work and data are contained in a readily available publication, a mere reference to that publication shall suffice.

Article 4

Specific requirements for substances listed in the Annex

1. The use of the substances listed in the Annex to this Regulation shall comply with any specific provisions concerning those substances that may be laid down in specific directives provided for in Article 4(1) of Directive 2009/39/EC.

2. Purity criteria established by Community legislation which apply to the substances listed in the Annex when they are used in the manufacture of foodstuffs for purposes other than those covered by this Regulation shall also apply to those substances when they are used for purposes covered by this Regulation.

3. For substances listed in the Annex for which purity criteria are not established by Community legislation, and until the adoption of such specifications, generally acceptable purity criteria recommended by international bodies shall apply. National rules setting stricter purity criteria may be maintained.

Article 5

Repeals

Directive 2001/15/EC and Directive 2004/6/EC are repealed with effect from 31 December 2009.

⁽¹⁾ OJ L 15, 22.1.2004, p. 31.

⁽²⁾ OJ L 43, 14.2.1997, p. 1.

*Article 6***Entry into force and application**

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

It shall apply as from 1 January 2010.

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

Done at Brussels, 13 October 2009.

For the Commission
Androulla VASSILIOU
Member of the Commission

ANNEX

Substances that may be added for specific nutritional purposes in foods for particular nutritional uses

For the purpose of this table:

- 'Dietetic foods' means foods for particular nutritional uses including foods for special medical purposes but excluding infant formulae, follow-on formulae, processed cereal-based foods and baby foods intended for infants and young children,
- 'Foods for special medical purposes' means dietary foods for special medical purposes as defined in Commission Directive 1999/21/EC of 25 March 1999 on dietary foods for special medical purposes ⁽¹⁾.

Substance	Condition of use	
	Dietetic foods	Foods for special medical purposes
Category 1. Vitamins		
VITAMIN A		
retinol	x	
retinyl acetate	x	
retinyl palmitate	x	
beta-carotene	x	
VITAMIN D		
cholecalciferol	x	
ergocalciferol	x	
VITAMIN E		
D-alpha-tocopherol	x	
DL-alpha-tocopherol	x	
D-alpha-tocopheryl acetate	x	
DL-alpha-tocopheryl acetate	x	
D-alpha-tocopheryl acid succinate	x	
D-alpha-tocopheryl polyethylene glycol-1000 succinate (TPGS)		x
VITAMIN K		
phylloquinone (phytomenadione)	x	
menaquinone ⁽¹⁾	x	
VITAMIN B1		
thiamin hydrochloride	x	
thiamin mononitrate	x	
VITAMIN B2		
riboflavin	x	

⁽¹⁾ OJ L 91, 7.4.1999, p. 29.

Substance	Condition of use	
	Dietetic foods	Foods for special medical purposes
riboflavin 5'-phosphate, sodium	x	
NIACIN		
nicotinic acid	x	
nicotinamide	x	
PANTOTHENIC ACID		
D-pantothenate, calcium	x	
D-pantothenate, sodium	x	
dexpanthenol	x	
VITAMIN B6		
pyridoxine hydrochloride	x	
pyridoxine 5'-phosphate	x	
pyridoxine dipalmitate	x	
FOLATE		
pteroylmonoglutamic acid	x	
calcium-L-methylfolate	x	
VITAMIN B12		
cyanocobalamin	x	
hydroxocobalamin	x	
BIOTIN		
D-biotin	x	
VITAMIN C		
L-ascorbic acid	x	
sodium-L-ascorbate	x	
calcium-L-ascorbate	x	
potassium-L-ascorbate	x	
L-ascorbyl 6-palmitate	x	
Category 2. Minerals		
CALCIUM		
calcium carbonate	x	
calcium chloride	x	
calcium salts of citric acid	x	

Substance	Condition of use	
	Dietetic foods	Foods for special medical purposes
calcium gluconate	x	
calcium glycerophosphate	x	
calcium lactate	x	
calcium salts of orthophosphoric acid	x	
calcium hydroxide	x	
calcium oxide	x	
calcium sulphate	x	
calcium bisglycinate	x	
calcium citrate malate	x	
calcium malate	x	
calcium L-pidolate	x	
MAGNESIUM		
magnesium acetate	x	
magnesium carbonate	x	
magnesium chloride	x	
magnesium salts of citric acid	x	
magnesium gluconate	x	
magnesium glycerophosphate	x	
magnesium salts of orthophosphoric acid	x	
magnesium lactate	x	
magnesium hydroxide	x	
magnesium oxide	x	
magnesium sulphate	x	
magnesium L-aspartate		x
magnesium bisglycinate	x	
magnesium L-pidolate	x	
magnesium potassium citrate	x	
IRON		
ferrous carbonate	x	
ferrous citrate	x	
ferric ammonium citrate	x	

Substance	Condition of use	
	Dietetic foods	Foods for special medical purposes
ferrous gluconate	X	
ferrous fumarate	X	
ferric sodium diphosphate	X	
ferrous lactate	X	
ferrous sulphate	X	
ferric diphosphate (ferric pyrophosphate)	X	
ferric saccharate	X	
elemental iron (carbonyl + electrolytic + hydrogen reduced)	X	
ferrous bisglycinate	X	
ferrous L-pidolate	X	
COPPER		
cupric carbonate	X	
cupric citrate	X	
cupric gluconate	X	
cupric sulphate	X	
copper lysine complex	X	
IODINE		
potassium iodide	X	
potassium iodate	X	
sodium iodide	X	
sodium iodate	X	
ZINC		
zinc acetate	X	
zinc chloride	X	
zinc citrate	X	
zinc gluconate	X	
zinc lactate	X	
zinc oxide	X	
zinc carbonate	X	
zinc sulphate	X	
zinc bisglycinate	X	

Substance	Condition of use	
	Dietetic foods	Foods for special medical purposes
MANGANESE		
manganese carbonate	x	
manganese chloride	x	
manganese citrate	x	
manganese gluconate	x	
manganese glycerophosphate	x	
manganese sulphate	x	
SODIUM		
sodium bicarbonate	x	
sodium carbonate	x	
sodium chloride	x	
sodium citrate	x	
sodium gluconate	x	
sodium lactate	x	
sodium hydroxide	x	
sodium salts of orthophosphoric acid	x	
POTASSIUM		
potassium bicarbonate	x	
potassium carbonate	x	
potassium chloride	x	
potassium citrate	x	
potassium gluconate	x	
potassium glycerophosphate	x	
potassium lactate	x	
potassium hydroxide	x	
potassium salts of orthophosphoric acid	x	
magnesium potassium citrate	x	
SELENIUM		
sodium selenate	x	
sodium hydrogen selenite	x	
sodium selenite	x	

Substance	Condition of use	
	Dietetic foods	Foods for special medical purposes
selenium enriched yeast (2)	x	
CHROMIUM (III)		
chromium (III) chloride and its hexahydrate	x	
chromium (III) sulphate and its hexahydrate	x	
MOLYBDENUM (VI)		
ammonium molybdate	x	
sodium molybdate	x	
FLUORINE		
potassium fluoride	x	
sodium fluoride	x	
BORON		
sodium borate	x	
boric acid	x	
Category 3. Amino acids		
L-alanine	x	
L-arginine	x	
L-aspartic acid		x
L-citrulline		x
L-cysteine	x	
Cystine	x	
L-histidine	x	
L-glutamic acid	x	
L-glutamine	x	
glycine		x
L-isoleucine	x	
L-leucine	x	
L-lysine	x	
L-lysine acetate	x	
L-methionine	x	
L-ornithine	x	
L-phenylalanine	x	

Substance	Condition of use	
	Dietetic foods	Foods for special medical purposes
L-proline		x
L-threonine	x	
L-tryptophan	x	
L-tyrosine	x	
L-valine	x	
L-serine		x
L-arginine-L-aspartate		x
L-lysine-L-aspartate		x
L-lysine-L-glutamate		x
N-acetyl-L-cysteine		x
N-acetyl-L-methionine		x in products intended for persons over 1 year of age
For amino acids, as far as applicable, also the sodium, potassium calcium and magnesium salts as well as their hydrochlorides may be used		
Category 4. Carnitine and taurine		
L-carnitine	x	
L-carnitine hydrochloride	x	
taurine	x	
L-carnitine-L-tartrate	x	
Category 5. Nucleotides		
adenosine 5'-phosphoric acid (AMP)	x	
sodium salts of AMP	x	
cytidine 5'-monophosphoric acid (CMP)	x	
sodium salts of CMP	x	
guanosine 5'-phosphoric acid (GMP)	x	
sodium salts of GMP	x	
inosine 5'-phosphoric acid (IMP)	x	
sodium salts of IMP	x	
uridine 5'-phosphoric acid (UMP)	x	
sodium salts of UMP	x	
Category 6. Choline and inositol		
choline	x	

Substance	Condition of use	
	Dietetic foods	Foods for special medical purposes
choline chloride	x	
choline bitartrate	x	
choline citrate	x	
inositol	x	

(¹) Menaquinone occurring principally as menaquinone-7 and, to a minor extent, menaquinone-6.

(²) Selenium-enriched yeasts produced by culture in the presence of sodium selenite as selenium source and containing, in the dried form as marketed, not more than 2,5 mg Se/g. The predominant organic selenium species present in the yeast is selenomethionine (between 60 and 85 % of total extracted selenium in the product). The content of other organic selenium compounds including selenocysteine shall not exceed 10 % of total extracted selenium. Levels of inorganic selenium normally shall not exceed 1 % of total extracted selenium.

COMMISSION REGULATION (EC) No 954/2009

of 13 October 2009

amending for the 114th time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001 prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan, ⁽¹⁾ and in particular the first indent of Article 7(1) thereof,

Whereas:

(1) Annex I to Regulation (EC) No 881/2002 lists the persons, groups and entities covered by the freezing of funds and economic resources under that Regulation. It includes Mr Shafiq Ben Mohamed Ben Mohamed Al-Ayadi and Mr Faraj Faraj Hussein Al-Sa'idi, who were listed in 2002 ⁽²⁾ and 2003 ⁽³⁾, respectively.

(2) Each natural person concerned challenged the listing decision made as regards him. The Court of First Instance rejected their challenges ⁽⁴⁾. Appeals against the judgments of the Court of First Instance are pending in the Court of Justice ⁽⁵⁾.

(3) Following recent case-law of the Court of Justice ⁽⁶⁾, the UN Al Qaida and Taliban Sanctions Committee provided, in spring 2009, the grounds for its decisions listing Mr Shafiq Ben Mohamed Ben Mohamed Al-Ayadi and Mr Faraj Faraj Hussein Al-Sa'idi. The Commission has published notices ⁽⁷⁾ for the attention of the person

concerned to inform them that the UN Al Qaida and Taliban Sanctions Committee had provided the grounds for their listing, which would be communicated upon request with a view to giving them the opportunity to make his point of view on these grounds known. Communications were sent to the addresses included in the relevant entries. Furthermore, by communications dated 24 June 2009, the grounds for listing were notified to either person concerned, at the address of his lawyer, in order to give them the opportunity to comment on these grounds and to make their point of view known.

(4) The Commission has received comments from Mr Shafiq Ben Mohamed Ben Mohamed Al-Ayadi and from Mr Faraj Faraj Hussein Al-Sa'idi and examined these comments.

(5) The list of persons, groups and entities to whom the freezing of funds and economic resources should apply, drawn up by the UN Al Qaida and Taliban Sanctions Committee, currently comprises Mr Shafiq Ben Mohamed Ben Mohamed Al-Ayadi and Mr Faraj Faraj Hussein Al-Sa'idi.

(6) After having carefully considered the comments received from Mr Shafiq Ben Mohamed Ben Mohamed Al-Ayadi in a letter dated 23 July 2009, and given the preventive nature of the freezing of funds and economic resources, the Commission considers that the listing of Mr Shafiq Ben Mohamed Ben Mohamed Al-Ayadi is justified for reasons of his association with the Al-Qaida network.

(7) After having carefully considered the comments received from Mr Faraj Faraj Hussein Al-Sa'idi in a letter dated 16 July 2009, and given the preventive nature of the freezing of funds and economic resources, the Commission considers the listing of Mr Faraj Faraj Hussein Al-Sa'idi is justified for reasons of his association with the Al-Qaida network.

⁽¹⁾ OJ L 139, 29.5.2002, p. 9.

⁽²⁾ Regulation (EC) No 881/2002.

⁽³⁾ Commission Regulation (EC) No 2049/2003 (OJ L 303, 21.11.2003, p. 20).

⁽⁴⁾ Cases T-253/02 and T-49/04, respectively.

⁽⁵⁾ Cases C-403/06 P and C-399/06 P, respectively.

⁽⁶⁾ Judgment of 3 September 2008 in Joined Cases C-402/05 P and C-415/05 P, *Yassin Abdullah Kadi and Al Barakaat International Foundation v Council of the European Union and Commission of the European Communities* [2008] ECR I-6351.

⁽⁷⁾ OJ C 145, 25.6.2009, p. 21, and OJ C 105, 7.5.2009, p. 31.

(8) In view of this, the listing decisions concerning Mr Shafiq Ben Mohamed Ben Mohamed Al-Ayadi and Mr Faraj Faraj Hussein Al-Sa'idi should be replaced by new decisions confirming their inclusion in Annex I to Regulation (EC) No 881/2002.

- (9) These new decisions should apply from 30 May 2002 as regards Mr Shafiq Ben Mohamed Ben Mohamed Al-Ayadi and from 21 November 2003 as regards Mr Faraj Faraj Hussein Al-Sa'idi, given the preventive nature and objectives of the freezing of funds and economic resources under Regulation (EC) No 881/2002 and the need to protect legitimate interests of the economic operators, who have been relying on the decisions made in 2002 and 2003.
- (10) The Sanctions Committee amended the identifying data concerning Mr Shafiq Ben Mohamed Ben Mohamed Al-Ayadi on 16 September 2008 and 23 March 2009. The published information⁽¹⁾ concerning Mr Shafiq Ben Mohamed Ben Mohamed Al-Ayadi should therefore be updated.
- (11) The Sanctions Committee amended the identifying data concerning Mr Faraj Faraj Hussein Al-Sa'idi on 11 August 2008, 30 January 2009 and 13 February 2009. The

published information⁽²⁾ concerning Mr Faraj Faraj Hussein Al-Sa'idi should therefore be updated,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 881/2002 is hereby amended as set out in the Annex to this Regulation.

Article 2

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

It shall apply from 30 May 2002 as regards Mr Shafiq Ben Mohamed Ben Mohamed Al-Ayadi and from 21 November 2003 as regards Mr Faraj Faraj Hussein Al-Sa'idi.

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

Done at Brussels, 13 October 2009.

For the Commission

Karel KOVANDA

Acting Director-General for External Relations

⁽¹⁾ Commission Regulation (EC) No 1210/2006 (OJ L 219, 10.8.2006, p. 14).

⁽²⁾ Commission Regulation (EC) No 46/2008 (OJ L 16, 19.1.2008, p. 11).

ANNEX

In Annex I to Regulation (EC) No 881/2002, the entries concerning Shafiq Ben Mohamed Ben Mohamed Al-Ayadi and Faraj Faraj Hussein Al-Sa'idi under the heading 'Natural persons' are confirmed and amended to read as follows:

1. Shafiq Ben Mohamed Ben Mohamed **Al-Ayadi** (alias (a) Ayadi Chafiq **Bin Muhammad**; (b) Ben Muhammad **Ayadi Chafik**; (c) Ben Muhammad **Aiadi**; (d) Ben Muhammad **Aiady**; (e) Ayadi Shafiq **Ben Mohamed**; (f) Ayadi Chafiq **Ben Mohamed**; (g) Chafiq **Ayadi**; (h) Chafik **Ayadi**; (i) Ayadi **Chafiq**; (j) Ayadi **Chafik**; (k) Ajadi **Chafik**; (l) Abou **El Baraa**). Address: (a) Helene Meyer Ring 10-1415-80809, Munich, Germany; (b) 129 Park Road, London NW8, England; (c) 28 Chaussée de Lille, Mouscron, Belgium; (d) 20 Provare Street Sarajevo, Bosnia and Herzegovina (last registered address in Bosnia); (e) Dublin, Ireland. Date of birth: (a) 21.3.1963; (b) 21.1.1963. Place of birth: Sfax, Tunisia. Nationality: Tunisian. Passport No: (a) E423362 (Tunisian passport issued in Islamabad on 15.5.1988, expired on 14.5.1993); (b) 0841438 (Bosnia and Herzegovina passport issued on 30.12.1998, expired on 30.12.2003); (c) 0898813 (Bosnia and Herzegovina passport, issued on 30.12.1999 in Sarajevo, Bosnia and Herzegovina); (d) 3449252 (Bosnia and Herzegovina passport issued on 30.5.2001 by the Consular Office of Bosnia and Herzegovina in London, expired on 30.5.2006). National identification No: 1292931. Other information: (a) Belgian address above is a PO Box. Belgian authorities state that this person never resided in Belgium; (b) Reportedly living in Dublin, Ireland; (c) Father's name is Mohamed, mother's name is Medina Abid; (d) Associated with Al-Haramain Islamic Foundation; (e) Bosnia and Herzegovina citizenship withdrawn in July 2006 and he has no valid Bosnia and Herzegovina identification document. Date of designation referred to in Article 2a(4)(b): 17.10.2001.
2. Faraj Faraj Hussein **Al-Sa'idi** (alias (a) Mohamed Abdulla Imad; (b) Muhamad Abdullah Imad; (c) Imad Mouhamed Abdellah; (d) Faraj Farj Hassan **Al Saadi**; (e) Hamza Al Libi; (f) Abdallah Abd al-Rahim). Address: (a) Leicester, United Kingdom (as at January 2009); (b) Viale Bligny 42, Milan, Italy (Imad Mouhamed Abdellah). Date of birth: 28.11.1980. Place of birth: (a) Libyan Arab Jamahiriya; (b) Gaza (Mohamed Abdulla Imad); (c) Jordan (Muhamad Abdullah Imad); (d) Palestine (Imad Mouhamed Abdellah). Nationality: Libyan. Other information: Resident in the United Kingdom as at January 2009. Date of designation referred to in Article 2a(4)(b): 12.11.2003.

COMMISSION REGULATION (EC) No 955/2009**of 13 October 2009****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EC) No 877/2009 for the 2009/10 marketing year**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

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

for the 2009/10 marketing year are fixed by Commission Regulation (EC) No 877/2009 ⁽³⁾. These prices and duties have been last amended by Commission Regulation (EC) No 950/2009 ⁽⁴⁾.

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

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties applicable to imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Regulation (EC) No 877/2009 for the 2009/10, marketing year, are hereby amended as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 14 October 2009.

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

Done at Brussels, 13 October 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 178, 1.7.2006, p. 24.

⁽³⁾ OJ L 253, 25.9.2009, p. 3.

⁽⁴⁾ OJ L 268, 13.10.2009, p. 3.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 14 October 2009

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 11 10 ⁽¹⁾	34,12	1,05
1701 11 90 ⁽¹⁾	34,12	4,67
1701 12 10 ⁽¹⁾	34,12	0,92
1701 12 90 ⁽¹⁾	34,12	4,37
1701 91 00 ⁽²⁾	37,22	6,62
1701 99 10 ⁽²⁾	37,22	3,17
1701 99 90 ⁽²⁾	37,22	3,17
1702 90 95 ⁽³⁾	0,37	0,30

⁽¹⁾ For the standard quality defined in point III of Annex IV to Regulation (EC) No 1234/2007.

⁽²⁾ For the standard quality defined in point II of Annex IV to Regulation (EC) No 1234/2007.

⁽³⁾ Per 1 % sucrose content.

II

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

DECISIONS

COUNCIL

COUNCIL DECISION

of 24 September 2009

appointing one Spanish member and one Spanish alternate member of the Committee of the Regions

(2009/754/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 263 thereof,

Having regard to the proposal of the Spanish Government,

Whereas:

- (1) On 24 January 2006, the Council adopted Decision 2006/116/EC appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2006 to 25 January 2010 ⁽¹⁾.
- (2) A member's seat on the Committee of the Regions has become vacant following the end of the term of office of Mr Juan José IBARRETXE MARKUARTU. An alternate member's seat has become vacant following the end of the term of office of Mr Iñaki AGUIRRE ARIZMENDI,

HAS DECIDED AS FOLLOWS:

Article 1

The following are hereby appointed to the Committee of the Regions for the remainder of the current term of office, which runs until 25 January 2010:

(a) as member:

— Mr Francisco Javier LÓPEZ ÁLVAREZ, Presidente del Gobierno Vasco,

and

(b) as alternate member:

— Mr Guillermo ECHENIQUE GONZÁLEZ, Secretario General de Acción Exterior, País Vasco.

Article 2

This Decision shall take effect on the day of its adoption.

Done at Brussels, 24 September 2009.

For the Council
The President
M. OLOFSSON

⁽¹⁾ OJ L 56, 25.2.2006, p. 75.

COMMISSION

COMMISSION DECISION

of 13 October 2009

concerning the adoption of a financing decision towards a preparatory action on control posts for 2009

(2009/755/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾, and in particular Article 49(6)(b) and Article 75(2) thereof,

Having regard to Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽²⁾ (hereinafter referred to as the 'Implementing Rules'), and in particular Article 90 thereof,

Whereas:

- (1) The communication from the Commission to the European Parliament and to the Council on a Community action plan on the protection and welfare of animals 2006-2010 ⁽³⁾ identifies as one area of action the upgrading of existing minimum standards for animal protection and welfare in line with new scientific evidence and socioeconomic assessments as well as securing efficient enforcement.
- (2) In order to improve the welfare of certain categories of transported animals, Community legislation lays down requirements concerning maximum journey times after which the animals are to be unloaded, fed and watered and rested. Such obligatory breaks in the long-distance transport of animals take place at control posts, as defined in Article 1(1) of Council Regulation (EC) No 1255/97 of 25 June 1997 concerning Community criteria for control posts and amending the route plan referred to in the Annex to Directive 91/628/EEC ⁽⁴⁾.
- (3) The increased transport of animals by road over long journeys has raised the need for improved control

posts. There is a need to determine, through the consultation of stakeholders and their technical expertise, quality criteria for control posts and which strategies should be developed within the Community to improve their use by transporters.

- (4) In addition, control posts are missing in certain locations and a number of existing control posts are of poor quality standards. A preparatory action including the building or renovating of certain control posts should therefore be carried out.
- (5) In 2008, a call for proposals was published by the Commission for a similar preparatory action, but none of the proposals received met the minimum criteria of the call, due to the lack of sufficient information regarding the economic viability of the projects as well as the source of co-financing.
- (6) It is appropriate to provide Community financing for that preparatory action. In the general budget of the European Communities for 2009, the budgetary authority allocated EUR 4 000 000 to a preparatory action on control posts.
- (7) This Decision constitutes a financing decision within the meaning of Article 75(2) of Regulation (EC, Euratom) No 1605/2002 and Article 90 of Regulation (EC, Euratom) No 2342/2002.
- (8) Pursuant to Article 83 of Regulation (EC, Euratom) No 1605/2002, the validation, authorisation and payment of expenditure should be completed within the time limits laid down in the Implementing Rules.
- (9) For the application of this Decision, it is appropriate to define the term 'substantial change', within the meaning of Article 90(4) of Regulation (EC, Euratom) No 2342/2002,

HAS DECIDED AS FOLLOWS:

Article 1

The preparatory action, as set out in the Annex ('the preparatory action') is hereby adopted.

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.

⁽²⁾ OJ L 357, 31.12.2002, p. 1.

⁽³⁾ COM(2006) 13 final.

⁽⁴⁾ OJ L 174, 2.7.1997, p. 1.

Article 2

For the purposes of this Decision, the definition of 'control post' in Article 1(1) of Regulation (EC) No 1255/97 shall apply.

Article 3

The maximum contribution of the Community for the implementation of the preparatory action is set at EUR 4 000 000, to be financed from budget line 17 04 03 03 of the general budget of the European Communities for 2009.

Article 4

1. The authorising officer may adopt any changes to this Decision which are not considered substantial within the meaning of Article 90(4) of Regulation (EC, Euratom) No 2342/2002, in accordance with the principles of sound financial management and of proportionality.

2. Cumulated changes of the allocations to the actions covered by the preparatory action not exceeding 10 % of the maximum contribution provided for in Article 3 shall not be considered to be substantial within the meaning of Article 90(4) of Regulation (EC, Euratom) No 2342/2002, provided that they do not significantly affect the nature and objective of the preparatory action.

Done at Brussels, 13 October 2009.

For the Commission
Androulla VASSILIOU
Member of the Commission

ANNEX

PREPARATORY ACTION ON CONTROL POSTS FOR 2009**1.1. Introduction**

This preparatory action contains two implementing measures for 2009. On the basis of the objectives given in the preparatory action, the allocation of budget and the main actions are the following:

- for procurement (implemented in direct centralised management): EUR 200 000,
- for grants (implemented in direct centralised management or under indirect centralised management if the delegation is made to executive agencies): EUR 3 800 000.

1.2. Procurement: evaluation of the feasibility of a certification scheme for high quality control posts

The global budgetary envelope reserved in 2009 for the procurement contracts amounts to EUR 200 000.

LEGAL BASIS

Preparatory action within the meaning of Article 49(6)(b) of Regulation (EC, Euratom) No 1605/2002.

BUDGETARY LINE

17 04 03 03

INDICATIVE NUMBER AND TYPE OF CONTRACTS ENVISAGED

One study to evaluate the feasibility of a certification scheme of control posts.

SUBJECT OF THE CONTRACTS ENVISAGED

The objectives of the study shall be to collect information on the current status of control posts and their use in the Community in order to assess which quality criteria would define high quality control posts. The study shall also examine the feasibility of a certification scheme for such control posts.

IMPLEMENTATION

The implementation shall be carried out directly by the Directorate-General for Health and Consumers.

INDICATIVE TIME-FRAME FOR LAUNCHING THE PROCUREMENT PROCEDURE

The carrying out of the study is foreseen to last not more than six months and shall be performed in the context of a framework contract. Requests for services shall be launched after the adoption of this Decision.

SPECIFIC CONTRACT

The study shall be carried out through the evaluation framework contract 2009-2013 of Directorate-General for Health and Consumers: Ref/Contract evaluation, impact assessment and related services; Lot 3, Food Chain SANCO/2008/01/055 Lot 3.

1.3. Grants for the building or the renovation of control posts

Grants shall be awarded by means of a written agreement (grant agreement).

LEGAL BASIS

Preparatory action within the meaning of Article 49(6)(b) of Regulation (EC, Euratom) No 1605/2002.

BUDGETARY LINE

17 04 03 03

PRIORITIES FOR THE YEAR, OBJECTIVES TO BE FULFILLED AND FORESEEN RESULTS

The increased transport of animals by road over long journeys has raised the need for improved control posts where animals are to rest. In the interest of animal health and welfare it has been necessary to introduce specific measures to avoid stress to the animals and the spreading of infectious diseases. The objective of the action is to increase the use of control posts and promote high quality control posts.

DESCRIPTION AND OBJECTIVE OF THE IMPLEMENTING MEASURE

The action shall consist in building or renovating high quality control posts in order to validate an experimental certification scheme based on the results of the feasibility study. The action is expected to encourage an economically viable certification scheme for high quality control posts in order to improve the welfare of animals transported over long journeys.

IMPLEMENTATION

The implementation shall be carried out directly by the Directorate-General for Health and Consumers.

TIMETABLE AND INDICATIVE AMOUNT OF THE CALL FOR PROPOSALS/DIRECT AWARD

A single call for proposals of EUR 3 800 000 shall be published. The action shall be performed within 24 months following the signature of the grant agreement. The call for proposals shall be launched after the completion of the study on the evaluation of the feasibility, referred to in Section 1.2.

MAXIMUM POSSIBLE RATE OF CO-FINANCING

70 %

ESSENTIAL SELECTION AND AWARD CRITERIA

— Selection criteria:

— Financial capacity of the applicant:

- Applicants must show that they have the financial capacity to carry out the action to be financed.
- Applicants must provide evidence that they have the own resources essential to the Community co-financing requested and to manage the necessary cash-flow for the management of the project. The amount of the grant given to a beneficiary must not exceed the total amount of his/her own capital and long-term debt.

— Technical and professional capacity of the applicant:

- Applicants must have the technical capacity and the professional capability to carry out the action to be co-financed. They must provide evidence of their knowledge and experience in the field of animal-related infrastructure and animal transport operations. They must provide certification and descriptions of projects and activities undertaken by them in the last three years and more particularly of projects related to the relevant issue. They must provide detailed curriculum vitae of each member of their team and demonstrate the managerial capabilities of the project director and manager, including his or her educational background, degrees and diplomas, professional experience, research work and publications.
- Applicants must demonstrate that organisations applying for the action are committed to the objectives of the project and support the principle of introducing a certification scheme for control posts which is to be implemented by the action. They must provide evidence of the contacts and international stakeholders that they intend to consult, in particular as regards certification, and whose resources they intend to draw upon in the course of the execution of the preparatory action.

— Award criteria:

— The following general award criteria shall apply:

- Soundness of the approach (20 %),
- Organisation of work and degree of involvement of competent authorities/organisations in the Member States covered by the action (30 %),
- Relevance of the project at Community level and multiplier effect (30 %),
- Cost effectiveness ratio of the project (20 %),

FORM OF THE GRANT

Written agreement.

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