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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.

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Commission

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⁽¹⁾ Text with EEA relevance

I

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

REGULATIONS

COMMISSION REGULATION (EC) No 1123/2009

of 23 November 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 24 November 2009.

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

Done at Brussels, 23 November 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	AL	38,6
	MA	35,0
	MK	37,7
	TR	59,5
	ZZ	42,7
0707 00 05	JO	171,8
	MA	52,9
	TR	76,4
	ZZ	100,4
0709 90 70	MA	50,7
	TR	119,5
	ZZ	85,1
0805 20 10	MA	76,0
	ZZ	76,0
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	50,4
	HR	53,0
	MA	74,5
	TR	78,7
	ZZ	64,2
0805 50 10	AR	58,1
	TR	68,2
	ZA	61,6
	ZZ	62,6
0808 10 80	CA	63,9
	MK	20,3
	NZ	102,0
	US	106,2
	XS	24,5
	ZA	87,3
	ZZ	67,4
0808 20 50	CN	61,9
	TR	85,0
	ZZ	73,5

⁽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 1124/2009**of 20 November 2009****establishing a prohibition of fishing for porbeagle in EC and international waters of I, II, III, IV, V, VI, VII, VIII, IX, X, XII and XIV by vessels flying the flag of the United Kingdom**

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, transshipment 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 that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 20 November 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	30/T&Q
Member State	United Kingdom/GBR
Stock	POR/1-14CI
Species	Porbeagle (<i>Lamna nasus</i>)
Zone	EC and international waters of I, II, III, IV, V, VI, VII, VIII, IX, X, XII and XIV
Date	30 October 2009

COMMISSION REGULATION (EC) No 1125/2009**of 23 November 2009****amending Regulation (EC) No 794/2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty, as regards Part III.2, Part III.3 and Part III.7 of its Annex I**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽¹⁾, and in particular Article 27 thereof,

Whereas:

(1) Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽²⁾ established compulsory comprehensive State aid notification forms.

(2) Following the adoption by the Commission of the Communication on criteria for the compatibility analysis of training State aid cases subject to individual notification ⁽³⁾ and the Communication from the Commission on criteria for the compatibility analysis of State aid to disadvantaged and disabled workers subject to individual notification ⁽⁴⁾ it is necessary to modify part of the notification forms annexed to Regulation (EC) No 794/2004.

(3) Following the existence of an error it is necessary to modify a part of the notification form annexed to Regulation (EC) No 794/2004.

(4) Regulation (EC) No 794/2004 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Part III.2 of Annex I to Regulation (EC) No 794/2004 is replaced by Annex I to this Regulation.

Article 2

Part III.3 of Annex I to Regulation (EC) No 794/2004 is replaced by Annex II to this Regulation.

Article 3

Part III.7a question 2.3 and Part III.7b question 2.3 of Annex I to Regulation (EC) No 794/2004 are amended in accordance with Annex III to this Regulation.

Article 4

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

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

Done at Brussels, 23 November 2009.

For the Commission

Neelie KROES

Member of the Commission

⁽¹⁾ OJ L 83, 27.3.1999, p. 1.

⁽²⁾ OJ L 140, 30.4.2004, p. 1.

⁽³⁾ OJ C 188, 11.8.2009, p. 1.

⁽⁴⁾ OJ C 188, 11.8.2009, p. 6.

ANNEX I

'PART III.2

SUPPLEMENTARY INFORMATION SHEET ON STATE AID FOR TRAINING

This supplementary information sheet must be used for the notification of individual aid pursuant to Article 6(1)(g) of Commission Regulation (EC) No 800/2008 ⁽¹⁾ and covered by the Criteria for the compatibility analysis of training State aid cases subject to individual notification (hereinafter "Criteria for the compatibility analysis") ⁽²⁾. It must also be used in the case of any individual aid or scheme, which is notified to the Commission for reasons of legal certainty.

If there are several beneficiaries participating in the notified project, please provide the information below for each of them.

COMPATIBILITY OF AID UNDER ARTICLE 87(3)(c) OF THE EC TREATY — DETAILED ASSESSMENT

Aid for training may be considered to be compatible with the common market pursuant to Article 87(3)(c) of the EC Treaty.

The purpose of this detailed assessment is to ensure that high amounts of aid for training do not distort competition to an extent contrary to the common interest, but rather contribute to the common interest. This happens when the benefits of State aid in terms of positive knowledge spill-over outweigh the harm for competition and trade.

The provisions below provide guidance as to the type of information the Commission may require in order to carry out a detailed assessment. The guidance is intended to make the Commission's decisions and their reasoning transparent and foreseeable in order to create predictability and legal certainty. Member States are invited to provide all the elements that they consider useful for the assessment of the case.

If there are several beneficiaries involved in the project notified as individual aid, please provide the information below for each of them.

Characteristics of the notified measure

1. Please provide a brief description of the measure specifying objective(s) of the measure, aid instrument, structure/organisation of the training, beneficiaries, budget, aid amount, payment schedule, aid intensity, and eligible costs.

2. Does the measure apply to the production and/or processing and/or marketing of the agricultural products listed in Annex I to the EC Treaty?

yes no

3. Does the measure apply to the production, processing and/or marketing of the fisheries and/or aquaculture products listed in Annex I to the EC Treaty?

yes no

4. Is the aid foreseen for the maritime transport sector?

yes no

If yes, please answer the following questions:

(a) Is the trainee not an active member of the crew but a supernumerary on board?

yes no

(b) Shall the training be carried out on board of ships entered into Community registers?

yes no

5. Does the notified measure relate to:

Specific training ⁽³⁾:

yes no

⁽¹⁾ Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) (OJ L 214, 9.8.2008, p. 3).

⁽²⁾ OJ C 188, 11.8.2009, p. 1.

⁽³⁾ As defined in Article 38 of Regulation (EC) No 800/2008.

General training ⁽³⁾:

yes no

A combination of general and specific training:

yes no

Training aid given to disabled or disadvantaged workers ⁽⁴⁾:

yes no

6. Please provide a detailed description of the training project including programme, skills to be acquired, timing, number of hours, participants, organisers, budget, etc.
7. Please provide details on the beneficiary including identity, group of which the beneficiary is a member, annual turnover, number of employees and business activities.
8. If applicable, please indicate the exchange rate which has been used for the purposes of the notification.
9. Please number all documents provided by the Member States as annexes to the notification form and indicate the document numbers in the relevant parts of this supplementary information sheet.

Objective of the aid

10. Please give a detailed description of the objectives of common interest pursued by the notified measure.

Existence of positive externalities ⁽⁵⁾

11. Please demonstrate that the training will generate positive externalities and provide the supporting documents.

The following elements may be used for the purposes of demonstrating positive externalities. Please specify those relevant for the notified measure, and provide supporting documents:

- Nature of the training
- Transferability of the skills acquired during the training
- Participants to the training

Appropriate instrument ⁽⁶⁾

12. Please explain to what extent the notified measure represents an appropriate instrument to increase training activities and provide the supporting documents.

Incentive effect and necessity of the aid ⁽⁷⁾

In order to demonstrate the incentive effect, the Commission requires an evaluation by the Member State in order to prove that without the aid, i.e. in the counterfactual situation, the quantity or quality of the training activities would be smaller.

13. Has/have the supported project(s) started prior to the submission of the application for the aid by the beneficiary/beneficiaries to the national authorities?

yes no

If yes, the Commission considers that the aid does not present an incentive for the beneficiary.

14. If no, specify the relevant dates:

The training project will start on:

The aid application by the beneficiary was submitted to the national authorities on:

Please provide the relevant supporting documents.

⁽³⁾ As defined in Article 38 of Regulation (EC) No 800/2008.

⁽⁴⁾ As defined in Article 2 of Regulation (EC) No 800/2008.

⁽⁵⁾ Cf. Criteria for the compatibility analysis, Section 2.1.

⁽⁶⁾ Cf. Criteria for the compatibility analysis, Section 2.2.

⁽⁷⁾ Cf. Criteria for the compatibility analysis, Section 2.3.

15. Please provide the beneficiary's internal documents on training costs, participants, content and scheduling for two scenarios: training project with aid and training project without aid. Please explain, on the basis of this information, how State aid increases the quantity and/or quality of the planned training activities.
16. Please confirm that there is no legal obligation for the employers to provide the training type covered by the notified measure.
17. Please provide with the beneficiary's training budgets for previous years.
18. Please explain the relationship between the training programme and business activities of the aid beneficiary.

Proportionality of the aid ⁽⁸⁾

Eligible costs

Eligible costs must be calculated following Article 39 of Regulation (EC) No 800/2008 and limited to the extra costs necessary to achieve an increase of training activities.

19. Please specify the eligible costs foreseen for the measure
- trainers' personnel costs
 - trainers' and trainees' travel expenses, including accommodation costs
 - other current expenses such as materials and supplies directly related to the project
 - depreciation of tools and equipment, to the extent that they are used exclusively for the training project
 - cost of guidance and counselling services with regard to the training project
 - indirect costs (administrative, rent, overheads), transport and tuition costs for participants) up to the amount of the total of the other eligible costs referred to above
 - trainees' personnel costs ⁽⁹⁾.
20. Please provide a detailed calculation of the eligible costs of the notified measure ensuring that the eligible costs are limited to the part of **extra costs** necessary to achieve an increase of quality or quantity of training activities.
21. Please provide evidence that the aid is limited to the minimum, i.e. to the part of the extra costs of the training that the company cannot recover by benefiting directly from the skills acquired by its employees during the training.

Aid intensities for general training

22. Please specify the aid intensity applicable to the notified measure.
23. Is the general training under the notified measure given to disabled or disadvantaged workers?
- yes no

24. Nature of the beneficiary:

- | | | | | |
|-------------------------|--------------------------|-----|--------------------------|----|
| Large enterprise | <input type="checkbox"/> | yes | <input type="checkbox"/> | no |
| Medium-sized enterprise | <input type="checkbox"/> | yes | <input type="checkbox"/> | no |
| Small enterprise | <input type="checkbox"/> | yes | <input type="checkbox"/> | no |

Aid intensities for specific training

25. Please specify the aid intensity applicable to the notified measure.
26. Is the specific training under the notified measure given to disabled or disadvantaged workers?
- yes no

⁽⁸⁾ Cf. Criteria for the compatibility analysis, Section 2.4.

⁽⁹⁾ As regards the trainees' personnel costs, only the hours during which the trainees actually participate in the training, after deduction of any productive hours, may be taken into account.

27. Nature of the beneficiary

Large enterprise yes no

Medium-sized enterprise yes no

Small enterprise yes no

Analysis of the distortion of competition and trade ⁽¹⁰⁾

28. Please specify whether the beneficiary received training aid in the past and provide details on the previous aid (dates, amount of aid, and duration of training projects).

29. Please specify the annual training costs of the beneficiary (total training budget for the last three years, proportion of training costs in relation to total costs) and explain how the aid affects the beneficiary's costs (e.g. percentage of annual training costs and total costs covered by the aid, etc.).

30. Please specify the relevant product and geographic markets on which the beneficiary is active and on which the aid is likely to have an impact.

31. For each of these markets please provide:

— market concentration ratio,

— market share of the beneficiary,

— market shares of the other companies present in these markets.

32. Please describe the structure and competitive situation on the relevant markets and provide supporting documents (e.g. barriers to entry and exit, product differentiation, character of the competition between market participants, etc.).

33. Please describe the features of the sector where the beneficiary is active (e.g. importance of the trained workforce for the business, existence of overcapacity, financing strategies of training for competitors, etc.).

34. If relevant, please provide information on the effects on trade (shift of trade flows).

CUMULATION

35. Is the aid granted under the notified measure combined with other aid?

yes no

If yes, please describe the rules on cumulating aid applicable to the notified aid measure:

OTHER INFORMATION

36. Please indicate here any other information you consider relevant to the assessment of the measure(s) in concerned.

⁽¹⁰⁾ This section does not apply to measures of less than EUR 2 provided the question 10.3 in Part I of this Annex is duly completed.

ANNEX II

PART III.3

SUPPLEMENTARY INFORMATION SHEET ON STATE AID TO DISADVANTAGED AND DISABLED WORKERS

This supplementary information sheet must be used for the notification of individual aid pursuant to Article 6(1)(h) to (i) of Regulation (EC) No 800/2008 and covered by the Criteria for the compatibility analysis of State aid to disadvantaged and disabled workers subject to individual notification (hereinafter "Criteria for the compatibility analysis")⁽¹⁾. It must also be used in the case of any individual aid or scheme, which is notified to the Commission for reasons of legal certainty.

If there are several beneficiaries participating in the notified project, please provide the information below for each of them.

COMPATIBILITY OF AID UNDER ARTICLE 87(3)(c) OF THE EC TREATY — DETAILED ASSESSMENT

Aid to disadvantaged and disabled workers may be considered to be compatible with the common market pursuant to Article 87(3)(c) of the EC Treaty.

The purpose of this detailed assessment is to ensure that high amounts of aid to disadvantaged and disabled workers do not distort competition to an extent contrary to the common interest, but actually contribute to the common interest. This happens when the benefits of State aid in terms of the increased net employment of targeted disabled and disadvantaged workers outweigh the harm for competition and trade.

The provisions below provide guidance as to the type of information the Commission may require in order to carry out a detailed assessment. The guidance is intended to make the Commission's decisions and their reasoning transparent and foreseeable in order to create predictability and legal certainty. Member States are invited to provide all the elements that they consider useful for the assessment of the case.

If there are several beneficiaries involved in the project notified as individual aid, please provide the information below for each of them.

Characteristics of the notified measure

1. Please provide a brief description of the notified measure specifying objective of the aid, aid instrument, beneficiaries, categories of workers concerned, aid amount, payment schedule, duration, aid intensity, and eligible costs.
2. Does the measure apply to the production and/or processing and/or marketing of the agricultural products listed in Annex I to the EC Treaty?
 yes no
3. Does the measure apply to the production, processing and/or marketing of the fisheries and/or aquaculture products listed in Annex I to the EC Treaty?
 yes no
4. Please provide details on the beneficiary including identity, group of which the beneficiary is a member, turnover, number of employees and business activities.
5. Does the notified measure relate to:
Recruitment of disadvantaged workers⁽²⁾:
 yes no
Recruitment of severely disadvantaged workers⁽³⁾:
 yes no
Recruitment of disabled workers⁽⁴⁾:
 yes no

⁽¹⁾ OJ C 188, 11.8.2009, p. 6.

⁽²⁾ As defined in Article 2(18) of Regulation (EC) No 800/2008.

⁽³⁾ As defined in Article 2(19) of Regulation (EC) No 800/2008.

⁽⁴⁾ As defined in Article 2(20) of Regulation (EC) No 800/2008.

6. If applicable, please indicate the exchange rate which has been used for the purposes of the notification.
7. Please number all documents provided by the Member States as annexes to the notification form and indicate the document numbers in the relevant parts of this supplementary information sheet.

Objective of the aid

8. Please give a detailed description of the objectives of common interest pursued by the notified measure.
- Equity objective of common interest ⁽⁵⁾
9. Please demonstrate that the notified measure will lead to a net increase of employment of the targeted disabled and disadvantaged workers and quantify the increase.
10. The following elements may be used for the purposes to demonstrate that the notified measure contributes to an equity objective of common interest. Please specify those relevant for the notified measure, and provide supporting documents:
- Number and categories of workers concerned by the measure
 - Employment rates of the categories of workers concerned by the measure on the national and/or regional level and in the undertaking(s) concerned
 - Unemployment rates for the categories of workers concerned by the measure on the national and/or regional level.

Appropriate instrument ⁽⁶⁾

11. Please explain to what extent the notified measure represents an appropriate instrument to increase the employment of disadvantaged and/or disabled workers and provide the supporting documents.

Incentive effect and necessity of the aid ⁽⁷⁾

In order to demonstrate the incentive effect, the Commission requires an evaluation by the Member State proving that the wage subsidy is only paid for a disadvantaged or disabled worker in a firm, where the recruitment would have not occurred without the aid.

12. Has/have the supported project(s) started prior to the submission of the application for the aid by the beneficiary/beneficiaries to the national authorities?
- yes no

If yes, the Commission considers that the aid does not present an incentive for the beneficiary to increase a net employment of disabled or disadvantaged workers.

13. If no, specify the relevant dates:

The employment commenced on:

The aid application by the beneficiary was submitted to the national authorities on:

Please provide the relevant supporting documents.

14. Does the recruitment lead to an increase, by comparison to a situation without aid, of number of disadvantaged or disabled workers in the undertaking(s) concerned?
- yes no
15. If not, have the post or posts fallen vacant following voluntary departure, disability, retirement on grounds of age, voluntary reduction of working time or lawful dismissal for misconduct and not as a result of redundancy?
- yes no

⁽⁵⁾ Cf. Criteria for the compatibility analysis, Section 2.1.

⁽⁶⁾ Cf. Criteria for the compatibility analysis, Section 2.2.

⁽⁷⁾ Cf. Criteria for the compatibility analysis, Section 2.3.

16. Please describe any existing or past wage subsidies in the undertaking concerned: categories and number of workers subject to subsidies.

Proportionality of the aid ⁽⁸⁾

Eligible costs

Eligible costs must be calculated following Articles 40 and 41 of Regulation (EC) No 800/2008 and limited to the extra costs necessary to achieve a net increase of disadvantaged or disabled workers employed.

17. Which are the eligible costs foreseen under the notified measure?

- gross wage, before tax
- compulsory contributions, such as social security charges
- child care and parent care costs.

18. Please provide a detailed calculation of the eligible costs and the period covered ⁽⁹⁾ by the notified measure ensuring that the eligible costs are limited to the costs necessary to achieve a net increase of employment of the targeted categories of disadvantaged or disabled workers.

19. Please provide evidence that the aid is limited to the minimum, i.e. the aid amount does not exceed the net additional costs of employing the targeted categories of disadvantaged or disabled workers compared to the costs of employing workers who are not disadvantaged/disabled.

Aid intensities for disadvantaged workers

20. Please specify the aid intensity applicable to the notified measure.

Aid intensities for disabled workers

21. Please specify the aid intensity applicable to the notified measure.

Analysis of the distortion of competition and trade ⁽¹⁰⁾

22. Please provide information on the aid amount, payment schedule and aid instrument.

23. Please specify whether the beneficiary received aid for disadvantaged or disabled workers in the past and provide details on the previous aid measures (dates, amount of aid, categories and number of workers concerned, and duration of wage subsidies).

24. Please specify the employment costs of the beneficiary (total employment costs, employment costs of targeted disabled and disadvantaged workers, proportion of employment costs in relation to total costs) and explain how the aid affects the beneficiary's costs (e.g. percentage of employment costs and total costs covered by the aid).

25. Please specify the relevant product and geographic markets on which the beneficiary is active and the aid is likely to have an impact.

26. For each of these markets please provide:

- market concentration ratio,
- market share of the beneficiary,
- market shares of the other companies present in these markets.

27. Please describe the structure and competitive situation on the relevant markets and provide supporting documents (e.g. barriers to entry and exit, product differentiation, character of the competition between market participants, etc.).

⁽⁸⁾ Cf. Criteria for the compatibility analysis, Section 2.4.

⁽⁹⁾ For employment of disadvantaged workers eligible costs shall be the wage costs over a maximum period of 12 months (or 24 months for severely disadvantaged worker) following recruitment. For employment of disabled workers eligible costs shall be the wage costs over any given duration during which the disabled worker is being employed.

⁽¹⁰⁾ This section does not apply to measures of less than EUR 5 million for the employment of disadvantaged workers and of less than EUR 10 million for the employment of disabled workers provided the question 10.3 in Part I of this Annex is duly completed.

28. Please describe the features of the sector where the beneficiary is present (e.g. importance of the labour costs for the sector, existence of overcapacity, etc.).
29. Please describe the situation on the national/regional labour market (e.g. unemployment and employment rates, wage levels, labour law, etc.).
30. If relevant, please provide information on the effects on trade (shift of trade flows).

CUMULATION

31. Is the aid granted under the notified measure combined with other aid?

yes no

32. If yes, please describe the rules on cumulating aid applicable to the notified aid measure:

OTHER INFORMATION

33. Please indicate here any other information you consider relevant to the assessment of the measure(s) in concerned.'

ANNEX III

1. Question 2.3 of Part III.7a of Annex I to Regulation (EC) No 794/2004 is replaced by the following:
- '2.3. Will the aid under the scheme be linked to loans that are to be reimbursed within six months after disbursement of the first instalment to the firm?'
2. Question 2.3 of Part III.7b of Annex I to Regulation (EC) No 794/2004 is replaced by the following:
- '2.3. Is the aid linked to loans that are to be reimbursed within six months after disbursement of the first instalment to the firm?'

COMMISSION REGULATION (EC) No 1126/2009**of 23 November 2009****opening and providing for the management of Community tariff quotas for certain agricultural products originating in Switzerland, and repealing Commission Regulation (EC) No 933/2002**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Decision 2002/309/EC, Euratom of the Council and of the Commission as regards the Agreement on Scientific and Technological Cooperation of 4 April 2002 on the conclusion of seven Agreements with the Swiss Confederation⁽¹⁾, and in particular Article 5(3) first indent and Article 5(4) thereof,

Whereas:

- (1) By Decision No 2/2008 of the Joint Committee on Agriculture set up by the Agreement between the European Community and the Swiss Confederation on trade in agricultural products of 24 June 2008 concerning the adaptation of Annexes 1 and 2⁽²⁾, Annexes 1 and 2 to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products (hereinafter 'the Agreement') have been replaced.
- (2) Annex 2 to the Agreement, as amended, sets out the tariff concessions granted by the Community for imports of agricultural products originating in Switzerland. Certain of those tariff concessions apply within tariff quotas managed in accordance with Articles 308a, 308b and 308c of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Regulation (EEC) No 2913/92 establishing the Community Customs Code⁽³⁾.
- (3) For reasons of clarity, it is appropriate to lay down the provisions implementing those tariff quotas for agri-

cultural products in one single legislative act which replaces Commission Regulation (EC) No 933/2002⁽⁴⁾. In accordance with the Agreement the tariff quotas should be opened for the period from 1 January to 31 December.

- (4) Since Decision No 2/2008 of the Joint Committee on Agriculture enters into force on 1 January 2010, this Regulation should apply from the same date.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The tariff quotas for the products originating in Switzerland listed in the Annex shall be opened annually, and at the rates of customs duty indicated in that Annex.

Article 2

The tariff quotas referred to in Article 1 shall be managed by the Commission in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93.

Article 3

Regulation (EC) No 933/2002 is repealed.

Article 4

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

It shall apply from 1 January 2010.

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

Done at Brussels, 23 November 2009.

For the Commission

László KOVÁCS

Member of the Commission

⁽¹⁾ OJ L 114, 30.4.2002, p. 1.

⁽²⁾ OJ L 228, 27.8.2008, p. 3.

⁽³⁾ OJ L 253, 11.10.1993, p. 11.

⁽⁴⁾ OJ L 144, 1.6.2002, p. 22.

ANNEX

Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is only indicative. The preferential scheme in this Annex relates to the CN codes as they exist at the time of adoption of this Regulation. Where ex CN codes are indicated, the preferential scheme is to be determined by application of the CN code and corresponding description taken together.

Order No	CN code	TARIC subdivision	Description of goods	Quota period	Quota volume (in tonnes net weight)	Quota duty
09.0919	ex 0210 19 50	10	Hams of domestic swine, in brine, boneless, enclosed in a bladder or in an artificial gut	1.1 to 31.12	1 900	free
	ex 0210 19 81	10	Meat of domestic swine, boneless, from chop, smoked			
	ex 1601 00 10	10	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products, of animals of headings 0101 to 0104, excluding wild boars			
	ex 1601 00 91	10				
	ex 1601 00 99	10				
	ex 0210 19 81	20	Pork neck, dried in air, seasoned or not, whole, in pieces or thinly sliced			
	ex 1602 49 19	10				
09.0921	0701 10 00		Seed potatoes, fresh or chilled	1.1 to 31.12	4 000	free
09.0922	0702 00 00		Tomatoes, fresh or chilled	1.1 to 31.12	1 000	free (*)
09.0923	0703 10 19 0703 90		Onions other than sets; leeks and other alliaceous vegetables, fresh or chilled	1.1 to 31.12	5 000	free
09.0924	0704 10 00 0704 90		Cabbages, cauliflowers, kohlrabi, kale and other similar edible brassicas with the exception of Brussels spouts, fresh or chilled	1.1 to 31.12	5 500	free
09.0925	0705		Lettuce (<i>Lactuca sativa</i>) and chicory (<i>Cichorium</i> spp.), fresh or chilled	1.1 to 31.12	3 000	free
09.0926	0706 10 00		Carrots and turnips, fresh or chilled	1.1 to 31.12	5 000	free
09.0927	0706 90 10 0706 90 90		Salad beetroot, salsify, celeriac, radishes and similar edible roots, with the exception of horse-radish (<i>Cochlearia armoracia</i>), fresh or chilled	1.1 to 31.12	3 000	free
09.0928	0707 00 05		Cucumbers, fresh or chilled	1.1 to 31.12	1 000	free (*)
09.0929	0708 20 00		Beans (<i>Vigna</i> spp., <i>Phaseolus</i> spp.), fresh or chilled	1.1 to 31.12	1 000	free
09.0930	0709 30 00		Aubergines (eggplants), fresh or chilled	1.1 to 31.12	500	free
09.0931	0709 40 00		Celery other than celeriac, fresh or chilled	1.1 to 31.12	500	free
09.0932	0709 70 00		Spinach, New Zealand spinach and orache spinach (garden spinach), fresh or chilled	1.1 to 31.12	1 000	free
09.0933	0709 90 10		Salad vegetables, other than lettuce (<i>Lactuca sativa</i>) and chicory (<i>Cichorium</i> spp.), fresh or chilled	1.1 to 31.12	1 000	free
09.0950	0709 90 20		Chard (or white beet) and cardoons, fresh or chilled	1.1 to 31.12	300	free
09.0934	0709 90 50		Fennel, fresh or chilled	1.1 to 31.12	1 000	free
09.0935	0709 90 70		Courgettes, fresh or chilled	1.1 to 31.12	1 000	free (*)
09.0936	0709 90 90		Other vegetables, fresh or chilled	1.1 to 31.12	1 000	free

Order No	CN code	TARIC subdivision	Description of goods	Quota period	Quota volume (in tonnes net weight)	Quota duty
09.0945	0710 10 00 2004 10 10 2004 10 99 2005 20 80		Potatoes, uncooked or cooked by steaming or boiling in water, frozen Potatoes, prepared or preserved otherwise than by vinegar or acetic acid, frozen, other than products of heading 2006, with the exception of flour, meal or flakes Potatoes, prepared or otherwise preserved than by vinegar or acetic acid, not frozen, other than products of heading 2006, with the exception of flour, meal or flakes and preparations that are thinly sliced, fried or baked, whether or not salted or flavoured, in airtight packings, suitable for immediate consumption	1.1 to 31.12	3 000	free
09.0937	ex 0808 10 80	90	Apples, other than cider apples, fresh	1.1 to 31.12	3 000	free (*)
09.0938	0808 20		Pears and quinces, fresh	1.1 to 31.12	3 000	free (*)
09.0939	0809 10 00		Apricots, fresh	1.1 to 31.12	500	free (*)
09.0940	0809 20 95		Cherries, other than sour cherries (<i>Prunus cerasus</i>), fresh	1.1 to 31.12	1 500	free (*)
09.0941	0809 40		Plums and sloes, fresh	1.1 to 31.12	1 000	free (*)
09.0948	0810 10 00		Strawberries, fresh	1.1 to 31.12	200	free
09.0942	0810 20 10		Raspberries, fresh	1.1 to 31.12	100	free
09.0943	0810 20 90		Blackberries, mulberries and loganberries, fresh	1.1 to 31.12	100	free
09.0946	ex 0811 90 19 ex 0811 90 39 0811 90 80 2008 60	12 12	Cherries, uncooked or cooked by steaming or boiling in water, frozen, containing added sugar or other sweetening matter Cherries, other than sour cherries (<i>Prunus cerasus</i>), uncooked or cooked by steaming or boiling in water, frozen, not containing added sugar or other sweetening matter Cherries, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included	1.1 to 31.12	500	free
09.0944	1106 30 10		Flour, meal and powder of bananas	1.1 to 31.12	5	free

(*) The reduction of duty within this tariff quota is limited to the *ad valorem* element. Entry prices and their specific duties remain applicable.

COMMISSION REGULATION (EC) No 1127/2009**of 23 November 2009****amending Regulation (EC) No 1090/2009 fixing the import duties in the cereals sector applicable from 16 November 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) The import duties in the cereals sector applicable from 16 November 2009 were fixed by Commission Regulation (EC) No 1090/2009 ⁽³⁾.

(2) As the average of the import duties calculated differs by more than EUR 5/tonne from that fixed, a corresponding adjustment must be made to the import duties fixed by Regulation (EC) No 1090/2009.

(3) Regulation (EC) No 1090/2009 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EC) No 1090/2009 are hereby replaced by the text in the Annex to this Regulation.

Article 2

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

It shall apply from 24 November 2009.

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

Done at Brussels, 23 November 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.

⁽³⁾ OJ L 299, 14.11.2009, p. 3.

ANNEX I

Import duties on the products referred to in Article 136(1) of Regulation (EC) No 1234/2007 applicable from 24 November 2009

CN code	Description	Import duties ⁽¹⁾ (EUR/t)
1001 10 00	Durum wheat, high quality	0,00
	medium quality	0,28
	low quality	20,28
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	38,58
1005 10 90	Maize seed other than hybrid	15,68
1005 90 00	Maize, other than seed ⁽²⁾	15,68
1007 00 90	Grain sorghum other than hybrids for sowing	38,58

⁽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

13.11.2009-20.11.2009

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	Minneapolis	Chicago	—	—	—	—
Quotation	146,67	105,00	—	—	—	—
Fob price USA	—	—	124,51	114,51	94,51	74,77
Gulf of Mexico premium	—	14,72	—	—	—	—
Great Lakes premium	12,65	—	—	—	—	—

⁽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: 22,50 EUR/t

Freight costs: Great Lakes–Rotterdam: 44,38 EUR/t

DIRECTIVES

COMMISSION DIRECTIVE 2009/141/EC

of 23 November 2009

amending Annex I to Directive 2002/32/EC of the European Parliament and of the Council as regards maximum levels for arsenic, theobromine, *Datura* sp., *Ricinus communis* L., *Croton tiglium* L. and *Abrus precatorius* L.

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2002/32/EC of the European Parliament and of the Council of 7 May 2002 on undesirable substances in animal feed⁽¹⁾, and in particular Article 8(1) thereof,

Whereas:

- (1) Directive 2002/32/EC provides that the use of products intended for animal feed which contain levels of undesirable substances exceeding the maximum levels laid down in Annex I to that Directive is prohibited.
- (2) As regards feedingstuffs obtained from the processing of fish or other marine animals, recent information provided by competent authorities of the Member States on the presence of total arsenic (sum of organic and inorganic arsenic) indicates that it is necessary to increase certain maximum levels for total arsenic. By-products of the fish filleting industry are valuable raw materials for the production of fish meal and fish oil for use in compound feed, in particular fish feed.
- (3) The increase of the maximum levels for total arsenic in feedingstuffs obtained from the processing of fish or other marine animals and feedingstuffs for fish entails no change in the maximum levels for inorganic arsenic. Since the potential adverse effects of arsenic to animal and human health are determined by the inorganic fraction in a given feed or food product and the organic arsenic compounds exhibit a very low toxic potential⁽²⁾, the increased levels for total arsenic do not affect the protection of animal and public health.

- (4) In Annex I to Directive 2002/32/EC, arsenic refers to total arsenic for the purpose of setting maximum levels, since there is no standardised routine method for the analysis of inorganic arsenic. But for cases in which the competent authorities request an analysis of the content of inorganic arsenic, that Annex sets out a maximum level for inorganic arsenic.
- (5) As the extraction method has in some cases a significant influence on the analytical result on total arsenic, it is appropriate to specify an extraction procedure for reference to be used for official control.
- (6) Information provided by competent authorities and stakeholder organisations indicate significant levels of arsenic in additives belonging to the functional group of compounds of trace elements, authorised in application of Regulation (EC) No 1831/2003 of the European Parliament and of the Council⁽³⁾. It is appropriate to establish maximum levels for arsenic in these additives to protect animal and public health.
- (7) As regards theobromine, the European Food Safety Authority (EFSA) concluded in its opinion of 10 June 2008⁽⁴⁾ that the current maximum levels for theobromine may not fully protect some animal species. It pointed out possible adverse effects on pigs, dogs and horses and on milk production in dairy cows. It is therefore appropriate to establish lower maximum levels.
- (8) As regards alkaloids in *Datura* sp., EFSA concluded in its opinion of 9 April 2008⁽⁵⁾ that, since tropane alkaloids are present in all *Datura* sp., it is appropriate for the protection of animal health, in particular for pigs, to extend the maximum levels for *Datura stramonium* L., as set out in Annex I to Directive 2002/32/EC, to all *Datura* sp.

⁽¹⁾ OJ L 140, 30.5.2002, p. 10.

⁽²⁾ Scientific Opinion of the Panel on contaminants in the Food Chain of the European Food Safety Authority (EFSA) on a request from the European Commission related to arsenic as undesirable substances in animal feed, *The EFSA Journal* (2005) 180, 1-35.

⁽³⁾ OJ L 268, 18.10.2003, p. 29.

⁽⁴⁾ Scientific Opinion of the Panel on Contaminants in the Food Chain on a request from the European Commission on theobromine as undesirable substances in animal feed. *The EFSA Journal* (2008) 725, 1-66.

⁽⁵⁾ Scientific Opinion of the Panel on Contaminants in the Food Chain on a request from the European Commission on Tropane alkaloids (from *Datura* sp.) as undesirable substances in animal feed. *The EFSA Journal* (2008) 691, 1-55.

- (9) As regards ricin (from *Ricinus communis* L.), EFSA concluded in its opinion of 10 June 2008 ⁽¹⁾ that, given the similar toxic effects of the toxins from *Ricinus communis* L. (ricin), *Croton tiglium* L. (crotin) and *Abrus precatorius* L. (abrin), it is appropriate to apply the maximum levels for *Ricinus communis* L., as set out in Annex I to Directive 2002/32/EC, also to *Croton tiglium* L. and *Abrus precatorius* L., separately or in combination.
- (10) Directive 2002/32/EC should therefore be amended accordingly.
- (11) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health and neither the European Parliament nor the Council has opposed them,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 2002/32/EC is amended in accordance with the Annex to this Directive.

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this

Directive by 1 July 2010 at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

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

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 23 November 2009.

For the Commission

Androulla VASSILIOU

Member of the Commission

⁽¹⁾ Scientific Opinion of the Panel on Contaminants in the Food Chain on a request from the European Commission on ricin (from *Ricinus communis*) as undesirable substances in animal feed. *The EFSA Journal* (2008) 726, 1-38.

ANNEX

Annex I to Directive 2002/32/EC is amended as follows:

1. Row 1, Arsenic, is replaced by the following:

Undesirable substances	Products intended for animal feed	Maximum content in mg/kg (ppm) relative to a feedingstuff with a moisture content of 12 %
(1)	(2)	(3)
1. Arsenic (*) (**)	Feed materials with the exception of:	2
	— meal made from grass, from dried lucerne and from dried clover, and dried sugar beet pulp and dried molasses sugar beet pulp,	4
	— palm kernel expeller,	4 (***)
	— phosphates and calcareous marine algae,	10
	— calcium carbonate,	15
	— magnesium oxide,	20
	— feedingstuffs obtained from the processing of fish or other marine animals, including fish,	25 (***)
	— seaweed meal and feed materials derived from seaweed,	40 (***)
	Iron particles used as tracer.	50
	Additives belonging to the functional group of compounds of trace elements except:	30
	— copper sulphate pentahydrate and copper carbonate,	50
	— zinc oxide, manganese oxide and copper oxide,	100
	Complete feedingstuffs with the exception of:	2
	— complete feedingstuffs for fish and complete feedingstuffs for fur animals,	10 (***)
Complementary feedingstuffs with the exception of:	4	
— mineral feedingstuffs,	12	

(*) The maximum levels refer to total arsenic.

(**) Maximum levels refer to an analytical determination of arsenic, whereby extraction is performed in nitric acid (5 % w/w) for 30 minutes at boiling temperature. Equivalent extraction procedures can be applied for which it can be demonstrated that the used extraction procedure has an equal extraction efficiency.

(***) Upon request of the competent authorities, the responsible operator must perform an analysis to demonstrate that the content of inorganic arsenic is lower than 2 ppm. This analysis is of particular importance for the seaweed species *Hizikia fusiforme*.

2. Row 10, theobromine, is replaced by the following:

Undesirable substances	Products intended for animal feed	Maximum content in mg/kg (ppm) relative to a feedingstuff with a moisture content of 12 %
(1)	(2)	(3)
'10. Theobromine	Complete feedingstuffs with the exception of:	300
	— complete feedingstuffs for pigs,	200
	— complete feedingstuffs for dogs, rabbits, horses and fur animals,	50'

3. Row 14, Weed seeds and unground and uncrushed fruits containing alkaloids, glucosides or other toxic substances, is replaced by the following:

Undesirable substances	Products intended for animal feed	Maximum content in mg/kg (ppm) relative to a feedingstuff with a moisture content of 12 %
(1)	(2)	(3)
'14. Weed seeds and unground and uncrushed fruits containing alkaloids, glucosides or other toxic substances separately or in combination including.	All feedingstuffs	3 000
<i>Datura</i> sp.		1 000'

4. Row 15, Castor oil plant – *Ricinus communis* L., is replaced by the following:

Undesirable substances	Products intended for animal feed	Maximum content in mg/kg (ppm) relative to a feedingstuff with a moisture content of 12 %
(1)	(2)	(3)
'15. Seeds and husks from <i>Ricinus communis</i> L., <i>Croton tiglium</i> L. and <i>Abrus precatorius</i> L. as well as their processed derivatives (****), separately or in combination.	All feedingstuffs	10

(****) In so far determinable by analytical microscopy.'

5. Row 34, Croton – *Croton tiglium* L., is deleted.

II

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

RECOMMENDATIONS

COMMISSION

COMMISSION RECOMMENDATION

of 28 October 2009

facilitating the release of the digital dividend in the European Union

(Text with EEA relevance)

(2009/848/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 211 thereof,

Whereas:

(1) The Council, in its Conclusions of 12 June 2008, invited the Commission to prepare a coherent basis for the coordinated usage of spectrum released as a result of the switch-over from analogue to digital broadcasting (the digital dividend), on a non-exclusive, non-mandatory basis. This should include notably the technical aspects, the cost analysis and the socioeconomic impact of different options and the regulatory conditions for accessing spectrum.

(2) The European Parliament, in its Resolution of 24 September 2008 on reaping the full benefits of the digital dividend in Europe: a common approach to the use of the spectrum released by the digital switchover⁽¹⁾, also underlined the potential benefits of a coordinated approach to the usage of spectrum in the European Union in terms of economies of scale, the development of interoperable wireless services and the avoidance of fragmentation leading to suboptimal use of that scarce resource. Therefore, the Parliament called for active cooperation between Member States to overcome national obstacles for the efficient (re)allocation of the digital dividend.

(3) In its earlier Conclusions of 1 December 2005, the Council had already invited Member States to complete switchover by 2012 as far as possible.

(4) Under the electronic communications regulatory framework, Member States should encourage efficient use and ensure effective management of radio spectrum. In combination with the principle of better regulation, this implies that radio spectrum must be allocated in such a way as to bring the highest benefit to society in cultural, economic and social terms. However, in light of the diverse national contexts and legacy situations, this principle must be applied gradually and with sufficient flexibility.

(5) The potential social and economic benefits from future services that will operate in the digital dividend cannot be fully realised as long as the radio spectrum previously or currently used for analogue broadcasting is not released. Moreover, digital terrestrial television technology is increasingly available for users and consumers at affordable prices. Several Member States have already switched off analogue broadcasting technologies and several others have decided to ensure that all broadcasting uses digital technology by 2012.

(6) It is therefore essential to ensure a coherent policy at European level regarding the transition to digital technology and the switch-off of analogue broadcasting, so that this can be completed as quickly as possible in line with the early plans of certain Member States. Where state subsidies are provided to this end, this should be in accordance with state aid rules.

⁽¹⁾ 2008/2099(INI).

- (7) The current economic crisis has underlined the urgency of making sufficient radio spectrum available for the development of high-speed wireless infrastructure to provide broadband services, in order to create productivity gains and cost savings in the broader economy. This is in line with the goals of the Economic Recovery Plan, endorsed by the European Council meeting of 12 December 2008, which sets a target of 100 % broadband coverage to be achieved between 2010 and 2013. As stressed in the Competitiveness Council Key Issues Paper of March 2009, this can only be completely achieved by using wireless technologies, for example in rural areas where wired infrastructure is impractical. Timely switch-off of analogue broadcasting is therefore vital to ensure that the new services made possible using the radio spectrum released by the digital dividend, will effectively contribute to the EU's economic recovery efforts.
- (8) International agreements, including those reached at the International Telecommunication Union (ITU) Regional Radiocommunication Conference (RRC-06) in June 2006 and the ITU World Radiocommunication Conference (WRC-07) in November 2007, have already concluded on the allocation of part of the digital dividend frequencies, the 790-862 MHz sub-band, on a co-primary basis to mobile services in addition to broadcasting and fixed services as from 2015, or even before that date subject, where necessary, to technical coordination with other countries. Moreover, several Member States have already announced that they are planning or actively considering opening up the 790-862 MHz sub-band to services other than high-power terrestrial broadcasting.
- (9) In the light of these developments, there is an urgent need to develop a coordinated approach to the digital dividend in the European Union in order to avoid a fragmented situation emerging among Member States. Otherwise the establishment of a single market for services and equipment will be hampered, the related economies of scale will be lost and the digital dividend will not be able to contribute effectively to economic recovery at EU level. In addition, to help to achieve this goal, the Commission could provide assistance to Member States in their negotiations with non-EU countries on a bilateral or multilateral basis.
- (10) The Radio Spectrum Policy Group, in its Opinion of 18 September 2009 on the digital dividend, recommended that the European Commission acts no later than 31 October 2009 in order to minimise uncertainty at EU level regarding the ability of Member States to make available the 790-862 MHz sub-band, so as to promote growth, competition and innovation in the provision of electronic communications networks and services. It also encouraged Member States that are making available the 790-862 MHz sub-band for new and/or enhanced electronic communications networks and services to apply, in particular, the principles of service and technology neutrality under conditions which ensure that broadcasting services are not adversely impacted.
- (11) Studies on the socioeconomic aspects of a coordinated approach towards the digital dividend have shown significant social and economic benefits in coordinating at EU level the allocation of a part of the digital dividend for new uses such as broadband services in rural areas and more generally for reducing the broadband gap arising from the lack of availability of these services.
- (12) For these reasons, the Commission plans to adopt within the coming months a Decision setting the harmonised technical requirements for the future use of the 790-862 MHz sub-band for low- and medium-power electronic communications networks. This technical implementing measure should be adopted with the assistance of the Radio Spectrum Committee pursuant to Article 4 of the Radio Spectrum Decision⁽¹⁾. The harmonised technical conditions would have to be applied by a Member State only if and when that Member State decides to open the band for services other than broadcasting.
- (13) In order to prepare this technical harmonisation, the Commission mandated the European Conference of Postal and Telecommunications Administrations (the CEPT) to define technical conditions applicable to the 790-862 MHz sub-band which are optimised for, but not limited to, wireless fixed and/or mobile communications networks. As a result, the CEPT has provided the Commission with several reports which contain the least restrictive technical conditions and associated guidance, to be applied to base stations and terminal stations operating in the 790-862 MHz sub-band, in order to manage the risk of harmful interference.
- (14) As the further development of the 790-862 MHz sub-band for high-power broadcasting in one Member State could severely impede the use of part of the digital dividend spectrum for potential new uses in neighbouring Member States due to the fact that high-power signals travel over long distances and can cause harmful interference, Member States, while not being obliged to withdraw high power broadcasting transmitters or to open up the sub-band to electronic communications services, should facilitate future reorganisation of the sub-band to allow, on the long term, optimum use by low- and medium-power electronic communications services.
- (15) It is therefore essential that Member States refrain from introducing national measures that would compromise the implementation of Community acts applying to the same band, in particular any technical harmonisation measure for new electronic communications services to be deployed in the 790-862 MHz sub-band,

⁽¹⁾ Decision No 676/2002/EC of the European Parliament and of the Council (OJ L 108, 24.4.2002, p. 1).

HEREBY RECOMMENDS:

1. That Member States should take all the measures necessary to ensure that all terrestrial television broadcasting services use digital transmission technology and cease using analogue transmission technology on their territory by 1 January 2012.
2. That Member States should support regulatory efforts towards harmonised conditions of use in the Community of the 790-862 MHz sub-band for electronic communications services other than, and in addition to, broadcasting services, and refrain from any action that

might hinder or impede the deployment of such communications services in that sub-band.

3. This Recommendation is addressed to the Member States.

Done at Brussels, 28 October 2009.

For the Commission
Viviane REDING
Member of the Commission

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