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I

(Legislative acts)

DIRECTIVES

COUNCIL DIRECTIVE 2010/12/EU

of 16 February 2010

amending Directives 92/79/EEC, 92/80/EEC and 95/59/EC on the structure and rates of excise duty applied on manufactured tobacco and Directive 2008/118/EC

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

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

Acting in accordance with a special legislative procedure,

Whereas:

(1) In accordance with Article 4 of Council Directive 92/79/EEC of 19 October 1992 on the approximation of taxes on cigarettes ⁽³⁾ and Article 4 of Council Directive 92/80/EEC of 19 October 1992 on the approximation of taxes on manufactured tobacco other than cigarettes ⁽⁴⁾, an in-depth review has been carried out of the rates and structure of excise duties on tobacco products. That review included provisions of Council Directive 95/59/EC of 27 November 1995 on taxes other than turnover taxes which affect the consumption of manufactured tobacco ⁽⁵⁾.

(2) In order to ensure the proper functioning of the internal market and, at the same time, a high level of health protection, as required by Article 168 of the Treaty, bearing in mind that serious harm to health can be caused by tobacco products and that the Union is

Party to the World Health Organization's Framework Convention on Tobacco Control (FCTC), various changes should be made to the Union's fiscal legislation on tobacco products. These changes should take account of the situation prevailing for each of the various tobacco products.

(3) As regards cigarettes, the arrangements should be simplified so as to create neutral conditions of competition for manufacturers, to reduce the partitioning of the tobacco markets and to underscore health objectives. To this end, the concept of the most popular price category should be replaced; the price related minimum requirement should refer to the weighted average retail selling price, whereas the monetary minimum should be applicable to all cigarettes. For the same reasons, the weighted average retail selling price should also serve as a reference for measuring the importance of specific excise duty within the total tax burden.

(4) Without prejudice to the mixed tax structure and the maximum percentage of the specific component on the total tax burden, Member States should be given more effective means to levy specific or minimum excise duty on cigarettes, so as to ensure that at least a certain minimum amount of taxation applies throughout the Union.

(5) As regards fine-cut tobacco intended for the rolling of cigarettes, the Union price related minimum requirement should be expressed in such a way as to obtain effects similar to those in the field of cigarettes and should take the weighted average retail selling price as the point of reference.

(6) The changes of prices and excise levels have been analysed, in particular, for cigarettes — by far the most important category of tobacco products — as well as for fine-cut tobacco intended for the rolling of cigarettes. The analysis shows that there are still considerable differences between Member States which may disturb the operation of the internal market. Greater convergence

⁽¹⁾ Opinion of 24 March 2009 (not yet published in the Official Journal).

⁽²⁾ OJ C 228, 22.9.2009, p. 130.

⁽³⁾ OJ L 316, 31.10.1992, p. 8.

⁽⁴⁾ OJ L 316, 31.10.1992, p. 10.

⁽⁵⁾ OJ L 291, 6.12.1995, p. 40.

between the tax levels applied in the Member States would help reduce fraud and smuggling within the Union.

- (7) Greater convergence would also help to ensure a high level of human health protection. The level of taxation is indeed a major factor in the price of tobacco products, which in turn influences consumers' smoking habits. Fraud and smuggling undermine tax induced price levels, in particular of cigarettes and fine-cut tobacco intended for the rolling of cigarettes, and thus jeopardise the achievement of tobacco control and health protection objectives.
- (8) In order to achieve greater convergence and to reduce consumption, the minimum levels of taxation in the Union for cigarettes and fine-cut tobacco intended for the rolling of cigarettes should therefore be increased.
- (9) It is necessary to bring the minimum levels for fine-cut tobacco intended for the rolling of cigarettes closer to the minimum levels applicable to cigarettes, so as to better take account of the degree of competition existing between the two products, reflected in consumption patterns observed, as well as their equally harmful character.
- (10) Transitional periods should allow Member States to adapt smoothly to the new levels of the overall excise duty, thus limiting possible side effects.
- (11) In order to prevent damage to Corsica's economic and social equilibrium it is both essential and justifiable to extend until 31 December 2015 the derogation by which France may apply a rate of excise duty that is lower than the national rate to cigarettes and other manufactured tobaccos released for consumption in Corsica. By that date the tax rules for manufactured tobaccos released for consumption there should be brought fully into line with the rules for mainland France. Nevertheless, too abrupt a change should be avoided and there should therefore be a stepwise increase in the excise duty currently levied on cigarettes and fine-cut tobacco intended for the rolling of cigarettes in Corsica.
- (12) In order to avoid distortion of competition and unacceptable diversions of trade and the resulting revenue loss for those Member States which apply high excise duties, both as an important source of revenue and for health reasons, it appears necessary to allow the latter to apply quantitative limits as regards cigarettes which may be brought into their territory without further payment of excise duties where those cigarettes are brought into their territory from Member States benefiting from transitional periods. It is appropriate to modulate such authorisation of restrictions taking into account the level which the general mandatory minimum level of taxation will have reached and the difficulties which Member States benefiting from a derogation may encounter from lower taxation in other Member States

on their way to gradually aligning on the general mandatory minimum level.

- (13) In order to avoid a fall in the value of the Union minimum levels of duty on cigars, cigarillos and smoking tobaccos other than fine-cut tobacco intended for the rolling of cigarettes, it is necessary to increase the minimum levels expressed as a specific amount.
- (14) In the interests of uniform and fair taxation, the definition of cigarettes, cigars and cigarillos and of other smoking tobacco should be adapted so that, respectively, rolls of tobacco which according to their length can be considered as two cigarettes or more are treated as two cigarettes or more for excise purposes; a type of cigar which is similar in many respects to a cigarette is treated as a cigarette for excise purposes; smoking tobacco which is similar in many respects to fine-cut tobacco intended for the rolling of cigarettes is treated as fine-cut tobacco for excise purposes; and tobacco refuse is clearly defined. In view of the economic difficulties that immediate implementation could cause for the German and Hungarian operators concerned, the Federal Republic of Germany and the Republic of Hungary should be authorised to postpone the implementation of the new definition of cigars and cigarillos until 1 January 2015.
- (15) In accordance with point 34 of the Interinstitutional Agreement on better law-making⁽¹⁾, Member States are encouraged to draw up, for themselves and in the interests of the Union, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.
- (16) Directives 92/79/EEC, 92/80/EEC, 95/59/EC and Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty⁽²⁾ should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 92/79/EEC is hereby amended as follows:

1. Article 2 is replaced by the following:

'Article 2

1. The overall excise duty (specific duty and *ad valorem* duty excluding VAT) on cigarettes shall represent at least 57 % of the weighted average retail selling price of cigarettes released for consumption. That excise duty shall not be less than EUR 64 per 1 000 cigarettes irrespective of the weighted average retail selling price.

⁽¹⁾ OJ C 321, 31.12.2003, p. 1.

⁽²⁾ OJ L 9, 14.1.2009, p. 12.

However, Member States which levy an excise duty of at least EUR 101 per 1 000 cigarettes on the basis of the weighted average retail selling price need not comply with the 57 % requirement set out in the first subparagraph.

2. From 1 January 2014, the overall excise duty on cigarettes shall represent at least 60 % of the weighted average retail selling price of cigarettes released for consumption. That excise duty shall not be less than EUR 90 per 1 000 cigarettes irrespective of the weighted average retail selling price.

However, Member States which levy an excise duty of at least EUR 115 per 1 000 cigarettes on the basis of the weighted average retail selling price need not comply with the 60 % requirement set out in the first subparagraph.

Bulgaria, Estonia, Greece, Latvia, Lithuania, Hungary, Poland and Romania shall be allowed a transitional period until 31 December 2017 in order to reach the requirements laid down in the first and second subparagraphs.

3. The weighted average retail selling price shall be calculated by reference to the total value of all cigarettes released for consumption, based on the retail selling price including all taxes, divided by the total quantity of cigarettes released for consumption. It shall be determined by 1 March at the latest of each year on the basis of data relating to all such releases for consumption made in the preceding calendar year.

4. Member States shall gradually increase excise duties in order to reach the requirements referred to in paragraph 2 on the dates set therein.

5. The Commission shall publish once a year the value of the euro in national currencies to be applied to the amounts of the overall excise duty.

The exchange rates to be applied shall be those obtained on the first working day of October and published in the *Official Journal of the European Union*. They shall apply from 1 January of the following calendar year.

6. Member States may maintain the amounts of the excise duties in force at the time of the annual adjustment provided for in paragraph 5 if the conversion of the amounts of the excise duties expressed in EUR would result in an increase of less than 5 % or less than EUR 5, whichever is the lower amount, in the excise duty expressed in national currency.;

2. Article 2a is replaced by the following:

'Article 2a

1. Where a change in the weighted average retail selling price of cigarettes occurs in a Member State, thereby bringing the overall excise duty below the levels specified

in the first sentences of paragraphs 1 and 2 of Article 2 respectively, the Member State concerned may refrain from adjusting that duty until 1 January of the second year following that in which the change occurs.

2. Where a Member State increases the rate of value added tax on cigarettes, it may reduce the overall excise duty up to an amount which, expressed as a percentage of the weighted average retail selling price, is equal to the increase in the rate of value added tax, also expressed as a percentage of the weighted average retail selling price, even if such an adjustment has the effect of reducing the overall excise duty to below the levels, expressed as a percentage of the weighted average retail selling price, laid down in the first sentences of paragraphs 1 and 2 of Article 2 respectively.

However, the Member State shall raise that duty again so as to reach at least those levels by 1 January of the second year after that in which the reduction took place.;

3. Article 3(4) is replaced by the following:

'4. By way of derogation from Article 2, France may continue to apply for the period from 1 January 2010 to 31 December 2015, a reduced rate of excise duty to cigarettes released for consumption in the departments of Corsica up to an annual quota of 1 200 tonnes. The reduced rate shall be:

— until 31 December 2012, at least 44 % of the price for cigarettes in the price category most in demand in those departments,

— from 1 January 2013, at least 50 % of the weighted average retail selling price of cigarettes released for consumption. The excise duty shall not be less than EUR 88 per 1 000 cigarettes irrespective of the weighted average retail selling price,

— from 1 January 2015, at least 57 % of the weighted average retail selling price of cigarettes released for consumption. The excise duty shall not be less than EUR 90 per 1 000 cigarettes irrespective of the weighted average retail selling price.;

4. Article 4 is replaced by the following:

'Article 4

1. Every 4 years, the Commission shall submit to the Council a report and, where appropriate, a proposal concerning the rates of excise duty laid down in this Directive and the structure of excise duty as defined by Article 16 of Council Directive 95/59/EC of 27 November 1995 on taxes other than turnover taxes which affect the consumption of manufactured tobacco (*).

The report by the Commission shall take into account the proper functioning of the internal market, the real value of the rates of excise duty and the wider objectives of the Treaty.

2. The report referred to in paragraph 1 shall be based in particular on the information provided by the Member States.

3. The Commission shall, in accordance with the procedure referred to in Article 43 of Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty (**), determine a list of statistical data needed for the report, excluding data relating to individual natural persons or legal entities. Apart from data readily available to Member States, the list shall only contain data the collection and assembly of which does not involve a disproportionate administrative burden on the part of the Member States.

4. The Commission shall not publish or otherwise divulge those data where it would lead to the disclosure of a commercial, industrial or professional secret.

(*) OJ L 291, 6.12.1995, p. 40.

(**) OJ L 9, 14.1.2009, p. 12.'

Article 2

Directive 92/80/EEC is hereby amended as follows:

1. in Article 3(1), the following subparagraphs are added:

'From 1 January 2011, the overall excise duty (specific duty and/or *ad valorem* duty excluding VAT) on fine-cut smoking tobacco intended for the rolling of cigarettes shall represent at least 40 % of the weighted average retail selling price of fine-cut smoking tobacco intended for the rolling of cigarettes released for consumption, or at least EUR 40 per kilogram.

From 1 January 2013, the overall excise duty (specific duty and/or *ad valorem* duty excluding VAT) on fine-cut smoking tobacco intended for the rolling of cigarettes shall represent at least 43 % of the weighted average retail selling price of fine-cut smoking tobacco intended for the rolling of cigarettes released for consumption, or at least EUR 47 per kilogram.

From 1 January 2015 the overall excise duty (specific duty and/or *ad valorem* duty excluding VAT) on fine-cut smoking tobacco intended for the rolling of cigarettes shall represent at least 46 % of the weighted average retail selling price of fine-cut smoking tobacco intended for the rolling of cigarettes released for consumption, or at least EUR 54 per kilogram.

From 1 January 2018, the overall excise duty (specific duty and/or *ad valorem* duty excluding VAT) on fine-cut smoking tobacco intended for the rolling of cigarettes shall represent at least 48 % of the weighted average retail selling price of fine-cut smoking tobacco intended for the rolling of cigarettes released for consumption, or at least EUR 60 per kilogram.

From 1 January 2020, the overall excise duty (specific duty and/or *ad valorem* duty excluding VAT) on fine-cut smoking tobacco intended for the rolling of cigarettes shall represent at least 50 % of the weighted average retail selling price of fine-cut smoking tobacco intended for the rolling of cigarettes released for consumption, or at least EUR 60 per kilogram.

The weighted average retail selling price shall be calculated by reference to the total value of fine-cut smoking tobacco intended for the rolling of cigarettes released for consumption, based on retail selling price including all taxes, divided by the total quantity of fine-cut smoking tobacco intended for the rolling of cigarettes released for consumption. It shall be determined by 1 March at the latest of each year on the basis of data relating to all such releases for consumption made in the preceding calendar year.

From 1 January 2011, the overall excise duty expressed as a percentage, as an amount per kilogram or for a given number of items shall be at least equivalent to the following:

- (a) in the case of cigars or cigarillos, 5 % of the retail selling price inclusive of all taxes or EUR 12 per 1 000 items or per kilogram;
- (b) in the case of smoking tobaccos, other than fine-cut smoking tobacco intended for the rolling of cigarettes, 20 % of the retail selling price inclusive of all taxes, or EUR 22 per kilogram.;

2. Article 3(4) is replaced by the following:

'4. By way of derogation from paragraph 1, France may continue to apply, for the period from 1 January 2010 to 31 December 2015, a reduced rate of excise duty to manufactured tobacco other than cigarettes released for consumption in the departments of Corsica. The reduced rate shall be:

- (a) for cigars and cigarillos:

at least 10 % of the retail selling price, inclusive of all taxes;

- (b) for fine-cut smoking tobacco intended for the rolling of cigarettes:

- until 31 December 2012, at least 27 % of the retail selling price, inclusive of all taxes,
- from 1 January 2013, at least 30 % of the retail selling price, inclusive of all taxes,
- from 1 January 2015, at least 35 % of the retail selling price, inclusive of all taxes;

(c) for other smoking tobacco:

at least 22 % of the retail selling price, inclusive of all taxes.;

3. Article 4 is replaced by the following:

'Article 4

1. Every 4 years, the Commission shall submit to the Council a report and, where appropriate, a proposal concerning the rates and the structure of excise duty laid down in this Directive.

The report by the Commission shall take into account the proper functioning of the internal market, the real value of the rates of excise duty and the wider objectives of the Treaty.

2. The report referred to in paragraph 1 shall be based in particular on the information provided by the Member States.

3. The Commission shall, in accordance with the procedure referred to in Article 43 of Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty (*), determine a list of statistical data needed for the report, excluding data relating to individual natural persons or legal entities. Apart from data readily available to Member States, the list shall only contain data the collection and assembly of which does not involve a disproportionate administrative burden on the part of the Member States.

4. The Commission shall not publish or otherwise divulge those data where it would lead to the disclosure of a commercial, industrial or professional secret.

(*) OJ L 9, 14.1.2009, p. 12.;

4. Article 5(1) is replaced by the following:

1. The Commission shall publish once a year the value of the euro in national currencies to be applied to the amounts of the overall excise duty.

The exchange rates to be applied shall be those obtained on the first working day of October and published in the *Official Journal of the European Union* and shall apply from 1 January of the following calendar year.'

Article 3

Directive 95/59/EC is hereby amended as follows:

1. Article 3 is replaced by the following:

'Article 3

1. The following shall be deemed to be cigars or cigarillos if they can be and, given their properties and normal consumer expectations, are exclusively intended to be smoked as they are:

(a) rolls of tobacco with an outer wrapper of natural tobacco;

(b) rolls of tobacco with a threshed blend filler and with an outer wrapper of the normal colour of a cigar, of reconstituted tobacco, covering the product in full, including, where appropriate, the filter but not, in the case of tipped cigars, the tip, where the unit weight, not including filter or mouthpiece, is not less than 2,3 g and not more than 10 g, and the circumference over at least one third of the length is not less than 34 mm.

2. By way of derogation from paragraph 1, Germany and Hungary may continue to apply until 31 December 2014 Article 3 of Directive 95/59/EC as amended by Directive 2002/10/EC.;

2. Article 4(2) is replaced by the following:

'2. A roll of tobacco referred to in paragraph 1 shall, for excise duty purposes, be considered as two cigarettes where, excluding filter or mouthpiece, it is longer than 8 cm but not longer than 11 cm, as three cigarettes where, excluding filter or mouthpiece, it is longer than 11 cm but not longer than 14 cm, and so on.;

3. in Article 5, point 2 is replaced by the following:

'2. tobacco refuse put up for retail sale which does not fall under Articles 3 and 4 and which can be smoked. For the purpose of this Article, "tobacco refuse" shall be deemed to be remnants of tobacco leaves and by-products obtained from tobacco processing or the manufacture of tobacco products.;

4. Article 6 is amended as follows:

(a) in the first subparagraph the wording '1 millimetre' is replaced by the wording '1,5 millimetre';

(b) in the second subparagraph the wording 'more than 1 millimetre' is replaced by the wording '1,5 millimetre or more';

5. Article 7(1) is replaced by the following:

'1. Products which consist in part of substances other than tobacco but otherwise fulfil the criteria set out in Article 3 shall be treated as cigars and cigarillos.;

6. Article 8(4) is replaced by the following:

'4. Where necessary, the excise duty on cigarettes may include a minimum tax component, provided that the mixed structure of taxation and the band of the specific component of the excise duty as laid down in Article 16 is strictly respected.;

7. Article 16 is replaced by the following:

'Article 16

1. The percentage of the specific component of excise duty in the amount of the total tax burden on cigarettes shall be established by reference to the weighted average retail selling price.

2. The weighted average retail selling price shall be calculated by reference to the total value of all cigarettes released for consumption, based on the retail selling price including all taxes, divided by the total quantity of cigarettes released for consumption. It shall be determined by 1 March at the latest of each year on the basis of data relating to all such releases for consumption made in the preceding calendar year.

3. Until 31 December 2013, the specific component of the excise duty may not be less than 5 % and not be more than 76,5 % of the amount of the total tax burden resulting from the aggregation of the following:

(a) specific excise duty;

(b) the proportional excise duty and the value added tax levied on the weighted average retail selling price.

4. From 1 January 2014, the specific component of the excise duty on cigarettes may not be less than 7,5 % and not be more than 76,5 % of the amount of the total tax burden resulting from the aggregation of the following:

(a) specific excise duty;

(b) the proportional excise duty and the value added tax levied on the weighted average retail selling price.

5. By way of derogation from paragraphs 3 and 4, where a change in the weighted average retail selling price of cigarettes occurs in a Member State, thereby bringing the specific component of the excise duty, expressed as a percentage of

the total tax burden, below the percentage of 5 % or 7,5 %, whichever is applicable, or above the percentage of 76,5 % of the total tax burden, the Member State concerned may refrain from adjusting the amount of the specific excise duty until 1 January of the second year following that in which the change occurs.

6. Notwithstanding Article 8(1), Member States may exclude customs duties from the basis for calculating the proportional excise duty on cigarettes.

7. Subject to paragraphs 3, 4, 5 and 6, Member States may levy a minimum excise duty on cigarettes.;

8. Article 17 is deleted.

Article 4

Directive 2008/118/EC is hereby amended as follows:

in Article 46, the following paragraph is added:

'3. Without prejudice to Article 32, Member States not referred to in the third subparagraph of Article 2(2) of Directive 92/79/EEC may, as regards cigarettes which may be brought into their territory without further payment of excise duties, apply from 1 January 2014 a quantitative limit of not less than 300 items with respect to cigarettes brought in from a Member State which applies, in accordance with the third subparagraph of Article 2(2) of that Directive, lower excise duties than those resulting from the provisions of the first subparagraph of Article 2(2) thereof.

Member States referred to in the third subparagraph of Article 2(2) of Directive 92/79/EEC which levy an excise duty of at least EUR 77 per 1 000 cigarettes irrespective of the weighted average retail selling price, may, from 1 January 2014, apply a quantitative limit of not less than 300 items as regards cigarettes brought into their territory without further payment of excise duties from a Member State which applies a lower excise duty in accordance with the third subparagraph of Article 2(2) of that Directive.

Member States which apply a quantitative limit in accordance with the first and the second subparagraphs of this paragraph shall inform the Commission thereof. They may carry out the necessary checks provided that these checks do not affect the proper functioning of the internal market.'

Article 5

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive with effect from 1 January 2011 except where otherwise provided for in this Directive. They shall forthwith inform the Commission thereof.

When they are adopted by Member States, those provisions shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

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

Article 6

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

Article 7

This Directive is addressed to the Member States.

Done at Brussels, 16 February 2010.

For the Council
The President
E. SALGADO

II

(Non-legislative acts)

REGULATIONS

COMMISSION REGULATION (EU) No 165/2010

of 26 February 2010

amending Regulation (EC) No 1881/2006 setting maximum levels for certain contaminants in foodstuffs as regards aflatoxins

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EEC) No 315/93 of 8 February 1993 laying down Community procedures for contaminants in food ⁽¹⁾, and in particular Article 2(3) thereof,

Whereas:

(1) Commission Regulation (EC) No 1881/2006 of 19 December 2006 setting maximum levels for certain contaminants in foodstuffs ⁽²⁾ sets maximum levels for aflatoxin B1 and aflatoxin total (aflatoxin B1 + G1 + B2 + G2) in a range of foodstuffs.

(2) It is necessary to amend certain maximum levels for aflatoxins in certain foodstuffs to take into account developments in Codex Alimentarius and new information contained in recent scientific advice.

(3) Codex Alimentarius established a level of 15 µg/kg aflatoxin total in almonds, hazelnuts and pistachios intended for further processing and a level of 10 µg/kg aflatoxin total in almonds, hazelnuts and pistachios 'ready-to-eat' ⁽³⁾.

(4) The Scientific Panel on Contaminants in the Food Chain (Contam Panel) of the European Food Safety Authority

(EFSA) adopted on 25 January 2007 an opinion on the potential increase of consumer health risk by a possible increase of the existing maximum levels for aflatoxins in almonds, hazelnuts and pistachios and derived products ⁽⁴⁾. The Contam Panel concluded that changing the maximum levels for total aflatoxins from 4 to 8 or 10 µg/kg in almonds, hazelnuts and pistachios would have minor effects on the estimates of dietary exposure, cancer risk and the calculated margins of exposure (MOEs). The Panel furthermore concluded that exposure to aflatoxins from all sources should be as low as reasonably achievable, because aflatoxins are genotoxic and carcinogenic. The data indicate that reduction of total dietary exposure to aflatoxins could be achieved by reducing the number of highly contaminated foods reaching the market through more effective enforcement and reducing exposure from food sources other than almonds, hazelnuts and pistachios.

(5) The Contam Panel adopted on 16 June 2009 a statement on the effects on public health of an increase of the levels for aflatoxin total from 4 µg/kg to 10 µg/kg for tree nuts other than almonds, hazelnuts and pistachios ⁽⁵⁾. The Panel concluded that based on the information which was available in 2007 public health would not be adversely affected by increasing the levels for total aflatoxins from 4 µg/kg to 10 µg/kg for other tree nuts, including Brazil nuts. Given the current discussions in Codex Alimentarius on the maximum levels for aflatoxins in Brazil nuts, it is appropriate to align the level for aflatoxins in Brazil nuts with the Codex level for almonds, hazelnuts and pistachios.

⁽¹⁾ OJ L 37, 13.2.1993, p. 1.

⁽²⁾ OJ L 364, 20.12.2006, p. 5.

⁽³⁾ Codex General Standard for Contaminants and toxins in foods (CODEX STAN 193-1995) http://www.codexalimentarius.net/download/standards/17/CXS_193e.pdf

⁽⁴⁾ *The EFSA Journal* (2007) 446, 1-127. http://www.efsa.europa.eu/cs/BlobServer/Scientific_Opinion/CONTAM%20_op_ej446_aflatoxins_en.pdf?ssbinary=true

⁽⁵⁾ Statement of the Scientific Panel on Contaminants in the Food Chain on a request from the European Commission on the effects on public health of an increase of the levels for aflatoxin total from 4 µg/kg to 10 µg/kg for tree nuts other than almonds, hazelnuts and pistachios. *The EFSA Journal* (2009) 1168, 1-11. http://www.efsa.europa.eu/cs/BlobServer/Statement/contam_statement_ej1168_aflatoxin_other_treenuts_en,0.pdf?ssbinary=true

- (6) Codex Alimentarius established only a maximum level for aflatoxin total. The corresponding aflatoxin B1 level was determined by making use of the database on occurrence of aflatoxins in food used by EFSA for the exposure assessment.
- (7) In the EFSA opinion on aflatoxins it is observed that oilseeds and derived products are an important contributor to the human aflatoxin exposure. EFSA concluded that exposure to aflatoxins from all sources should be as low as reasonably achievable. Furthermore, notifications in the Rapid Alert System for Food and Feed (RASFF) indicate high levels of aflatoxins in oilseeds such as sunflower seeds, melon seeds etc. It is therefore proposed to also set a maximum level for oilseeds other than groundnuts (peanuts), in line with the existing maximum levels for groundnuts (peanuts). However, as aflatoxins are nearly completely removed by the process for producing refined vegetable oils, it is appropriate to exclude oilseeds, including groundnuts (peanuts), intended for crushing for refined vegetable oil and refined vegetable oil.
- (8) A maximum level of 2 µg/kg for aflatoxin B1 and 4 µg/kg aflatoxin total has been established in all cereals and all products derived from cereals with the exception of maize to be subjected to sorting or other physical treatment before human consumption for which a maximum level of 5 µg/kg for aflatoxin B1 and 10 µg/kg for aflatoxin total has been established. Rice in husk regularly contains levels of aflatoxins slightly above the maximum levels. After milling, a process which removes the husk, the levels of aflatoxins in the white milled rice are below the maximum levels. It is therefore appropriate to apply the same approach for rice as the existing approach for maize, and to set a higher maximum level of aflatoxin B1 and aflatoxin total for rice to be subjected to sorting or other physical treatment before human consumption or use as an ingredient in foodstuffs.
- (9) The maximum levels refer to the edible part of the tree nuts. However, recent scientific evidence has demonstrated that a part of the aflatoxin contamination can be found on the shell of Brazil nuts. Therefore, it is appropriate to modify the footnote in the Annex, indicating the procedure to be followed in case tree nuts 'in shell' are analysed, to take into account this recent scientific information.
- (10) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1881/2006 is amended as follows:

1. Article 4 is replaced by the following:

'Article 4

Specific provisions for groundnut, other oilseeds, tree nuts, dried fruit, rice and maize

Groundnuts (peanuts), other oilseeds, tree nuts, dried fruit, rice and maize not complying with the appropriate maximum levels of aflatoxins laid down in points 2.1.5, 2.1.6, 2.1.7, 2.1.8, 2.1.10 and 2.1.11 of the Annex can be placed on the market provided that these foodstuffs:

- (a) are not intended for direct human consumption or use as an ingredient in foodstuffs;
- (b) comply with the appropriate maximum levels laid down in points 2.1.1, 2.1.2, 2.1.3, 2.1.4, 2.1.9 and 2.1.12 of the Annex;
- (c) are subjected to a treatment involving sorting or other physical treatment and that after this treatment the maximum levels laid down in points 2.1.5, 2.1.6, 2.1.7, 2.1.8, 2.1.10 and 2.1.11 of the Annex are not exceeded, and this treatment does not result in other harmful residues;
- (d) are labelled clearly showing their use, and bearing the indication "product shall be subjected to sorting or other physical treatment to reduce aflatoxin contamination before human consumption or use as an ingredient in foodstuffs". The indication shall be included on the label of each individual bag, box etc. and on the original accompanying document. The consignment/batch identification code shall be indelibly marked on each individual bag, box etc. of the consignment and on the original accompanying document.;

2. Article 5 is replaced by the following:

'Article 5

Specific provisions for groundnuts (peanuts), other oilseeds, derived products thereof and cereals

A clear indication of the intended use must appear on the label of each individual bag, box, etc. and on the original accompanying document. This accompanying document must have a clear link with the consignment by means of mentioning the consignment identification code, which is on each individual bag, box, etc. of the consignment. In addition the business activity of the consignee of the consignment given on the accompanying document must be compatible with the intended use.

In the absence of a clear indication that their intended use is not for human consumption, the maximum levels laid down in points 2.1.5 and 2.1.11 of the Annex shall apply to all groundnuts (peanuts), other oilseeds and derived products thereof and cereals placed on the market.

As regards the exception of groundnuts (peanuts) and other oilseeds for crushing and the application of the maximum levels laid down in point 2.1.1 of the Annex, the exception only applies to consignments which are clearly labelled showing their use and bearing the indication "product to be subject to crushing for the production of refined vegetable oil". The indication shall be included on the label of each individual bag, box etc. and on the accompanying document(s). The final destination must be a crushing plant.;

3. the Annex is amended as follows:

(a) subsection 2.1 (Aflatoxins) is replaced by the text in the Annex to this Regulation;

(b) footnote 5 is replaced by the following:

'⁽⁵⁾ The maximum levels refer to the edible part of groundnuts (peanuts) and tree nuts. If groundnuts (peanuts) and tree nuts "in shell" are analysed, it is assumed when calculating the aflatoxin content all the contamination is on the edible part, except in the case of Brazil nuts.;

(c) the following footnotes are added:

'⁽⁴⁰⁾ Oilseeds falling under codes CN 1201, 1202, 1203, 1204, 1205, 1206, 1207 and derived products CN 1208; melon seeds fall under code ex 1207 99.

(⁴¹) In case derived/processed products thereof are derived/processed solely or almost solely from the tree nuts concerned, the maximum levels as established for the corresponding tree nuts apply also to the derived/processed products. In other cases, Article 2(1) and 2(2) apply for the derived/processed products.'

Article 2

This Regulation shall not apply to apricot kernels, oilseeds, other than groundnuts (peanuts) and processed products thereof, which were placed on the market at a date prior to the date of application in conformity with the provisions applicable at such date.

The burden of proving when the products were placed on the market shall be borne by the food business operator.

Article 3

This Regulation shall enter into force on the 10th day following its publication in the *Official Journal of the European Union*.

It shall apply from the date of entry into force.

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

Done at Brussels, 26 February 2010.

For the Commission

The President

José Manuel BARROSO

ANNEX

Foodstuffs ⁽¹⁾		Maximum levels (µg/kg)		
2.1.	Aflatoxins	B ₁	Sum of B ₁ , B ₂ , G ₁ and G ₂	M ₁
2.1.1.	Groundnuts (peanuts) and other oilseeds ⁽⁴⁰⁾ , to be subjected to sorting, or other physical treatment, before human consumption or use as an ingredient in foodstuffs, with the exception of: — groundnuts (peanuts) and other oilseeds for crushing for refined vegetable oil production	8,0 ⁽⁵⁾	15,0 ⁽⁵⁾	—
2.1.2.	Almonds, pistachios and apricot kernels to be subjected to sorting, or other physical treatment, before human consumption or use as an ingredient in foodstuffs	12,0 ⁽⁵⁾	15,0 ⁽⁵⁾	—
2.1.3.	Hazelnuts and Brazil nuts, to be subjected to sorting, or other physical treatment, before human consumption or use as an ingredient in foodstuffs	8,0 ⁽⁵⁾	15,0 ⁽⁵⁾	—
2.1.4.	Tree nuts, other than the tree nuts listed in 2.1.2 and 2.1.3, to be subjected to sorting, or other physical treatment, before human consumption or use as an ingredient in foodstuffs	5,0 ⁽⁵⁾	10,0 ⁽⁵⁾	—
2.1.5.	Groundnuts (peanuts) and other oilseeds ⁽⁴⁰⁾ and processed products thereof, intended for direct human consumption or use as an ingredient in foodstuffs, with the exception of: — crude vegetable oils destined for refining — refined vegetable oils	2,0 ⁽⁵⁾	4,0 ⁽⁵⁾	—
2.1.6.	Almonds, pistachios and apricot kernels, intended for direct human consumption or use as an ingredient in foodstuffs ⁽⁴¹⁾	8,0 ⁽⁵⁾	10,0 ⁽⁵⁾	—
2.1.7.	Hazelnuts and Brazil nuts, intended for direct human consumption or use as an ingredient in foodstuffs ⁽⁴¹⁾	5,0 ⁽⁵⁾	10,0 ⁽⁵⁾	—
2.1.8.	Tree nuts, other than the tree nuts listed in 2.1.6 and 2.1.7, and processed products thereof, intended for direct human consumption or use as an ingredient in foodstuffs	2,0 ⁽⁵⁾	4,0 ⁽⁵⁾	—
2.1.9.	Dried fruit to be subjected to sorting, or other physical treatment, before human consumption or use as an ingredient in foodstuffs	5,0	10,0	—
2.1.10.	Dried fruit and processed products thereof, intended for direct human consumption or use as an ingredient in foodstuffs	2,0	4,0	—
2.1.11.	All cereals and all products derived from cereals, including processed cereal products, with the exception of foodstuffs listed in 2.1.12, 2.1.15 and 2.1.17	2,0	4,0	—

Foodstuffs ⁽¹⁾		Maximum levels (µg/kg)		
2.1.12.	Maize and rice to be subjected to sorting or other physical treatment before human consumption or use as an ingredient in foodstuffs	5,0	10,0	—
2.1.13.	Raw milk ⁽⁶⁾ , heat-treated milk and milk for the manufacture of milk-based products	—	—	0,050
2.1.14.	Following species of spices: <i>Capsicum</i> spp. (dried fruits thereof, whole or ground, including chillies, chilli powder, cayenne and paprika) <i>Piper</i> spp. (fruits thereof, including white and black pepper) <i>Myristica fragrans</i> (nutmeg) <i>Zingiber officinale</i> (ginger) <i>Curcuma longa</i> (turmeric) Mixtures of spices containing one or more of the abovementioned spices	5,0	10,0	—
2.1.15.	Processed cereal-based foods and baby foods for infants and young children ⁽³⁾ ⁽⁷⁾	0,10	—	—
2.1.16.	Infant formulae and follow-on formulae, including infant milk and follow-on milk ⁽⁴⁾ ⁽⁸⁾	—	—	0,025
2.1.17.	Dietary foods for special medical purposes ⁽⁹⁾ ⁽¹⁰⁾ intended specifically for infants	0,10	—	0,025'

COMMISSION REGULATION (EU) No 166/2010
of 26 February 2010
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 27 February 2010.

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

Done at Brussels, 26 February 2010.

*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	IL	114,6
	JO	82,9
	MA	97,0
	TN	131,1
	TR	105,0
	ZZ	106,1
0707 00 05	EG	216,8
	JO	147,9
	MK	147,9
	TR	155,6
	ZZ	167,1
0709 90 70	IL	265,5
	MA	135,0
	TR	92,4
	ZZ	164,3
0709 90 80	EG	82,2
	ZZ	82,2
0805 10 20	EG	48,5
	IL	58,4
	MA	51,2
	TN	57,3
	TR	61,8
	ZZ	55,4
0805 20 10	EG	65,1
	IL	154,5
	MA	75,3
	TR	77,6
	ZZ	93,1
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	54,8
	EG	69,6
	IL	88,1
	JM	97,9
	MA	119,4
	PK	35,3
	TR	60,8
	ZZ	75,1
0805 50 10	EG	76,3
	IL	76,3
	MA	68,6
	TR	65,1
	ZZ	71,6
0808 10 80	CA	65,9
	CL	59,9
	CN	68,3
	MK	24,7
	US	117,4
	ZZ	67,2
0808 20 50	AR	89,8
	CL	75,8
	CN	42,0
	US	95,7
	ZA	95,0
	ZZ	79,7

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

COMMISSION REGULATION (EU) No 167/2010
of 26 February 2010
fixing the import duties in the cereals sector applicable from 1 March 2010

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

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

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

(4) Import duties should be fixed for the period from 1 March 2010 and should apply until new import duties are fixed and enter into force,

HAS ADOPTED THIS REGULATION:

Article 1

From 1 March 2010, the import duties in the cereals sector referred to in Article 136(1) of Regulation (EC) No 1234/2007 shall be those fixed in Annex I to this Regulation on the basis of the information contained in Annex II.

Article 2

This Regulation shall enter into force on 1 March 2010.

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

Done at Brussels, 26 February 2010.

*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.

ANNEX I

Import duties on the products referred to in Article 136(1) of Regulation (EC) No 1234/2007 applicable from 1 March 2010

CN code	Description	Import duties ⁽¹⁾ (EUR/t)
1001 10 00	Durum wheat, high quality	0,00
	medium quality	0,00
	low quality	0,00
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	36,84
1005 10 90	Maize seed other than hybrid	17,08
1005 90 00	Maize, other than seed ⁽²⁾	17,08
1007 00 90	Grain sorghum other than hybrids for sowing	36,84

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

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

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

ANNEX II

Factors for calculating the duties laid down in Annex I

16.2.2010-25.2.2010

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	151,97	106,17	—	—	—	—
Fob price USA	—	—	170,67	160,67	140,67	101,09
Gulf of Mexico premium	50,67	14,68	—	—	—	—
Great Lakes premium	—	—	—	—	—	—

⁽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: 22,68 EUR/t

Freight costs: Great Lakes–Rotterdam: — EUR/t

DECISIONS

COUNCIL DECISION

of 25 February 2010

relating to the operating rules of the panel provided for in Article 255 of the Treaty on the Functioning of the European Union

(2010/124/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the second paragraph of Article 255 thereof,

Having regard to the initiative by the President of the Court of Justice on 11 January 2010,

Whereas:

- (1) The Judges and Advocates-General of the Court of Justice and the General Court are appointed by common accord of the governments of the Member States, after consultation of a panel set up in order to give an opinion on candidates' suitability to perform the duties of Judge and Advocate-General. The panel comprises seven persons chosen from among former members of the Court of Justice and the General Court, members of national supreme courts and lawyers of recognised competence, one of whom is proposed by the European Parliament.
- (2) The operating rules of that panel therefore need to be established,

HAS ADOPTED THIS DECISION:

Article 1

The operating rules of the panel provided for in Article 255 of the Treaty on the Functioning of the European Union are set out in the Annex to this Decision.

Article 2

This Decision shall enter into force on 1 March 2010.

Article 3

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

Done at Brussels, 25 February 2010.

For the Council

The President

A. PÉREZ RUBALCABA

ANNEX

OPERATING RULES OF THE PANEL PROVIDED FOR IN ARTICLE 255 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION**1. Mission**

The panel shall give an opinion on candidates' suitability to perform the duties of Judge and Advocate-General of the Court of Justice and the General Court before the Governments of the Member States make the appointments referred to in Articles 253 and 254 of the Treaty.

2. Composition

The panel shall comprise seven persons chosen from among former members of the Court of Justice and the General Court, members of national supreme courts and lawyers of recognised competence, one of whom shall be proposed by the European Parliament.

3. Term of office

The members of the panel shall be appointed for a period of four years. A person who is to replace a member before the expiry of that period shall be appointed for the remainder of his predecessor's term.

Members of the panel may be reappointed once.

4. Presidency and secretariat

The panel shall be presided over by one of its members, appointed for that purpose by the Council.

The General Secretariat of the Council shall be responsible for the panel's secretariat. It shall provide the administrative support necessary for the working of the panel, including the translation of documents.

5. Quorum and deliberations

Meetings of the panel shall be valid if at least five of its members are present. The deliberations of the panel shall take place *in camera*.

6. Referral to the panel and request for additional information

As soon as the Government of a Member State proposes a candidate, the General Secretariat of the Council shall send that proposal to the President of the panel.

The panel may ask the government making the proposal to send additional information or other material which the panel considers necessary for its deliberations.

7. Hearing

Except where a proposal relates to the reappointment of a Judge or Advocate-General, the panel shall hear the candidate; the hearing shall take place in private.

8. Statement of reasons for opinion and presentation

Reasons for the opinion given by the panel shall be stated. The statement of reasons shall set out the principal grounds on which the panel's opinion is based.

The panel's opinion shall be forwarded to the Representatives of the Governments of the Member States. Furthermore, at the request of the Presidency, the President of the panel shall present that opinion to the Representatives of the Governments of the Member States' meeting within the Council.

9. Financial provisions

Members of the panel required to travel away from their place of residence in order to carry out their duties shall be entitled to reimbursement of their expenses and an allowance on the conditions laid down in Article 6 of Regulation No 422/67/EEC, 5/67/Euratom of the Council of 25 July 1967 determining the emoluments of the President and members of the Commission and of the President, Judges, Advocates-General and Registrar of the Court of Justice and of the President, Members and Registrar of the Court of First Instance and of the President, Members and Registrar of the European Union Civil Service Tribunal⁽¹⁾.

The corresponding expenditure shall be borne by the Council.

⁽¹⁾ OJ 187, 8.8.1967, p. 1.

COUNCIL DECISION
of 25 February 2010
appointing the members of the panel provided for in Article 255 of the Treaty on the Functioning
of the European Union
(2010/125/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the second paragraph of Article 255 thereof,

Having regard to the initiative by the President of the Court of Justice on 26 January 2010,

Whereas:

- (1) A panel is to be set up pursuant to Article 255(1) of the Treaty, in order to give an opinion on candidates' suitability to perform the duties of Judge and Advocate-General of the Court of Justice and the General Court before the Governments of the Member States make the appointments (hereafter 'the panel').
- (2) The panel is to comprise seven persons chosen from among former members of the Court of Justice and the General Court, members of national supreme courts and lawyers of recognised competence, one of whom is to be proposed by the European Parliament.
- (3) Account should be taken of a balanced membership of the panel, both in geographical terms and in terms of representation of the legal systems of the Member States.
- (4) The members of the panel and its President should therefore be appointed,

HAS ADOPTED THIS DECISION:

Article 1

For a period of four years from 1 March 2010, the following shall be appointed members of the panel provided for in Article 255 of the Treaty on the Functioning of the European Union:

Mr Jean-Marc SAUVÉ, President

Mr Peter JANN

Lord MANCE

Mr Torben MELCHIOR

Mr Péter PACZOLAY

Ms Ana PALACIO VALLELERSUNDI

Ms Virpi TIILI

Article 2

This Decision shall enter into force on 1 March 2010.

Article 3

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

Done at Brussels, 25 February 2010.

For the Council

The President

A. PÉREZ RUBALCABA

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