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DECISIONS

EUROPEAN PARLIAMENT AND COUNCIL

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 25 November 2009

on mobilisation of the European Globalisation Adjustment Fund, in accordance with point 28 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management

(2009/931/EC)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽¹⁾, and in particular point 28 thereof,

Having regard to Regulation (EC) No 1927/2006 of the European Parliament and of the Council of 20 December 2006 establishing the European Globalisation Adjustment Fund ⁽²⁾, and in particular Article 12(3) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The European Globalisation Adjustment Fund (EGF) was established to provide additional support to redundant workers who suffer from the consequences of major structural changes in world trade patterns and to assist them with their reintegration into the labour market.
- (2) The scope of the EGF was broadened for applications submitted from 1 May 2009 to include support for workers made redundant as a result of the global financial and economic crisis.

(3) The Interinstitutional Agreement of 17 May 2006 allows the mobilisation of the EGF within the annual ceiling of EUR 500 million.

(4) Belgium submitted two applications to mobilise the EGF, in respect of redundancies in the textiles sector, on 5 May 2009. These applications comply with the requirements for determining the financial contributions as laid down in Article 10 of Regulation (EC) No 1927/2006, therefore the Commission proposes to deploy an amount of EUR 9 198 874.

(5) Ireland submitted an application to mobilise the EGF, in respect of redundancies in the computer manufacturing industry, on 29 June 2009. This application complies with the requirements for determining the financial contributions as laid down in Article 10 of Regulation (EC) No 1927/2006, therefore the Commission proposes to deploy an amount of EUR 14 831 050.

(6) The EGF should, therefore, be mobilised in order to provide a financial contribution for the applications submitted by Belgium and Ireland,

HAVE DECIDED AS FOLLOWS:

Article 1

For the general budget of the European Union for the financial year 2009, the European Globalisation Adjustment Fund shall be mobilised to provide the sum of EUR 24 029 924 in commitment and payment appropriations.

⁽¹⁾ OJ C 139, 14.6.2006, p. 1.
⁽²⁾ OJ L 406, 30.12.2006, p. 1.

Article 2

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

Done at Strasbourg, 25 November 2009.

For the European Parliament
The President
J. BUZEK

For the Council
The President
Å. TORSTENSSON

COUNCIL

COUNCIL DECISION

of 30 November 2009

appointing one Italian member of the Committee of the Regions

(2009/932/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 Italian 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 Piero MARRAZZO,

HAS DECIDED AS FOLLOWS:

Article 1

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

Mr Massimo PINESCHI, Consigliere regionale, Regione Lazio

Article 2

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

Done at Brussels, 30 November 2009.

For the Council

The President

B. ASK

⁽¹⁾ OJ L 56, 25.2.2006, p. 75.

III

(Acts adopted under the EU Treaty)

ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

COUNCIL DECISION 2009/933/CFSP

of 30 November 2009

on the extension, on behalf of the European Union, of the territorial scope of the Agreement on extradition between the European Union and the United States of America

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 24 and 38 thereof,

Having regard to Article 3 of the Council Decision 2003/516/EC of 6 June 2003 concerning the signature of the Agreements between the European Union and the United States of America on extradition and mutual legal assistance in criminal matters,

Whereas:

(1) Following the authorisation given by the Council on 26 April 2002 to the Presidency, assisted by the Commission, to enter into negotiations with the United States of America, two Agreements on international cooperation in criminal matters, one on extradition and one on mutual legal assistance, have been negotiated with the United States of America.

(2) In accordance with Council Decision 2003/516/EC of 6 June 2003 ⁽¹⁾, the Agreement on extradition between the European Union and the United States of America ⁽²⁾ and the Agreement on mutual legal assistance between the European Union and the United States of America ⁽³⁾ have been signed on behalf of the European Union on 25 June 2003.

(3) In accordance with Council Decision 2009/820/CFSP of 23 October 2009 ⁽⁴⁾, the Agreement on extradition

between the European Union and the United States of America and the Agreement on mutual legal assistance between the European Union and the United States of America have been concluded. In accordance with this decision, the Presidency of the Council, on 28 October 2009, exchanged the instruments of approval with the US Attorney General, in Washington DC.

(4) Both Agreements will enter into force on 1 February 2010.

(5) The Netherlands has informed the Presidency that it wishes to extend the territorial scope of the Agreement on extradition, in accordance with Article 20(1)(b) thereof, to the Netherlands Antilles and Aruba. Such extension has taken place by way of exchange of diplomatic note from the General Secretariat of the Council with the Mission of the United States of America to the European Union on 9 June 2009, acknowledged in the diplomatic note of the United States Mission to the European Union of 16 June 2009.

(6) In view of the imminent entry into force of the EU-US Extradition Agreement, this extension of the territorial scope should be approved by the Council,

HAS DECIDED AS FOLLOWS:

Article 1

In accordance with Article 20(1)(b) of the Agreement on extradition between the European Union and the United States of America, the extension of the territorial scope of that Agreement to the Netherlands Antilles and Aruba is hereby approved on behalf of the European Union.

⁽¹⁾ OJ L 181, 19.7.2003, p. 25.

⁽²⁾ OJ L 181, 19.7.2003, p. 27.

⁽³⁾ OJ L 181, 19.7.2003, p. 34.

⁽⁴⁾ OJ L 291, 7.11.2009, p. 40.

Article 2

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

Done at Brussels, 30 November 2009.

For the Council

The President

B. ASK

ACTS ADOPTED UNDER TITLE VI OF THE EU TREATY

COUNCIL DECISION 2009/934/JHA

of 30 November 2009

adopting the implementing rules governing Europol's relations with partners, including the exchange of personal data and classified information

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol) ⁽¹⁾ (the Europol Decision) and in particular Articles 26(1)(b) and 59(1)(c) thereof,

Having regard to the draft rules submitted by the Management Board, on which the Joint Supervisory Body has issued an opinion,

Having regard to the Opinion of the European Parliament,

Whereas in accordance with the Europol Decision, it is for the Council, acting by qualified majority after having consulted the European Parliament, to adopt implementing rules governing Europol's relations with partners, including the exchange of personal data and classified information (hereinafter the rules),

HAS DECIDED AS FOLLOWS:

TITLE I

GENERAL PROVISIONS

Article 1

Definitions

For the purposes of these rules,

(a) 'third States' as referred to in Article 23(1)(a) of the Europol Decision means States not being Member States of the European Union;

(b) 'organisations', as referred to in Article 23(1)(b) of the Europol Decision means organisations such as international

organisations and their subordinate bodies governed by public law or other bodies governed by public law which are set up by, or on the basis of, an agreement between two or more States;

(c) 'third parties' means third States and organisations;

(d) 'EU bodies' means institutions, bodies, offices and agencies set up by, or on the basis of, the Treaty on European Union and the Treaties establishing the European Communities, as referred to in Article 22(1) of the Europol Decision;

(e) 'personal data' means any information relating to an identified or identifiable natural person; an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity;

(f) 'classified information' means any information and material in any form, an unauthorised disclosure of which could cause varying degrees of prejudice to the essential interests of Europol, of one or more Member States or of Europol's cooperation partners, and that requires the application of appropriate security measures;

(g) 'strategic agreement' means an agreement allowing for the exchange of information, excluding personal data;

(h) 'operational agreement' means an agreement allowing for the exchange of information, including personal data;

(i) 'cooperation agreement' means either a strategic or an operational agreement;

⁽¹⁾ OJ L 121, 15.5.2009, p. 37.

- (j) 'working arrangement' means an arrangement between Europol and an EU body on their cooperation, allowing for the exchange of information including personal data;
- (k) 'processing of personal data' or 'processing' means any operation or set of operations performed upon personal data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction;
- (l) 'competent authorities' means all public bodies existing in the Member States or in third States which are responsible under national law for preventing and combating criminal offences.

Article 2

Scope

These rules govern the relations of Europol with EU bodies and third parties, including the exchange of personal data and classified information and set out the procedures applicable to the negotiation and conclusion of cooperation agreements and working arrangements.

TITLE II

CONCLUSION OF COOPERATION AGREEMENTS AND WORKING ARRANGEMENTS

Article 3

Establishment of relations with EU bodies

In accordance with Article 22(1) of the Europol Decision, Europol may establish and maintain cooperative relations with EU bodies in so far as it is relevant to the performance of its tasks.

Europol shall seek the opinion of the Management Board if it intends to enter into negotiations on a cooperation agreement or working arrangement with an EU body not explicitly referred to in Article 22(1)(a) to (f) of the Europol Decision.

Article 4

Procedure for the conclusion of cooperation agreements or working arrangements with EU bodies

1. In accordance with Article 22(2) of the Europol Decision, Europol shall conclude cooperation agreements or working arrangements with EU bodies for the purposes of establishing cooperative relations. Such agreements or working arrangements may concern the exchange of operational, strategic or technical information, including personal data and classified information.

2. The transmission of classified information shall be permissible only in so far as agreement on confidentiality exists between Europol and the EU body. The Security Committee shall be informed of such agreement, which shall

subsequently be formalised in the cooperation agreement or working arrangement.

3. Any such cooperation agreement or working arrangement shall only be concluded after approval by the Management Board.

4. If the cooperation agreement or working arrangement concerns the exchange of personal data, the Management Board shall obtain the opinion of the Joint Supervisory Body prior to the approval referred to in paragraph 3.

Article 5

Establishment of relations with third parties

1. In accordance with Article 23(1) of the Europol Decision, Europol may establish and maintain cooperative relations with third parties in so far as it is necessary for the performance of its tasks.

2. In accordance with Article 23(2) of the Europol Decision, Europol shall conclude agreements with the third parties which have been placed on the list of third States and organisations referred to in Article 26(1)(a) of the Europol Decision. Such agreements may concern the exchange of operational, strategic or technical information, including personal data and classified information. In the case of agreement with a third State, such information shall be transmitted via a designated contact point identified in the agreement.

3. Europol may initiate the procedure for the conclusion of an agreement with a third party as soon as that third party has been placed on the list referred to in paragraph 2.

4. Where the conclusion of an operational agreement with a third party is envisaged, Europol shall carry out an assessment of the existence of an adequate level of data protection ensured by that third party. That assessment shall be forwarded to the Management Board, which shall have obtained the prior opinion of the Joint Supervisory Body. For the purposes of this assessment, account shall be taken of the regulatory framework and the administrative practice of the third party concerned in the field of data protection, including any existing independent authority responsible for the supervision of data protection matters.

Article 6

Procedure for the conclusion of cooperation agreements with third parties

1. The Management Board shall decide, based on the assessment referred to in Article 5(4) and taking into account the opinion of the Joint Supervisory Body, whether or not the Director shall enter into negotiations with the third party on the conclusion of an operational agreement. Having obtained a prior positive decision of the Management Board, the Director shall enter into negotiations with the third party on the conclusion of such an agreement. In case of a negative decision, the Management Board may consider the conclusion of a strategic agreement with the third party concerned.

2. The transmission of classified information by Europol shall be permissible only in so far as agreement on confidentiality exists between Europol and the third party. The Security Committee shall be informed of such agreement, which shall subsequently be formalised in the cooperation agreement.

3. After finalising the negotiations to an agreement, the Director shall submit the draft agreement to the Management Board. In the case of the conclusion of an operational agreement, the Management Board shall obtain the opinion of the Joint Supervisory Body. The Management Board shall endorse the draft agreement before submitting it to the Council for approval.

In case of endorsement of an operational agreement, that draft agreement and the opinion of the Joint Supervisory Body shall be submitted to the Council.

4. In accordance with Article 23(2) of the Europol Decision, such agreements shall only be concluded after the approval by the Council, which shall previously have consulted the Management Board and, as far as such agreements concern the exchange of personal data, obtained the opinion of the Joint Supervisory Body via the Management Board.

Article 7

Information for the Management Board

The Director shall inform the Management Board on a regular basis on the state of play of ongoing negotiations with EU bodies and third parties.

TITLE III

EXCHANGE OF INFORMATION

CHAPTER I

Receipt of information

Article 8

Receipt of information prior to the entry into force of an agreement

Before the entry into force of an agreement or working arrangement with an EU body or third party, Europol may, in accordance with Articles 22(3) and Article 23(3) of the Europol Decision, directly receive and use information, including personal data and classified information, in so far as it is necessary for the legitimate performance of its tasks, listed in Article 5 of the Europol Decision.

CHAPTER II

Transmission of information

Article 9

Conditions for the transmission of information to EU bodies and third parties

Europol may only transmit information to an EU body or third party under the following conditions:

1. Notwithstanding Articles 11 to 14, information may be transmitted only after an agreement or working arrangement has been concluded with the EU body or third party in accordance with the provisions of Title II.
2. Where the data concerned were transmitted to Europol by a Member State, Europol shall transmit them to EU bodies or third parties only with that Member State's consent. The Member State concerned may give its prior consent to such transmission, either in general terms or subject to specific conditions. Such consent may be withdrawn at any time.
3. If the data were not transmitted by a Member State, Europol shall satisfy itself that transmission of those data is not liable to:
 - (a) obstruct the proper performance of the tasks in respect of which a Member State is competent;
 - (b) jeopardise the security or public order of a Member State or otherwise prejudice its general welfare.
4. The transmission of personal data to third parties shall only be permissible where:
 - (a) it is necessary in individual cases for the purposes of preventing or combating criminal offences in respect of which Europol is competent; and
 - (b) Europol has concluded an operational agreement with the third parties concerned which permits the transmission of such data on the basis of an assessment confirming an adequate level of data protection ensured by those third parties in accordance with Article 5(4).
5. The transmission of classified information by Europol shall only be permissible where:
 - (a) agreement on confidentiality exists between Europol and the EU body or the third party, in accordance with Articles 4(2) and 6(2); and
 - (b) in the case of transmission of data to third parties, it is necessary in individual cases for the purposes of preventing or combating criminal offences in respect of which Europol is competent.

*Article 10***Responsibility for the transmission of data**

Europol shall be responsible for the legality of the transmission of data. Europol shall keep a record of all transmissions of data under these rules and of the grounds for such transmissions. Data shall be transmitted only if the recipient gives an undertaking that the data will be used only for the purposes for which they were transmitted.

*Article 11***Transmission of information to EU bodies prior to the entry into force of a cooperation agreement or working arrangement**

1. Before the entry into force of an operational agreement or working arrangement with an EU body, Europol may, in accordance with Article 22(3) of the Europol Decision and under the conditions laid down in Article 9(2) and 9(3) of these rules, directly transmit information, including personal data, to such EU body in so far as it is necessary for the legitimate performance of the recipient's tasks.

2. The transmission by Europol of classified information shall be permissible only in so far as agreement on confidentiality exists between Europol and the EU body, in accordance with Article 4(2).

*Article 12***Transmission of information to third parties prior to the entry into force of an agreement**

Before the entry into force of an agreement with a third party, Europol may, in accordance with Article 23(4) of the Europol Decision and under the conditions laid down in Article 9(2) and 9(3) of these rules, directly transmit information, with the exception of personal data and classified information, to that third party, in so far as this is necessary for the legitimate performance of the recipient's tasks.

*Article 13***Transmission of information to third parties which are not included in the Council list**

In accordance with Article 23(5) of the Europol Decision and under the conditions laid down in Article 9(2) and 9(3) of these rules, Europol may directly transmit information, with the exception of personal data and classified information, to third parties which are not included in the list referred to in Article 26(1)(a) of the Europol Decision, in so far as it is absolutely necessary in individual cases for the purposes of preventing or combating criminal offences in respect of which Europol is competent.

CHAPTER III

Transmission of information in exceptional cases*Article 14***Transmission of personal data and classified information in exceptional cases**

1. In accordance with Article 23(8) and 23(9) of the Europol Decision, and under the conditions laid down in Article 9(2) and 9(3) of these rules, Europol may transmit personal data and classified information which it holds to third parties in so far as the Director considers their transmission to be absolutely necessary to safeguard the essential interests of the Member States concerned, which are within the scope of Europol's objectives, or in the interests of preventing imminent danger associated with crime or terrorist offences.

2. In case of transmission of classified information, the Director shall inform the Management Board and the Security Committee as soon as possible of his decision.

3. In case of transmission of personal data, the Director shall in all circumstances consider the data protection level applicable to the third party in question with a view to balancing that data protection level and those interests. In doing so, the Director shall take into account all relevant elements, such as the danger that might occur if Europol does not transmit the personal data concerned. The Director shall inform the Management Board and the Joint Supervisory Body as soon as possible of his decision and of the basis of the assessment of the adequacy of the level of data protection afforded by the third party concerned.

4. Before the transmission of personal data in accordance with paragraph 1, the Director shall assess the adequacy of the level of data protection afforded by the third parties concerned, taking into account all the circumstances relevant to the transmission of personal data, in particular:

- (a) the nature of the data;
- (b) the purpose for which the data is intended;
- (c) the duration of the intended processing;
- (d) the general or specific data protection provisions applying to the third parties;
- (e) whether the third parties have agreed to specific conditions required by Europol concerning such data.

CHAPTER IV

Specific conditions for the transmission of personal data

Article 15

Purposes for which personal data are transmitted

1. Personal data requested without any indication as to the purpose of, and reason for, the request shall not be transmitted.
2. The transmission of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or trade union membership and the transmission of data concerning a person's health or sex life shall not be permitted unless strictly necessary.

Article 16

Correction and deletion of personal data

1. When Europol transmits personal data to an EU body or third party, it shall ensure that the recipient EU body or third party give an undertaking that the personal data shall be corrected or deleted if it emerges that they are incorrect, inaccurate, no longer up to date or should not have been transmitted. Where Europol notes that the personal data are incorrect, inaccurate, no longer up to date, or should not have been transmitted, the recipient EU body or third party shall forthwith be informed thereof and requested to notify Europol that the data will be corrected or deleted. The Director shall inform the Management Board and the Joint Supervisory Body of Europol's activities in this field.
2. Any agreement concluded shall stipulate the obligation to correct or delete data in accordance with the procedure referred to in paragraph 1.
3. When Europol transmits personal data, it shall ensure that the recipient EU body or third party give an undertaking that the data will be deleted where they are no longer necessary for the purposes for which they were transmitted.

CHAPTER V

Onward transmission of data to EU bodies and third parties

Article 17

Competent authorities and onward transmission

1. The transmission of personal data by Europol to a third State and transmission within that State shall be restricted to competent authorities, which shall be explicitly mentioned in any agreement concluded.
2. In negotiating agreements, Europol shall make every effort to ensure that, where possible, a third State designates one competent authority to act as the national contact point

between Europol and the other competent authorities of that third State.

3. When transmitting personal data, Europol shall ensure that the recipient EU body or third party give an undertaking that onward transmission of such data will be limited to competent authorities and will take place under the same conditions as those applying to the original transmission.

4. Where it is not possible for a third State to designate one competent authority to act as national contact point, agreements may, exceptionally, provide for the direct transmission of information by Europol to one or more competent authorities within the third State concerned.

Article 18

Conditions for onward transmission

1. Europol shall only transmit personal data to a competent authority of a third State or transmit personal data to an organisation or EU body if that authority, organisation or body agrees that it will not communicate those personal data to other EU bodies or third parties, except under the conditions laid down in paragraph 2.
2. The onward transmission of personal data by a competent authority of a third State, an organisation or an EU body with which Europol has concluded an operational agreement may only take place:
 - (a) with the prior consent of Europol, in cases where the EU body or third party receiving the personal data has concluded an operational agreement with Europol; or
 - (b) exceptionally, after authorisation by the Director, taking account of the data protection level applicable to the EU body or third party, if he considers onward transmission of the personal data by the EU body or third party to be absolutely necessary:
 - (i) to safeguard the essential interests of the Member States concerned which are within the scope of Europol's objectives; or
 - (ii) in the interests of preventing imminent danger associated with crime or terrorist offences.

3. No onward transmission of data communicated to Europol by a Member State shall be allowed without the prior consent of the Member State concerned. The Director shall inform the Member State concerned of the reasons for transmission via an EU body or third party as opposed to the direct transmission of such data.

CHAPTER VI

Specific conditions for the receipt of information by Europol from third parties

Article 19

Assessment of the source and of the information

1. In order to determine the reliability of information received by Europol, as well as its source, Europol shall ask the EU body or third party to assess, as far as possible, the information and its source in accordance with the criteria laid down in Article 12 of Council Decision 2009/936/JHA of 30 November 2009 adopting the implementing rules for Europol analysis work files⁽¹⁾ (the rules for Europol analysis work files).

2. If this assessment is not provided, Europol shall attempt, as far as possible, to assess the reliability of the source or of the information on the basis of information already in its possession, in accordance with the criteria laid down in Article 12 of the rules for Europol analysis work files.

3. In an agreement, Europol and an EU body or third party may agree in general terms on the assessment of specified types of information and specified sources in accordance with the criteria laid down in Article 12 of the rules for Europol analysis work files.

Article 20

Correction and deletion of information received by Europol

1. Agreements shall stipulate that the EU body or third party shall inform Europol when it corrects or deletes information transmitted to Europol.

2. When an EU body or third party informs Europol that it has corrected or deleted information transmitted to Europol, Europol shall correct or delete that information accordingly. Europol shall not delete the information if it still needs processing for the purposes of the analysis work file

concerned or, where the information is stored in another Europol data file, Europol has a further interest in it, based on intelligence that is more extensive than that possessed by the transmitting EU body or third party. Europol shall inform the EU body or third party concerned of the continued storage of such information.

3. If Europol has reason to believe that information supplied is inaccurate or no longer up to date, it shall inform the EU body or third party which supplied the information and request that the EU body or third party inform Europol of its position on the matter. Where information is corrected or deleted by Europol in conformity with Article 31(1) of the Europol Decision, Europol shall inform the supplying EU body or third party of the correction or deletion.

4. Without prejudice to Article 31 of the Europol Decision, information which has clearly been obtained by a third State in obvious violation of human rights shall not be processed.

5. Agreements shall stipulate that the EU body or third party shall inform Europol as far as possible in cases where that EU body or third party has reason to believe that the information supplied is inaccurate or no longer up to date.

TITLE IV

FINAL PROVISIONS

Article 21

Entry into force

These rules shall enter into force on 1 January 2010.

Done at Brussels, 30 November 2009.

For the Council

The President

B. ASK

⁽¹⁾ See page 14 of this Official Journal.

COUNCIL DECISION 2009/935/JHA**of 30 November 2009****determining the list of third States and organisations with which Europol shall conclude agreements**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol) ⁽¹⁾ (the Europol Decision) and in particular Article 26(1)(a) thereof,

Having regard to Council Decision 2009/934/JHA of 30 November 2009 adopting the implementing rules governing Europol's relations with partners, including the exchange of personal data and classified information ⁽²⁾ and in particular Articles 5 and 6 thereof,

Having regard to the Opinion of the European Parliament,

Whereas:

- (1) It is for the Council, acting by qualified majority after consulting the European Parliament, to determine, in a list, the third States and organisations referred to in Article 23(1) of the Europol Decision with which Europol shall conclude agreements.
- (2) It is for the Management Board to prepare such list.
- (3) It is desirable to provide for a procedure establishing how additional third States and organisations may be added to the list of third States and organisations with which Europol shall conclude agreements,

HAS DECIDED AS FOLLOWS:

Article 1

1. In accordance with Article 23(2) of the Europol Decision, Europol shall conclude agreements with the third States and organisations placed on the list in the Annex to this Decision. Europol may initiate the procedure for the conclusion of an agreement as soon as the third State or organisation has been placed on that list. Europol shall strive for the conclusion of a cooperation agreement with those third States and organisations which allows for the exchange of personal data, unless decided otherwise by the Management Board.

2. Europol shall prioritise the conclusion of cooperation agreements with third States and organisations placed on the list, taking account of its operational needs and the human and financial resources available. The Management Board may provide the Director with any further instructions concerning the negotiation of a specific agreement as it considers necessary.

3. The Director shall inform the Management Board on a regular basis of the state of play of ongoing negotiations with third parties and shall submit a progress report every six months.

Article 2

1. A Member of the Management Board or Europol may propose to add a new third State or organisation to the list. In doing so, they shall outline the operational need to conclude a cooperation agreement with that third State or organisation.

2. The Management Board shall decide whether or not to propose to the Council the addition of that third State or organisation to the list.

3. The Council shall decide on the addition of the third State or organisation to the list by amending the Annex to this Decision.

Article 3

This Decision shall enter into force on 1 January 2010.

Article 4

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

Done at Brussels, 30 November 2009.

For the Council

The President

B. ASK

⁽¹⁾ OJ L 121, 15.5.2009, p. 37.

⁽²⁾ See page 6 of this Official Journal.

ANNEX

List of third States and organisations with which Europol shall conclude agreements:

1. Third States (in alphabetical order):

- Albania
- Australia
- Bolivia
- Bosnia and Herzegovina
- Canada
- China
- Colombia
- Croatia
- former Yugoslav Republic of Macedonia
- Iceland
- India
- Israel
- Liechtenstein
- Moldova
- Monaco
- Montenegro
- Morocco
- Norway
- Peru
- Russia
- Serbia
- Switzerland
- Turkey
- Ukraine
- United States of America

2. Organisations (in alphabetical order):

- ICPO-Interpol
 - United Nations Office on Drugs and Crime (UNODC)
 - World Customs Organisation
-

COUNCIL DECISION 2009/936/JHA**of 30 November 2009****adopting the implementing rules for Europol analysis work files**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (EUROPOL) ⁽¹⁾ (the 'Europol Decision') and in particular Articles 14(1) and 59(1)(b) thereof,

Taking account of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, adopted by the Council of Europe on 28 January 1981,

Taking account of Recommendation No R(87)15 of the Committee of Ministers regulating the use of personal data in the police sector, adopted by the Council of Europe on 17 September 1987,

Having regard to the draft rules for Europol analysis work files submitted by the Management Board,

Having regard to the Opinion of the European Parliament,

Whereas it is for the Council, acting by qualified majority after consulting the European Parliament, to adopt implementing rules for analysis work files (hereinafter the 'rules'),

HAS DECIDED AS FOLLOWS:

CHAPTER I

GENERAL PRINCIPLES*Article 1***Definitions**

For the purposes of these rules:

- (a) 'personal data' means any information relating to an identified or identifiable natural person; an 'identifiable person' is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity;
- (b) 'analysis work file' means a file opened for the purpose of analysis, as referred to in Article 14(1) of the Europol Decision;

(c) 'analysis' means the assembly, processing or use of data with the aim of assisting criminal investigations, in accordance with Article 14(2) of the Europol Decision;

(d) 'participants in an analysis group' means analysts and other Europol staff designated by the Director, as well as liaison officers and/or experts from the Member States supplying the information or concerned by the analysis within the meaning of Article 14(4) of the Europol Decision;

(e) 'processing of personal data' or 'processing' means any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.

*Article 2***Scope**

The rules laid down in this Decision shall apply to the processing of data for the purpose of analysis, as referred to in Article 14(1) of the Europol Decision.

*Article 3***Data supplied for the purpose of analysis**

1. In accordance with Articles 8(2) and 14(3) of the Europol Decision, data supplied for the purpose of analysis shall be communicated either in a structured or unstructured form by national units or, depending on their degree of urgency, may be routed directly from the designated competent authorities to Europol, in order to be included in an analysis work file. The Member State supplying the data shall notify Europol of the purpose for which they are supplied and of any restriction on their use, deletion or destruction, including possible access restrictions in general or specific terms. That Member State may also inform Europol of any such restrictions at a later stage.

Europol shall ensure that third parties supplying such data notify Europol of the purpose for which they are supplied and of any restriction on their use.

After receipt of such data, it shall be determined as soon as possible to what extent they shall be included in a specific file.

⁽¹⁾ OJ L 121, 15.5.2009, p. 37.

2. In accordance with Article 29(1) of the Europol Decision, the data referred to in paragraph 1 shall remain under the responsibility of the Member State which supplied them, and shall be subject to the national legislation of that Member State until such data are included in an analysis work file. This shall be without prejudice to Europol's responsibilities for the data as outlined in the second and third subparagraphs.

Europol shall be responsible for ensuring that such data may be accessed only by the Member States which supplied them, or analysts and other Europol staff designated by the Director in accordance with Article 14(2)(a) of the Europol Decision, for the purpose of determining whether or not the data may be included in an analysis work file.

If Europol, after appraising the data supplied, has reason to assume that they are inaccurate or no longer up-to-date, it shall inform the Member State which supplied them.

3. Data which, after appraisal, have not been selected for inclusion in an analysis work file, as well as paper files and documents containing data which have been included in such a file, shall remain under the responsibility of the Member State which supplied the data in accordance with Article 29(1) of the Europol Decision, and shall be subject to its national legislation. This shall be without prejudice to Europol's responsibilities as outlined in the Europol Decision.

Europol shall be responsible for ensuring that the data, paper files and documents referred to in the first subparagraph are stored separately from analysis work files, and may be accessed only by the Member States which supplied the data, or by analysts and other Europol staff designated by the Director in accordance with Article 14(2)(a) of the Europol Decision, for the purposes of:

- (a) their later inclusion in an analysis work file;
- (b) verifying whether the data which have already been included in an analysis file are accurate and relevant; or
- (c) verifying whether the requirements contained in these rules or the Europol Decision have been met.

Such data, may also be accessed in the interests of the data subject who requires protection. In this case, the data may only be used with the consent of the individual concerned.

Such data, paper files and documents shall be returned to the Member State which supplied them, or be deleted or destroyed, where they are no longer necessary for the purposes set out in this Article. They must in any case be deleted or destroyed after the analysis work file is closed.

4. Where the data referred to in paragraph 1 have been supplied by a third party, Europol shall be responsible for ensuring that the principles laid down in this Article are applied to such data by following the rules laid down in accordance with Article 26 of the Europol Decision.

Article 4

Processing of data

1. Where necessary in order to achieve the objective laid down in Article 3 of the Europol Decision, personal data referred to in Articles 5 and 6 of these rules may be processed by Europol to the extent that they are adequate, accurate, relevant, and not excessive in relation to the purpose of the analysis work file in which they are included, and provided that they are stored for no longer than necessary for this purpose. The need for continued data storage for the purpose of the analysis work file shall be reviewed regularly in accordance with Article 7 of these rules and Article 20 of the Europol Decision.

2. Each Member State involved in an analysis project shall decide, in accordance with its national legislation, on the extent to which it can supply such data, as specified in Article 14(3) of the Europol Decision.

Article 5

Orders opening analysis work files

1. In each order opening an analysis work file, as referred to in Article 16 of the Europol Decision, the Director shall specify which of the categories of personal data listed in Article 6 of these rules are considered to be necessary for the purpose of the analysis work file concerned.

2. The Director shall also specify in the order referred to in paragraph 1 whether data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or trade-union membership and data concerning health or sex life are to be included in the analysis work file under the categories listed in Article 6, and why such data are considered to be strictly necessary for the purposes of the analysis work file concerned. Such data may only be processed when supplementing other personal data which have already been included in that file.

Where the data referred to in the first subparagraph relate to the categories of persons mentioned in Article 6(3) to 6(6), the specific grounds for requiring such data must be included in the order opening the file, and such data shall be processed only at the explicit request of two or more Member States participating in the analysis project. The data concerned shall be deleted when they are no longer necessary for the purposes for which they were stored.

3. Orders opening an analysis work file, including later amendments thereto, shall be established in accordance with the procedure set out in Article 16 of the Europol Decision.

Article 6

Personal data in analysis work files

1. Whenever personal data are stored in analysis work files, a note shall be added which refers to the category of persons on which the data are stored.

2. The following categories of personal data, including associated administrative data, may be processed on the categories of persons referred to in Article 14(1)(a) of the Europol Decision:

(a) Personal details:

1. Present and former surnames
2. Present and former forenames
3. Maiden name
4. Father's name (where necessary for the purpose of identification)
5. Mother's name (where necessary for the purpose of identification)
6. Sex
7. Date of birth
8. Place of birth
9. Nationality
10. Marital status
11. Alias
12. Nickname
13. Assumed or false name
14. Present and former residence and/or domicile

(b) Physical description:

1. Physical description
2. Distinguishing features (marks/scars/tattoos etc.)

(c) Identification means:

1. Identity documents/driving licence
2. National identity card/passport numbers

3. National identification number/social security number, if applicable

4. Visual images and other information on appearance

5. Forensic identification information such as fingerprints, DNA profile (established from the non-coding part of DNA), voice profile, blood group, dental information

(d) Occupation and skills:

1. Present employment and occupation
2. Former employment and occupation
3. Education (school/university/professional)
4. Qualifications
5. Skills and other fields of knowledge (language/other)

(e) Economic and financial information:

1. Financial data (bank accounts and codes, credit cards etc.)
2. Cash assets
3. Share holdings/other assets
4. Property data
5. Links with companies
6. Bank and credit contacts
7. Tax position
8. Other information revealing a person's management of their financial affairs

(f) Behavioural data:

1. Lifestyle (such as living above means) and routine
2. Movements
3. Places frequented
4. Weapons and other dangerous instruments
5. Danger rating
6. Specific risks such as escape probability, use of double agents, connections with law enforcement personnel
7. Criminal-related traits and profiles
8. Drug abuse

- (g) Contacts and associates, including type and nature of the contact or association
- (h) Means of communication used, such as telephone (static/mobile), fax, pager, electronic mail, postal addresses, Internet connection(s)
- (i) Means of transport used, such as vehicles, boats, aircraft, including information identifying these means of transport (registration numbers)
- (j) Information relating to criminal activities for which Europol has competence under Article 4 of the Europol Decision:
1. Previous convictions
 2. Suspected involvement in criminal activities
 3. *Modi operandi*
 4. Means which were or may be used to prepare and/or commit crimes
 5. Membership of criminal groups/organisations and position in the group/organisation
 6. Role in the criminal organisation
 7. Geographical range of criminal activities
 8. Material gathered in the course of an investigation, such as video and photographic images
- (k) References to other databases in which information on the person is stored:
1. Europol
 2. Police/customs agencies
 3. Other enforcement agencies
 4. International organisations
 5. Public entities
 6. Private entities
- (l) Information on legal persons associated with the data referred to in points (e) and (j):
1. Designation of the legal person
 2. Location
 3. Date and place of establishment
 4. Administrative registration number
 5. Legal form
 6. Capital
 7. Area of activity
 8. National and international subsidiaries
 9. Directors
 10. Links with banks.
3. 'Contacts and associates', as referred to in Article 14(1)(d) of the Europol Decision, are persons through whom there is sufficient reason to believe that information, which relates to the persons referred to in paragraph 2 of this Article and which is relevant for the analysis, can be gained, provided they are not included in one of the categories of persons referred to in paragraphs 2, 4, 5 or 6. 'Contacts' are those persons who have sporadic contact with the persons referred to in paragraph 2. 'Associates' are those persons who have regular contact with the persons referred to in paragraph 2.
- In relation to contacts and associates, the data pursuant to paragraph 2 may be stored as necessary, provided there is reason to assume that such data are required for the analysis of the role of such persons as contacts or associates.
- In this context, the following shall be observed:
- (a) the relationship of these persons with the persons referred to in Article 14(1)(a) of the Europol Decision shall be clarified as soon as possible;
 - (b) if the assumption that a relationship exists between these persons and the persons referred to in Article 14(1)(a) of the Europol Decision turns out to be unfounded, the data shall be deleted without delay;
 - (c) if such persons are suspected of committing an offence for which Europol has competence under Article 4 of the Europol Decision, or have been convicted for such an offence, or if there are factual indications or reasonable grounds under the national law of the Member State concerned to believe that they will commit such an offence, all data pursuant to paragraph 2 may be stored;
 - (d) data on contacts and associates of contacts as well as data on contacts and associates of associates shall not be stored, with the exception of data on the type and nature of their contacts or associations with the persons referred to in paragraph 2;

(e) if a clarification pursuant to the previous points is not possible, this shall be taken into account when deciding on the need and the extent of storage for further analysis.

4. With regard to persons who, as referred to in Article 14(1)(c) of the Europol Decision, have been the victims of one of the offences under consideration or who, certain facts give reason to believe, could be the victims of such an offence, data referred to in paragraph 2(a)(1) to 2(c)(3) of this Article, as well as the following categories of data, may be stored:

- (a) Victim identification data;
- (b) Reason for victimisation;
- (c) Damage (physical/financial/psychological/other);
- (d) Whether anonymity is to be guaranteed;
- (e) Whether participation in a court hearing is possible;
- (f) Crime-related information provided by or through persons referred to in Article 14(1)(c) of the Europol Decision, including information on their relationship with other persons, where necessary, to identify the persons referred to in Article 12(1) of the Europol Decision.

Other data pursuant to paragraph 2 may be stored as necessary, provided there is reason to assume that they are required for the analysis of a person's role as victim or potential victim.

Data not required for any further analysis shall be deleted.

5. With regard to persons who, as referred to in Article 14(1)(b) of the Europol Decision, might be called on to testify in investigations in connection with the offences under consideration or in subsequent criminal proceedings, data referred to in paragraph 2(a)(1) to 2(c)(3) of this Article as well as categories of data complying with the following criteria, may be stored:

- (a) crime-related information provided by such persons, including information on their relationship with other persons included in the analysis work file;
- (b) whether anonymity is to be guaranteed;
- (c) whether protection is to be guaranteed and by whom;
- (d) new identity;

(e) whether participation in a court hearing is possible.

Other data pursuant to paragraph 2 may be stored as necessary, provided there is reason to assume that they are required for the analysis of such persons' role as witnesses.

Data not required for any further analysis shall be deleted.

6. With regard to persons who, as referred to in Article 14(1)(e) of the Europol Decision, can provide information on the criminal offences under consideration, data referred to in paragraph 2(a)(1) to 2(c)(3) of this Article may be stored, as well as categories of data complying with the following criteria:

- (a) coded personal details;
- (b) type of information supplied;
- (c) whether anonymity is to be guaranteed;
- (d) whether protection is to be guaranteed and by whom;
- (e) new identity;
- (f) whether participation in court hearing is possible;
- (g) negative experiences;
- (h) rewards (financial/favours).

Other data pursuant to paragraph 2 may be stored as necessary, provided there is reason to assume that they are required for the analysis of such persons' role as informants.

Data not required for any further analysis shall be deleted.

7. If, at any moment during the course of an analysis, it becomes clear on the basis of serious and corroborating indications that a person included in an analysis work file should be placed under a different category of persons, as defined in this Article, from the category in which that person was initially placed, Europol may process only the data on that person which is permitted under that new category, and all other data shall be deleted.

If, on the basis of such indications, it becomes clear that a person should be included in two or more different categories as defined in this Article, all data allowed under such categories may be processed by Europol.

*Article 7***Time-limits for examination and the duration of storage**

1. When a decision is taken on whether personal data should continue to be stored under Article 6 of these rules, in accordance with Article 20 of the Europol Decision, the interests of Europol in performing its tasks shall be weighed against the legitimate data protection interests of the data subject concerning whom data are stored.

The need for continued storage of all personal data included in an analysis work file shall be reviewed, in accordance with Article 20 of the Europol Decision, no later than three years after the input or latest review of the data. Notwithstanding this review, the need for continued storage shall be reviewed if circumstances arise which suggest that the data have to be deleted or corrected.

The review shall take account of the need to retain data in the light of the conclusion of an enquiry into a particular case; a final judicial decision – in particular an acquittal, a rehabilitation order, a spent conviction, and an amnesty – the age of the data subject and the particular categories of data.

2. In accordance with Article 16(3) of the Europol Decision, Europol shall review the need for the continuation of an analysis work file. On the basis of that review, a decision shall be taken by the Director on the continuation or closure of the file. The Management Board and the Joint Supervisory Body shall immediately be informed by the Director of the elements in the file justifying the strict need for its continuation.

3. Where criminal proceedings against persons referred to in Article 6(2) are concluded, without the possibility of appeal, either by a court decision or otherwise, and that decision is notified to Europol by the Member State or third party concerned, Europol shall verify whether the data affected by such decision may still be stored, modified or used. If it can be assumed from the reasons for the decision or from other intelligence that the person concerned has not, or not unlawfully, committed the offence, or if the reasons for the decision leave this question open, the data affected by this decision shall be deleted, unless there are substantial grounds for assuming that they are still relevant for the purpose of the analysis work file. In that case, information concerning the court decision shall be added to the data already included in the file. Furthermore, these data may be processed and kept only with due respect for the context and the pronouncement of the aforementioned decision and to the rights it gives to the person concerned.

4. Personal data may not be retained for a period which is longer than that referred to in Article 20(1) of the Europol Decision. Where, as a consequence of the continuation of the analysis file, data concerning persons referred to in Article 6(3) to 6(6) are stored in a file for a period exceeding five years, the Joint Supervisory Body referred to in Article 34(1) of the Europol Decision shall be informed accordingly.

5. If, during the course of a review of Europol's activities by the Joint Supervisory Body it is discovered that personal data are being kept in violation of these rules, the Joint Supervisory Body shall inform the Director of this as it deems necessary, in accordance with Article 34(4) of the Europol Decision.

When the Joint Supervisory Body, in accordance with Article 34(4) of the Europol Decision, has referred a matter concerning the storage, processing or use of personal data to the Management Board, the transmission of the data concerned shall be prohibited without prior authorisation of the Management Board. In exceptional cases, the Director may authorise the transmission of that data prior to approval by the Management Board, where this is considered to be absolutely necessary to safeguard the essential interests of the Member States concerned which are within the scope of Europol's objectives, or in the interest of preventing imminent danger associated with crime or terrorist offences. In such cases, the authorisation by the Director shall be set out in a document, which shall be forwarded to the Management Board and the Joint Supervisory Body.

*Article 8***Association of third parties**

Europol may associate experts of institutions, bodies, offices and agencies, as referred to in Article 22(1) of the Europol Decision, and experts of third States and organisations, as referred to in Article 23(1) of that Decision, with the activities of an analysis group under the conditions laid down in Article 14(8) of that Decision.

The Director shall conclude an arrangement with any of the entities referred to in the first subparagraph in accordance with the rules governing such arrangements, as determined by the Management Board. Details of these arrangements shall be sent to the Management Board and the Joint Supervisory Board. The Joint Supervisory Board may address any comments it deems necessary to the Management Board.

*Article 9***Collection and recording of data**

Data stored in files for analysis purposes shall be distinguished according to the assessment grading of the source and the degree of accuracy or reliability of the information, in accordance with Article 11. Data based on facts shall be distinguished from data based on opinions or personal assessments.

*Article 10***Internal data protection**

The Director shall take the measures needed to ensure compliance with these rules and with other data protection provisions. To this end, the Director shall seek the advice of the Data Protection Officer, as referred to in Article 28 of the Europol Decision.

CHAPTER II

CLASSIFICATION

Article 11

Classes of analysis work files

Analysis work files may be:

- (a) general or strategic, where the aim is to process relevant information concerning a particular problem or to develop or improve initiatives by the competent authorities, as defined in Article 3 of the Europol Decision;
- (b) operational, where the aim is to obtain information on one or more of the criminal activities referred to in Article 3 of the Europol Decision, which relates to a case, person or organisation, in order to commence, assist or conclude, in accordance with Article 14(2) of the Europol Decision, bilateral or multilateral investigations of an international nature, provided that two or more Member States are among the parties concerned.

Article 12

Assessment of the source and of the information

1. The source of information originating from a Member State shall be assessed as far as possible by the Member State supplying the information using the following source evaluation codes:

- (A): where there is no doubt as to the authenticity, trustworthiness and competence of the source, or if the information is supplied by a source which has proved to be reliable in all instances;
- (B): where the information is supplied by a source which has in most instances proved to be reliable;
- (C): where the information is supplied by a source which has in most instances proved to be unreliable;
- (X): where the reliability of the source cannot be assessed.

2. Information originating from a Member State shall be assessed as far as possible by the Member State supplying the information on the basis of its reliability using the following information evaluation codes:

- (1): information the accuracy of which is not in doubt;
- (2): information known personally to the source but not known personally to the official passing it on;

(3): information not known personally to the source but corroborated by other information already recorded;

(4): information which is not known personally to the source and cannot be corroborated.

3. If Europol, on the basis of information already in its possession, comes to the conclusion that the assessment needs to be corrected, it shall inform the Member State concerned and seek to agree on an amendment to the assessment. Europol shall not change the assessment without such agreement.

4. If Europol receives data or information from a Member State without an assessment, Europol shall attempt as far as possible to assess the reliability of the source or the information on the basis of information already in its possession. The assessment of specific data and information must take place in agreement with the supplying Member State. A Member State and Europol may also agree in general terms on the assessment of specified types of data and specified sources. The Management Board shall be informed of such general agreements. If data have been supplied to Europol on the basis of such general agreements, this shall be noted with the data.

If no agreement is reached in a specific case, or no agreement in general terms exists, Europol shall evaluate the information or data and shall attribute to such information or data the evaluation codes (X) and (4), referred to in paragraphs 1 and 2 respectively.

5. If Europol receives data or information from a third party, this Article shall apply accordingly.

6. Where information included in an analysis work file is the result of an analysis, Europol shall assess such information in accordance with this Article, and in agreement with the Member States participating in the analysis.

CHAPTER III

RULES FOR THE USE OF ANALYSIS WORK FILES AND ANALYSIS DATA

Article 13

Opening analysis work files

1. Analysis work files shall be opened at Europol's initiative or at the request of the Member States supplying the data, in accordance with the procedure established in Article 16 of the Europol Decision.

2. The Management Board may invite representatives of the Joint Supervisory Body to take part in its discussions on the orders opening analysis work files.

3. In accordance with Article 16(2) of the Europol Decision, analysis activities and the dissemination of analysis results may begin immediately after the analysis file has been opened. Should the Management Board instruct the Director to amend an opening order or close the file in accordance with Article 16(4) of the Europol Decision, data which may not be included in the file or, if the file is to be closed, all data contained in that file, shall be deleted immediately.

4. If, during the course of an analysis, it becomes necessary to amend the order opening the analysis work file, the procedures outlined in Article 16 of the Europol Decision and this Article shall apply accordingly.

Article 14

Retrieval of data

1. In accordance with Article 14(2)(b) of the Europol Decision, the retrieval of data by participants of the analysis project shall only be granted after they have been accredited by Europol and following a training on their specific obligations under the Europol legal framework.

2. In accordance with the second subparagraph of Article 14(2) of the Europol Decision, all participants of the analysis group may retrieve data from the file. The analysis group shall decide unanimously on the extent to which such retrieval may take place and any conditions and restrictions that apply.

Article 15

Transmission of data or information held in analysis work files

1. The transmission of personal data contained in analysis work files to any Member State or third party shall be recorded in the file concerned.

In collaboration with the Member State or third party which has provided the data, Europol shall, where necessary and no later than at the time of transmission, check that the data are accurate and consistent with the Europol Decision.

As far as possible, all communications shall indicate judicial decisions, as well as decisions not to prosecute. Before data based on opinions or personal assessments are transmitted and their degree of accuracy or reliability indicated, such data shall be checked in cooperation with the Member State or third party which supplied them.

The recipient Member State shall inform the Member State transmitting the data, at the latter's request, of the use made of the data transmitted and the results subsequently obtained, where the national legislation of the recipient Member State so allows.

Should there be any restrictions on the use of data under Article 19 of the Europol Decision, such restrictions shall be recorded with the data, and the recipients of analysis results shall be informed thereof.

2. In accordance with Article 14(7) of the Europol Decision, in cases in which Europol finds, after the time of inclusion of data in an analysis work file, that those data relate to a person or object on which data submitted by another Member State or third party was already input in the file, each Member State or third party concerned shall be informed immediately of the link identified.

Article 16

Control procedures

In order to meet the data security requirements laid down in Article 35 of the Europol Decision and to provide assurance over the secure processing of data within the meaning of these rules, the Management Board shall accredit the analysis system, in accordance with Article 8 of the Rules on the Confidentiality of Europol Information adopted by Council Decision 2009/.../JHA of 30 November 2009⁽¹⁾ after prior consultation of the Security Committee, as foreseen in Article 4(2) of those rules. The accreditation shall be granted on the basis of System Specific Security Requirements and other security documentation deemed necessary by the Management Board.

Article 17

Use and storage of analysis data and analysis results

1. All personal data and analysis results transmitted from an analysis work file may only be used in accordance with the purpose of the file or for the purposes of preventing and combating other serious forms of crime, and shall be in accordance with any restrictions on use as specified by a Member State on the basis of Article 19(2) of the Europol Decision. The data referred to in Article 5(2) of these rules may be transmitted only by agreement with the Member State which supplied such data.

2. After an analysis work file is closed, all data contained in that file shall be stored by Europol in a separate file, which shall only be accessible for the purposes of internal or external control. Without prejudice to Article 20(4) of the Europol Decision, such data shall not be kept for longer than 18 months after the analysis work file is closed.

3. The results of an analysis work file may be stored by Europol in electronic form for a maximum period of three years from the date the relevant file is closed, provided they are stored in a separate file, and no new data are added to them. After this period, the results may be stored only in the form of a paper document.

⁽¹⁾ Not yet published in the Official Journal.

*Article 18***Combination of files and communication between files**

1. Where it becomes apparent that information contained in an analysis work file may also be relevant for different analysis work files, the following procedures shall be followed:

- (a) where a complete combination of the information in two files is proposed, a new file containing all the information in both files shall be established in accordance with Article 16 of the Europol Decision. The decision to combine the two files shall be reached by all the participants in both the original files. In that case, the original files shall be closed;
- (b) where some of the information in one file is relevant to another file, the providers of that information shall decide whether or not this information may be communicated to the latter file.

2. In the circumstances referred to in paragraph 1, the time-limits for the review of data communicated from one analysis work file to another shall not be affected by such transfer.

*Article 19***New technical means**

New technical means for processing data for analysis purposes may be introduced only if all reasonable measures for ensuring that their use is consistent with the rules on the protection of personal data applicable to Europol have been adopted. The Director shall consult the Joint Supervisory Body in advance

in all cases where the introduction of such technical means raises problems for the application of these data protection rules.

CHAPTER IV

FINAL PROVISIONS*Article 20***Review of the rules**

By 1 January 2013, these rules shall be evaluated under the supervision of the Management Board.

Any proposals for amendments to these rules shall be considered by the Management Board with a view to their adoption by the Council in accordance with the procedure provided for in the third subparagraph of Article 14(1) of the Europol Decision.

*Article 21***Entry into force**

These rules shall enter into force on 1 January 2010.

Done at Brussels, 30 November 2009.

For the Council
The President
B. ASK

V

(Acts adopted from 1 December 2009 under the Treaty on European Union, the Treaty on the Functioning of the European Union and the Euratom Treaty)

ACTS WHOSE PUBLICATION IS OBLIGATORY

COMMISSION REGULATION (EU) No 1205/2009

of 10 December 2009

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

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 11 December 2009.

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

Done at Brussels, 10 December 2009.

*For the Commission,
On behalf of the President,
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	50,4
	MA	51,8
	TN	90,9
	TR	64,0
	ZZ	64,3
0707 00 05	EG	155,5
	MA	49,3
	TR	72,7
	ZZ	92,5
0709 90 70	MA	51,4
	TR	121,0
	ZZ	86,2
0805 10 20	AR	70,4
	MA	48,8
	TR	60,1
	ZA	61,3
	ZZ	60,2
0805 20 10	MA	74,1
	ZZ	74,1
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	HR	54,0
	IL	75,3
	TR	75,1
	ZZ	68,1
0805 50 10	TR	76,0
	ZZ	76,0
0808 10 80	CA	65,1
	CN	131,4
	MK	23,6
	US	88,2
	ZZ	77,1
0808 20 50	CN	47,8
	US	129,6
	ZZ	88,7

⁽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 (EU) No 1206/2009**of 10 December 2009****granting no export refund for skimmed milk powder in the framework of the standing invitation to tender provided for in Regulation (EC) No 619/2008**

THE EUROPEAN COMMUNITIES,

Having regard to the Treaty on the Functioning of the European Union,

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⁾, and in particular Article 164(2), in conjunction with Article 4, thereof,

Whereas:

- (1) Commission Regulation (EC) No 619/2008 of 27 June 2008 opening a standing invitation to tender for export refunds concerning certain milk products ⁽²⁾ provides for a standing invitation to tender procedure.
- (2) Pursuant to Article 6 of Commission Regulation (EC) No 1454/2007 of 10 December 2007 laying down common rules for establishing a tender procedure for

fixing export refunds for certain agricultural products ⁽³⁾ and following an examination of the tenders submitted in response to the invitation to tender, it is appropriate not to grant any refund for the tendering period ending on 8 December 2009.

- (3) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its Chair,

HAS ADOPTED THIS REGULATION:

Article 1

For the standing invitation to tender opened by Regulation (EC) No 619/2008, for the tendering period ending on 8 December 2009, no export refund shall be granted for the product and destinations referred to in point (c) of Article 1 and in Article 2 respectively of that Regulation.

Article 2

This Regulation shall enter into force on 11 December 2009.

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

Done at Brussels, 10 December 2009.

*For the Commission
On behalf of the President,*

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*⁽¹⁾ OJ L 299, 16.11.2007, p. 1.⁽²⁾ OJ L 168, 28.6.2008, p. 20.⁽³⁾ OJ L 325, 11.12.2007, p. 69.

COMMISSION REGULATION (EU) No 1207/2009**of 10 December 2009****fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and amending Regulation (EC) No 1484/95**

THE EUROPEAN COMMISSION,

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⁾, and in particular Article 143 thereof,

Having regard to Council Regulation (EC) No 614/2009 of 7 July 2009 on the common system of trade for ovalbumin and lactalbumin ⁽²⁾, and in particular Article 3(4) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1484/95 ⁽³⁾ lays down detailed rules for implementing the system of additional import duties and fixes representative prices for poultrymeat and egg products and for egg albumin.
- (2) Regular monitoring of the data used to determine representative prices for poultrymeat and egg products and for

egg albumin shows that the representative import prices for certain products should be amended to take account of variations in price according to origin. The representative prices should therefore be published.

- (3) In view of the situation on the market, this amendment should be applied as soon as possible.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 1484/95 is replaced by 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*.

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

Done at Brussels, 10 December 2009.

*For the Commission,
On behalf of the President,
Jean-Luc DEMARTY
Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 181, 14.7.2009, p. 8.

⁽³⁾ OJ L 145, 29.6.1995, p. 47.

ANNEX

to the Commission Regulation of 10 December 2009 fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and amending Regulation (EC) No 1484/95

‘ANNEX I

CN code	Description of goods	Representative price (EUR/100 kg)	Security under Article 3(3) (EUR/100 kg)	Origin ⁽¹⁾
0207 12 10	Fowls of the species <i>Gallus domesticus</i> , not cut in pieces, presented as “70 % chickens”, frozen	77,0	4	AR
0207 12 90	Fowls of the species <i>Gallus domesticus</i> , not cut in pieces, presented as “65 % chickens”, frozen	115,1	1	BR
		104,8	4	AR
0207 14 10	Fowls of the species <i>Gallus domesticus</i> , boneless cuts, frozen	194,8	33	BR
		185,9	37	AR
		280,9	6	CL
0207 14 50	Fowls of the species <i>Gallus domesticus</i> , breasts, frozen	195,0	5	BR
0207 14 60	Fowl of the species <i>Gallus domesticus</i> , legs, frozen	107,4	11	BR
		94,5	15	AR
0207 25 10	Fowls of the species <i>Gallus domesticus</i> , not cut in pieces, presented as “80 % chickens”, frozen	157,1	1	BR
0207 27 10	Turkeys, boneless cuts, frozen	248,4	15	BR
		283,3	4	CL
0408 11 80	Egg yolks, dried	341,4	0	AR
0408 91 80	Eggs, not in shell, dried	349,9	0	AR
1602 32 11	Preparations of fowls of the species <i>Gallus domesticus</i> , uncooked	225,7	18	BR

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). The code “ZZ” represents “other origins”.

COMMISSION REGULATION (EU) No 1208/2009
of 10 December 2009
fixing the export refunds on eggs

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 ⁽¹⁾, and in particular Article 164(2), last subparagraph, and Article 170 thereof,

Whereas:

- (1) Article 162(1) of Regulation (EC) No 1234/2007 provides that the difference between prices on the world market for the products referred to in Part XIX of Annex I to that Regulation and prices in the Community for those products may be covered by an export refund.
- (2) In view of the current situation on the market in eggs, export refunds should be fixed in accordance with the rules and certain criteria provided for in Articles 162 to 164, 167, 169 and 170 of Regulation (EC) No 1234/2007.
- (3) Article 164(1) of Regulation (EC) No 1234/2007 provides that refunds may vary according to destination, especially where the world market situation, the specific requirements of certain markets, or obligations resulting from agreements concluded in accordance with Article 300 of the Treaty make this necessary.
- (4) Refunds should be granted only on products which are authorised to move freely within the Community and

comply with requirements under Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs ⁽²⁾ and of Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin ⁽³⁾, as well as marking requirements under point A of Annex XIV to Regulation (EC) No 1234/2007.

- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

1. The products on which the export refunds provided for in Article 164 of Regulation (EC) No 1234/2007 may be paid, subject to the conditions laid down in paragraph 2 of this Article, and the amounts of those refunds are specified in the Annex to this Regulation.

2. The products on which a refund may be paid under paragraph 1 shall meet the requirements under Regulations (EC) Nos 852/2004 and 853/2004 and, in particular, shall be prepared in an approved establishment and comply with the marking conditions laid down in Section I of Annex II to Regulation (EC) No 853/2004 and those defined in point A of Annex XIV to Regulation (EC) No 1234/2007.

Article 2

This Regulation shall enter into force on 11 December 2009.

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

Done at Brussels, 10 December 2009.

*For the Commission,
On behalf of the President,*

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 139, 30.4.2004, p. 1.

⁽³⁾ OJ L 139, 30.4.2004, p. 55.

ANNEX

Export refunds on eggs applicable from 11 December 2009

Product code	Destination	Unit of measurement	Amount of refund
0407 00 11 9000	A02	EUR/100 pcs	0,39
0407 00 19 9000	A02	EUR/100 pcs	0,20
0407 00 30 9000	E09	EUR/100 kg	0,00
	E10	EUR/100 kg	18,00
	E19	EUR/100 kg	0,00
0408 11 80 9100	A03	EUR/100 kg	84,72
0408 19 81 9100	A03	EUR/100 kg	42,53
0408 19 89 9100	A03	EUR/100 kg	42,53
0408 91 80 9100	A03	EUR/100 kg	53,67
0408 99 80 9100	A03	EUR/100 kg	9,00

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1), as amended.

The other destinations are defined as follows:

E09 Kuwait, Bahrain, Oman, Qatar, the United Arab Emirates, Yemen, Hong Kong SAR, Russia and Turkey.

E10 South Korea, Japan, Malaysia, Thailand, Taiwan and the Philippines.

E19 all destinations except Switzerland and those of E09 and E10.

COMMISSION REGULATION (EU) No 1209/2009
of 10 December 2009
amending Regulation (EC) No 1159/2009 fixing the import duties in the cereals sector applicable
from 1 December 2009

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 1 December 2009 were fixed by Commission Regulation (EC) No 1159/2009 ⁽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 1159/2009.

- (3) Regulation (EC) No 1159/2009 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EC) No 1159/2009 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 11 December 2009.

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

Done at Brussels, 10 December 2009.

*For the Commission,
On behalf of the President,
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 314, 1.12.2009, p. 3.

ANNEX I

Import duties on the products referred to in Article 136(1) of Regulation (EC) No 1234/2007 applicable from 11 December 2009

CN code	Description	Import duties ⁽¹⁾ (EUR/t)
1001 10 00	Durum wheat, high quality	0,00
	medium quality	0,00
	low quality	8,78
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	32,76
1005 10 90	Maize seed other than hybrid	17,53
1005 90 00	Maize, other than seed ⁽²⁾	17,53
1007 00 90	Grain sorghum other than hybrids for sowing	32,76

⁽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

30.11.2009-9.12.2009

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

(EUR/t)

	Common wheat ⁽¹⁾	Maize	Durum wheat, high quality	Durum wheat, medium quality ⁽²⁾	Durum wheat, low quality ⁽³⁾	Barley
Exchange	Minnéapolis	Chicago	—	—	—	—
Quotation	152,42	103,68	—	—	—	—
Fob price USA	—	—	131,77	121,77	101,77	78,87
Gulf of Mexico premium	—	14,49	—	—	—	—
Great Lakes premium	13,89	—	—	—	—	—

⁽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: 22,95 EUR/t

Freight costs: Great Lakes–Rotterdam: 46,83 EUR/t

COMMISSION REGULATION (EU) No 1210/2009**of 10 December 2009****fixing the rates of the refunds applicable to eggs and egg yolks exported in the form of goods not covered by Annex I to the Treaty**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural market and on specific provisions for certain agricultural products (single CMO Regulation) ⁽¹⁾, and in particular Article 164(2) thereof,

Whereas:

- (1) Article 162(1)b of Regulation (EC) No 1234/2007 provides that the difference between prices in international trade for the products referred to in Article 1(1)(s) and listed in Part XIX of Annex 1 to of that Regulation and prices within the Community may be covered by an export refund where these goods are exported in the form of goods listed Part V of the Annex XX to that Regulation.
- (2) Commission Regulation (EC) No 1043/2005 of 30 June 2005 implementing Council Regulation (EC) No 3448/93 as regards the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds ⁽²⁾, specifies the products for which a rate of refund is to be fixed, to be applied where these products are exported in the form of goods listed in Part V of Annex XX to Regulation (EC) No 1234/2007.
- (3) In accordance with paragraph 2(b) of Article 14 of Regulation (EC) No 1043/2005, the rate of the refund per 100 kilograms for each of the basic products in question is to be fixed for a period of the same duration as that for which refunds are fixed for the same products exported unprocessed.
- (4) Article 11 of the Agreement on Agriculture concluded under the Uruguay Round lays down that the export refund for a product contained in a good may not exceed the refund applicable to that product when exported without further processing.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

The rates of the refunds applicable to the basic products listed in Annex I to Regulation (EC) No 1043/2005 and in Article 1(1)(s) of Regulation (EC) No 1234/2007, and exported in the form of goods listed in Part V of Annex XX to Regulation (EC) No 1234/2007, shall be fixed as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 11 December 2009.

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

Done at Brussels, 10 December 2009.

*For the Commission,
On behalf of the President,*

Heinz ZOUREK
Director-General Enterprise and Industry

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 172, 5.7.2005, p. 24.

ANNEX

Rates of the refunds applicable from 11 December 2009 to eggs and egg yolks exported in the form of goods not covered by Annex I to the Treaty

(EUR/100 kg)			
CN code	Description	Destination ⁽¹⁾	Rate of refund
0407 00	Birds' eggs, in shell, fresh, preserved or cooked:		
	– Of poultry:		
0407 00 30	– – Other:		
	(a) On exportation of ovalbumin of CN codes 3502 11 90 and 3502 19 90	02	0,00
		03	18,00
		04	0,00
	(b) On exportation of other goods	01	0,00
0408	Birds' eggs, not in shell and egg yolks, fresh, dried, cooked by steaming or by boiling in water, moulded, frozen or otherwise preserved, whether or not containing added sugar or other sweetening matter:		
	– Egg yolks:		
0408 11	– – Dried:		
ex 0408 11 80	– – – Suitable for human consumption: not sweetened	01	84,72
0408 19	– – Other:		
	– – – Suitable for human consumption:		
ex 0408 19 81	– – – – Liquid: not sweetened	01	42,53
ex 0408 19 89	– – – – Frozen: not sweetened	01	42,53
	– Other:		
0408 91	– – Dried:		
ex 0408 91 80	– – – Suitable for human consumption: not sweetened	01	53,67
0408 99	– – Other:		
ex 0408 99 80	– – – Suitable for human consumption: not sweetened	01	9,00

⁽¹⁾ The destinations are as follows:

01 Third countries. For Switzerland and Liechtenstein these rates are not applicable to the goods listed in Tables I and II to Protocol No 2 to the Agreement between the European Community and the Swiss Confederation of 22 July 1972,

02 Kuwait, Bahrain, Oman, Qatar, United Arab Emirates, Yemen, Turkey, Hong Kong SAR and Russia,

03 South Korea, Japan, Malaysia, Thailand, Taiwan and the Philippines,

04 all destinations except Switzerland and those of 02 and 03.

ACTS WHOSE PUBLICATION IS NOT OBLIGATORY

COUNCIL DECISION

of 1 December 2009

adopting the Council's Rules of Procedure

(2009/937/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 240(3) thereof,

Whereas:

- (1) The Treaty of Lisbon brings several modifications to the functioning of the Council and of its Presidency, to the Council structure, as well as to the different types of Union legal acts and to the process for adopting acts, notably by distinguishing between legislative and non-legislative acts.
- (2) It is therefore necessary to replace the Rules of Procedure adopted on 15 September 2006⁽¹⁾ by Rules of Procedures which comprise the modifications necessary for the implementation of the Treaty of Lisbon,

HAS ADOPTED THIS DECISION:

Article 1

The Council's Rules of Procedure of 15 September 2006 shall be replaced by the provisions in the Annex.

By derogation from Article 2(2) of Annex III to the Council's Rules of Procedure, the population figures which are inserted by this Decision in Article 1 of that Annex shall apply for the period from 1 December 2009 to 31 December 2010.

Article 2

In accordance with the Protocol on the role of national Parliaments in the European Union, Article 3(3) of the Council's Rules of Procedure as adopted by this Decision shall apply to draft legislative acts adopted and forwarded as from the day on which the Treaty of Lisbon comes into force.

Article 3

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

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

Done at Brussels, 1 December 2009.

For the Council

The President

B. ASK

⁽¹⁾ Council Decision 2006/683/EC, Euratom of 15 September 2006 adopting the Council's Rules of Procedure (OJ L 285, 16.10.2006, p. 47).

ANNEX

RULES OF PROCEDURE OF THE COUNCIL*Article 1***General provisions, notice and venue of meetings**

1. The Council shall meet when convened by its President on his or her own initiative or at the request of one of its members or of the Commission ⁽¹⁾.
2. Seven months before the beginning of the six-month period concerned, for each Council configuration, and after appropriate consultations, the Presidency shall make known the dates which it envisages for meetings that the Council will have to hold in order to complete its legislative work or take operational decisions. Those dates shall be set out in a single document applying to all Council configurations.
3. The Council shall have its seat in Brussels. During the months of April, June and October, the Council shall hold its meetings in Luxembourg ⁽²⁾.

In exceptional circumstances and for duly substantiated reasons, the Council or the Committee of Permanent Representatives of the governments of the Member States (hereinafter referred to as Coreper), acting unanimously, may decide that a Council meeting will be held elsewhere.

4. ⁽³⁾ The Presidency of the Council, with the exception of the Foreign Affairs configuration, shall be held by pre-established groups of three Member States for a period of 18 months. The groups shall be made up on a basis of equal rotation among the Member States, taking into account their diversity and geographical balance within the Union.

Each member of the group shall in turn chair for a six-month period all configurations of the Council, with the exception of the Foreign Affairs configuration. The other members of the group shall assist the Chair in all its responsibilities on the basis of a common programme. The members of the team may decide alternative arrangements among themselves.

5. The decisions adopted by the Council or Coreper pursuant to these Rules of Procedure shall be adopted by a simple majority, unless these Rules provide for other voting arrangements.

Unless otherwise specified, references in these Rules of Procedure to the Presidency or the President shall apply to any person chairing one of the Council configurations or, as appropriate, one of its preparatory bodies.

*Article 2***Configurations of the Council, role of the General Affairs configuration and the Foreign Affairs configuration and programming**

1. The Council shall meet in different configurations according to the subject-matter dealt with. The list of Council configurations, other than the General Affairs and Foreign Affairs configurations, shall be adopted by the European Council acting by a qualified majority ⁽⁴⁾. The list of Council configurations is set out in Annex I.

⁽¹⁾ This paragraph reproduces Article 237 of the Treaty on the functioning of the European Union (hereinafter referred to as the 'TFEU')

⁽²⁾ This paragraph reproduces point (b) of the sole Article of the Protocol on the location of the seats of the institutions and of certain bodies, offices, agencies and departments of the European Union.

⁽³⁾ This paragraph reproduces Article 1 of the European Council Decision of 1 December 2009 on the exercise of the Presidency of the Council (OJ L 315, 2.12.2009, p. 50).

⁽⁴⁾ These two sentences are taken, with some adjustments, from the first subparagraph of Article 16(6) of the Treaty on European Union (hereinafter referred to as the 'TEU') and point (a) of Article 236 of the TFEU.

2. The General Affairs Council shall ensure consistency in the work of the different Council configurations. It shall prepare and ensure the follow-up to meetings of the European Council, in liaison with the President of the European Council and the Commission ⁽¹⁾. It shall be responsible for overall coordination of policies, institutional and administrative questions, horizontal dossiers which affect several of the European Union's policies, such as the multiannual financial framework and enlargement, and any dossier entrusted to it by the European Council, having regard to operating rules for the Economic and Monetary Union.

3. The arrangements for the preparation of European Council meetings are provided for in Article 3 of the Rules of Procedure of the European Council, as follows:

- (a) In order to ensure the preparation provided for in Article 2(2) of the Rules of Procedure of the European Council, at least four weeks before each ordinary meeting of the European Council as referred to in Article 1(1) of the Rules of Procedure of the European Council, the President of the European Council, in close cooperation with the member of the European Council representing the Member State holding the six-monthly Presidency of the Council and with the President of the Commission, shall submit an annotated draft agenda to the General Affairs Council.

Contributions to the proceedings of the European Council by other Council configurations shall be forwarded to the General Affairs Council at the latest two weeks before the meeting of the European Council.

The President of the European Council, in close cooperation as referred to in the first subparagraph, shall prepare draft guidelines for the European Council conclusions and, as appropriate, draft conclusions and draft decisions of the European Council, which shall be discussed in the General Affairs Council.

A final meeting of the General Affairs Council shall be held within the five days preceding the meeting of the European Council. In the light of that final discussion, the President of the European Council shall draw up the provisional agenda.

- (b) Except for imperative and unforeseeable reasons linked, for example, to current international events, no other configuration of the Council or preparatory body may, between the session of the General Affairs Council at the end of which the provisional agenda for the European Council is drawn up and the European Council meeting, discuss any subject submitted to the European Council.
- (c) The European Council shall adopt its agenda at the beginning of its meeting.

As a rule, issues entered on the agenda should have been examined beforehand, in accordance with the provisions of this paragraph.

4. The General Affairs Council shall ensure consistency and continuity in the work of the different Council configurations in the framework of multiannual programmes in cooperation with the Commission in accordance with paragraph 6 ⁽²⁾.

5. The Foreign Affairs Council shall elaborate the Union's external action on the basis of strategic guidelines laid down by the European Council and ensure that the Union's action is consistent ⁽³⁾. It shall be responsible for the whole of the European Union's external action, namely common foreign and security policy, common security and defence policy, common commercial policy, development cooperation and humanitarian aid.

⁽¹⁾ These two sentences reproduce the second subparagraph of Article 16(6) of the TEU.

⁽²⁾ This paragraph reproduces the first sentence of Article 3 of the European Council Decision of 1 December 2009 on the exercise of the Presidency of the Council.

⁽³⁾ This sentence reproduces the third subparagraph of Article 16(6) of the TEU.

The Foreign Affairs Council shall be chaired by the High Representative of the Union for Foreign Affairs and Security Policy, who may, where necessary, ask to be replaced by the member of that configuration representing the Member State holding the six-monthly presidency of the Council ⁽¹⁾.

6. Every 18 months, the pre-established group of three Member States holding the Presidency of the Council for that period, in accordance with Article 1(4), shall prepare a draft programme of Council activities for that period. The draft shall be prepared with the President of the Foreign Affairs Council with regard to that configuration's activities during that period. The draft programme shall be prepared in close cooperation with the Commission and the President of the European Council, and after appropriate consultations. It shall be presented in a single document no later than one month before the relevant period, with a view to its endorsement by the General Affairs Council ⁽²⁾.

7. The Presidency which is to hold office in the relevant period shall establish, for each Council configuration, and after appropriate consultations, draft agendas for Council meetings scheduled for the next six-month period, showing the legislative work and operational decisions envisaged. These draft agendas shall be established at the latest one week before the beginning of the relevant six-month period, on the basis of the Council's 18-month programme and after consulting the Commission. They shall be set out in a single document applying to all Council configurations. Where necessary, extra Council meetings may be provided for, in addition to those previously planned.

If during a six-month period any of the meetings planned during that period proves to be no longer warranted, the Presidency shall not convene it.

Article 3 ⁽³⁾

Agenda

1. Taking into account the Council's 18-month programme, the President shall draw up the provisional agenda for each meeting. The agenda shall be sent to the other members of the Council and to the Commission at least 14 days before the beginning of the meeting. It shall be forwarded to Member States' national Parliaments at the same time.

2. The provisional agenda shall contain the items in respect of which a request for inclusion on the agenda, together with any documents relating thereto, has been received by the General Secretariat from a member of the Council or from the Commission at least 16 days before the beginning of that meeting. The provisional agenda shall also indicate by way of an asterisk the items on which the Presidency, a member of the Council or the Commission may request a vote. Such an indication shall be made once all the procedural requirements provided for by the Treaties have been complied with.

⁽¹⁾ See statement (a) set out below:

(a) Re Article 2(5), second subparagraph:

'When the Foreign Affairs Council is convened to discuss common commercial policy issues, its President will ask to be replaced by the six-monthly Presidency as provided for in Article 2(5), second subparagraph.'

⁽²⁾ See statement (b) set out below:

(b) Re Article 2(6):

'The 18-month programme will include a general introductory section setting the programme in the context of the European Union's longer term strategic orientations. On this section, the three Presidencies in charge of preparing the draft 18-month programme will consult with the three subsequent Presidencies, as part of the 'appropriate consultations' referred to in the third sentence of paragraph 6. The draft 18-month programme should also have regard, inter alia, to relevant points arising from the dialogue on the political priorities for the year, conducted at the Commission's initiative.'

⁽³⁾ See statements (c) and (d) set out below:

(c) Re Article 3(1) and (2):

'The President will endeavour to ensure that, in principle, the provisional agenda for each meeting of the Council dealing with implementation of the Title of the TFEU relating to the area of freedom, security and justice and any documents relating to the items involved reach members of the Council at least 21 days before the beginning of the meeting.'

(d) Re Articles 1 and 3:

'Without prejudice to Article 30(2) of the TEU, which specifies that an extraordinary Council meeting may be convened at very short notice in cases requiring a rapid decision, the Council is aware of the need for matters relating to the common foreign and security policy to be dealt with swiftly and efficiently. The arrangements in Article 3 shall not prevent this need from being met.'

3. In cases in which the eight-week period provided for in the Protocol on the role of national Parliaments in the European Union and the Protocol on the application of the principles of subsidiarity and proportionality is applicable, items relating to the adoption of a legislative act or a position at first reading in the ordinary legislative procedure shall not be placed on the provisional agenda for a decision until that eight-week period has elapsed.

The Council may derogate from the eight-week period referred to in the first subparagraph where the entry of an item is subject to the exception on grounds of urgency provided for in Article 4 of the Protocol on the role of national Parliaments in the European Union. The Council shall decide in accordance with the voting rule applicable for the adoption of the act or position concerned.

Save in urgent cases for which due reasons have been given, a ten-day period shall elapse between the placing of a draft legislative act on the provisional agenda for the Council and the adoption of a position ⁽¹⁾.

4. Only items in respect of which the documents have been sent to the members of the Council and to the Commission at the latest by the date on which the provisional agenda is sent may be placed on that agenda.

5. The General Secretariat shall transmit to the members of the Council and to the Commission requests for the inclusion of items in the agenda and documents in respect of which the time limits specified above were not respected.

If, by the end of the week preceding the week prior to a Council meeting, Coreper has not completed its examination of draft legislative acts, the Presidency shall, unless considerations of urgency require otherwise and without prejudice to paragraph 3, remove them from the provisional agenda.

6. The provisional agenda shall be divided into two parts, dealing respectively with deliberations on legislative acts and non-legislative activities. The first part shall be entitled 'Legislative deliberations' and the second 'Non-legislative activities'.

The items appearing in each part of the provisional agenda shall be divided into A items and B items. Items for which approval by the Council is possible without discussion shall be entered as A items, but this does not exclude the possibility of any member of the Council or of the Commission expressing an opinion at the time of the approval of these items and having statements included in the minutes.

7. The agenda shall be adopted by the Council at the beginning of each meeting. The inclusion in the agenda of an item other than those appearing on the provisional agenda shall require unanimity in the Council. Items entered in this way may be put to the vote if all the procedural requirements provided for by the Treaties have been complied with.

8. However, an 'A' item shall be withdrawn from the agenda, unless the Council decides otherwise, if a position on an 'A' item might lead to further discussion thereof or if a member of the Council or the Commission so requests.

9. Any request for the inclusion of an 'Any other business' item shall be accompanied by an explanatory document.

Article 4

Representation of a Council member unable to attend

Subject to the provisions of Article 11 on the delegation of voting rights, a member of the Council who is prevented from attending a meeting may arrange to be represented.

⁽¹⁾ This subparagraph reproduces the last sentence of Article 4 of the Protocol on the role of national Parliaments in the European Union.

*Article 5***Meetings**

1. The Council shall meet in public when it deliberates and votes on a draft legislative act ⁽¹⁾. In other cases, meetings of the Council shall not be public except in the cases referred to in Article 8.
2. The Commission shall be invited to take part in meetings of the Council. The same applies to the European Central Bank in cases where it exercises its right of initiative. The Council may, however, decide to deliberate without the presence of the Commission or of the European Central Bank.
3. The members of the Council and of the Commission may be accompanied by officials who assist them. The names and functions of those officials shall be notified in advance to the General Secretariat. The maximum number of persons per delegation in the Council meeting room at the same time, including members of the Council, may be laid down by the Council.
4. Admission to meetings of the Council shall be subject to the production of a pass delivered by the General Secretariat.

*Article 6***Professional secrecy and production of documents in legal proceedings**

1. Without prejudice to Articles 7, 8 and 9 and to provisions on public access to documents, the deliberations of the Council shall be covered by the obligation of professional secrecy, except in so far as the Council decides otherwise.
2. The Council or Coreper may authorise the production for use in legal proceedings of a copy of or an extract from Council documents which have not already been released to the public in accordance with the provisions on public access to documents.

*Article 7***Legislative procedure and openness**

1. The Council shall meet in public when it deliberates and votes on a draft legislative act. To that end, its agenda shall include a part entitled 'Legislative deliberations'.
2. Documents submitted to the Council which are listed under an item on the 'Legislative deliberations' part of its agenda shall be made public, and likewise those sections of the Council minutes which relate to that part of the agenda.
3. The opening to the public of Council meetings relating to the 'Legislative deliberations' part of its agenda shall be made through public transmission by audiovisual means, notably in an overflow room and through broadcasting in all official languages of the institutions of the European Union using video-streaming. A recorded version shall remain available for at least one month on the Council's Internet site. The outcome of voting shall be indicated by visual means.

The General Secretariat shall take steps to inform the public in advance of the dates and approximate time on which such audiovisual transmissions will take place and shall take all practical measures to ensure the proper implementation of this Article.

4. The results of votes and explanations of votes by members of the Council or their representatives on the Conciliation Committee provided for under the ordinary legislative procedure, as well as the statements in the Council minutes and the items in those minutes relating to the Conciliation Committee meeting shall be made public.
5. Where legislative proposals or initiatives are submitted to it the Council shall refrain from adopting acts which are not provided for by the Treaties, such as resolutions, conclusions or declarations other than those accompanying the adoption of the act and intended for entry in the Council minutes.

⁽¹⁾ This sentence reproduces the first sentence of Article 16(8) of the TEU.

*Article 8***Other cases of Council deliberations open to the public and public debates**

1. Where a non-legislative proposal is submitted to the Council relating to the adoption of rules which are legally binding in or for the Member States, by means of regulations, directives or decisions, on the basis of the relevant provisions of the Treaties, with the exception of internal measures, administrative or budgetary acts, acts concerning interinstitutional or international relations or non-binding acts (such as conclusions, recommendations or resolutions), the Council's first deliberation on important new proposals shall be open to the public. The Presidency shall identify which new proposals are important and the Council or Coreper may decide otherwise, whenever appropriate.

The Presidency may decide, on a case-by-case basis, that the subsequent Council deliberations on one of the proposals referred to in the first subparagraph shall be open to the public, unless the Council or Coreper decides otherwise.

2. On a decision taken by the Council or by Coreper, acting by a qualified majority, the Council shall hold public debates on important issues affecting the interests of the European Union and its citizens.

It shall be for the Presidency, any member of the Council, or the Commission to propose issues or specific subjects for such debates, taking into account the importance of the matter and its interest to citizens.

3. The General Affairs Council shall hold a public policy debate on the Council's 18-month programme. Policy debates in other Council configurations on their priorities shall also be held in public. The Commission's presentation of its five-year programme, of its annual work programme and of its annual policy strategy, as well as the ensuing debate in the Council, shall be public.

4. As from the sending of the provisional agenda pursuant to Article 3:

- (a) those items on the agenda of the Council which are open to the public in accordance with paragraph 1 shall be marked with the words 'public deliberation';
- (b) those items on the agenda of the Council which are open to the public in accordance with paragraphs 2 and 3 shall be marked with the words 'public debate'.

The opening to the public of Council deliberations and public debates in accordance with this Article shall be made through public transmission as described in Article 7(3).

*Article 9***Making votes, explanations of votes and minutes public in other cases**

1. Where the Council adopts non-legislative acts referred to in Article 8(1), the results of votes and explanations of votes by Council members, as well as the statements in the Council minutes and the items in those minutes relating to the adoption of such acts, shall be made public.

2. Moreover, the results of votes shall be made public:

- (a) when the Council acts pursuant to Title V of the TEU, by a unanimous Council or Coreper decision taken at the request of one of their members;
- (b) in other cases, by Council or Coreper decision taken at the request of one of their members.

When the result of a vote in the Council is made public in accordance with points (a) and (b) of the first subparagraph, the explanations of votes made when the vote was taken shall also be made public at the request of the Council members concerned, with due regard for these Rules of Procedure, legal certainty and the interests of the Council.

Statements entered in the Council minutes and items in those minutes relating to the adoption of the acts referred to in points (a) and (b) of the first subparagraph shall be made public by Council or Coreper decision taken at the request of one of their members.

3. Except in cases where Council deliberations are open to the public in accordance with Articles 7 and 8, votes shall not be made public in the case of discussions leading to indicative votes or the adoption of preparatory acts.

Article 10

Public access to Council documents

The specific provisions regarding public access to Council documents are set out in Annex II.

Article 11

Voting arrangements and quorum

1. The Council shall vote on the initiative of its President.

The President shall, furthermore, be required to open a voting procedure on the initiative of a member of the Council or of the Commission, provided that a majority of the Council's members so decides.

2. The members of the Council shall vote in the order of the Member States laid down in the list of successive presidencies, beginning with the member who, according to that order, follows the member holding the office of President.

3. Where a vote is taken, any member of the Council may also act on behalf of not more than one other member ⁽¹⁾.

4. The presence of a majority of the members of the Council who are, under the Treaties, entitled to vote is required to enable the Council to vote. When the vote is taken, the President, assisted by the General Secretariat, shall check that there is a quorum.

5. Until 31 October 2014, when a decision is to be adopted by the Council by a qualified majority, and if a member of the Council so requests, it shall be verified that the Member States constituting the qualified majority represent at least 62 % of the total population of the European Union calculated according to the population figures set out in Article 1 of Annex III. This paragraph shall also apply between 1 November 2014 and 31 March 2017 when a member of the Council so requests in accordance with Article 3(2) of the Protocol on transitional provisions.

Article 12

Ordinary written procedure and silence procedure

1. Acts of the Council on an urgent matter may be adopted by a written vote where the Council or Coreper unanimously decides to use that procedure. In special circumstances, the President may also propose the use of that procedure; in such a case, written votes may be used where all members of the Council agree to that procedure.

Agreement by the Commission to the use of the written procedure shall be required where the written vote is on a matter which the Commission has brought before the Council.

A summary of acts adopted by the written procedure shall be drawn up every month by the General Secretariat. That summary shall contain any statements to be entered in the Council minutes. The sections of the summary which relate to adoption of legislative acts shall be made public.

⁽¹⁾ This paragraph reproduces Article 239 of the TFEU.

2. On the initiative of the Presidency, the Council may act by means of a simplified written procedure called 'silence procedure':

- (a) for the purpose of adopting the text of a reply to a written question or, as appropriate, to an oral question submitted to the Council by a Member of the European Parliament, after the draft reply has been examined by Coreper ⁽¹⁾;
- (b) for the purpose of appointing Members, and their alternates, of the Economic and Social Committee and of the Committee of the Regions, after the draft decision has been examined by Coreper;
- (c) for the purpose of deciding to consult other institutions, bodies, offices or agencies wherever such consultation is required by the Treaties;
- (d) for the purpose of implementing the common foreign and security policy through the 'COREU' network ('COREU silence procedure') ⁽²⁾.

In that case, the relevant text shall be deemed to be adopted at the end of the period laid down by the Presidency depending on the urgency of the matter, except where a member of the Council objects.

3. The General Secretariat shall establish that the written procedures have been completed.

Article 13

Minutes

1. Minutes of each meeting shall be drawn up and, when approved, shall be signed by the Secretary-General. He or she may delegate his or her power to sign to Directors-General of the General Secretariat.

The minutes shall as a general rule contain in respect of each item on the agenda:

- a reference to the documents submitted to the Council,
- the decisions taken or the conclusions reached by the Council,
- the statements made by the Council and those whose entry has been requested by a member of the Council or the Commission.

2. The draft minutes shall be drawn up by the General Secretariat within 15 days and submitted to the Council or to Coreper for approval.

3. Prior to such approval any member of the Council, or the Commission, may request that more details be inserted in the minutes regarding any item on the agenda. These requests may be made in Coreper.

4. The minutes of the 'Legislative deliberations' part of meetings of the Council, once approved, shall be forwarded directly to national Parliaments, at the same time as to Member States' governments.

⁽¹⁾ See statement (e) set out below:

(e) Re Article 12(2)(a), (b) and (c):

'In accordance with the Council's regular practice, the time limit fixed will normally be three working days.'

⁽²⁾ See statement (f) set out below:

(f) Re Article 12(2)(d):

'The Council would point out that the COREU network must be used in accordance with the Council conclusions of 12 June 1995 (doc. 7896/95) concerning the Council's working methods.'

*Article 14***Deliberations and decisions on the basis of documents and drafts drawn up in the languages provided for by the language rules in force**

1. Except as otherwise decided unanimously by the Council on grounds of urgency, the Council shall deliberate and take decisions only on the basis of documents and drafts drawn up in the languages specified in the rules in force governing languages.
2. Any member of the Council may oppose discussion if the texts of any proposed amendments are not drawn up in such of the languages referred to in paragraph 1 as he or she may specify.

*Article 15***Signing of acts**

The text of the acts adopted by the Council and that of the acts adopted by the European Parliament and the Council in accordance with the ordinary legislative procedure shall be signed by the President in office at the time of their adoption and by the Secretary-General. The Secretary-General may delegate his or her power to sign to Directors-General of the General Secretariat.

*Article 16 (1)***Absence of the possibility to participate in the vote**

For the purposes of application of these Rules of Procedure, due account will be taken, in accordance with Annex IV, of cases in which, under the Treaties, one or more members of the Council may not participate in the vote.

*Article 17***Publication of acts in the Official Journal**

1. The following shall be published in the *Official Journal of the European Union* (hereinafter referred to as the 'Official Journal') by the Secretary-General:
 - (a) the acts referred to in paragraph 1 and the second subparagraph of paragraph 2 of Article 297 of the TFEU;
 - (b) the positions at first reading adopted by the Council in accordance with the ordinary legislative procedure, and the reasons underlying those positions;
 - (c) the initiatives presented to the Council in accordance with Article 76 of the TFEU for the adoption of a legislative act;
 - (d) international agreements concluded by the Union.

Reference shall be made in the Official Journal to the entry into force of such agreements;

- (e) international agreements concluded by the Union in matters concerning the common foreign and security policy, unless the Council decides otherwise on the grounds of Articles 4 and 9 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ⁽²⁾.

⁽¹⁾ See statement (g) set out below:

(g) Re Article 16 and Annex IV:

'The Council agrees that the provisions of Article 16 and Annex IV apply to acts for the adoption of which some members of the Council are, under the Treaties, not entitled to vote. However, application of Article 7 of the TEU is not covered by those provisions. In the first application of the provisions on enhanced cooperation, the Council will, in the light of experience acquired in other fields, consider any adaptations necessary to Article 16 of and Annex IV to these Rules of Procedure.'

⁽²⁾ OJ L 145, 31.5.2001, p. 43.

Reference shall be made in the Official Journal to the entry into force of agreements published in the Official Journal.

2. Unless the Council or Coreper decides otherwise, the following shall be published in the Official Journal by the Secretary-General:

- (a) initiatives presented to the Council in accordance with Article 76 of the TFEU in cases other than those referred to in paragraph 1(c);
- (b) directives and decisions referred to in the third subparagraph of Article 297(2) of the TFEU, recommendations and opinions, with the exception of the decisions referred to in paragraph 3 of this Article.

3. The Council or Coreper shall decide unanimously, on a case-by-case basis, whether there should be publication in the Official Journal by the Secretary-General of the decisions referred to in Article 25 of the TEU.

4. The Council or Coreper shall decide, on a case-by-case basis and taking account of possible publication of the basic act, whether the following should be published in the Official Journal by the Secretary-General:

- (a) the decisions implementing the decisions referred to in Article 25 of the TEU;
- (b) the decisions adopted in accordance with the first and second indents of Article 31(2) of the TEU;
- (c) other Council acts, such as conclusions or resolutions.

5. Where an agreement concluded between the Union or the European Atomic Energy Community and one or more States or international organisations sets up a body vested with powers of decision, the Council shall decide, when such an agreement is concluded, whether decisions to be taken by that body should be published in the Official Journal.

Article 18

Notification of acts

1. Directives and decisions referred to in the third subparagraph of Article 297(2) of the TFEU shall be notified to their addressees by the Secretary-General or a Director-General acting on his or her behalf.

2. When they are not published in the Official Journal, the following acts shall be notified to their addressees by the Secretary-General or a Director-General acting on his or her behalf:

- (a) recommendations;
- (b) the decisions referred to in Article 25 of the TEU;

3. The Secretary-General or a Director-General acting on his or her behalf shall send to the Governments of the Member States and to the Commission certified copies of the Council directives and decisions referred to in the third subparagraph of Article 297(2) of the TFEU and of Council recommendations.

Article 19 ⁽¹⁾**Coreper, committees and working parties**

1. Coreper shall be responsible for preparing the work of all the meetings of the Council and for carrying out the tasks assigned to it by the Council. It shall in any case ⁽²⁾ ensure consistency of the European Union's policies and actions and see to it that the following principles and rules are observed:

- (a) the principles of legality, subsidiarity, proportionality and providing reasons for acts;
- (b) rules establishing the powers of Union institutions, bodies, offices and agencies;
- (c) budgetary provisions;
- (d) rules on procedure, transparency and the quality of drafting.

2. All items on the agenda for a Council meeting shall be examined in advance by Coreper unless the latter decides otherwise. Coreper shall endeavour to reach agreement at its level to be submitted to the Council for adoption. It shall ensure adequate presentation of the dossiers to the Council and, where appropriate, shall present guidelines, options or suggested solutions. In the event of an emergency, the Council, acting unanimously, may decide to settle the matter without prior examination.

3. Committees or working parties may be set up by, or with the approval of, Coreper with a view to carrying out certain preparatory work or studies defined in advance.

The General Secretariat shall update and make public the list of preparatory bodies. Only the committees and working parties on this list may meet as Council preparatory bodies.

4. Coreper shall be chaired, depending on the items on the agenda, by the Permanent Representative or the Deputy Permanent Representative of the Member State which holds the Presidency of the General Affairs Council.

The Political and Security Committee shall be chaired by a representative of the High Representative of the Union for Foreign Affairs and Security Policy.

The preparatory bodies of the various Council configurations, with the exception of the Foreign Affairs configuration, shall be chaired by a delegate of the Member State chairing the relevant configuration, unless the Council, acting by a qualified majority, decides otherwise. The list referred to in the second subparagraph of paragraph 3 shall also identify those preparatory bodies for which the Council has made other chairing arrangements, in accordance with Article 4 of the European Council Decision on the exercise of the Presidency of the Council.

5. For the preparation of meetings of Council configurations meeting once every six months, where held during the first half of this period, the meetings of committees other than Coreper and those of working parties held during the preceding six months shall be chaired by a delegate of the Member State whose turn it is to chair the said Council meetings.

⁽¹⁾ These provisions are without prejudice to the role of the Economic and Financial Committee as laid down in Article 134 of the TFEU and to existing Council Decisions thereon (OJ L 358, 31.12.1998, p. 109 and OJ L 5, 1.1.1999, p. 71).

⁽²⁾ See statement (h) set out below:

(h) Re Article 19(1):

'Coreper will ensure consistency and observance of the principles set out in paragraph 1, in particular for matters where substantive preparation is undertaken in other fora.'

6. Except where other chairing arrangements apply, when a dossier will essentially be dealt with during a six-month period, a delegate of the Member State holding the Presidency during that six-month period may, during the preceding six-month period, chair meetings of committees, other than Coreper, and working parties when they discuss that dossier. The practical implementation of this paragraph shall be the subject of an agreement between the two Presidencies concerned.

In the specific case of the examination of the budget of the Union for a given financial year, meetings of Council preparatory bodies, other than Coreper, dealing with the preparation of Council agenda items on the examination of the budget shall be chaired by a delegate of the Member State which will hold the Council Presidency during the second six-month period of the year prior to the financial year in question. The same shall apply, with the agreement of the other Presidency, to the chairing of Council meetings at the time when the said budget items are discussed. The Presidencies concerned will consult on the practical arrangements.

7. In accordance with the relevant provisions referred to below, Coreper may adopt the following procedural decisions, provided that the items relating thereto have been included on its provisional agenda at least three working days before the meeting. Unanimity on the part of Coreper shall be required for any derogation from that period ⁽¹⁾:

- (a) decision to hold a Council meeting in a place other than Brussels or Luxembourg (Article 1(3));
- (b) authorisation to produce a copy of or an extract from a Council document for use in legal proceedings (Article 6(2));
- (c) decision to hold a public debate in the Council or not to hold in public a given Council deliberation (Article 8(1), (2) and (3));
- (d) decision to make the results of votes and the statements entered in the Council minutes public in the cases laid down in Article 9(2);
- (e) decision to use the written procedure (Article 12(1));
- (f) approval or amendment of Council minutes (Article 13(2) and (3));
- (g) decision to publish or not to publish a text or an act in the *Official Journal* (Article 17(2), (3) and (4));
- (h) decision to consult an institution or body wherever such consultation is not required by the Treaties;
- (i) decision setting or extending a time limit for consultation of an institution or body;
- (j) decision to extend the periods laid down in Article 294(14) of the TFEU;
- (k) approval of the wording of a letter to be sent to an institution or body.

⁽¹⁾ See statement (i) set out below:

(i) Re Article 19(7):

'If a member of the Council considers that a draft procedural decision submitted to Coreper for adoption in accordance with Article 19(7) raises a question of substance, the draft decision will be submitted to the Council.'

*Article 20***The Presidency and the smooth conduct of discussions**

1. The Presidency shall be responsible for the application of these Rules of Procedure and for ensuring that discussions are conducted smoothly. In particular, the Presidency shall ensure that the provisions of Annex V concerning the Council's working methods are complied with.

To ensure that discussions are conducted properly it may also, unless the Council decides otherwise, take any appropriate measure necessary to achieve the best possible use of the time available during meetings and in particular:

- (a) restrict the numbers per delegation present in the meeting room for discussion of a particular item, and decide whether to authorise the opening of an overflow room;
- (b) set the order in which items are to be taken and determine the duration of discussions on them;
- (c) organise the time allotted for discussion of a particular item, in particular through limiting the time during which participants may speak and determining the order in which they may take the floor;
- (d) ask delegations to present in writing their proposals for amendment of a text under discussion before a given date, together with a brief explanation if appropriate;
- (e) ask delegations which have identical or similar positions on a particular item, on a text or on part of a text to choose one of them to express their shared position at the meeting or in writing before the meeting.

2. Without prejudice to the provisions of Article 19(4) to (6) and to its powers and its overall political responsibility, the six-monthly Presidency shall be assisted in all its responsibilities by the other members of the pre-established group of three Member States referred to in Article 1(4) on the basis of the 18-month programme or pursuant to other arrangements agreed between them. It shall also be assisted, where appropriate, by the representative of the Member State next holding the Presidency. At the Presidency's request and acting on its instructions, that representative or a member of that group shall replace it as and when required, shall relieve it, where necessary, of certain tasks and shall ensure the continuity of the Council's proceedings.

Article 21 ⁽¹⁾ ⁽²⁾**Reports from committees and working parties**

Notwithstanding the other provisions of these Rules of Procedure, the Presidency shall organise the meetings of the various committees and working parties so that their reports are available before the Coreper meetings at which they are to be examined.

Unless considerations of urgency require otherwise, the Presidency shall postpone to a subsequent Coreper meeting any legislative acts on which the committee or working party has not completed its discussions at least five working days prior to Coreper's meeting.

⁽¹⁾ These provisions are without prejudice to the role of the Economic and Financial Committee as laid down in Article 134 of the TFEU and to existing Council Decisions thereon (OJ L 358, 31.12.1998, p. 109 and OJ L 5, 1.1.1999, p. 71).

⁽²⁾ See statement (j) set out below:

(j) Re Article 21:

'Reports from working parties and any other documents used as a basis for Coreper's discussions should be sent to delegations in time to allow for their examination.'

*Article 22***Quality of drafting ⁽¹⁾**

In order to assist the Council in its task of ensuring the drafting quality of the legislative acts which it adopts, the Legal Service shall be responsible for checking the drafting quality of proposals and draft acts at the appropriate stage, as well as for bringing drafting suggestions to the attention of the Council and its bodies, pursuant to the Interinstitutional Agreement of 22 December 1998 on common guidelines for the quality of drafting of Community legislation ⁽²⁾.

Throughout the legislative process, those who submit texts in connection with the Council's proceedings shall pay special attention to the quality of the drafting.

*Article 23***The Secretary-General and the General Secretariat**

1. The Council shall be assisted by a General Secretariat, under the responsibility of a Secretary-General appointed by the Council acting by a qualified majority.
2. The Council shall decide on the organisation of the General Secretariat ⁽³⁾.

Under its authority the Secretary-General shall take all the measures necessary to ensure the smooth running of the General Secretariat.

3. The General Secretariat shall be closely and continually involved in organising, coordinating and ensuring the coherence of the Council's work and implementation of its 18-month programme. Under the responsibility and guidance of the Presidency, it shall assist the latter in seeking solutions.
4. The Secretary-General shall submit to the Council the draft estimate of the expenditure of the Council in sufficient time to ensure that the time limits laid down by the financial provisions are met.
5. The Secretary-General shall have full responsibility for administering the appropriations entered in Section II - European Council and Council - of the budget and shall take all measures necessary to ensure that they are properly managed. He or she shall implement the appropriations in question in accordance with the provisions of the Financial Regulation applicable to the budget of the Union.

*Article 24***Security**

The rules on security shall be adopted by the Council acting by a qualified majority.

*Article 25***Duties as depositary of agreements**

In the event of the Secretary-General of the Council being designated as depositary of an agreement concluded by the Union or the European Atomic Energy Community and one or more States or international organisations, the acts of ratification, acceptance or approval of those agreements shall be deposited at the address of the Council.

⁽¹⁾ See statement (k) set out below:

(k) Re Article 22:

'The Council Legal Service has also been instructed to provide assistance to Member States responsible for an initiative within the meaning of Article 76(b) of the TFEU for the purpose inter alia of checking the quality of drafting of such initiatives if that assistance is requested by the Member State concerned.' See statement (l) set out below:

(l) Re Article 22:

'Members of the Council will comment on proposals for official codification of legislative texts within 30 working days of the circulation of such proposals by the General Secretariat. Members of the Council will ensure that those provisions of a proposal for the recasting of legislative texts which have been taken from the preceding act without substantive amendment are examined in accordance with the principles established for examination of codification proposals.'

⁽²⁾ OJ C 73, 17.3.1999, p. 1.

⁽³⁾ Paragraph 1 and the first subparagraph of paragraph 2 reproduce Article 240(2) of the TFEU.

In such instances the Secretary-General shall perform the duties of a depositary and shall also ensure that the dates of entry into force of such agreements are published in the Official Journal.

Article 26

Representation before the European Parliament

The Council shall be represented before the European Parliament or its committees by the Presidency or, with the latter's agreement, by a member of the pre-established group of three Member States referred to in Article 1(4), by the following Presidency or by the Secretary-General. The Council may also be represented before European Parliament committees by senior officials of the General Secretariat, acting on instructions from the Presidency.

The Foreign Affairs Council shall be represented before the European Parliament or its committees by its President. He or she may, where necessary, ask to be replaced by the member of that configuration representing the Member State holding the six-monthly presidency of the Council. On instructions from its President, the Foreign Affairs Council may also be represented before European Parliament committees by senior officials of the European External Action Service or, where appropriate, of the General Secretariat.

The Council may also present its views to the European Parliament by means of a written statement.

Article 27

Provisions concerning the form of acts

The provisions concerning the form of acts are set out in Annex VI.

Article 28

Correspondence addressed to the Council

Correspondence to the Council shall be sent to the President at the following address of the Council:

Council of the European Union
rue de la Loi/Wetstraat 175
B-1048 Brussels

ANNEX I

List of Council configurations

1. General affairs ⁽¹⁾;
2. Foreign affairs ⁽²⁾;
3. Economic and financial affairs ⁽³⁾;
4. Justice and home affairs ⁽⁴⁾;
5. Employment, social policy, health and consumer affairs;
6. Competitiveness (internal market, industry and research) ⁽⁵⁾;
7. Transport, telecommunications and energy;
8. Agriculture and fisheries;
9. Environment;
10. Education, youth and culture ⁽⁶⁾.

It is for each Member State to determine the way in which it is represented in the Council, in accordance with Article 16(2) of the TEU.

Several Ministers may participate as full members of the same Council configuration, with the agenda and the organisation of proceedings being adjusted accordingly ⁽⁷⁾.

⁽¹⁾ This configuration is established by Article 16(6), second subparagraph, of the TEU.

⁽²⁾ This configuration is established by Article 16(6), third subparagraph, of the TEU.

⁽³⁾ Including budget.

⁽⁴⁾ Including civil protection.

⁽⁵⁾ Including tourism.

⁽⁶⁾ Including audiovisual affairs.

⁽⁷⁾ See statement (m) set out below:

(m) Re Annex I, second paragraph:

The Presidency will organise Council agendas by grouping together related agenda items, in order to facilitate attendance by the relevant national representatives, particularly where a given Council configuration has to deal with clearly distinguishable sets of topics.'

ANNEX II

Specific provisions regarding public access to Council documents*Article 1***Scope**

Any natural or legal person shall have access to Council documents subject to the principles, conditions and limits laid down in Regulation (EC) No 1049/2001 and the specific provisions laid down in this Annex.

*Article 2***Consultation as regards third-party documents**

1. For the purpose of applying Article 4(5) and Article 9(3) of Regulation (EC) No 1049/2001 and unless it is clear, upon examination of the document in the light of Article 4(1), (2) and (3) of Regulation (EC) No 1049/2001, that it shall not be disclosed, the third party concerned shall be consulted if:

(a) the document is a sensitive document as defined in Article 9(1) of Regulation (EC) No 1049/2001;

(b) the document originates from a Member State and:

— was submitted to the Council before 3 December 2001; or

— the Member State concerned requested that it not be disclosed without its prior agreement.

2. In all other cases, where the Council receives an application for a third-party document in its possession, the General Secretariat, for the purpose of applying Article 4(4) of Regulation (EC) No 1049/2001, shall consult the third party concerned unless it is clear, upon examination of the document in the light of Article 4(1), (2) and (3) of Regulation (EC) No 1049/2001, that it shall or shall not be disclosed.

3. The third party shall be consulted in writing (including by e-mail) and be given a reasonable time limit for its reply, taking into account the time limit laid down in Article 7 of Regulation (EC) No 1049/2001. In the cases referred to in paragraph 1, the third party shall be asked to give its opinion in writing.

4. Where the document does not fall within paragraph 1(a) or (b) and the General Secretariat, in the light of the third party's negative opinion, is not satisfied that Article 4(1) or (2) of Regulation (EC) No 1049/2001 is applicable, the Council shall be seized of the matter.

If the Council envisages the release of the document, the third party shall be informed immediately in writing of the Council's intention to release the document after a time period of at least 10 working days. At the same time, the third party's attention shall be drawn to Article 279 of the TFEU.

*Article 3***Requests for consultation received from other institutions or from Member States**

Requests for consultations with the Council made by another institution or a Member State concerning an application for a Council document shall be sent via e-mail to access@consilium.europa.eu or by fax to +32(0)2 281 63 61.

The General Secretariat shall give its opinion on behalf of the Council promptly, taking into account any time limit required for a decision to be made by the institution or the Member State concerned, and at the latest within five working days.

*Article 4***Documents originating from Member States**

Any request by a Member State under Article 4(5) of Regulation (EC) No 1049/2001 shall be made in writing to the General Secretariat.

*Article 5***Referral of requests by Member States**

When a Member State refers a request to the Council, it shall be handled in accordance with Articles 7 and 8 of Regulation (EC) No 1049/2001 and the relevant provisions of this Annex. In the event of a total or partial refusal of access, the applicant shall be informed that any confirmatory application must be addressed directly to the Council.

*Article 6***Address for applications**

Applications for access to a document shall be addressed in writing to the Secretary-General of the Council, rue de la Loi/Wetstraat 175, B-1048 Brussels, by e-mail to access@consilium.europa.eu or by fax to +32(0)2 281 63 61.

*Article 7***Processing of initial applications**

Subject to Article 9(2) and (3) of Regulation (EC) No 1049/2001, any application for access to a Council document shall be handled by the General Secretariat.

*Article 8***Processing of confirmatory applications**

Subject to Article 9(2) and (3) of Regulation (EC) No 1049/2001, any confirmatory application shall be decided upon by the Council.

*Article 9***Charges**

The charges for producing and sending copies of Council documents shall be set by the Secretary-General.

*Article 10***Public register of Council documents**

1. The General Secretariat shall be responsible for providing public access to the register of Council documents.
2. In addition to the references to documents, it shall be indicated in the register which documents drawn up after 1 July 2000 have already been released to the public. Subject to 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 ⁽¹⁾ and Article 16 of Regulation (EC) No 1049/2001, their content shall be made available on the Internet.

*Article 11***Documents directly accessible to the public**

1. This Article shall apply to all Council documents, provided that they are not classified and without prejudice to the possibility of making a written application in accordance with Article 6 of Regulation (EC) No 1049/2001.
2. For the purpose of this Article:
 - 'circulation' shall mean distribution of the final version of a document to the members of the Council, their representatives or delegates,
 - 'legislative document' shall mean any document drawn up or received in the course of procedures for the adoption of a legislative act.
3. The General Secretariat shall make the following documents available to the public as soon as they have been circulated:
 - (a) documents of which neither the Council nor a Member State is the author, which have been made public by their author or with his or her agreement;

⁽¹⁾ OJ L 8, 12.1.2001, p. 1.

(b) provisional agenda for meetings of the Council in its various configurations;

(c) any text adopted by the Council and intended to be published in the Official Journal.

4. Provided that they are clearly not covered by any of the exceptions laid down in Article 4 of Regulation (EC) No 1049/2001, the General Secretariat may also make the following documents available to the public as soon as they have been circulated:

(a) provisional agenda of committees and working parties;

(b) other documents, such as information notes, reports, progress reports and reports on the state of discussions in the Council or one of its preparatory bodies which do not reflect individual positions of delegations, excluding Legal Service opinions and contributions.

5. The General Secretariat shall make legislative documents and the following documents available to the public, in addition to the documents referred to in paragraphs 3 and 4, as soon as they have been circulated:

(a) cover notes and copies of letters concerning legislative acts and acts referred to in Article 8(1) of the Rules of Procedure addressed to the Council by other institutions or bodies of the European Union or, subject to Article 4(5) of Regulation (EC) No 1049/2001, by a Member State;

(b) documents submitted to the Council which are listed under an item on its agenda included in the 'legislative deliberations' part or marked with the words 'public deliberation' or 'public debate' in accordance with Article 8 of the Rules of Procedure;

(c) notes submitted to Coreper and/or to the Council for approval ('I/A' and 'A' item notes) concerning draft legislative acts and acts referred to in Article 8(1) of the Rules of Procedure, as well as the draft legislative acts and acts referred to in Article 8(1) of the said Rules to which they refer;

(d) acts adopted by the Council during an ordinary or a special legislative procedure and joint texts approved by the Conciliation Committee under the ordinary legislative procedure.

6. After adoption of one of the acts referred to in paragraph 5(d) or final adoption of the act concerned, the General Secretariat shall make available to the public any documents relating to this act which were drawn up before one of such acts and which are not covered by any of the exceptions laid down in Article 4(1), (2) and (3), second subparagraph, of Regulation (EC) No 1049/2001, such as information notes, reports, progress reports and reports on the state of discussions in the Council or in one of its preparatory bodies (outcomes of proceedings), excluding Legal Service opinions and contributions.

At the request of a Member State, documents which are covered by the first subparagraph and reflect the individual position of that Member State's delegation in the Council shall not be made available to the public.

ANNEX III

Detailed rules for implementing the provisions concerning the weighting of votes in the Council*Article 1*

For the purposes of implementing Article 16(5) of the TEU and Article 3(3) and (4) of the Protocol on transitional provisions, the total population of each Member State for the period from 1 December 2009 to 31 December 2010 shall be as follows:

Member State	Population (× 1 000)
Germany	82 002,4
France	64 350,8
United Kingdom	61 576,1
Italy	60 045,1
Spain	45 828,2
Poland	38 135,9
Romania	21 498,6
Netherlands	16 485,8
Greece	11 260,4
Belgium	10 750,0
Portugal	10 627,3
Czech Republic	10 467,5
Hungary	10 031,0
Sweden	9 256,3
Austria	8 355,3
Bulgaria	7 606,6
Denmark	5 511,5
Slovakia	5 412,3
Finland	5 326,3
Ireland	4 450,0
Lithuania	3 349,9
Latvia	2 261,3
Slovenia	2 032,4
Estonia	1 340,4
Cyprus	796,9

Member State	Population (× 1 000)
Luxembourg	493,5
Malta	413,6
Total	499 665,1
Threshold (62 %)	309 792,4

Article 2

1. Before 1 September each year, Member States shall communicate to the Statistical Office of the European Union the data concerning their total population as at 1 January of the current year.
2. With effect from 1 January each year, the Council shall, in accordance with the data available to the Statistical Office of the European Union on 30 September of the preceding year, amend the figures set out in Article 1. This Decision shall be published in the Official Journal.

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ANNEX IV

Referred to in Article 16

1. In application of the following provisions of these Rules of Procedure and for decisions in respect of which, under the Treaties, one or several members of the Council or of Coreper may not participate in the vote, account is not to be taken of votes by such member(s):

- (a) Article 1(3), second subparagraph (holding of a meeting in a place other than Brussels or Luxembourg);
- (b) Article 3(7) (inclusion on the agenda of an item other than those appearing on the provisional agenda);
- (c) Article 3(8) (maintaining as a B item on the agenda an A item which would otherwise have had to be withdrawn from the agenda);
- (d) Article 5(2), as regards the presence of the European Central Bank only (deliberation without the presence of the European Central Bank);
- (e) Article 9(2), first subparagraph, point (b), and second and third subparagraphs (making public the results of votes, explanations of votes, statements in the Council minutes and items in those minutes relating to cases other than those referred to in paragraph 1);
- (f) Article 11(1), second subparagraph (opening of a voting procedure);
- (g) Article 12(1) (use of the written procedure);
- (h) Article 14(1) (decision to deliberate and take decisions exceptionally on the basis of documents and drafts not drawn up in all the languages) ⁽¹⁾;
- (i) Article 17(2)(a) (non-publication in the Official Journal of an initiative presented by a Member State pursuant to Article 76 of the TFEU);
- (j) Article 17(2)(b) (non-publication in the Official Journal of certain directives, decisions, recommendations and opinions);
- (k) Article 17(5) (whether to publish in the Official Journal decisions taken by a body set up under an international agreement).

2. A member of the Council or of Coreper may not make use of the following provisions of these Rules of Procedure in connection with decisions on which, under the Treaties, that member may not participate in the vote:

- (a) Article 3(8) (possibility of a member of the Council requesting withdrawal of an A item from the agenda);
- (b) Article 11(1), second subparagraph (possibility of a member of the Council requesting the opening of a voting procedure);
- (c) Article 11(3) (possibility of a member of the Council acting on behalf of another in a vote);
- (d) Article 14(2) (possibility for any member of the Council to oppose discussion if the texts of any proposed amendments are not drawn up in the language he or she has specified).

⁽¹⁾ See statement (n) set out below:

(n) Re Annex IV, paragraph 1(h):

'The Council confirms that present practice whereby the texts serving as a basis for its deliberations are drawn up in all the languages will continue to apply.'

ANNEX V

Council working methods*Preparation for meetings*

1. The Presidency shall ensure that a file is submitted to Coreper by a working party or by a committee only when there is reasonable prospect of progress or clarification of positions being achieved at that level. Conversely, files may be referred to a working party or to a committee again only when necessary, and in any event only with the remit to tackle precise, well-defined problems.
2. The Presidency shall take the steps necessary to advance work between meetings. It can, for example, with the agreement of the working party or committee, undertake in the most efficient way necessary consultations on specific problems with a view to reporting back to the working party or committee concerned on possible solutions. It can also conduct written consultations by requesting delegations to react in written form to a proposal before the next meeting of the working party or committee.
3. Whenever appropriate, delegations shall set out the positions they are likely to take in a forthcoming meeting in written form before that meeting. When that includes proposals for amending text, delegations shall suggest specific wording. Wherever possible, written input shall be submitted jointly by delegations maintaining identical positions.
4. Coreper shall avoid going over ground already covered in the preparation of its proceedings. That shall apply in particular to 'I' items, to information on the organisation and order of its business and to information on the agenda and organisation of forthcoming Council meetings. Wherever possible, delegations shall raise 'Any other business' items when Coreper's proceedings are being prepared rather than in Coreper itself.
5. The Presidency shall convey to delegations as soon as possible when Coreper's proceedings are being prepared all the information necessary to allow thorough preparation of Coreper's proceedings, including information on what the Presidency expects to achieve from the discussion on each agenda item. Conversely, the Presidency shall, as appropriate, encourage delegations to communicate to the other delegations, when Coreper's proceedings are being prepared, information on the positions they will be taking in Coreper. In this context the Presidency shall finalise Coreper's agenda. The Presidency may convene more frequently the groups that prepare Coreper's proceedings, when required by circumstances.

Conduct of meetings

6. No item shall be placed on the Council agenda simply for presentation by the Commission or by a Council member, except where a debate on new major initiatives is planned.
7. The Presidency shall refrain from placing on Coreper's agenda items for information only. Such information, e.g. on the outcome of meetings in another forum or with a third State or another institution, procedural or organisational questions, etc., should instead be transmitted to delegations when Coreper's proceedings are being prepared, whenever possible in written form, and should not be repeated in Coreper.
8. At the start of a meeting, the Presidency shall give any further information necessary regarding the handling of the meeting and in particular indicate the length of time it intends to be devoted to each item. It shall refrain from making lengthy introductions and avoid repeating information which is already known to delegations.
9. At the start of a discussion on a substantive point, the Presidency shall, depending on the type of discussion which is needed, indicate to delegations the maximum length of their interventions on that point. In most cases interventions should not exceed two minutes.
10. Full table rounds shall be proscribed in principle; they may be used only in exceptional circumstances on specific questions, with a time limit on interventions set by the Presidency.
11. The Presidency shall give as much focus as possible to discussions, in particular by requesting delegations to react to compromise texts or specific proposals.
12. During and at the end of meetings the Presidency shall refrain from making lengthy summaries of the discussions and shall confine itself to concluding briefly on the results (substance and/or procedure) achieved.
13. Delegations shall avoid repeating points made by previous speakers. Their interventions shall be brief, substantive and to the point.

14. Like-minded delegations shall be encouraged to hold consultations with a view to the presentation by a single spokesperson of a common position on a specific point.
 15. When discussing texts, delegations shall make concrete drafting proposals, in writing, rather than merely express their disagreement with a particular proposal.
 16. Unless indicated otherwise by the Presidency, delegations shall refrain from taking the floor when in agreement with a particular proposal; in this case silence shall be taken as agreement in principle.
-

ANNEX VI

Provisions concerning the forms of acts

A. Form of Regulations:

1. Regulations adopted jointly by the European Parliament and the Council and Council Regulations shall include:

- (a) in their title the word 'Regulation', followed by a serial number, the date of their adoption and an indication of their subject-matter; Implementing Regulations adopted by the Council in accordance with Article 291(2) of the TFEU shall include in their title the words 'Implementing Regulation';
- (b) the words 'The European Parliament and the Council of the European Union' or 'The Council of the European Union', as appropriate;
- (c) a reference to the provisions under which the Regulation is adopted, preceded by the words 'Having regard to';
- (d) a citation containing a reference to proposals submitted and to opinions obtained and consultations held;
- (e) a statement of the reasons on which the Regulation is based, preceded by the word 'Whereas: ', the recitals being numbered;
- (f) the words 'have adopted this Regulation' or 'has adopted this Regulation', as appropriate, followed by the enacting terms of the Regulation.

2. Regulations shall be divided into Articles, if appropriate grouped into chapters and sections.

3. The final Article of a Regulation shall fix the date of entry into force, where that date is before or after the 20th day following publication.

4. The final Article of a Regulation shall be followed by:

- (a) (i) the words 'This Regulation shall be binding in its entirety and directly applicable in all Member States',
or
(ii) the words 'This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties ', in any cases in which an act is not applicable to, or in, all Member States ⁽¹⁾;

- (b) the words 'Done at ', followed by the date on which the Regulation was adopted,

and

- (c) in the case of:

- (i) a Regulation adopted jointly by the European Parliament and the Council, the words:

<i>'For the European Parliament</i>	<i>'For the Council</i>
<i>The President'</i>	<i>The President'</i>

followed by the name of the President of the European Parliament and of the President of the Council in office at the time when the Regulation is adopted;

- (ii) a Council Regulation, the words:

'For the Council
The President'

followed by the name of the President of the Council in office at the time when the Regulation is adopted.

⁽¹⁾ See statement (o) set out below:

(o) Re Annex VI, paragraph A.4(a)(ii):

'The Council would point out that, in the cases provided for in the Treaties where an act is not applicable to or in all Member States, it is necessary to make clear its territorial application in the reasons given for and content of the act concerned.'

B. Forms of Directives, Decisions, Recommendations and Opinions

1. Directives and Decisions adopted jointly by the European Parliament and the Council, and Directives and Decisions of the Council, shall include in their titles the word 'Directive' or 'Decision';

Implementing Directives and Decisions adopted by the Council in accordance with Article 291(2) of the TFEU shall include in their titles the words 'Implementing Directive' or 'Implementing Decision';

2. Recommendations and Opinions issued by the Council shall include in their titles the word 'Recommendation' or 'Opinion'.
3. The provisions relating to Regulations set out in A above shall apply mutatis mutandis, subject to the relevant provisions of the Treaties, to Directives and Decisions.

C. Forms of Decisions referred to in Article 25 of the TEU

Those Decisions shall bear the following headings:

'Council Decision', a serial number (year/number/CFSP), the date of adoption and the subject-matter.

COUNCIL IMPLEMENTING DECISION**of 7 December 2009****authorising the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland to apply a measure derogating from Article 167 of Directive 2006/112/EC on the common system of value added tax**

(2009/938/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2006/112/EC ⁽¹⁾, and in particular Article 395(1) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Kingdom of Sweden (hereinafter 'Sweden') and the United Kingdom of Great Britain and Northern Ireland (hereinafter 'the United Kingdom') were authorised, by Council Decision 2007/133/EC ⁽²⁾, by derogation from Article 167 of Directive 2006/112/EC, to postpone the right of deduction of value added tax (VAT) until it has been paid to the supplier of goods or of services, in respect of taxable persons applying an optional scheme under which, in accordance with Article 66(b) of that Directive, VAT on their supplies of goods and of services becomes chargeable on receipt of payment (referred to as the cash accounting scheme). In order to qualify for this scheme, their annual turnover must not exceed SEK 3 000 000 for Sweden and GBP 1 350 000 for the United Kingdom.
- (2) Sweden and the United Kingdom have requested authorisation to extend this special derogating measure by letters registered by the Commission's Secretariat-General on 3 March 2009 for Sweden and on 15 January 2009 for the United Kingdom. The United Kingdom has also asked that the ceiling for the annual turnover for the scheme be raised to GBP 1 500 000.
- (3) In accordance with Article 395(2) of Directive 2006/112/EC, by letters of 9 July 2009, the Commission informed the other Member States of the request made by Sweden and the United Kingdom and, by letters of 13 July 2009 the Commission notified Sweden and the United Kingdom that it had all the information it considered necessary for appraisal of the request.
- (4) The cash accounting scheme is a simplified optional scheme intended for small undertakings which do not qualify for tax exemption. It enables such taxable persons to apply a simple rule based on the date of payment for their input and output transactions, to determine at what point they must exercise their right to deduct VAT and pay the tax to the revenue authorities. This scheme thus constitutes for those taxable persons a simplification measure which can, furthermore, create a cash-flow advantage for them.
- (5) On 28 January 2009, the Commission presented a directive aimed at amending Directive 2006/112/EC as regards the rules on invoicing and enabling the Member States to postpone the right to deduct VAT arising until it has been paid to the supplier in respect of taxable persons with an annual turnover not exceeding a ceiling, which could be fixed by Member States at up to EUR 2 000 000, and accordingly entitled to use an optional scheme under which the VAT to which their transactions are liable does not become chargeable until they have received the payment.
- (6) The special derogating measure does not affect the amount of VAT revenue collected by Sweden or the United Kingdom at the final consumption stage and has no impact on the European Union's own resources accruing from VAT.

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 167 of Directive 2006/112/EC, Sweden and the United Kingdom are authorised to postpone the right of deduction of value added tax (VAT) in respect of taxable persons, as defined in the second paragraph, until it has been paid to the supplier of goods or of services.

The taxable persons concerned must have opted for a scheme under which the VAT on their supplies of goods and of services becomes chargeable on receipt of the payment. Under the scheme, their annual turnover must not exceed SEK 3 000 000 for Sweden and GBP 1 500 000 for the United Kingdom.

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ OJ L 57, 24.2.2007, p. 12.

Article 2

This Decision shall apply from 1 January 2010 until the date of entry into force of a directive authorising the Member States to postpone the right of deduction of VAT until it has been paid to the supplier of goods or of services in respect of taxable persons whose annual turnover does not exceed a certain ceiling and who therefore benefit from an optional scheme according to which the tax on their supplies of goods and of services becomes chargeable when they have received the payment. In any event, this Decision shall apply until 31 December 2012 at the latest.

Article 3

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

Done at Brussels, 7 December 2009.

For the Council
The President
C. MALMSTRÖM

COUNCIL IMPLEMENTING DECISION**of 7 December 2009****authorising the Republic of Slovenia to apply a measure derogating from Article 167 of Directive 2006/112/EC on the common system of value added tax**

(2009/939/EU)

THE COUNCIL OF THE EUROPEAN UNION,

those taxable persons, which can, furthermore, create a cash-flow advantage for them.

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2006/112/EC ⁽¹⁾, and in particular Article 395(1) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The Republic of Slovenia (hereinafter Slovenia) was authorised by Council Decision 2007/133/EC ⁽²⁾, by derogation from Article 167 of Directive 2006/112/EC, to postpone the right of deduction of value added tax (VAT) until it has been paid to the supplier of goods or of services, in respect of taxable persons applying an optional scheme under which, in accordance with Article 66(b) of that Directive, VAT on their supplies of goods and of services becomes chargeable on receipt of payment (referred to as the cash accounting scheme). In order to qualify for this scheme, their annual turnover must not exceed EUR 208 646.

(2) Slovenia requested authorisation to extend this special derogating measure by letters registered by the Commission's Secretariat-General on 23 and 31 July 2009. Slovenia also asked to raise the annual turnover ceiling for the scheme to EUR 400 000.

(3) In accordance with Article 395(2) of Directive 2006/112/EC, by letter of 25 September 2009, the Commission forwarded Slovenia's request to the other Member States. By letter of 29 September 2009, the Commission informed Slovenia that it had all the information it considered necessary for appraisal of the request.

(4) The cash accounting scheme is a simplified optional scheme intended for small undertakings which do not qualify for tax exemption. It allows such taxable persons to apply a simple rule based on the date of payment for their input and output transactions, to determine when they must exercise their right to deduct VAT and pay the tax to the revenue authorities. This scheme thus constitutes a simplification measure for

(5) On 28 January 2009, the Commission presented a directive aimed at amending Directive 2006/112/EC as regards the rules on invoicing and enabling the Member States to postpone the right to deduct VAT arising until it has been paid to the supplier in respect of taxable persons with an annual turnover not exceeding a ceiling, which could be fixed by Member States at up to EUR 2 000 000, and accordingly entitled to use an optional scheme under which the VAT to which their transactions are liable does not become chargeable until they have received the payment.

(6) The special derogating measure does not affect the amount of VAT revenue collected by Slovenia at the final consumption stage and has no impact on the European Union's own resources accruing from VAT,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 167 of Directive 2006/112/EC, Slovenia is authorised to postpone the right of deduction of value added tax (VAT) in respect of taxable persons, as defined in the second paragraph, until it has been paid to the supplier of goods or of services.

The taxable persons concerned must have opted for a scheme under which the VAT on their supplies of goods and of services becomes chargeable on receipt of the payment. Under this scheme, their annual turnover must not exceed EUR 400 000.

Article 2

This Decision shall apply from 1 January 2010 until the date of entry into force of a directive authorising the Member States to postpone the right of deduction of VAT arising until it has been paid to the supplier of goods or of services in respect of taxable persons whose annual turnover does not exceed a certain ceiling and who therefore benefit from an optional scheme according to which the tax on their supplies of goods and of services becomes chargeable when they have received the payment. In any event, this Decision shall apply until 31 December 2012 at the latest.

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ OJ L 57, 24.2.2007, p. 12.

Article 3

This Decision is addressed to the Republic of Slovenia.

Done at Brussels, 7 December 2009.

For the Council
The President
C. MALMSTRÖM

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