

Official Journal

of the European Union

L 125



English edition

Legislation

Volume 53

21 May 2010

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⁽¹⁾ Text with EEA relevance

EN

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II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

Amendment to the Customs Convention on the international transport of goods under cover of TIR carnets (TIR Convention) of 14 November 1975 ⁽¹⁾

According to the UN Depository Notification C.N.387.2009.TREATIES-3 the following amendment has entered into force on 1 October 2009 for all Contracting Parties

In Annex 6, the following Explanatory Note is inserted:

0.3. Article 3

0.3(a)(iii) The provisions of Article 3(a)(iii) do not cover passenger cars (HS code 8703) travelling by their own means. However, passenger cars may be carried under the TIR procedure if transported by means of other vehicles as referred to in subparagraph (a)(i) and (a)(ii) of Article 3.'

⁽¹⁾ Consolidated text published by Council Decision 2009/477/EC (OJ L 165, 26.6.2009, p. 1).

REGULATIONS

COMMISSION REGULATION (EU) No 428/2010

of 20 May 2010

implementing Article 14 of Directive 2009/16/EC of the European Parliament and of the Council as regards expanded inspections of ships

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

and the appropriate depth of examination of, each specific item.

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

(4) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS),

Having regard to Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control ⁽¹⁾, and in particular Article 14(4) thereof,

HAS ADOPTED THIS REGULATION:

Article 1

Whereas:

List of specific items to be verified in an expanded inspection

An expanded inspection as referred to in Article 14 of Directive 2009/16/EC shall, where applicable, as a minimum comprise the verification of the specific items listed in the Annex to this Regulation.

(1) When carrying out an expanded inspection of a ship, the port State control officer should be guided by a list of specific items to be verified, subject to their practical feasibility or any constraints relating to the safety of persons, the ship or the port.

In the case where no specific areas are indicated for a particular type of ship, as defined in Directive 2009/16/EC, the inspector shall use his professional judgement to decide which items must be inspected, and to what extent, in order to check the overall condition in these areas.

(2) With regard to the identification of the specific items to be verified in the course of an expanded inspection of any of the risk areas listed in Annex VII to Directive 2009/16/EC, it appears necessary to build upon the expertise of the Paris Memorandum of Understanding on Port State Control.

Article 2

Entry into force and application

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

(3) The Port State Control Officers should use their professional judgement to determine the applicability of

⁽¹⁾ OJ L 131, 28.5.2009, p. 57.

It shall apply from 1 January 2011.

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

Done at Brussels, 20 May 2010.

For the Commission
The President
José Manuel BARROSO

ANNEX

SPECIFIC ITEMS TO BE VERIFIED DURING AN EXPANDED INSPECTION

(as referred to in Article 14(4) of Directive 2009/16/EC)

A. All types of ships**(a) Structural condition**

- Condition of hull and deck

(b) Watertight/weathertight condition

- Watertight/weathertight doors
- Ventilators, air pipes and casing
- Hatchways

(c) Emergency systems

- Simulated blackout/start of emergency generator
- Emergency lighting
- Test of bilge pumping arrangements
- Test of closing devices/watertight doors
- Test of steering gear including emergency steering gear

(d) Radio communication

- Test of reserve source of energy
- Test of main installation including facilities for reception of marine safety information
- Test of global maritime distress safety system (GMDSS) portable very high frequency (VHF) sets

(e) Fire safety

- Fire drill, including a demonstration of the ability to use firemen's outfits and firefighting equipment and appliances
- Test of emergency fire pump (with two hoses)
- Test of remote emergency stopping ventilation and associated dampers
- Test of remote emergency stopping fuel pumps
- Test of remote quick closing valves
- Fire doors
- Fixed fire extinguishing installations and associated alarms

(f) Alarms

- Test of the fire alarm

(g) Living and working conditions

- Condition of mooring equipment, including machinery foundations

- (h) *Lifesaving appliances*
 - Launching arrangements for survival and rescue craft (if evidence of disuse, craft must be lowered to the water)
- (i) *Pollution prevention*
 - Test of oil filtering equipment

B. Bulk carrier/OBO (if carrying solid bulk cargo)

In addition to the items listed under Section A, the following items shall be considered as part of the expanded inspection for bulk carriers:

(a) *Documentation*

Verification that the following documents are on board, complete and endorsed by the flag State or recognised organisation:

- The enhanced survey programme (ESP) including:
 - (i) Reports of structural survey
 - (ii) Thickness measurement reports
 - (iii) Condition evaluation reports
- Check whether the cargo carried is allowed by the DoC for dangerous goods
- Approval for loading instruments

(b) *Structural condition*

- Condition of bulkheads and coamings
- Ballast tanks

At least one of the ballast tanks within the cargo area must be examined from tank manhole/deck access or entered if the inspector establishes clear grounds based on observation and the ESP records

C. Gas tanker, chemical tanker

In addition to the items listed under Section A, the following items shall be considered as part of the expanded inspection for gas and chemical tankers:

(a) *Documentation*

- Check whether the product carried is on the relevant certificate of fitness

(b) *Cargo operations*

- Cargo tank monitoring and safety devices relating to temperature, pressure and ullage
- Oxygen analysing and explosimeter devices, including their calibration. Availability of chemical detection equipments (bellows) with an appropriate number of suitable gas detection tubes for the cargo carried
- Test of deck shower

(c) *Fire safety*

- Test of fixed fire fighting installations on deck (as required by the product carried)

(d) *Living and working condition*

- Cabin escape sets with respiratory and eye protection if required by the products listed in the relevant certificate of fitness

D. General cargo, container ship, refrigerated cargo carrier, factory ship, heavy load carrier, offshore service ship, special purpose ship, MODU, floating production, storage and offloading (FPSO), other types of ship

In addition to the items listed under Section A, the following items shall be considered as part of the expanded inspection for the ship types listed under this section:

(a) *Watertight/weathertight condition*

- Condition of hatch covers

- Access to cargo holds/tanks

(b) *Cargo operations*

- Loading equipment

- Lashing arrangements

E. Oil tanker/OBO (when certificated as an oil tanker)

In addition to the items listed under Section A, the following items shall be considered as part of the expanded inspection for oil tankers:

(a) *Documentation*

Verification that the following documents are on board, complete and endorsed by the flag State or recognised organisation

- The enhanced survey programme (ESP) including:

- (i) Reports of structural surveys

- (ii) Thickness measurement reports

- (iii) Condition evaluation reports

- Foam certificate for deck foam system

(b) *Structural condition*

- Ballast tanks

At least one of the ballast tanks within the cargo area must be examined from tank manhole/deck access or entered if the inspector establishes clear grounds based on observation and the ESP records

(c) *Fire safety*

- Fixed deck foam system

- Control of pressure of inert gas and oxygen content thereof

F. Passenger HSC, passenger ship, ro-ro passenger ship

In addition to the items listed under Section A, the following items shall be considered as part of the expanded inspection for passenger ships:

If deemed appropriate, parts of the inspection on ro-ro ferries and high-speed passenger craft referred to in Council Directive 1999/35/EC ⁽¹⁾ may be continued while the ship is on passage to or from ports of Member States with the consent of the master or the operator in order to demonstrate that the ferry or craft continues to fulfil all the necessary requirements for safe operation. Port State control officers must not obstruct the operation of the ship or induce situations that, in the master's judgement, could endanger the safety of the passengers, the crew or the ship.

(a) *Documentation*

Documented evidence of:

- Crowd-management training
- Familiarisation training
- Safety training for personnel providing direct safety assistance to passengers in passenger spaces, and in particular to elderly and disabled persons in an emergency
- Crisis management and human behaviour training

(b) *Watertight/weathertight condition*

- Bow and stern doors as applicable
- Test of remote and local controls of watertight bulkhead doors

(c) *Emergency systems*

- Crew familiarity with damage control plan

(d) *Cargo operations*

- Lashing arrangements as applicable

(e) *Fire safety*

- Test of remote and local controls for the closing of fire dampers

(f) *Alarms*

- Test of public address system
- Test of fire detection and alarm system

(g) *Lifesaving appliances*

- 'Abandon ship' drill (including lowering a rescue and a lifeboat to the water)

G. Ro-ro cargo ship

In addition to the items listed under Section A, the following items shall be considered as part of the expanded inspection for ro-ro cargo ships:

(a) *Watertight/weathertight condition*

- Bow and stern doors

(b) *Cargo operations*

- Lashing arrangements

⁽¹⁾ OJ L 138, 1.6.1999, p. 1.

COMMISSION REGULATION (EU) No 429/2010**of 20 May 2010****entering a name in the register of protected designations of origin and protected geographical indications (Pemento de Oímbra (PGI))**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ⁽¹⁾, and in particular the first subparagraph of Article 7(4) thereof,

Whereas:

(1) Pursuant to the first subparagraph of Article 6(2) and in accordance with Article 17(2) of Regulation (EC) No 510/2006, Spain's application to register the name 'Pemento de Oímbra' was published in the *Official Journal of the European Union* ⁽²⁾.

(2) As no statement of objection under Article 7 of Regulation (EC) No 510/2006 has been received by the Commission, that name should therefore be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

The name contained in the Annex to this Regulation is hereby entered in the register.

Article 2

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

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

Done at Brussels, 20 May 2010.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ OJ L 93, 31.3.2006, p. 12.

⁽²⁾ OJ C 223, 16.9.2009, p. 26.

ANNEX

Agricultural products intended for human consumption listed in Annex I to the Treaty:

Class 1.6. Fruit, vegetables and cereals, fresh or processed

SPAIN

Pemento de Oímbra (PGI)

COMMISSION REGULATION (EU) No 430/2010**of 20 May 2010****amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾, and in particular Article 247 thereof,

Whereas:

- (1) Regulation (EC) No 648/2005 of the European Parliament and of the Council ⁽²⁾ introduced in Regulation (EEC) No 2913/92 the obligation to lodge entry or exit summary declarations by electronic means. Commission Regulation (EC) No 273/2009 ⁽³⁾ derogating from certain provisions of Commission Regulation (EEC) No 2454/93 ⁽⁴⁾ provides for a transitional phase expiring on 31 December 2010 during which economic operators are able, but not obliged, to lodge entry and exit summary declarations by electronic means.
- (2) It is appropriate to make some adjustments to the rules concerning entry and exit summary declarations aiming at reducing administrative burdens in cases where, for the purpose of safety and security, such declarations are not necessary. Furthermore, for the purpose of better risk analysis, household effects as defined in Article 2(1)(d) of Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty ⁽⁵⁾ should not be exempted from such declarations if they are carried under a transport contract.
- (3) In certain cases the provision of safety and security data in customs declarations and the requirement of a specific deadline for providing such declarations are not necessary for safety and security purposes so that further waivers should be introduced in this regard; such waivers should, however, not affect the general rules on customs declarations, in whatever form they may be lodged.
- (4) In certain cases where the safety and security related deadlines for export declarations do not apply, such as ship and aircraft supplies, it should be possible for the customs authorities to authorise reliable economic operators to enter the goods exported in their records and to report their export operations on a periodic basis after the goods have left the customs territory of the Community.
- (5) Commission Regulation (EC) No 1192/2008 ⁽⁶⁾ amending Regulation (EEC) No 2454/93 introduced common criteria and a common application form for the granting of authorisations for simplified declarations and the local clearance procedure. It should be clarified that these rules apply to all customs procedures. The same Regulation introduced in Article 253a with effect from 1 January 2011 the requirement that the use of simplified declarations or the local clearance procedure will be conditional on the lodging of electronic customs declarations and notifications. Some Member States have informed the Commission that such systems may not be available in all cases by that date. Provided that effective risk analysis is carried out, it should be possible for those Member States, under conditions which they prescribe, to accept customs declarations and notifications in other than electronic form until Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (modernised Customs Code) ⁽⁷⁾ will apply.
- (6) In cases where goods in temporary storage or in a control type I free zone are re-exported from the customs territory of the Community without an exit summary declaration being required, an alternative means for recording or notifying the re-exportation and the person responsible need to be laid down.
- (7) It should be clarified that the export formalities are not only to be used for Community goods which are to be brought to a destination outside the customs territory of the Community, but also with regard to tax exempt aircraft and ship supplies so that persons delivering such supplies can receive a proof of exit from the customs territory of the Community needed for the purposes of tax exemption. The same rules should apply where non-Community goods are to be re-exported under cover of a re-export declaration.

⁽¹⁾ OJ L 302, 19.10.1992, p. 1.⁽²⁾ OJ L 117, 4.5.2005, p. 13.⁽³⁾ OJ L 91, 3.4.2009, p. 14.⁽⁴⁾ OJ L 253, 11.10.1993, p. 1.⁽⁵⁾ OJ L 324, 10.12.2009, p. 23.⁽⁶⁾ OJ L 329, 6.12.2008, p. 1.⁽⁷⁾ OJ L 145, 4.6.2008, p. 1.

(8) Articles 278, 279 and 280 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax⁽¹⁾ and Article 3 of Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC⁽²⁾ require the use of the import and export formalities where Community goods are moved to and from territories within the customs territory of the Community in which those Directives do not apply. It is appropriate to refer to those provisions and to exempt such movements from the requirement to provide safety and security related data and to respect the special deadlines for safety and security related controls given that those provisions should apply only for goods brought into and out of the customs territory of the Community. Due to their geographical situation, the special deadlines for safety and security related controls and the provision of safety and security related data are also not necessary in cases where goods are brought to Heligoland, the Republic of San Marino and the Vatican City State.

panying administrative document for the movement under duty-suspension arrangements of products subject to excise duty⁽³⁾ should therefore be deleted with effect from 1 January 2011. Export procedures which started under cover of an administrative accompanying document before that date should be terminated in accordance with Article 793c of Regulation (EEC) No 2454/93 as it was applicable on 31 December 2010.

(12) These amendments should not require any changes to those electronic systems which are or have to be in place when this Regulation becomes applicable.

(13) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2454/93 is amended as follows:

1. in Article 1 the following point 18 is added:

'18. *Exit summary declaration* means: The summary declaration, referred to in Article 182c of the Code, which is to be lodged for goods to be brought out of the customs territory of the Community, except where otherwise provided for in this Regulation.;

2. Article 181c is amended as follows:

(a) point (e) is replaced by the following:

'(e) goods for which a customs declaration made by any other act is permitted in accordance with Articles 230, 232 and 233 with the exception of, if carried under a transport contract, household effects as defined in Article 2(1)(d) of Council Regulation (EC) No 1186/2009 (*), pallets, containers, and means of road, rail, air, sea and inland waterway transport;

(*) OJ L 324, 10.12.2009, p. 23.;

(9) The customs office at which the exit summary declaration is to be lodged and the person responsible for lodging such declaration should be specified. This clarification should include situations in which, instead of an exit summary declaration, a transit declaration containing the data of an exit summary declaration is lodged.

(10) In order to facilitate customs supervision at the customs office of exit, it is necessary to specify the obligations of persons handing over goods to another person before the goods are carried out of the customs territory of the Community and the obligations of persons having to provide information on the exit of goods to the customs office of exit. The same obligations should apply in cases where goods declared for export and presented at the customs office of exit are no longer destined to be brought out of the customs territory of the Community and are removed from the customs office of exit.

(11) By virtue of Directive 2008/118/EC the use of the Excise Movement Computerised System (EMCS) is mandatory for the movement of excise goods under suspension of excise duty as of 1 January 2011. According to that Directive, the movement of Community goods under suspension of excise duty with a destination outside the customs territory of the Community has to take place under the export procedure for which a computerised system is to be used. The special rules concerning the use of the administrative accompanying document provided for by Commission Regulation (EEC) No 2719/92 of 11 September 1992 on the accom-

(1) OJ L 347, 11.12.2006, p. 1.

(2) OJ L 9, 14.1.2009, p. 12.

(3) OJ L 276, 19.9.1992, p. 1.

(b) point (g) is replaced by the following:

'(g) goods for which an oral customs declaration is permitted in accordance with Articles 225, 227 and 229(1) with the exception of, if carried under a transport contract, household effects as defined in Article 2(1)(d) of Regulation (EC) No 1186/2009, pallets, containers, and means of road, rail, air, sea and inland waterway transport;'

(c) point (m) is replaced by the following:

'(m) the following goods brought into the customs territory of the Community directly from drilling or production platforms or wind turbines operated by a person established in the customs territory of the Community:

(i) goods which were incorporated in such platforms or wind turbines, for the purposes of their construction, repair, maintenance or conversion;

(ii) goods which were used to fit to or to equip the said platforms or wind turbines;

(iii) other provisions used or consumed on the said platforms or wind turbines; and

(iv) non-hazardous waste products from the said platforms or wind turbines;'

(d) the following point (o) is added:

'(o) goods brought from territories within the customs territory of the Community where Council Directive 2006/112/EC (*) or Council Directive 2008/118/EC (**) does not apply, and goods brought from Heligoland, the Republic of San Marino and the Vatican City State to the customs territory of the Community.'

(*) OJ L 347, 11.12.2006, p. 1.

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

3. in Article 184d(3) the phrase 'Article 181c(c) to (i), (l) to (n)' is replaced by 'Article 181c(c) to (i), (l) to (o)';

4. in Article 189 the following paragraph is added:

'However, goods brought into the customs territory of the Community which are unloaded and reloaded onto the same means of transport during its current voyage in order to enable the unloading or loading of other goods, shall not be presented to customs.'

5. in Article 253a the following paragraph is added:

'However, in cases where the customs authorities' or the economic operators' computerised systems are not in place for the lodgement or receipt of simplified customs declarations or local clearance notifications using a data-processing technique, the customs authorities may accept other forms of declarations and notifications as prescribed by them, provided effective risk analysis is carried out.'

6. in Article 261, paragraph 1 is replaced by the following:

'1. Authorisation to use the simplified declaration procedure shall be granted to the applicant if the conditions and criteria referred to in Articles 253, 253a, 253b and 253c are fulfilled.'

7. in Article 264, paragraph 1 is replaced by the following:

'1. Authorisation to use the local clearance procedure shall be granted to the applicant if the conditions and criteria referred to in Articles 253, 253a, 253b and 253c are fulfilled.'

8. in Article 269, paragraph 1 is replaced by the following:

'1. Authorisation to use the simplified declaration procedure shall be granted to the applicant if the conditions and criteria referred to in Articles 253, 253a, 253b, 253c and 270 are fulfilled.'

9. in Article 272, paragraph 1 is replaced by the following:

'1. Authorisation to use the local clearance procedure shall be granted to the applicant if the conditions and criteria referred to in paragraph 2 and Articles 253, 253a, 253b, 253c and 274 are fulfilled.'

10. Article 279 is replaced by the following:

'Article 279

The export formalities provided for in Articles 786 to 796e may be simplified in accordance with this Chapter.;

shall have agreed to the use of such an arrangement and the information referred to under point (b) is also available to the customs office of exit.

Where the arrangement referred to in the first subparagraph is used, entry of the goods in the records shall be deemed to be release for export and exit.;

11. in Article 282, paragraph 1 is replaced by the following:

'1. Authorisation to use the simplified declaration procedure shall be granted according to the conditions and in the manner laid down in Articles 253, 253a, 253b, 253c, 261(2) and, *mutatis mutandis*, Article 262.;

15. Article 592a is amended as follows:

(a) point (e) is replaced by the following:

12. Article 283 is replaced by the following:

'Article 283

Authorisation to use the local clearance procedure shall be granted according to the conditions and in the manner laid down in Articles 253, 253a, 253b and 253c to any person, hereinafter referred to as an "approved exporter", wishing to carry out export procedures at his premises or at the other places designated or approved by the customs authorities.;

'(e) goods for which a customs declaration made by any other act is permitted in accordance with Articles 231, 232(2) and 233 with the exception of, if carried under a transport contract, household effects as defined in Article 2(1)(d) of Regulation (EC) No 1186/2009, pallets, containers, and means of road, rail, air, sea and inland waterway transport';

(b) point (g) is replaced by the following:

13. Article 284 is deleted;

'(g) goods for which an oral declaration is permitted in accordance with Articles 226, 227 and 229(2) with the exception of, if carried under a transport contract, household effects as defined in Article 2(1)(d) of Regulation (EC) No 1186/2009, pallets, containers, and means of road, rail, air, sea and inland waterway transport';

14. in Article 285a, the following paragraph 1a is added:

'1a. In cases where Article 592a or 592d applies, the customs authorities may authorise an economic operator to enter in his records immediately each export operation and to report all of them to the authorising customs office in a supplementary declaration on a periodic basis of up to one month after the goods have left the customs territory of the Community. Such authorisation may be granted under the following conditions:

(c) point (l) is replaced by the following:

(a) the economic operator uses the authorisation only for goods which are not subject to prohibitions and restrictions;

'(l) the following goods brought out of the customs territory of the Community directly to drilling or production platforms or wind turbines operated by a person established in the customs territory of the Community:

(b) the economic operator provides all the information to the customs office of export which this office considers necessary to enable it perform controls on the goods;

(i) goods to be used for the construction, repair, maintenance or conversion of such platforms or wind turbines;

(c) in cases where the customs office of export is different from the customs office of exit, the customs authorities

(ii) goods to be fitted to or used to equip the said platforms or wind turbines;

- (iii) provisions to be used or consumed on the said platforms or wind turbines’;
- (d) the following points (n) to (p) are added:
- ‘(n) goods entitled to relief pursuant to the Vienna Convention on diplomatic relations of 18 April 1961, the Vienna Convention on consular relations of 24 April 1963 or other consular conventions, or the New York Convention of 16 December 1969 on special missions;
- (o) goods which are supplied for incorporation as parts of or accessories in vessels and aircraft, motor fuels, lubricants and gas necessary for the operation of the vessels or aircraft, foodstuffs, and other items to be consumed or sold on board;
- (p) goods destined for territories within the customs territory of the Community where Directive 2006/112/EC or Directive 2008/118/EC does not apply, and goods dispatched from these territories to another destination in the customs territory of the Community, as well as goods dispatched from the customs territory of the Community to Heligoland, the Republic of San Marino and the Vatican City State.’;
16. Article 592b is amended as follows:
- (a) in paragraph 1 point (e) is deleted;
- (b) paragraph 2 is replaced by the following:
- ‘2. Where the customs declaration is not lodged by use of a data processing technique, the time limits laid down in points (a)(iii) and (iv), (b), (c) and (d) of paragraph 1 shall be at least four hours.’;
17. in Article 592g the phrase ‘Article 592a(c) to (m)’ is replaced by ‘Article 592a(c) to (p)’;
18. in Chapter 2 of Title IV the following Article 786 is inserted:
- ‘Article 786
1. The export procedure, within the meaning of Article 161(1) of the Code, shall be used where Community goods are to be brought to a destination outside the customs territory of the Community.
2. The formalities concerning the export declaration laid down in this Chapter shall also be used in cases:
- (a) where Community goods are to move to and from territories within the customs territory of the Community where Directive 2006/112/EC or Directive 2008/118/EC does not apply;
- (b) where Community goods are delivered tax exempt as aircraft and ship supplies, regardless of the destination of the aircraft or ship.
- However, in the cases referred to under points (a) and (b), it shall not be necessary to include in the export declaration the particulars for an exit summary declaration set out in Annex 30A.’;
19. in Article 792a(2) the phrase ‘Article 793a(6)’ is replaced by ‘point (b) of the second subparagraph of Article 793(2)’;
20. in Article 793 the following paragraph 3 is added:
- ‘3. In the cases referred to in point (b) of the second subparagraph of paragraph 2, where goods taken over under a single transport contract arrive at the customs office at the actual point of exit from the customs territory of the Community, the carrier shall, on request, make available to that office one of the following:
- (a) the movement reference number of the export declaration where available; or
- (b) a copy of the single transport contract or the export declaration for the goods concerned; or

- (c) the unique consignment reference number or the transport document reference number and the number of packages and, if containerised, the equipment identification number; or
- (d) information concerning the single transport contract or the transport of the goods out of the customs territory of the Community contained in the data processing system of the person taking over the goods or another commercial data processing system.;

21. in Article 793a paragraph 6 is deleted;

22. Article 793c is deleted;

23. in Article 796c the second paragraph is replaced by the following:

‘Such notification shall contain the movement reference number of the export declaration.’;

24. Article 796d is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Without prejudice to point (b) of the second subparagraph of Article 793(2), the customs office of exit shall satisfy itself that the goods presented correspond to those declared and shall supervise the physical exit of the goods from the customs territory of the Community. Any examination of the goods shall be carried out by the customs office of exit using the “anticipated export record” message received from the customs office of export as a basis for such examination.’

In order to allow for customs supervision where goods are unloaded from a means of transport and handed over to another person holding the goods, and loaded to another means of transport that will carry the goods out of the customs territory of the Community following presentation at the customs office of exit, the following provisions shall apply:

(a) At the latest when handing over the goods the holder shall advise the next holder of the goods

of the unique consignment reference number or the transport document reference number, and the number of packages or, if containerised, the equipment identification number, and, if one has been issued, the movement reference number of the export declaration. This advice may be made electronically and/or using commercial, port or transport information systems and processes or, where not available, in any other form. At the latest upon handover of the goods, the person to whom they are handed over shall record the advice provided by the immediately preceding holder of the goods;

(b) A carrier may not load goods for carriage out of the customs territory of the Community unless the information referred to under point (a) has been provided to the carrier;

(c) The carrier shall notify the exit of the goods to the customs office of exit by providing the information referred to under point (a) unless that information is available to the customs authorities through existing commercial, port or transport systems or processes. Wherever possible this notification shall form part of existing manifest or other transport reporting requirements.

For the purposes of the second subparagraph “carrier” means the person who brings the goods, or who assumes responsibility for the carriage of the goods, out of the customs territory of the Community. However,

— in the case of combined transportation, where the active means of transport leaving the customs territory of the Community is only transporting another means of transport which, after the arrival of the active means of transport at its destination, will move by itself as an active means of transport, carrier means the person who will operate the means of transport which will move by itself once the means of transport leaving the customs territory of the Community has arrived at its destination,

— in the case of maritime or air traffic under a vessel sharing or contracting arrangement, carrier means the person who has concluded a contract, and issued a bill of lading or air waybill, for the actual carriage of the goods out of the customs territory of the Community.’;

(b) the following paragraph 4 is added:

‘4. Without prejudice to Article 792a, where goods declared for export are no longer destined to be brought out of the customs territory of the Community, the person who removes the goods from the customs office of exit for carriage to a place within that territory shall provide to the customs office of exit the information referred to under point (a) of the second subparagraph of paragraph 1. This information may be provided in any form.’;

25. in Article 796da(4) point (e) is replaced by the following:

‘(e) economic operators’ records of goods supplied to oil and gas drilling and production platforms or wind turbines.’;

26. in Article 841(1) the phrase ‘Articles 787 to 796e’ is replaced by ‘Articles 786(1), (2)(b) and 787 to 796e’;

27. Article 841a is replaced by the following:

‘Article 841a

1. In cases other than those defined in the third sentence of Article 182(3) of the Code, re-exportation shall be notified by an exit summary declaration in accordance with Articles 842a to 842e, except where this requirement is waived in accordance with Article 842a(3) or (4).

2. Where goods under temporary storage or in a control type I free zone are re-exported and no customs declaration or exit summary declaration is required, re-exportation shall be notified to the customs office competent for the place from where the goods will leave the customs territory of the Community prior to the exit of the goods in the form prescribed by the customs authorities.

The person referred to in paragraph 3 shall at its request, be authorised to amend one or more particulars of the notification. Such amendment is no longer possible after the goods mentioned in the notification have left the customs territory of the Community.

3. The notification referred to under the first subparagraph of paragraph 2 shall be made by the

carrier. However, such notification shall be lodged by the holder of the temporary storage facility or the holder of a storage facility in a control type I free zone, or any other person able to present the goods, where the carrier has been informed, and given its consent under a contractual arrangement, that the person referred to in the second sentence of this paragraph lodges the notification. The customs office of exit may assume, except where there is evidence to the contrary, that the carrier has given its consent under a contractual arrangement and that the notification has been lodged with its knowledge.

The last subparagraph of Article 796d(1) shall apply with regard to the definition of the carrier.

4. In cases where, following the notification referred to under the first subparagraph of paragraph 2, the goods are no longer destined to be brought out of the customs territory of the Community, Article 796d(4) shall apply *mutatis mutandis*.’;

28. Article 842a is replaced by the following:

‘Article 842a

1. Without prejudice to paragraphs 3 and 4, where bringing goods out of the customs territory of the Community does not require a customs declaration, the exit summary declaration shall be lodged at the customs office of exit.

2. For the purpose of this Chapter, the “customs office of exit” shall be:

(a) the customs office competent for the place from where the goods will leave the customs territory of the Community; or

(b) where the goods are to leave the customs territory of the Community by air or sea, the customs office competent for the place where the goods are loaded onto the vessel or aircraft on which they will be brought to a destination outside the customs territory of the Community.

3. No exit summary declaration is required when an electronic transit declaration contains the exit summary declaration data provided the office of destination is also the customs office of exit or the office of destination is outside the customs territory of the Community.

4. An exit summary declaration shall not be required in the following cases:

- (a) the exemptions listed in Article 592a;
- (b) where goods are loaded at a port or airport in the customs territory of the Community for discharge at another Community port or airport, provided that, upon request, evidence in the form of a commercial, port or transport manifest or loading list is made available to the customs office of exit regarding the intended place of unloading. The same applies when the vessel or aircraft that transports the goods is to call at a port or airport outside the customs territory of the Community and those goods are to remain loaded on board the vessel or aircraft during the call at the port or airport outside the customs territory of the Community;
- (c) where, in a port or airport, the goods are not unloaded from the means of transport which carried them into the customs territory of the Community and which will carry them out of that territory;
- (d) where the goods were loaded at a previous port or airport in the customs territory of the Community and remain on the means of transport that will carry them out of the customs territory of the Community;
- (e) where goods in temporary storage or in a control type I free zone are transhipped from the means of transport that brought them to that temporary storage facility or free zone under the supervision of the same customs office onto a vessel, airplane or railway that will carry them from that temporary storage facility or free zone out of customs territory of the Community, provided that:
 - (i) the transhipment is undertaken within fourteen calendar days from when the goods were presented for temporary storage or at a control type I free zone; in exceptional circumstances, the customs authorities may extend this period of time in order to deal with those circumstances;
 - (ii) information about the goods is available to the customs authorities; and

(iii) the destination of the goods and the consignee do not change, to the knowledge of the carrier;

- (f) where evidence that the goods to be brought out of the customs territory of the Community were already covered by a customs declaration with the exit summary declaration data is made available to the customs office of exit through either the data processing system of the temporary storage holder, the carrier or the port/airport operator, or through another commercial data processing system, provided it has been approved by the customs authorities.

Without prejudice to Article 842d(2), in the cases referred to in points (a) to (f), the customs controls shall take into account the special nature of the situation.

5. The exit summary declaration, where required, shall be lodged by the carrier. However, such declaration shall be lodged by the holder of the temporary storage facility or the holder of a storage facility in a control type I free zone, or any other person able to present the goods, where the carrier has been informed, and given its consent under a contractual arrangement, that the person referred to in the second sentence of this paragraph lodges the declaration. The customs office of exit may assume, except where there is evidence to the contrary, that the carrier has given its consent under a contractual arrangement and that the declaration has been lodged with its knowledge.

The last subparagraph of Article 796d(1) shall apply with regard to the definition of the carrier.

6. In cases where, following the lodgement of an exit summary declaration, the goods are no longer destined to be brought out of the customs territory of the Community, Article 796 d(4) shall apply *mutatis mutandis*;

29. the second subparagraph of Article 842d(2) is replaced by the following:

'Where goods covered by one of the exemptions from the requirement for an exit summary declaration laid down in Article 842a(4) are brought out of the customs territory of the Community, risk analysis shall be carried out upon presentation of the goods where required and on the basis of documentation or other information covering the goods.'

Article 2

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

Points 1 to 13 and 15 to 29 of Article 1 shall apply from 1 January 2011. However, where an export operation has started before 1 January 2011 under cover of an administrative accompanying document in accordance with Article 793c(1), the customs office of exit shall apply the measures laid down in Article 793c on and after that date.

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

Done at Brussels, 20 May 2010.

For the Commission
The President
José Manuel BARROSO

COMMISSION REGULATION (EU) No 431/2010**of 20 May 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 21 May 2010.

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

Done at Brussels, 20 May 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	MA	70,0
	MK	66,4
	TN	71,5
	TR	61,3
	ZZ	67,3
0707 00 05	MA	46,5
	MK	52,3
	TR	118,3
	ZZ	72,4
0709 90 70	TR	121,1
	ZZ	121,1
0805 10 20	EG	55,7
	IL	54,7
	MA	51,0
	PY	48,3
	TN	51,1
	TR	49,3
	ZA	73,7
	ZZ	54,8
0805 50 10	AR	94,0
	BR	117,8
	TR	87,6
	ZA	74,1
	ZZ	93,4
0808 10 80	AR	85,3
	BR	75,2
	CA	69,6
	CL	80,9
	CN	81,8
	MK	26,7
	NZ	114,3
	US	122,8
	UY	77,5
	ZA	84,8
	ZZ	81,9

⁽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 432/2010
of 20 May 2010
fixing the export refunds on milk and milk products

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⁾, and in particular Article 164(2), in conjunction with Article 4, 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 listed in Part XVI of Annex I to that Regulation and prices for those products on the Community market may be covered by an export refund.
- (2) Given the present situation on the market in milk and milk products, export refunds should be fixed in accordance with the rules and certain criteria provided for in Articles 162, 163, 164, 167, 169 and 170 of Regulation (EC) No 1234/2007.
- (3) Article 164(1) of Regulation (EC) No 1234/2007 provides that export 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) Export refunds for the Dominican Republic have been differentiated to take into account the reduced custom duties applied on imports under the import tariff quota under the Memorandum of Understanding between the European Community and the Dominican Republic on import protection for milk powder in the Dominican Republic ⁽²⁾, approved by Council Decision 98/486/EC ⁽³⁾. Due to a changed market situation in the Dominican Republic, characterised by increased competition for milk powder, the quota is no longer fully used. In order to maximise the use of the quota, the differentiation of export refunds for the Dominican Republic should be abolished.
- (5) Commission Regulation (EU) No 326/2010 ⁽⁴⁾ amending Regulation (EEC) No 3846/87 of 17 December 1987 establishing an agricultural product nomenclature for export refunds ⁽⁵⁾ added certain product codes concerning cheeses to the agricultural product nomenclature. Consequently, those codes should be included in the Annex to this Regulation.
- (6) 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

Export refunds as provided for in Article 164 of Regulation (EC) No 1234/2007 shall be granted on the products and for the amounts set out in the Annex to this Regulation, subject to the conditions provided for in Article 3 of Commission Regulation (EC) No 1187/2009 ⁽⁶⁾.

Article 2

This Regulation shall enter into force on 21 May 2010.

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

Done at Brussels, 20 May 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 218, 6.8.1998, p. 46.

⁽³⁾ OJ L 218, 6.8.1998, p. 45.

⁽⁴⁾ OJ L 100, 22.4.2010, p. 1.

⁽⁵⁾ OJ L 366, 24.12.1987, p. 1.

⁽⁶⁾ OJ L 318, 4.12.2009, p. 1.

ANNEX

Export refunds on milk and milk products applicable from 21 May 2010

Product code	Destination	Unit of measurement	Refunds	Product code	Destination	Unit of measurement	Refunds
0401 30 31 9100	L20	EUR/100 kg	0,00	0402 29 19 9900	L20	EUR/100 kg	0,00
0401 30 31 9400	L20	EUR/100 kg	0,00	0402 29 99 9100	L20	EUR/100 kg	0,00
0401 30 31 9700	L20	EUR/100 kg	0,00	0402 29 99 9500	L20	EUR/100 kg	0,00
0401 30 39 9100	L20	EUR/100 kg	0,00	0402 91 10 9370	L20	EUR/100 kg	0,00
0401 30 39 9400	L20	EUR/100 kg	0,00	0402 91 30 9300	L20	EUR/100 kg	0,00
0401 30 39 9700	L20	EUR/100 kg	0,00	0402 91 99 9000	L20	EUR/100 kg	0,00
0401 30 91 9100	L20	EUR/100 kg	0,00	0402 99 10 9350	L20	EUR/100 kg	0,00
0401 30 99 9100	L20	EUR/100 kg	0,00	0402 99 31 9300	L20	EUR/100 kg	0,00
0401 30 99 9500	L20	EUR/100 kg	0,00	0403 90 11 9000	L20	EUR/100 kg	0,00
0402 10 11 9000	L20	EUR/100 kg	0,00	0403 90 13 9200	L20	EUR/100 kg	0,00
0402 10 19 9000	L20	EUR/100 kg	0,00	0403 90 13 9300	L20	EUR/100 kg	0,00
0402 10 99 9000	L20	EUR/100 kg	0,00	0403 90 13 9500	L20	EUR/100 kg	0,00
0402 21 11 9200	L20	EUR/100 kg	0,00	0403 90 13 9900	L20	EUR/100 kg	0,00
0402 21 11 9300	L20	EUR/100 kg	0,00	0403 90 33 9400	L20	EUR/100 kg	0,00
0402 21 11 9500	L20	EUR/100 kg	0,00	0403 90 59 9310	L20	EUR/100 kg	0,00
0402 21 11 9900	L20	EUR/100 kg	0,00	0403 90 59 9340	L20	EUR/100 kg	0,00
0402 21 17 9000	L20	EUR/100 kg	0,00	0403 90 59 9370	L20	EUR/100 kg	0,00
0402 21 19 9300	L20	EUR/100 kg	0,00	0404 90 21 9120	L20	EUR/100 kg	0,00
0402 21 19 9500	L20	EUR/100 kg	0,00	0404 90 21 9160	L20	EUR/100 kg	0,00
0402 21 19 9900	L20	EUR/100 kg	0,00	0404 90 23 9120	L20	EUR/100 kg	0,00
0402 21 91 9100	L20	EUR/100 kg	0,00	0404 90 23 9130	L20	EUR/100 kg	0,00
0402 21 91 9200	L20	EUR/100 kg	0,00	0404 90 23 9140	L20	EUR/100 kg	0,00
0402 21 91 9350	L20	EUR/100 kg	0,00	0404 90 23 9150	L20	EUR/100 kg	0,00
0402 21 99 9100	L20	EUR/100 kg	0,00	0404 90 81 9100	L20	EUR/100 kg	0,00
0402 21 99 9200	L20	EUR/100 kg	0,00	0404 90 83 9110	L20	EUR/100 kg	0,00
0402 21 99 9300	L20	EUR/100 kg	0,00	0404 90 83 9130	L20	EUR/100 kg	0,00
0402 21 99 9400	L20	EUR/100 kg	0,00	0404 90 83 9150	L20	EUR/100 kg	0,00
0402 21 99 9500	L20	EUR/100 kg	0,00	0404 90 83 9170	L20	EUR/100 kg	0,00
0402 21 99 9600	L20	EUR/100 kg	0,00	0405 10 11 9500	L20	EUR/100 kg	0,00
0402 21 99 9700	L20	EUR/100 kg	0,00	0405 10 11 9700	L20	EUR/100 kg	0,00
0402 29 15 9200	L20	EUR/100 kg	0,00				
0402 29 15 9300	L20	EUR/100 kg	0,00				
0402 29 15 9500	L20	EUR/100 kg	0,00				
0402 29 19 9300	L20	EUR/100 kg	0,00				
0402 29 19 9500	L20	EUR/100 kg	0,00				

Product code	Destination	Unit of measurement	Refunds	Product code	Destination	Unit of measurement	Refunds
0405 10 19 9500	L20	EUR/100 kg	0,00	0406 30 39 9500	L04	EUR/100 kg	0,00
0405 10 19 9700	L20	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0405 10 30 9100	L20	EUR/100 kg	0,00	0406 30 39 9700	L04	EUR/100 kg	0,00
0405 10 30 9300	L20	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0405 10 30 9700	L20	EUR/100 kg	0,00	0406 30 39 9930	L04	EUR/100 kg	0,00
0405 10 50 9500	L20	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0405 10 50 9700	L20	EUR/100 kg	0,00	0406 30 39 9950	L04	EUR/100 kg	0,00
0405 10 90 9000	L20	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0405 20 90 9500	L20	EUR/100 kg	0,00	0406 40 50 9000	L04	EUR/100 kg	0,00
0405 20 90 9700	L20	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0405 90 10 9000	L20	EUR/100 kg	0,00	0406 40 90 9000	L04	EUR/100 kg	0,00
0405 90 90 9000	L20	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 10 20 9640	L04	EUR/100 kg	0,00	0406 40 90 9000	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 10 20 9650	L04	EUR/100 kg	0,00	0406 90 13 9000	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 10 20 9830	L04	EUR/100 kg	0,00	0406 90 15 9100	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 10 20 9850	L04	EUR/100 kg	0,00	0406 90 17 9100	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 20 90 9913	L04	EUR/100 kg	0,00	0406 90 21 9900	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 20 90 9915	L04	EUR/100 kg	0,00	0406 90 23 9900	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 20 90 9917	L04	EUR/100 kg	0,00	0406 90 25 9900	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 20 90 9919	L04	EUR/100 kg	0,00	0406 90 27 9900	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 30 31 9730	L04	EUR/100 kg	0,00	0406 90 29 9100	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 30 31 9930	L04	EUR/100 kg	0,00	0406 90 29 9300	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 30 31 9950	L04	EUR/100 kg	0,00	0406 90 32 9119	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
				0406 90 35 9190	L04	EUR/100 kg	0,00
					L40	EUR/100 kg	0,00
				0406 90 35 9990	L04	EUR/100 kg	0,00
					L40	EUR/100 kg	0,00
				0406 90 37 9000	L04	EUR/100 kg	0,00
					L40	EUR/100 kg	0,00
				0406 90 61 9000	L04	EUR/100 kg	0,00
					L40	EUR/100 kg	0,00

Product code	Destination	Unit of measurement	Refunds	Product code	Destination	Unit of measurement	Refunds
0406 90 63 9100	L04	EUR/100 kg	0,00	0406 90 86 9200	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 90 63 9900	L04	EUR/100 kg	0,00	0406 90 86 9400	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 90 69 9910	L04	EUR/100 kg	0,00	0406 90 86 9900	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 90 73 9900	L04	EUR/100 kg	0,00	0406 90 87 9300	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 90 75 9900	L04	EUR/100 kg	0,00	0406 90 87 9400	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 90 76 9300	L04	EUR/100 kg	0,00	0406 90 87 9951	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 90 76 9400	L04	EUR/100 kg	0,00	0406 90 87 9971	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 90 76 9500	L04	EUR/100 kg	0,00	0406 90 87 9973	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 90 78 9100	L04	EUR/100 kg	0,00	0406 90 87 9974	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 90 78 9300	L04	EUR/100 kg	0,00	0406 90 87 9975	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 90 79 9900	L04	EUR/100 kg	0,00	0406 90 87 9979	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 90 81 9900	L04	EUR/100 kg	0,00	0406 90 88 9300	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 90 85 9930	L04	EUR/100 kg	0,00	0406 90 88 9500	L04	EUR/100 kg	0,00
	L40	EUR/100 kg	0,00		L40	EUR/100 kg	0,00
0406 90 85 9970	L04	EUR/100 kg	0,00				
	L40	EUR/100 kg	0,00				

The destinations are defined as follows:

L20: All destinations with the exception of:

- (a) third countries: Andorra, Holy See (Vatican City State), Liechtenstein and the United States of America;
- (b) territories of the EU Member States not forming part of the customs territory of the Community: the Faeroe Islands, Greenland, Heligoland, Ceuta, Melilla, the Communes of Livigno and Campione d'Italia, and the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control;
- (c) European territories for whose external relations a Member State is responsible and not forming part of the customs territory of the Community: Gibraltar
- (d) the destinations referred to in Article 33(1), Article 41(1) and Article 42(1) of Commission Regulation (EC) No 612/2009 (OJ L 186, 17.7.2009, p. 1).

L04: Albania, Bosnia and Herzegovina, Serbia, Kosovo (*), Montenegro and the former Yugoslav Republic of Macedonia.

L40: All destinations with the exception of:

- (a) third countries: L04, Andorra, Iceland, Liechtenstein, Norway, Switzerland, Holy See (Vatican City State), the United States of America, Croatia, Turkey, Australia, Canada, New Zealand and South Africa;
- (b) territories of the EU Member States not forming part of the customs territory of the Community: the Faeroe Islands, Greenland, Heligoland, Ceuta, Melilla, the Communes of Livigno and Campione d'Italia, and the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control;
- (c) European territories for whose external relations a Member State is responsible and not forming part of the customs territory of the Community: Gibraltar.
- (d) the destinations referred to in Article 33(1), Article 41(1) and Article 42(1) of Commission Regulation (EC) No 612/2009 (OJ L 186, 17.7.2009, p. 1).

(*) As defined by United Nations Security Council Resolution 1244 of 10 June 1999.

COMMISSION REGULATION (EU) No 433/2010**of 20 May 2010****granting no export refund for butter in the framework of the standing invitation to tender provided for in Regulation (EC) No 619/2008**

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⁾, 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 permanent tender.
- (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 18 May 2010.

- (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 18 May 2010, no export refund shall be granted for the products and destinations referred to in points (a) and (b) of Article 1 and in Article 2 of that Regulation.

Article 2

This Regulation shall enter into force on 21 May 2010.

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

Done at Brussels, 20 May 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 168, 28.6.2008, p. 20.

⁽³⁾ OJ L 325, 11.12.2007, p. 69.

COMMISSION REGULATION (EU) No 434/2010**of 20 May 2010****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 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⁾, 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 18 May 2010.

- (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 18 May 2010, 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 21 May 2010.

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

Done at Brussels, 20 May 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 168, 28.6.2008, p. 20.

⁽³⁾ OJ L 325, 11.12.2007, p. 69.

COMMISSION REGULATION (EU) No 435/2010**of 20 May 2010****fixing the rates of the refunds applicable to milk and milk products 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 markets 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)(p) and listed in Part XVI of Annex I to that Regulation and prices within the Union may be covered by an export refund where these goods are exported in the form of goods listed in Part IV of 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 IV of Annex XX to Regulation (EC) No 1234/2007.
- (3) In accordance with the second paragraph, subparagraph (a) 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 162(2) of Regulation (EC) No 1234/2007 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) In the case of certain milk products exported in the form of goods not covered by Annex I to the Treaty, there is a danger that, if high refund rates are fixed in advance, the commitments entered into in relation to those refunds may be jeopardised. In order to avert that danger, it is therefore necessary to take appropriate precautionary measures, but without precluding the conclusion of long-term contracts. The fixing of specific refund rates for the advance fixing of refunds in respect of those products should enable those two objectives to be met.
- (6) Article 15(2) of Regulation (EC) No 1043/2005 provides that, when the rate of the refund is being fixed, account is to be taken, where appropriate, of aids or other measures having equivalent effect applicable in all Member States in accordance with the Regulation on the common organisation of the agricultural markets to the basic products listed in Annex I to Regulation (EC) No 1043/2005 or to assimilated products.
- (7) Article 100(1) of Regulation (EC) No 1234/2007 provides for the payment of aid for Union-produced skimmed milk processed into casein if such milk and the casein manufactured from it fulfil certain conditions.
- (8) 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

The rates of the refunds applicable to the basic products listed in Annex I to Regulation (EC) No 1043/2005 and in Part XVI of Annex I to Regulation (EC) No 1234/2007, and exported in the form of goods listed in Part IV 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 21 May 2010.

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 172, 5.7.2005, p. 24.

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

Done at Brussels, 20 May 2010.

*For the Commission,
On behalf of the President,
Heinz ZOUREK
Director-General Enterprise and Industry*

ANNEX

Rates of the refunds applicable from 21 May 2010 to certain milk products exported in the form of goods not covered by Annex I to the Treaty ⁽¹⁾

(EUR/100 kg)

CN code	Description	Rate of refund	
		In case of advance fixing of refunds	Other
ex 0402 10 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content not exceeding 1,5 % by weight (PG 2):		
	(a) on exportation of goods of CN code 3501	—	—
	(b) on exportation of other goods	0,00	0,00
ex 0402 21 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content of 26 % by weight (PG 3)	0,00	0,00
ex 0405 10	Butter, with a fat content by weight of 82 % (PG 6):		
	(a) on exportation of goods of CN code 2106 90 98 containing 40 % or more by weight of milk fat	0,00	0,00
	(b) on exportation of other goods	0,00	0,00

⁽¹⁾ The rates set out in this Annex are not applicable to exports to:

- (a) third countries: Andorra, the Holy See (Vatican City State), Liechtenstein, the United States of America and the goods listed in Tables I and II of Protocol 2 to the Agreement between the European Community and the Swiss Confederation of 22 July 1972 exported to the Swiss Confederation.
- (b) territories of EU Member States not forming part of the customs territory of the Community: Ceuta, Melilla, the Communes of Livigno and Campione d'Italia, Heligoland, Greenland, the Faeroe Islands and the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control.
- (c) European territories for whose external relations a Member State is responsible and not forming part of the customs territory of the Community: Gibraltar.
- (d) the destinations referred to in Article 33(1), Article 41(1) and Article 42(1) of Commission Regulation (EC) No 612/2009 (OJ L 186, 17.7.2009, p. 1).

COMMISSION REGULATION (EU) No 436/2010**of 20 May 2010****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 on the Functioning of 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, 20 May 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 181, 14.7.2009, p. 8.

⁽³⁾ OJ L 145, 29.6.1995, p. 47.

ANNEX

**to the Commission Regulation of 20 May 2010 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	121,5	0	AR
		122,5	0	TH
0207 12 90	Fowls of the species <i>Gallus domesticus</i> , not cut in pieces, presented as “65 % chickens”, frozen	124,5	0	BR
		116,3	1	AR
0207 14 10	Fowls of the species <i>Gallus domesticus</i> , boneless cuts, frozen	206,8	28	BR
		218,9	24	AR
		294,2	2	CL
0207 14 60	Fowl of the species <i>Gallus domesticus</i> , legs, frozen	102,7	12	BR
0207 25 10	Turkeys, not cut in pieces, presented as “80 % turkeys”, frozen	146,0	4	BR
0207 27 10	Turkeys, boneless cuts, frozen	242,1	16	BR
		293,9	1	CL
0408 11 80	Egg yolks	327,8	0	AR
0408 91 80	Eggs, not in shell, dried	343,8	0	AR
1602 32 11	Preparations of fowls of the species <i>Gallus domesticus</i> , uncooked	283,0	1	BR
		311,4	0	TH
3502 11 90	Egg albumin, dried	561,5	0	AR

⁽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”.

DECISIONS

COUNCIL DECISION

of 19 January 2010

on the existence of an excessive deficit in Austria

(2010/282/EU)

THE COUNCIL OF THE EUROPEAN UNION,

(EC) No 479/2009 ⁽²⁾ lays down detailed rules and definitions for the application of the provisions of that Protocol.

Having regard to the Treaty on the Functioning of the European Union and, in particular, Article 126(6) in conjunction with Article 126(13) and Article 136 thereof,

(4) The 2005 reform of the Stability and Growth Pact sought to strengthen its effectiveness and economic underpinnings as well as to safeguard the sustainability of the public finances in the long run. It aimed at ensuring that, in particular, the economic and budgetary background was taken into account fully in all steps in the EDP. In this way, the Stability and Growth Pact provides the framework supporting government policies for a prompt return to sound budgetary positions taking account of the economic situation.

Having regard to the proposal from the Commission,

Having regard to the observations made by Austria,

Whereas:

- (1) According to Article 126(1) of the Treaty on the Functioning of the European Union, Member States shall avoid excessive government deficits.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.
- (3) The excessive deficit procedure (EDP) under Article 126 of the Treaty on the Functioning of the European Union, as clarified by Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure ⁽¹⁾ (which is part of the Stability and Growth Pact), provides for a decision on the existence of an excessive deficit. Regulation (EC) No 1467/97 also establishes provisions for the implementation of Article 104 of the Treaty establishing the European Community, which has become Article 126 of the Treaty on the Functioning of the European Union. The Protocol on the excessive deficit procedure annexed to the Treaty on the Functioning of the European Union sets out further provisions relating to the implementation of the EDP. Council Regulation

(5) Article 104(5) of the Treaty establishing the European Community, which has become Article 126(5) of the Treaty on the Functioning of the European Union, required the Commission to address an opinion to the Council if the Commission considered that an excessive deficit in a Member State existed or might occur. Having taken into account its report in accordance with Article 104(3) of the Treaty establishing the European Community, which has become Article 126(3) of the Treaty on the Functioning of the European Union, and having regard to the opinion of the Economic and Financial Committee in accordance with Article 104(4) of the Treaty establishing the European Community, which has become Article 126(4) of the Treaty on the Functioning of the European Union, the Commission concluded that an excessive deficit existed in Austria. The Commission therefore addressed such an opinion to the Council in respect of Austria on 11 November 2009 ⁽³⁾.

(6) Article 126(6) of the Treaty on the Functioning of the European Union of the Treaty states that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists. In the case of Austria, this overall assessment leads to the conclusions set out in this Decision.

⁽¹⁾ OJ L 209, 2.8.1997, p. 6.

⁽²⁾ OJ L 145, 10.6.2009, p. 1.

⁽³⁾ All EDP-related documents for Austria can be found at the following website: http://ec.europa.eu/economy_finance/netstartsearch/pdfsearch/pdf.cfm?mode = _m2

(7) According to data notified by the Austrian authorities in October 2009, the general government deficit in Austria is planned to reach 3,9 % of GDP in 2009, thus remaining above and not close to the 3 % of GDP reference value. Based on the Commission services' autumn 2009 forecast, the planned excess over the reference value qualifies as exceptional within the meaning of the Treaty and the Stability and Growth Pact. In particular, it results from a severe economic downturn in the sense of the Treaty and the Stability and Growth Pact. According to the Commission services' 2009 autumn forecast, real GDP in Austria is projected to contract sharply in 2009 by - 3,7 %. The recession reflects the abrupt decline in private investment and foreign trade in the export-oriented manufacturing sector as a consequence of the financial crisis and the global slowdown, in particular the much lower growth prospects of the main trading partners (Euro area, Central and Eastern Europe). Furthermore, the planned excess over the reference value cannot be considered temporary. According to the Commission services' autumn 2009 forecast, taking into account the fiscal measures adopted in the current year, the deficit would widen to 5,5 % in 2010 and 5,3 % of GDP in 2011 on a no-policy change basis. The deficit criterion in the Treaty is not fulfilled.

(8) According to data notified by the Austrian authorities in October 2009, the general government gross debt has been above the 60 % of GDP reference value since 2008 and is planned to stand at 68,2 % of GDP in 2009. According to the Commission services' autumn 2009 forecast, the debt ratio is expected to rise further to 73,9 % in 2010 and 77 % of GDP in 2011. The debt ratio cannot be considered as diminishing sufficiently and

approaching the reference value at a satisfactory pace within the meaning of the Treaty and the Stability and Growth Pact. The debt criterion in the Treaty is not fulfilled.

(9) According to Article 2(4) of Regulation (EC) No 1467/97, 'relevant factors' can only be taken into account in the steps leading to the Council decision on the existence of an excessive deficit in accordance with Article 126(6) of the Treaty on the Functioning of the European Union if the double condition — that the deficit remains close to the reference value and that its excess over the reference value is temporary — is fully met. In the case of Austria, this double condition is not met. Therefore, relevant factors are not taken into account in the steps leading to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that an excessive deficit exists in Austria.

Article 2

This Decision is addressed to the Republic of Austria.

Done at Brussels, 19 January 2010.

For the Council

The President

E. SALGADO

COUNCIL DECISION**of 19 January 2010****on the existence of an excessive deficit in Belgium**

(2010/283/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union and, in particular, Article 126(6) in conjunction with Article 126(13) and Article 136 thereof,

Having regard to the proposal from the Commission,

Having regard to the observations made by Belgium,

Whereas:

- (1) According to Article 126(1) of the Treaty on the Functioning of the European Union, Member States shall avoid excessive government deficits.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.
- (3) The excessive deficit procedure (EDP) under Article 126 of the Treaty on the Functioning of the European Union, as clarified by Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure⁽¹⁾ (which is part of the Stability and Growth Pact), provides for a decision on the existence of an excessive deficit. Regulation (EC) No 1467/97 also establishes provisions for the implementation of Article 104 of the Treaty establishing the European Community, which has become Article 126 of the Treaty on the Functioning of the European Union. The Protocol on the excessive deficit procedure annexed to the Treaty on the Functioning of the European Union sets out further provisions relating to the implementation of the EDP. Council Regulation (EC) No 479/2009⁽²⁾ lays down detailed rules and definitions for the application of the provisions of that Protocol.
- (4) The 2005 reform of the Stability and Growth Pact sought to strengthen its effectiveness and economic underpinnings as well as to safeguard the sustainability of the public finances in the long run. It aimed at ensuring that, in particular, the economic and budgetary background was taken into account fully in all steps in the EDP. In this way, the Stability and Growth Pact provides the framework supporting

government policies for a prompt return to sound budgetary positions taking account of the economic situation.

- (5) Article 104(5) of the Treaty establishing the European Community, which has become Article 126(5) of the Treaty on the Functioning of the European Union, required the Commission to address an opinion to the Council if the Commission considered that an excessive deficit in a Member State existed or might occur. Having taken into account its report in accordance with Article 104(3) of the Treaty establishing the European Community, which has become Article 126(3) of the Treaty on the Functioning of the European Union, and having regard to the opinion of the Economic and Financial Committee in accordance with Article 104(4) of the Treaty establishing the European Community, which has become Article 126(4) of the Treaty on the Functioning of the European Union, the Commission concluded that an excessive deficit existed in Belgium. The Commission therefore addressed such an opinion to the Council in respect of Belgium on 11 November 2009⁽³⁾.
- (6) Article 126(6) of the Treaty on the Functioning of the European Union states that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists. In the case of Belgium, this overall assessment leads to the conclusions set out in this Decision.
- (7) According to data notified by the Belgian authorities in October 2009, the general government deficit in Belgium is planned to reach 5,9 % of GDP in 2009, thus exceeding and not close to the 3 % of GDP reference value. The planned excess over the reference value can be qualified as exceptional within the meaning of the Treaty and the Stability and Growth Pact. In particular, it results, among other things, from a severe economic downturn in the sense of the Treaty and the Stability and Growth Pact. In the Commission services' autumn 2009 forecast, GDP is projected to decrease by 2,9 % in 2009 and to expand by 0,6 % in 2010. Furthermore, also on the basis of the autumn 2009 forecast, the planned excess over the reference value cannot be considered temporary, since the deficit is expected to stabilise at 5,8 % of GDP in 2010 and 2011, taking into account the already sufficiently specified consolidation measures. The deficit criterion in the Treaty is not fulfilled.

⁽¹⁾ OJ L 209, 2.8.1997, p. 6.
⁽²⁾ OJ L 145, 10.6.2009, p. 1.

⁽³⁾ All EDP-related documents for Belgium can be found at the following website: http://ec.europa.eu/economy_finance/netstartsearch/pdfsearch/pdf.cfm?mode=_m2

(8) General government gross debt has been continuously declining from 134 % of GDP in 1993 to 84 % of GDP in 2007. In 2008, the operations to stabilise the financial sector led to an increase in the debt-to-GDP ratio to almost 90 %. Hence, the ratio remained well above the 60 % reference value. According to data notified by the Belgian authorities in October 2009, the general government gross debt is planned to stand at 97,6 % of GDP in 2009. The Commission services' autumn 2009 forecast projects the debt ratio to increase to around 97 % in 2009, 101 % in 2010 and 104 % in 2011. The debt ratio cannot be considered as diminishing sufficiently and approaching the reference value at a satisfactory pace within the meaning of the Treaty and the Stability and Growth Pact. The debt criterion in the Treaty is not fulfilled.

(9) According to Article 2(4) of Regulation (EC) No 1467/97, 'relevant factors' can only be taken into account in the steps leading to the Council decision on the existence of an excessive deficit in accordance with Article 126(6) of the Treaty on the Functioning of the European Union if the double condition — that the deficit remains close to the reference value and that its excess over the reference value is temporary — is fully

met. In the case of Belgium, this double condition is not met. Therefore, relevant factors are not taken into account in the steps leading to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that an excessive deficit exists in Belgium.

Article 2

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 19 January 2010.

For the Council
The President
E. SALGADO

COUNCIL DECISION**of 19 January 2010****on the existence of an excessive deficit in the Czech Republic**

(2010/284/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union and, in particular, Article 126(7) in conjunction with Article 126(13) thereof,

Having regard to the proposal from the Commission,

Having regard to the observations made by the Czech Republic,

Whereas:

- (1) According to Article 126(1) of the Treaty on the Functioning of the European Union, Member States shall avoid excessive government deficits.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.
- (3) The excessive deficit procedure (EDP) under Article 126 of the Treaty on the Functioning of the European Union, as clarified by Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure⁽¹⁾ (which is part of the Stability and Growth Pact), provides for a decision on the existence of an excessive deficit. Regulation (EC) No 1467/97 also establishes provisions for the implementation of Article 104 of the Treaty establishing the European Community, which has become Article 126 of the Treaty on the Functioning of the European Union. The Protocol on the excessive deficit procedure annexed to the Treaty on the Functioning of the European Union sets out further provisions relating to the implementation of the EDP. Council Regulation (EC) No 479/2009⁽²⁾ lays down detailed rules and definitions for the application of the provisions of that Protocol.
- (4) The 2005 reform of the Stability and Growth Pact sought to strengthen its effectiveness and economic underpinnings as well as to safeguard the sustainability of the public finances in the long run. It aimed at ensuring that, in particular, the economic and budgetary background was taken into account fully in all steps in the EDP. In this way, the Stability and

Growth Pact provides the framework supporting government policies for a prompt return to sound budgetary positions taking account of the economic situation.

- (5) Article 104(5) of the Treaty establishing the European Community, which has become Article 126(5) of the Treaty on the Functioning of the European Union, required the Commission to address an opinion to the Council if the Commission considered that an excessive deficit in a Member State existed or might occur. Having taken into account its report in accordance with Article 104(3) of the Treaty establishing the European Community, which has become Article 126(3) of the Treaty on the Functioning of the European Union and having regard to the opinion of the Economic and Financial Committee in accordance with Article 104(4) of the Treaty establishing the European Community, which has become Article 126(4) of the Treaty on the Functioning of the European Union, the Commission concluded that an excessive deficit existed in the Czech Republic. The Commission therefore addressed such an opinion to the Council in respect of the Czech Republic on 11 November 2009⁽³⁾.
- (6) Article 126(6) of the Treaty on the Functioning of the European Union states that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists. In the case of the Czech Republic, this overall assessment leads to the conclusions set out in this Decision.
- (7) According to data notified by the Czech authorities in October 2009, the general government deficit in the Czech Republic is planned to reach 6,6 % of GDP in 2009, thus above and not close to the 3 % of GDP reference value. Based on the Commission services' autumn 2009 forecast, the planned excess over the reference value qualifies as exceptional within the meaning of the Treaty and the Stability and Growth Pact. In particular, it results, among other things, from a severe economic downturn in the sense of the Treaty and the Stability and Growth Pact. The Commission services' autumn 2009 forecast projects real GDP to contract by 4,8 % in 2009 compared to positive growth of 2,5 % in 2008, largely reflecting the impact of the global economic crisis. While the headline deficit started to increase only in 2008, the structural deterioration started earlier when the economy was still in good

⁽¹⁾ OJ L 209, 2.8.1997, p. 6.

⁽²⁾ OJ L 145, 10.6.2009, p. 1.

⁽³⁾ All EDP-related documents for the Czech Republic can be found at the following website: http://ec.europa.eu/economy_finance/netstartsearch/pdfsearch/pdf.cfm?mode=_m2

times. Furthermore, the planned excess over the reference value cannot be considered temporary, since the Commission services' autumn 2009 forecast projects the general government deficit to reach 5,5 % of GDP in 2010 and, based on the no-policy-change assumption, 5,7 % of GDP in 2011. The forecast takes into account the effect of anti-crisis measures that will still be in place in 2010 (two measures amounting to approximately 0,7 % of GDP are permanent), as well as the fiscal consolidation package for 2010 adopted by the Czech authorities in October 2009. The deficit criterion in the Treaty is not fulfilled.

- (8) According to data notified by the Czech authorities in October 2009, the general government gross debt remains well below the 60 % of GDP reference value and is planned to stand at 35,5 % of GDP in 2009. According to the Commission services' autumn 2009 forecast, the debt ratio is set to increase rapidly, reaching 44 % of GDP in 2011 under the no policy change assumption.
- (9) According to Article 2(4) of Regulation (EC) No 1467/97, 'relevant factors' can only be taken into account in the steps leading to the Council decision on the existence of an excessive deficit in accordance with Article 126(6) of the Treaty on the Functioning of the

European Union if the double condition — that the deficit remains close to the reference value and that its excess over the reference value is temporary — is fully met. In the case of the Czech Republic, this double condition is not met. Therefore, relevant factors are not taken into account in the steps leading to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that an excessive deficit exists in the Czech Republic.

Article 2

This Decision is addressed to the Czech Republic.

Done at Brussels, 19 January 2010.

For the Council

The President

E. SALGADO

COUNCIL DECISION**of 19 January 2010****on the existence of an excessive deficit in Germany**

(2010/285/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union and, in particular, Article 126(6) in conjunction with Article 126(13) and Article 136 thereof,

Having regard to the proposal from the Commission,

Having regard to the observations made by Germany,

Whereas:

- (1) According to Article 126(1) of the Treaty on the Functioning of the European Union, Member States shall avoid excessive government deficits.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.
- (3) The excessive deficit procedure (EDP) under Article 126 of the Treaty on the Functioning of the European Union, as clarified by Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure⁽¹⁾ (which is part of the Stability and Growth Pact), provides for a Decision on the existence of an excessive deficit. Regulation (EC) No 1467/97 also establishes provisions for the implementation of Article 104 of the Treaty establishing the European Community, which has become Article 126 of the Treaty on the Functioning of the European Union. The Protocol on the excessive deficit procedure annexed to the Treaty on the Functioning of the European Union sets out further provisions relating to the implementation of the EDP. Council Regulation (EC) No 479/2009⁽²⁾ lays down detailed rules and definitions for the application of the provisions of that Protocol.
- (4) The 2005 reform of the Stability and Growth Pact sought to strengthen its effectiveness and economic underpinnings as well as to safeguard the sustainability of the public finances in the long run. It aimed at ensuring that, in particular, the economic and budgetary background was taken into account fully in all steps in the EDP. In this way, the Stability and

Growth Pact provides the framework supporting government policies for a prompt return to sound budgetary positions taking account of the economic situation.

- (5) Article 104(5) of the Treaty establishing the European Community, which has become Article 126(5) of the Treaty on the Functioning of the European Union, required the Commission to address an opinion to the Council if the Commission considered that an excessive deficit in a Member State existed or might occur. Having taken into account its report in accordance with Article 104(3) of the Treaty establishing the European Community, which has become Article 126(3) of the Treaty on the Functioning of the European Union, and having regard to the opinion of the Economic and Financial Committee in accordance with Article 104(4) of the Treaty establishing the European Community, which has become Article 126(4) of the Treaty on the Functioning of the European Union, the Commission concluded that an excessive deficit existed in Germany. The Commission therefore addressed such an opinion to the Council in respect of Germany on 11 November 2009⁽³⁾.
- (6) Article 126(6) of the Treaty on the Functioning of the European Union states that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists. In the case of Germany, this overall assessment leads to the conclusions set out in this Decision.
- (7) According to data notified by the German authorities in October 2009, the general government deficit in Germany is planned to reach 3,7 % of GDP in 2009, thus exceeding and not close to the 3 % of GDP reference value. The planned excess over the reference value can be qualified as exceptional within the meaning of the Treaty and the Stability and Growth Pact. According to the Commission services' autumn 2009 forecast, real GDP in Germany is projected to contract sharply by 5 % in the year 2009. Furthermore, the planned excess over the reference value cannot be considered temporary, since according to the Commission services' autumn 2009 forecast, taking into account the measures adopted in the current year affecting the budget for 2010 and for 2011, the deficit would widen to 5,0 % of GDP in 2010 to fall down to 4,6 % of GDP in 2011 on a no-policy change basis. The deficit criterion in the Treaty is not fulfilled.

⁽¹⁾ OJ L 209, 2.8.1997, p. 6.
⁽²⁾ OJ L 145, 10.6.2009, p. 1.

⁽³⁾ All EDP-related documents for Germany can be found at the following website: http://ec.europa.eu/economy_finance/netstartsearch/pdfsearch/pdf.cfm?mode=_m2

- (8) According to data notified by the German authorities in October 2009, the general government gross debt (which has been above the 60 % of GDP reference value since 2002) is planned to stand at 74,2 % of GDP in 2009. According to the Commission services' autumn 2009 forecast, the debt ratio is expected to rise further to 73,1 % of GDP in 2009 and reach 79,7 % of GDP in 2011. The debt ratio cannot be considered as diminishing sufficiently and approaching the reference value at a satisfactory pace within the meaning of the Treaty and the Stability and Growth Pact. The debt criterion in the Treaty is not fulfilled.
- (9) According to Article 2(4) of Regulation (EC) No 1467/97, 'relevant factors' can only be taken into account in the steps leading to the Council Decision on the existence of an excessive deficit in accordance with Article 126(6) of the Treaty on the Functioning of the European Union if the double condition — that the deficit remains close to the reference value and that its excess over the reference value is temporary — is fully met. In the case of Germany, this double condition is not

met. Therefore, relevant factors are not taken into account in the steps leading to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that an excessive deficit exists in Germany.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 19 January 2010.

For the Council
The President
E. SALGADO

COUNCIL DECISION**of 19 January 2010****on the existence of an excessive deficit in Italy**

(2010/286/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union and, in particular, Article 126(6) in conjunction with Article 126(13) and Article 136 thereof,

Having regard to the proposal from the Commission,

Having regard to the observations made by Italy,

Whereas:

- (1) According to Article 126(1) of the Treaty on the Functioning of the European Union, Member States shall avoid excessive government deficits.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.
- (3) The excessive deficit procedure (EDP) under Article 126 of the Treaty on the Functioning of the European Union, as clarified by Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure⁽¹⁾ (which is part of the Stability and Growth Pact), provides for a decision on the existence of an excessive deficit. Regulation (EC) No 1467/97 also establishes provisions for the implementation of Article 104 of the Treaty establishing the European Community, which has become Article 126 of the Treaty on the Functioning of the European Union. The Protocol on the excessive deficit procedure annexed to the Treaty on the Functioning of the European Union sets out further provisions relating to the implementation of the EDP. Council Regulation (EC) No 479/2009⁽²⁾ lays down detailed rules and definitions for the application of the provisions of that Protocol.
- (4) The 2005 reform of the Stability and Growth Pact sought to strengthen its effectiveness and economic underpinnings as well as safeguard the sustainability of the public finances in the long run. It aimed at ensuring that, in particular, the economic and budgetary background was taken into account fully in all steps in the EDP. In this way, the Stability and Growth Pact provides

the framework supporting government policies for a prompt return to sound budgetary positions taking account of the economic situation.

- (5) Article 104(5) of the Treaty establishing the European Community, which has become Article 126(5) of the Treaty on the Functioning of the European Union, required the Commission to address an opinion to the Council if the Commission considered that an excessive deficit in a Member State existed or might occur. Having taken into account its report in accordance with Article 104(3) of the Treaty establishing the European Community, which has become Article 126(3) of the Treaty on the Functioning of the European Union, and having regard to the opinion of the Economic and Financial Committee in accordance with Article 104(4) of the Treaty establishing the European Community, which has become Article 126(4) of the Treaty on the Functioning of the European Union, the Commission concluded that an excessive deficit existed in Italy. The Commission therefore addressed such an opinion to the Council in respect of Italy on 11 November 2009⁽³⁾.
- (6) Article 126(6) of the Treaty on the Functioning of the European Union states that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists. In the case of Italy, this overall assessment leads to the conclusions set out in this Decision.
- (7) According to data notified by the Italian authorities in October 2009, the general government deficit in Italy is planned to reach 5,3 % of GDP in 2009, thus exceeding and not close to the 3 % of GDP reference value. The planned excess over the reference value can be qualified as exceptional within the meaning of the Treaty and the Stability and Growth Pact. In particular, it results from a severe economic downturn in the sense of the Treaty and the Stability and Growth Pact. The Commission services' autumn 2009 forecast projects real GDP in Italy to contract by 4,7 % in 2009, after decreasing by 1 % in 2008. A moderate recovery is anticipated for 2010, strengthening in 2011. Furthermore, the planned excess over the reference value cannot be considered temporary, since the deficit is projected to increase further in 2010 and, on a no-policy change basis, to decrease marginally in 2011. The discretionary measures taken with the successive recovery packages to respond to the crisis in line with the European Economic Recovery Plan (targeted

⁽¹⁾ OJ L 209, 2.8.1997, p. 6.

⁽²⁾ OJ L 145, 10.6.2009, p. 1.

⁽³⁾ All EDP-related documents for Italy can be found at the following website: http://ec.europa.eu/economy_finance/netstartsearch/pdfsearch/pdf.cfm?mode = _m2

to support low-income groups and key industrial sectors) are not expected to appreciably weigh on the government balance, as they are, according to the Italian authorities, fully financed mainly by the reallocation of existing funds. The deficit criterion in the Treaty is not fulfilled.

- (8) According to data notified by the Italian authorities in October 2009, general government gross debt has been well above the 60 % of GDP reference value since before the start of stage III of the economic and monetary union and is planned to stand at 115,1 % of GDP in 2009. The Commission services' autumn 2009 forecast projects the debt ratio to rise further, to 117,8 % in 2011. The debt ratio cannot be considered as diminishing sufficiently and approaching the reference value at a satisfactory pace within the meaning of the Treaty and the Stability and Growth Pact. The debt criterion in the Treaty is not fulfilled.
- (9) According to Article 2(4) of Regulation (EC) No 1467/97, 'relevant factors' can only be taken into account in the steps leading to the Council decision on the existence of an excessive deficit in accordance with Article 126(6) of the Treaty on the Functioning of the European Union if the double condition — that the

deficit remains close to the reference value and that its excess over the reference value is temporary — is fully met. In the case of Italy, this double condition is not met. Therefore, relevant factors are not taken into account in the steps leading to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that an excessive deficit exists in Italy.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 19 January 2010.

For the Council
The President
E. SALGADO

COUNCIL DECISION**of 19 January 2010****on the existence of an excessive deficit in the Netherlands**

(2010/287/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union and, in particular, Article 126(6) in conjunction with Article 126(13) and Article 136 thereof,

Having regard to the proposal from the Commission,

Having regard to the observations made by the Netherlands,

Whereas:

- (1) According to Article 126(1) of the Treaty on the Functioning of the European Union, Member States shall avoid excessive government deficits.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.
- (3) The excessive deficit procedure (EDP) under Article 126 of the Treaty on the Functioning of the European Union, as clarified by Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure⁽¹⁾ (which is part of the Stability and Growth Pact), provides for a decision on the existence of an excessive deficit. Regulation (EC) No 1467/97 also establishes provisions for the implementation of Article 104 of the Treaty establishing the European Community, which has become Article 126 of the Treaty on the Functioning of the European Union. The Protocol on the excessive deficit procedure annexed to the Treaty on the Functioning of the European Union sets out further provisions relating to the implementation of the EDP. Council Regulation (EC) No 479/2009⁽²⁾ lays down detailed rules and definitions for the application of the provisions of that Protocol.
- (4) The 2005 reform of the Stability and Growth Pact sought to strengthen its effectiveness and economic underpinnings as well as to safeguard the sustainability of the public finances in the long run. It aimed at ensuring that, in particular, the economic and budgetary background was taken into account fully in all steps in the EDP. In this way, the Stability and Growth Pact provides the framework supporting

government policies for a prompt return to sound budgetary positions taking account of the economic situation.

- (5) Article 104(5) of the Treaty establishing the European Community, which has become Article 126(5) of the Treaty on the Functioning of the European Union, required the Commission to address an opinion to the Council if the Commission considered that an excessive deficit in a Member State existed or might occur. Having taken into account its report in accordance with Article 104(3) of the Treaty establishing the European Community, which has become Article 126(3) of the Treaty on the Functioning of the European Union, and having regard to the opinion of the Economic and Financial Committee in accordance with Article 104(4) thereof, which has become Article 126(4) of the Treaty on the Functioning of the European Union, the Commission concluded that an excessive deficit existed in the Netherlands. The Commission therefore addressed such an opinion to the Council in respect of the Netherlands on 11 November 2009⁽³⁾.
- (6) Article 126(6) of the Treaty on the Functioning of the European Union states that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists. In the case of the Netherlands, this overall assessment leads to the conclusions set out in this Decision.
- (7) According to data notified by the Dutch authorities in October 2009, the general government deficit in the Netherlands is planned to reach 4,8 % of GDP in 2009, thus above and not close to the 3 % of GDP reference value. The planned excess over the reference value can be qualified as exceptional within the meaning of the Treaty and the Stability and Growth Pact. It results mainly from a severe economic downturn in the sense of the Treaty and the Stability and Growth Pact. In the Commission services' 2009 autumn forecast GDP is expected to contract by 4,5 % in 2009 and to grow by only ¼ % in 2010. Furthermore, also on the basis of the Commission services' autumn 2009 forecast, the planned excess over the reference value cannot be considered temporary, since the general government deficit is projected to increase from 4,7 % of GDP in 2009 to 6,1 % of GDP in 2010 before it declines slightly to 5,6 % of GDP in 2011 based on the usual no-policy change assumption. The deficit criterion in the Treaty is not fulfilled.

⁽¹⁾ OJ L 209, 2.8.1997, p. 6.
⁽²⁾ OJ L 145, 10.6.2009, p. 1.

⁽³⁾ All EDP-related documents for the Netherlands can be found at the following website: http://ec.europa.eu/economy_finance/netstartsearch/pdfsearch/pdf.cfm?mode=_m2

(8) According to data notified by the Dutch authorities in October 2009, the general government gross debt is below the 60 % of GDP reference value, at 59,7 %⁽¹⁾ of GDP in 2009. The Commission services' autumn 2009 forecast expects the general government gross debt to come out at 59,8 % of GDP in 2009 and to increase to around 66 % of GDP in 2010 and 70 % of GDP in 2011, thus exceeding the 60 % of GDP reference value. This increase stems in large part from an important expected deterioration of the primary balance.

(9) According to Article 2(4) of Regulation (EC) No 1467/97, 'relevant factors' can only be taken into account in the steps leading to the Council decision on the existence of an excessive deficit in accordance with Article 126(6) of the Treaty on the Functioning of the European Union if the double condition — that the deficit remains close to the reference value and that its excess over the reference value is temporary — is fully met. In the case of the Netherlands, this double condition

is not met. Therefore, relevant factors are not taken into account in the steps leading to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that an excessive deficit exists in the Netherlands.

Article 2

This Decision is addressed to the Netherlands.

Done at Brussels, 19 January 2010.

For the Council
The President
E. SALGADO

⁽¹⁾ This figure does not include the government's illiquid asset back-up facility for ING, which amounts to around 3½ % of GDP (EUR 21 billion).

COUNCIL DECISION
of 19 January 2010
on the existence of an excessive deficit in Portugal
(2010/288/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union and, in particular, Article 126(6) in conjunction with Articles 126(13) and 136 thereof,

Having regard to the proposal from the Commission,

Having regard to the observations made by Portugal,

Whereas:

- (1) According to Article 126(1) of the Treaty on the Functioning of the European Union, Member States shall avoid excessive government deficits.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.
- (3) The excessive deficit procedure (EDP) under Article 126 of the Treaty on the Functioning of the European Union, as clarified by Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure⁽¹⁾ (which is part of the Stability and Growth Pact), provides for a decision on the existence of an excessive deficit. Regulation (EC) No 1467/97 also establishes provisions for the implementation of Article 104 of the Treaty establishing the European Community — which has become Article 126 of the Treaty on the Functioning of the European Union. The Protocol on the excessive deficit procedure annexed to the Treaty on the Functioning of the European Union sets out further provisions relating to the implementation of the EDP. Council Regulation (EC) No 479/2009⁽²⁾ lays down detailed rules and definitions for the application of the provisions of that Protocol.
- (4) The 2005 reform of the Stability and Growth Pact sought to strengthen its effectiveness and economic underpinnings as well as to safeguard the sustainability of the public finances in the long run. It aimed at ensuring that, in particular, the economic and budgetary background was taken into account fully in all steps in the EDP. In this way, the Stability and Growth Pact provides the framework supporting government policies for a prompt return to sound budgetary positions taking account of the economic situation.
- (5) Article 104(5) of the Treaty establishing the European Community, which has become Article 126(5) of the Treaty on the Functioning of the European Union, required the Commission to address an opinion to the Council if the Commission considered that an excessive deficit in a Member State existed or might occur. Having taken into account its report in accordance with Article 104(3) of the Treaty establishing the European Community, which has become Article 126(3) of the Treaty on the Functioning of the European Union, and having regard to the opinion of the Economic and Financial Committee in accordance with Article 104(4) of the Treaty establishing the European Community, which has become Article 126(4) of the Treaty on the Functioning of the European Union, the Commission concluded that an excessive deficit existed in Portugal. The Commission therefore addressed such an opinion to the Council in respect of Portugal on 11 November 2009⁽³⁾.
- (6) Article 126(6) of the Treaty on the Functioning of the European Union states that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists. In the case of Portugal, this overall assessment leads to the conclusions set out in this Decision.
- (7) According to data notified by the Portuguese authorities in October 2009, the general government deficit in Portugal is planned to reach 5,9 % of GDP in 2009, thus exceeding and not close to the 3 % of GDP reference value. The planned excess over the reference value can be qualified as exceptional within the meaning of the Treaty and the Stability and

⁽¹⁾ OJ L 209, 2.8.1997, p. 6.

⁽²⁾ OJ L 145, 10.6.2009, p. 1.

⁽³⁾ All EDP-related documents for Portugal can be found at the following website: http://ec.europa.eu/economy_finance/netstartsearch/pdfsearch/pdf.cfm?mode=_m2

Growth Pact. In particular, it results, among other things, from a severe economic downturn in 2009 in the sense of the Treaty and the Stability and Growth Pact. For the years 2009 and 2010, the Commission services' autumn 2009 forecast foresees that annual GDP would contract by 2,9 % and grow by 0,3 % respectively. Furthermore, the planned excess over the reference value cannot be considered temporary, since according to the Commission services' autumn 2009 forecast, taking into account the measures already adopted in the current year, the general government headline deficit will increase to 8 % of GDP in 2010. In 2010 and 2011, despite the discontinuation of most of the measures of extraordinary nature linked to the crisis in 2009, no improvement in the fiscal position is expected due to the continued recessionary environment, the working of automatic stabilisers and a marked growth in interest expenditure. The deficit criterion in the Treaty is not fulfilled.

- (8) According to data notified by the Portuguese authorities in October 2009, the general government gross debt (which has been above the 60 % of GDP reference value since 2005) is planned to stand at 74,5 % of GDP in 2009. According to the Commission services' autumn 2009 forecast, the general government debt-to-GDP ratio is projected to significantly increase by 18 percentage points over the forecast period from 66,3 % in 2008 to 91,1 % in 2011. The debt ratio cannot be considered as diminishing sufficiently and approaching the reference value at a satisfactory pace within the meaning of the Treaty and the Stability and Growth Pact. The debt criterion in the Treaty is not fulfilled.

- (9) According to Article 2(4) of Regulation (EC) No 1467/97, 'relevant factors' can only be taken into account in the steps leading to the Council Decision on the existence of an excessive deficit in accordance with Article 126(6) of the Treaty on the Functioning of the European Union if the double condition — that the deficit remains close to the reference value and that its excess over the reference value is temporary — is fully met. In the case of Portugal, this double condition is not met. Therefore, relevant factors are not taken into account in the steps leading to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that an excessive deficit exists in Portugal.

Article 2

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 19 January 2010.

For the Council
The President
E. SALGADO

COUNCIL DECISION

of 19 January 2010

on the existence of an excessive deficit in Slovenia

(2010/289/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union and, in particular, Article 126(6) in conjunction with Article 126(13) and Article 136 thereof,

Having regard to the proposal from the Commission,

Having regard to the observations made by Slovenia,

Whereas:

- (1) According to Article 126(1) of the Treaty on the Functioning of the European Union, Member States shall avoid excessive government deficits.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.
- (3) The excessive deficit procedure (EDP) under Article 126 of the Treaty on the Functioning of the European Union, as clarified by Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure⁽¹⁾ (which is part of the Stability and Growth Pact), provides for a decision on the existence of an excessive deficit. Regulation (EC) No 1467/97 also establishes provisions for the implementation of Article 104 of the Treaty establishing the European Community, which has become Article 126 of the Treaty on the Functioning of the European Union. The Protocol on the excessive deficit procedure annexed to the Treaty on the Functioning of the European Union sets out further provisions relating to the implementation of the EDP. Council Regulation (EC) No 479/2009⁽²⁾ lays down detailed rules and definitions for the application of the provisions of that Protocol.
- (4) The 2005 reform of the Stability and Growth Pact sought to strengthen its effectiveness and economic underpinnings as well as to safeguard the sustainability of the public finances in the long run. It aimed at ensuring that, in particular, the economic and

budgetary background was taken into account fully in all steps in the EDP. In this way, the Stability and Growth Pact provides the framework supporting government policies for a prompt return to sound budgetary positions taking account of the economic situation.

- (5) Article 104(5) of the Treaty establishing the European Community, which has become Article 126(5) of the Treaty on the Functioning of the European Union, required the Commission to address an opinion to the Council if the Commission considered that an excessive deficit in a Member State existed or might occur. Having taken into account its report in accordance with Article 104(3) of the Treaty establishing the European Community, which has become Article 126(3) of the Treaty on the Functioning of the European Union, and having regard to the opinion of the Economic and Financial Committee in accordance with Article 104(4) of the Treaty establishing the European Community, which has become Article 126(4) of the Treaty on the Functioning of the European Union, the Commission concluded that an excessive deficit existed in Slovenia. The Commission therefore addressed such an opinion to the Council in respect of Slovenia on 11 November 2009⁽³⁾.
- (6) Article 126(6) of the Treaty on the Functioning of the European Union states that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists. In the case of Slovenia, this overall assessment leads to the conclusions set out in this Decision.
- (7) According to data notified by the Slovenian authorities in October 2009, the general government deficit in Slovenia is planned to reach 5,9% of GDP in 2009, thus exceeding and not close to the 3% of GDP reference value. The planned excess over the reference value can be qualified as exceptional within the meaning of the Treaty and the Stability and Growth Pact. In particular, it results, among other things, from a severe economic downturn in the sense of the Treaty and the Stability and Growth Pact. Real GDP growth, which halved between 2007 and 2008, is projected to be sharply negative in 2009 (-7,4%) according to the Commission services' autumn 2009 forecast. Although Slovenia's budgetary outcomes have been good in the recent past when economic conditions were still favourable, thanks to

⁽¹⁾ OJ L 209, 2.8.1997, p. 6.
⁽²⁾ OJ L 145, 10.6.2009, p. 1.

⁽³⁾ All EDP-related documents for Slovenia can be found at the following website: http://ec.europa.eu/economy_finance/netstartsearch/pdfsearch/pdf.cfm?mode = _m2

higher-than-budgeted revenue growth, budgetary execution was marked by expenditure overruns. Furthermore, the planned excess over the reference value cannot be considered temporary since, according to the Commission services' autumn 2009 forecast, the deficit would widen from 6,3 % of GDP in 2009 to around 7 % of GDP in 2011 on a no-policy change assumption, while real GDP is forecast to recover to moderate positive growth. This assumption takes into account that, according to government plans, most measures of extraordinary nature linked to the crisis in line with the European Economic Recovery Plan, amounting to almost 1,25 % of GDP in 2009, will be gradually rolled back in 2010 and 2011. The deficit criterion in the Treaty is not fulfilled.

- (8) According to data notified by the Slovenian authorities in October 2009, the general government gross debt remains well below the 60 % of GDP reference value and is planned to stand at 34,2 % of GDP in 2009. According to the Commission services' autumn 2009 forecast, the debt ratio would, on a no-policy change basis, rise further, to some 48 % of GDP by 2011.
- (9) According to Article 2(4) of Regulation (EC) No 1467/97, 'relevant factors' can only be taken into account in the steps leading to the Council decision on the existence of an excessive deficit in accordance with

Article 126(6) of the Treaty on the Functioning of the European Union if the double condition — that the deficit remains close to the reference value and that its excess over the reference value is temporary — is fully met. In the case of Slovenia, this double condition is not met. Therefore, relevant factors are not taken into account in the steps leading to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that an excessive deficit exists in Slovenia.

Article 2

This Decision is addressed to the Republic of Slovenia.

Done at Brussels, 19 January 2010.

For the Council
The President
E. SALGADO

COUNCIL DECISION**of 19 January 2010****on the existence of an excessive deficit in Slovakia**

(2010/290/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union and, in particular, Article 126(6) in conjunction with Article 126(13) and Article 136 thereof,

Having regard to the proposal from the Commission,

Having regard to the observations made by Slovakia,

Whereas:

- (1) According to Article 126(1) of the Treaty on the Functioning of the European Union, Member States shall avoid excessive government deficits.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.
- (3) The excessive deficit procedure (EDP) under Article 126 of the Treaty on the Functioning of the European Union, as clarified by Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure⁽¹⁾ (which is part of the Stability and Growth Pact), provides for a decision on the existence of an excessive deficit. Regulation (EC) No 1467/97 also establishes provisions for the implementation of Article 104 of the Treaty establishing the European Community, which has become Article 126 of the Treaty on the Functioning of the European Union. The Protocol on the excessive deficit procedure annexed to the Treaty on the Functioning of the European Union sets out further provisions relating to the implementation of the EDP. Council Regulation (EC) No 479/2009⁽²⁾ lays down detailed rules and definitions for the application of the provisions of that Protocol.
- (4) The 2005 reform of the Stability and Growth Pact sought to strengthen its effectiveness and economic underpinnings as well as to safeguard the sustainability of the public finances in the long run. It aimed at ensuring that, in particular, the economic and budgetary background was taken into account fully in all steps in the EDP. In this way, the Stability and Growth Pact provides the framework supporting

government policies for a prompt return to sound budgetary positions taking account of the economic situation.

- (5) Article 104(5) of the Treaty establishing the European Community, which has become Article 126(5) of the Treaty on the Functioning of the European Union, required the Commission to address an opinion to the Council if the Commission considered that an excessive deficit in a Member State existed or might occur. Having taken into account its report in accordance with Article 104(3) of the Treaty establishing the European Community, which has become Article 126(3) of the Treaty on the Functioning of the European Union, and having regard to the opinion of the Economic and Financial Committee in accordance with Article 104(4) of the Treaty establishing the European Community, which has become Article 126(4) of the Treaty on the Functioning of the European Union, the Commission concluded that an excessive deficit existed in Slovakia. The Commission therefore addressed such an opinion to the Council in respect of Slovakia on 11 November 2009⁽³⁾.
- (6) Article 126(6) of the Treaty on the Functioning of the European Union states that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists. In the case of Slovakia, this overall assessment leads to the conclusions set out in this Decision.
- (7) According to data notified by the Slovak authorities in October 2009, the general government deficit in Slovakia is planned to reach 6,3 % of GDP in 2009, thus exceeding and not close to the 3 % of GDP reference value. The planned excess over the reference value can be qualified as exceptional within the meaning of the Treaty and the Stability and Growth Pact. In particular, it results, among other things, from a severe economic downturn in the sense of the Treaty and the Stability and Growth Pact. The Commission services' 2009 autumn forecast projects real GDP to contract by 5,8 % in 2009. While the excess over the 3 % reference value mainly reflects the severity of the economic downturn, it also results from the significant deterioration of the structural balance since 2005. Furthermore, the planned excess over the reference value cannot be considered temporary, since the Commission services' 2009 forecast projects the general government deficit to reach 6 % of GDP in 2010 based on the no-policy change assumption. The deficit criterion in the Treaty is not fulfilled.

⁽¹⁾ OJ L 209, 2.8.1997, p. 6.
⁽²⁾ OJ L 145, 10.6.2009, p. 1.

⁽³⁾ All EDP-related documents for Slovakia can be found at the following website: http://ec.europa.eu/economy_finance/netstartsearch/pdfsearch/pdf.cfm?mode = _m2

- (8) According to data notified by the Slovak authorities in October 2009, the general government gross debt remains well below the 60 % of GDP reference value and is planned to stand at around 30 % of GDP in 2009. According to the Commission services' autumn forecast, the debt ratio is set to increase rapidly, reaching 42,7 % of GDP in 2011 under the no policy change assumption.
- (9) In line with the provisions in the Stability and Growth Pact, the Commission in its report gave due consideration to systemic pension reforms introducing a multi-pillar system that includes a mandatory, fully-funded pillar. While the implementation of these reforms leads to a temporary deterioration of the budgetary position, the long-term sustainability of public finances clearly improves. Based on the estimates of the Slovak authorities, the net costs of this reform amount to 1,1 % of GDP in 2009-2011, rising to 1,2 % in 2012. According to the Stability and Growth Pact, these can be taken into account on a linear degressive basis for a transitory period and only in case the deficit remains close to the reference value. Since the deficit does not remain close to the reference value in 2009-2011, the cost of the pension reform cannot be taken into account.
- (10) According to Article 2(4) of Regulation (EC) No 1467/97, 'relevant factors' can only be taken into

account in the steps leading to the Council decision on the existence of an excessive deficit in accordance with Article 126(6) of the Treaty on the Functioning of the European Union if the double condition — that the deficit remains close to the reference value and that its excess over the reference value is temporary — is fully met. In the case of Slovakia, this double condition is not met. Therefore, relevant factors are not taken into account in the steps leading to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that an excessive deficit exists in Slovakia.

Article 2

This Decision is addressed to the Slovak Republic.

Done at Brussels, 19 January 2010.

For the Council
The President
E. SALGADO

COUNCIL DECISION**of 19 January 2010****establishing whether effective action has been taken by Greece in response to the Council Recommendation of 27 April 2009**

(2010/291/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 126(8) in conjunction with Article 126(13) and Article 136 thereof,

Having regard to the recommendation from the Commission,

Whereas:

- (1) According to Article 126(1) of the Treaty on the Functioning of the European Union, Member States are to avoid excessive government deficits.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation. The Stability and Growth Pact includes Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure⁽¹⁾, which was adopted in order to further the prompt correction of excessive general government deficits.
- (3) The 2005 reform of the Stability and Growth Pact sought to strengthen its effectiveness and economic underpinnings as well as to safeguard the sustainability of the public finances in the long run. It aimed at ensuring that, in particular, the economic and budgetary background was taken into account fully in all steps in the excessive deficit procedure. In this way, the Stability and Growth Pact provides the framework supporting government policies for a prompt return to sound budgetary positions taking account of the economic situation.
- (4) The Council, acting upon a recommendation by the Commission, decided on 27 April 2009, in accordance with Article 104(6) of the Treaty establishing the European Community, that an excessive deficit existed in Greece⁽²⁾.
- (5) On 27 April 2009, the Council, also on the basis of a Commission recommendation, adopted a

recommendation⁽³⁾ in accordance with Article 104(7) of the Treaty establishing the European Community to the Greek authorities calling on them to put an end to the excessive deficit situation by 2010 at the latest, by bringing the general government deficit below 3 % of GDP in a credible and sustainable manner. To that end, the Council established the deadline of 27 October 2009 for the Greek government to take effective action.

- (6) The progress with improving the collection and processing of statistical data and their reporting, in particular general government data, as requested by the Council, has been deficient. The latest revision of the October 2009 notification has not been validated by Eurostat due to the significant uncertainties over the figures notified by the Greek authorities. The procedures in place to ensure a prompt and correct supply of general government data required by the existing legal framework are manifestly inadequate.
- (7) The assessment of the action taken by Greece to correct the excessive deficit by 2010 in response to the Council Recommendation under Article 104(7) of the Treaty establishing the European Community leads to the following conclusions:

— subsequent to the Council Recommendation under Article 104(7) in April 2009, the Greek authorities implemented the deficit-reducing measures included in the 2009 budget law, the January 2009 update of the stability programme and the March 2009 additional package of fiscal measures. However, although the deterioration in macroeconomic conditions has been more pronounced than anticipated by the authorities, public finances have worsened much beyond what could have been expected as a result of the stronger-than-projected downturn and to a large extent as a result of budgetary policies implemented by the Greek government. Notably, on the expenditure side, the 2009 budget execution points to sizeable expenditure overruns in 2009 of which more than half is attributed to higher-than-budgeted outlays for compensation of employees and increased capital spending. On the revenue side, the 2009 budget execution points to important shortcomings in the tax collection system, including tax compliance,

⁽¹⁾ OJ L 209, 2.8.1997, p. 6.

⁽²⁾ OJ L 135, 30.5.2009, p. 21.

⁽³⁾ http://ec.europa.eu/economy_finance/publications/publication14950_en.pdf

— on 25 June 2009, the Greek authorities announced additional deficit-reducing discretionary measures, with an estimated budgetary impact of some 1,25 % percentage points of GDP. However, the majority of the measures have not been implemented by the Greek authorities so far and almost one percentage point of GDP was temporary in nature (one-offs), targeting additional revenue, hence not in line with the Council recommendations to strengthen fiscal adjustment in 2009 through permanent measures, mainly on the expenditure side,

— moreover, the fiscal consolidation measures implemented in 2009 are not sufficient to achieve the general government deficit target of 3,7 % of GDP in 2009. They also do not address the challenges stemming from the external imbalances and the deteriorating competitiveness position of the Greek economy as recommended by the Council,

— the large projected increase in the debt-to-GDP ratio exceeds the impact of the deterioration in the general government's net borrowing position, indicating insufficient efforts to control factors other than net borrowing, which contribute to the change in debt levels.

(8) This leads to the conclusion that significant revenue shortfalls and expenditure overruns have led to a strong deterioration in Greece's budgetary position in 2009, which can only partly be attributed to the deterioration of the macroeconomic conditions and, hence, are mainly due to an insufficient response by the Greek authorities to the April 2009 Council Recommendation under Article 104(7) of the Treaty establishing the European Community,

HAS ADOPTED THIS DECISION:

Article 1

Greece has not taken effective action in response to the Council Recommendation of 27 April 2009 within the period laid down in that Recommendation.

Article 2

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 19 January 2010.

For the Council
The President
E. SALGADO

POLITICAL AND SECURITY COMMITTEE DECISION EUPOL AFGHANISTAN/1/2010
of 18 May 2010
concerning the appointment of the Head of Mission of EUPOL Afghanistan ad interim
(2010/292/CFSP)

THE POLITICAL AND SECURITY COMMITTEE,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty on European Union, and in particular the third paragraph of Article 38 thereof,

Having regard to Council Decision 2010/279/CFSP of 18 May 2010 on the European Union Police Mission in Afghanistan (EUPOL Afghanistan) ⁽¹⁾, and in particular Article 10(1) thereof,

Whereas:

- (1) Pursuant to Article 10(1) of Decision 2010/279/CFSP, the Council authorised the Political and Security Committee, in accordance with Article 38 of the Treaty, to take the relevant decisions for the purpose of political control and strategic direction of the EUPOL Afghanistan mission, including the decision to appoint a Head of Mission.
- (2) The High Representative of the Union for Foreign Affairs and Security Policy has proposed the appointment of the current Deputy Head of Mission, Chief Superintendent Nigel THOMAS, as Head of Mission ad interim from 31 May 2010 until the subsequent appointment of a new Head of Mission,

Article 1

Chief Superintendent Nigel THOMAS is hereby appointed Head of Mission of the European Union Police Mission in Afghanistan as from 31 May 2010 until the subsequent appointment of a new Head of Mission.

Article 2

This Decision shall enter into force on the date of its adoption.

It shall apply until the subsequent appointment of a new Head of Mission.

Done at Brussels, 18 May 2010.

For the Political and Security Committee
The President
C. FERNÁNDEZ-ARIAS

⁽¹⁾ OJ L 123, 19.5.2010, p. 4.

COMMISSION DECISION

of 20 May 2010

on the conclusion of an Implementing Arrangement between the European Commission and the Government of the United States of America for cooperative activities in the field of homeland/civil security research

(2010/293/EU)

THE EUROPEAN COMMISSION,

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

Having regard to the Agreement for scientific and technological cooperation between the European Community and the Government of the United States of America ⁽¹⁾, and in particular the second paragraph of Article 5(b) thereof,

Whereas:

- (1) The Agreement for scientific and technological cooperation between the European Community and the Government of the United States of America ('the Agreement') was approved by Council Decision 98/591/EC ⁽²⁾, and entered into force on 14 October 1998. It is renewable for periods of five years ⁽³⁾, and was extended and amended on 14 October 2008 ⁽⁴⁾.
- (2) Transatlantic cooperation in the field of homeland/civil security research is desirable and of mutual benefit.
- (3) The consensus view emerging from exploratory discussions was that an Implementing Arrangement would constitute a mechanism for simplifying joint technical and scientific activity.
- (4) An Implementing Arrangement to cover cooperative activities in the interdisciplinary field of homeland/civil security research ('the Implementing Arrangement') has been successfully established between the Commission and the Government of the United States of America.
- (5) The Implementing Arrangement has no direct financial implications. Joint projects will compete for funding through normal RTD and support measures in the relevant research programmes of the Seventh

Framework Programme of the European Community for research, technological development and demonstration activities (2007 to 2013) ⁽⁵⁾. In accordance with the Agreement, European Union funding will be limited to the European partners.

- (6) The Implementing Arrangement should be approved,

HAS ADOPTED THIS DECISION:

Article 1

The Implementing Arrangement between the European Commission and the Government of the United States of America for cooperative activities in the field of homeland/civil security research is approved.

The text of the Implementing Arrangement is attached to this Decision.

Article 2

The Commissioner responsible for DG Enterprise and Industry is authorised to sign the Implementing Arrangement on behalf of the Commission.

Article 3

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

Done at Brussels, 20 May 2010.

For the Commission,
On behalf of the President,

Antonio TAJANI
Vice-President

⁽¹⁾ OJ L 284, 22.10.1998, p. 37.

⁽²⁾ OJ L 284, 22.10.1998, p. 35.

⁽³⁾ OJ L 335, 11.11.2004, p. 7.

⁽⁴⁾ Through an exchange of Notes Verbales between the Council of the EU, dated 15 May 2009 (reference No SGS9/06298) and the Government of the United States, Department of State, dated 6 July 2009.

⁽⁵⁾ OJ L 412, 30.12.2006, p. 1.

IMPLEMENTING ARRANGEMENT**between the European Commission and the Government of the United States of America for cooperative activities in the field of homeland/civil security research**

In accordance with the Agreement for Scientific and Technological Cooperation between the Government of the United States of America and the European Community, signed in Washington on 5 December 1997, as extended and amended (through an exchange of Notes Verbales between the Council of the EU, dated 15 May 2009 and the Government of the United States, Department of State, dated 6 July 2009), hereinafter referred to as 'the Agreement', an Implementing Arrangement to cover cooperative activities in the interdisciplinary field of homeland/civil security research is hereby established between the European Commission (EC) and the United States of America (US), hereinafter referred to as 'the Sides'. Cooperative activities are to take place under the terms of the Agreement. The purpose of this Implementing Arrangement is to encourage, develop and facilitate such activities between the Sides, conducted on the basis of mutual benefit gained from an overall balance of advantages, reciprocal opportunities to engage in cooperative activities, and equitable and fair treatment. This Implementing Arrangement is not intended to create obligations binding under law.

1. Cooperative activities

The Sides may undertake and facilitate cooperative activities in all areas of science and technology related to the field of homeland/civil security, as set out in the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007 to 2013), Theme 10 'Security' (and relevant follow-up programmes) on the one hand, and the priorities of the Department of Homeland Security on the other hand.

Cooperative activities may in particular include the following areas of homeland/civil security research:

- 1.1. security of citizens (e.g. protection from natural and man-made threats, prevention of illicit drugs production), including the management of crisis and emergency situations;
- 1.2. security and resilience of critical infrastructures, key resources, agriculture, utilities, communications, and financial services;
- 1.3. interaction of security and society, including the human-technology interface, behavioural research, privacy concerns, and biometrics;
- 1.4. security of border controls and crossings, including land and coastal borders;
- 1.5. optimisation of existing technologies, and their inter-operability;
- 1.6. development of end-user technologies and equipment to fill existing gaps and meet requirements, such as those for civil protection and first responders;
- 1.7. development and exchange of relevant requirements, standards, vulnerability assessments, inter-dependency analyses, certifications, best practices, guidelines, training programmes, test reports, data, software, equipment, and personnel.

2. Nature of cooperative activities

- 2.1. Cooperative activities may include but are not limited to:

- 2.1.1. Provision of comparable opportunities for entities from the European Union and from the United States of America to participate in the areas referred to in item 1;
- 2.1.2. Timely exchange of relevant information including on forthcoming calls for grants or proposals, or on announcements of the opportunities referred to in item 2.1.1;
- 2.1.3. Activities to promote, within the Sides 'respective research communities, the opportunities provided by this Implementing Arrangement, e.g. through regular attendance at the Sides' programme reviews, the United States calls for grants and broad agency announcements and the European Union calls for proposals;
- 2.1.4. Comparable access to laboratory facilities and Equipment and Material, for conducting scientific and technological activities including research, development, testing and evaluation, standardisation and certification;
- 2.1.5. Support for joint research, content development and access proposals, supplements to existing grants, contracts and agreements, and funding of cooperative thematic activities for mutual benefit and added value.

3. **Coordination**

- 3.1. The US and the EC intend to cooperate closely to coordinate joint activities. Therefore, each Side should have two representatives that are assigned to coordinate activities (the 'Steering Group'). The representatives may meet whenever necessary, in general once a year. Generally, meetings are expected to alternate between sites in the European Union and in the United States of America, with the hosting Side providing organisational and administrative support.
- 3.2. As necessary, each Side may designate additional participants to attend such meetings. Meetings should be co-chaired by the Under Secretary for Science and Technology, Department of Homeland Security, and the Director responsible for Security Research in the EC. No formal status is assigned to this Steering Group.
- 3.3. The Steering Group is to oversee and stimulate cooperative activities under this Implementing Arrangement. It should exchange information on practices, laws, regulations and programmes relevant to cooperation under this Implementing Arrangement. It should plan and identify objectives and opportunities for each upcoming year, propose ad hoc activities, and review activities and participation levels and similar efforts in each Side's programmes under this Implementing Arrangement. It should issue a periodic progress report on the cooperation.

4. **Funding**

- 4.1. Cooperative activities under this Implementing Arrangement shall be subject to the availability of appropriated funds and to the applicable laws and regulations, policies and programmes of each Side, and to the terms of the Agreement and this Implementing Arrangement. This Implementing Arrangement creates no financial obligations.
- 4.2. Each Side shall bear the costs of participation in meetings of the Steering Group. However, costs other than those for travel and accommodation, which are directly associated with meetings of the Steering Group, are borne by the Side hosting the meeting, unless otherwise agreed.
- 4.3. Each Side is responsible for any audit of its actions in support of cooperative activities, including the activities of any of its participants. Each Side's audits should be in accordance with its own applicable practices.

5. **Intellectual property**

The allocation and protection of intellectual property rights shall be in accordance with the provisions of the Annex to the Agreement.

6. **Classified information and Equipment and Material**

- 6.1. Classified information exchanged between or generated by the Sides shall be marked, handled and protected in accordance with the Agreement between the European Union and the Government of the United States of America on the Security of Classified Information of 30 April 2007 and its implementing arrangement, the Security Arrangement between the EU Council General Secretariat Security Office (GSCSO) and the European Commission Security Directorate (ECSD) and the United States Department of State for the protection of classified information exchanged between the EU and the US.
- 6.2. The Sides shall each designate a Security Authority as the single point of contact and authority responsible for the development procedures governing the security of classified information covered by this Implementing Arrangement.
- 6.3. Information and Equipment and Material provided or generated pursuant to this Implementing Arrangement is limited to SECRET in the US or SECRET UE/EU SECRET in the EU.

7. **Unauthorised disclosure of information**

- 7.1. US 'Controlled Unclassified Information' and EU sensitive non-classified information is information or preliminary or pre-decisional data, as applicable, that is not deemed to be classified information, but to which access or distribution limitations and handling instructions have been applied in accordance with the respective laws, regulations, policies or guidelines of the Sides.
- 7.2. Where applicable, whether the information is provided or generated under this Implementing Arrangement, it should be marked to identify its sensitive character in accordance with the respective laws, regulations, policies or guidelines of the Sides.
- 7.3. For the US, 'Controlled Unclassified Information' includes, but is not limited to, information marked 'Sensitive Security Information', 'For Official Use Only', 'Law Enforcement Sensitive Information', 'Protected Critical Infrastructure Information', Sensitive But Unclassified (SBU), and may include Business Confidential Information. For the European Commission, sensitive non-classified information is information that has a marking formally approved by the European Commission's Security Directorate.
- 7.4. US 'Controlled Unclassified Information' and EU sensitive non-classified information provided under this Implementing Arrangement shall:
 - 7.4.1. be appropriately marked in order to highlight its sensitivity,
 - 7.4.2. not be used for purposes other than as described in this Implementing Arrangement, and
 - 7.4.3. not be released to third parties without the prior consent of the Side sending the information or the originator.

- 7.5. The Sides shall, in accordance with their respective laws and regulations, take all necessary measures at their disposal to protect unclassified information requiring access and distribution limitations from unauthorised disclosure.
- 7.6. Detailed security arrangements for the marking, storage, handling and protection of controlled unclassified information may be established by the Sides.

8. **Dispute resolution**

- 8.1. Disputes concerning Intellectual Property shall be resolved as provided for in the Annex to the Agreement.
- 8.2. Except for disputes concerning Intellectual Property, all questions or disputes arising under or relating to this Implementing Arrangement shall be settled by mutual agreement between the Sides, consistent with the terms of the Agreement, including Article 12.

9. **Duration**

This Implementing Arrangement may commence upon signature by both Sides. It remains operative for as long as the Agreement remains in force or until a Side discontinues its participation in this Arrangement. If a Side intends to discontinue its participation in this Arrangement, it should endeavour to provide 90 days' advance notice of its intent to the other Side. Protection of classified information and prevention of any unauthorised disclosure of information is intended to continue in accordance with the terms of the Agreement and the 2007 Agreement on the Security of Classified Information, notwithstanding the discontinuation or expiry of this Implementing Arrangement or the Agreement. This Implementing Arrangement may be modified or extended by written concurrence of both Sides.

Signed at ..., this day of ..., 2010.

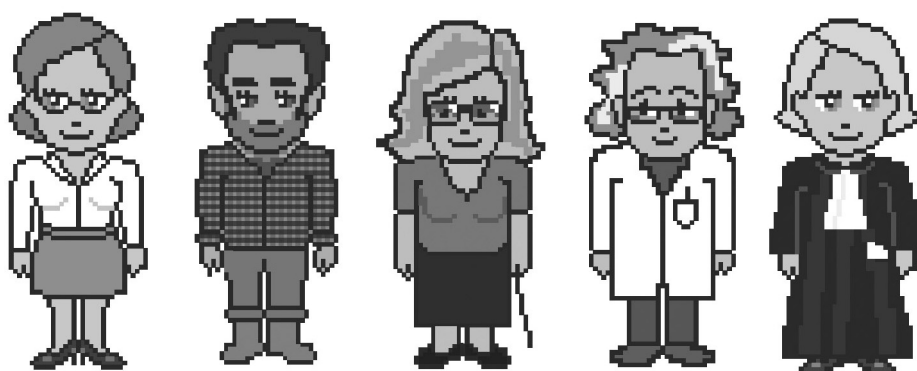
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