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## II

*(Non-legislative acts)*

## INTERNATIONAL AGREEMENTS

**Notice concerning the entry into force of the Agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Norway concerning additional trade preferences in agricultural products reached on the basis of Article 19 of the Agreement on the European Economic Area**

The procedures necessary for the entry into force of the Agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Norway concerning additional trade preferences in agricultural products reached on the basis of Article 19 of the Agreement on the European Economic Area <sup>(1)</sup>, signed in Brussels on 15 April 2011, have been completed on 9 November 2011. Consequently, this Agreement will enter into force, in accordance with its paragraph 18, second subparagraph, on 1 January 2012.

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<sup>(1)</sup> OJ L 327, 9.12.2011, p. 1.

## COUNCIL DECISION

of 20 October 2011

**on the conclusion of the Agreement in the form of an Exchange of Letters between the European Union, of the one part, and the Palestinian Authority of the West Bank and the Gaza Strip, of the other part, providing further liberalisation of agricultural products, processed agricultural products and fish and fishery products and amending the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part**

(2011/824/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4), in conjunction with Article 218(6)(a), thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament <sup>(1)</sup>,

Whereas:

- (1) The relationship between the Union and the Palestinian Authority of the West Bank and the Gaza Strip ('the Palestinian Authority') builds on the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part <sup>(2)</sup> ('Interim Agreement'), which was signed in February 1997 and whose trade provisions entered into force on 1 July 1997. Its main objective is to promote trade and investment and harmonious economic relations between the Parties thereby fostering their sustainable economic development.
- (2) The Interim Agreement provides for duty-free access to the Union markets for Palestinian industrial goods, and a phasing-out of duties on the Union exports to the occupied Palestinian territory over 5 years. The possibility of granting the Palestinian Authority additional trade preferences is envisaged in the Interim Agreement. Article 12 of the Interim Agreement provides that the Community and the Palestinian Authority shall progressively establish a greater liberalisation of their trade in agricultural and fishery products of interest to both Parties. Article 14(2) of the Interim Agreement provides that the Community and the Palestinian Authority shall examine, in the Joint Committee, the possibility of granting each other further concessions.
- (3) The European Neighbourhood Policy Action Plan ('ENP Action Plan') for the Palestinian Authority, which was

approved in May 2005 and subsequently extended, also contains provisions concerning the gradual liberalisation of trade in agriculture and fishery products.

- (4) *The Euro-Mediterranean Roadmap for agriculture (Rabat Roadmap)* adopted by the Euro-Mediterranean Ministers of Foreign Affairs on 28 November 2005 provides that a high degree of trade liberalisation for agricultural products, processed agricultural products and fish and fishery products is desirable; the objective is full liberalisation of such trade by 2010, possibly excluding a very limited number of sensitive products.
- (5) At the last Trade Euro-Mediterranean Ministerial meeting in December 2009, Ministers of Trade of the Euro-Mediterranean region committed themselves to facilitate the trade of Palestinian products, as stated in the document *The Euromed Trade Roadmap beyond 2010*. In addition, a comprehensive package of measures to facilitate trade of Palestinian products with other Euro-Mediterranean partners on a bilateral and regional basis has been agreed by Ministers of Trade in 2010.
- (6) Negotiations with the Palestinian Authority concerning greater liberalisation of trade in agricultural products, processed agricultural products and fish and fishery products were successfully concluded by signing the Agreement in the form of an Exchange of Letters between the European Union, of the one part, and the Palestinian Authority of the West Bank and the Gaza Strip, of the other part, providing further liberalisation of agricultural products, processed agricultural products and fish and fishery products and amending the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part ('the Agreement'), in accordance with Council Decision 2011/248/EU <sup>(3)</sup>.
- (7) The occupied Palestinian territory governed by the Palestinian Authority is a state in the making. It is therefore not listed under any United Nations classification and therefore cannot benefit from the Union's Generalised System of Preferences <sup>(4)</sup>.

<sup>(1)</sup> Consent of 5 September 2011 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 187, 16.7.1997, p. 3.

<sup>(3)</sup> OJ L 104, 20.4.2011, p. 2.

<sup>(4)</sup> OJ L 169, 30.6.2005, p. 1.

- (8) The Palestinian Authority is the smallest trading partner for the Union in the Euro-Mediterranean region and almost worldwide, with total trade amounting to EUR 56,6 million in 2009 where the vast majority of it is accounted for by EU exports (EUR 50,5 million). Union imports from the Palestinian Authority amount to just EUR 6,1 million in 2009 and consist mainly of agricultural products and processed agricultural products (approximately 70,1 % of total Union imports). In 2009, the Union exported EUR 1,7 million of agricultural goods, EUR 3,3 million of processed agricultural products and EUR 0,1 million of fish and fishery products. Further market opening is expected to support the development of the economy of the West Bank and the Gaza Strip through increased export performance while not creating negative effects for the Union. It is therefore appropriate to grant additional trade preferences to the Palestinian Authority by improving access to the Union market for agricultural products.
- (9) In accordance with the ENP Action Plan, the level of ambition of the Union-Palestinian Authority relationship will depend on the degree of the Palestinian Authority's commitment to common values as well as its capacity to implement jointly agreed priorities. The Union is planning to complement the granting of additional trade preferences with a package of trade related technical assistance which will further help the Palestinian Authority to prepare for a future Palestinian State.
- (10) In addition, entitlement to benefit from the additional trade preferences granted by the Union is conditional upon the Palestinian Authority's compliance with the relevant rules of origin and the procedures related thereto as well as the provision of effective administrative cooperation and assistance to the European Union. Any serious and systematic violations of these conditions, or other findings of fraud or irregularity, may lead to the adoption of measures by the Union following the relevant procedures in Article 23 bis of the Interim Agreement.
- (11) For the purposes of defining the concept of originating products, certification of origin and administrative cooperation procedures, Protocol 3 to the Interim Agreement concerning the definition of the concept of 'originating products' and methods of administrative cooperation applies.
- (12) If the imports of agricultural products, processed agricultural products and fish and fishery products originating in the territory of the Palestinian Authority significantly increase and thereby cause serious distortion to the Union internal market, the Union should be able to adopt, if appropriate, safeguard measures in accordance with this Decision.
- (13) The import arrangements adopted by the Agreement should be renewed on the basis of the conditions established by the Council and in the light of the experience gained in granting them. It is therefore appropriate to limit their duration to 10 years. However, taking into

account the economic situation of the West Bank and Gaza Strip, the Parties should prolong the application of duty-free quota-free treatment should they consider that the Palestinian economy needs an additional transitional period in order to be ready to enter into negotiations leading to further reciprocal concessions.

- (14) The Union and the Palestinian Authority should meet 5 years from the date of entry into force of the Agreement to consider the possibility of granting each other further permanent concessions of trade in agricultural products, processed agricultural products, fish and fishery products in accordance with the objective laid down in Article 12 of the Interim Agreement. If this will be considered as not appropriate due to the limited future economic developments of the occupied Palestinian territory, such discussions should take place at later stage.
- (15) The Agreement should be concluded,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The Agreement in the form of an Exchange of Letters between the European Union, of the one part, and the Palestinian Authority of the West Bank and the Gaza Strip, of the other part, providing further liberalisation of agricultural products, processed agricultural products and fish and fishery products and amending the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part ('the Agreement'), is hereby approved on behalf of the Union.

The text of the Agreement is attached to this Decision.

#### *Article 2*

Where the Union needs to take a safeguard measure concerning agricultural products and fish and fishery products, as provided for in the Article 23 of the Interim Association Agreement, that measure shall be adopted in accordance with the procedures provided for in Article 159(2) of 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) <sup>(1)</sup>, or by Article 30 of Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products <sup>(2)</sup>. For processed agricultural products, such safeguard measures shall be adopted in accordance with the procedures provided for, as appropriate, in Article 7(2) of Council Regulation (EC) No 614/2009 of 7 July 2009 on the common system of trade for ovalbumin and lactalbumin <sup>(3)</sup>, or in Article 11(4) of Council Regulation (EC) No 1216/2009 of 30 November 2009 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products <sup>(4)</sup>.

<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 17, 21.1.2000, p. 22.

<sup>(3)</sup> OJ L 181, 14.7.2009, p. 8.

<sup>(4)</sup> OJ L 328, 15.12.2009, p. 10.

*Article 3*

The President of the Council shall designate the person empowered to proceed, on behalf of the Union, with the deposit of the instrument of approval provided in the Agreement, in order to express the consent of the Union to be bound by it <sup>(1)</sup>.

*Article 4*

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

Done at Luxembourg, 20 October 2011.

*For the Council*  
*The President*  
M. SAWICKI

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<sup>(1)</sup> The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

## AGREEMENT

**in the form of an Exchange of Letters between the European Union, of the one part, and the Palestinian Authority of the West Bank and the Gaza Strip, of the other part, providing further liberalisation of agricultural products, processed agricultural products and fish and fishery products and amending the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other**

### *A. Letter from the European Union*

Sir,

I have the honour of referring to the negotiations which took place in accordance with the spirit of the Euro-Mediterranean Roadmap for agriculture (Rabat Roadmap), adopted by the Euro-Mediterranean Ministers of Foreign Affairs on 28 November 2005, for the acceleration of liberalisation of trade in agricultural products, processed agricultural products and fish and fishery products, and under Articles 7, 12 and 14 (2) of the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip (hereinafter referred to as 'Palestinian Authority'), of the other part (hereinafter referred to as the 'Interim Association Agreement'), in force since 1 July 1997, which states that the Community and the Palestinian Authority shall progressively establish greater liberalisation, inter alia, of their trade in agricultural products of interest to both Parties.

A. The Parties have agreed on the following temporary amendment to the Interim Association Agreement:

1. Protocol 1 shall be replaced by that appearing in Annex I to this Agreement in the form of an Exchange of Letters, subject to the provisions of point C thereof.

B. The Parties have also agreed on the following permanent amendments to the Interim Association Agreement:

1. Article 4 shall be replaced by the following:

'The provisions of this Chapter shall apply to products originating in the European Union and in the West Bank and the Gaza Strip other than those listed in chapters 1 to 24 of the Combined Nomenclature (CN) and of the customs tariff of the Palestinian Authority, and those listed in Annex 1(1)(ii) of the Agreement on Agriculture of the GATT. However, this Chapter shall continue to apply to chemically pure lactose of CN code 1702 11 00 and glucose and glucose syrup, containing in the dry state 99 % or more by weight of glucose of CN codes ex 1702 30 50 and ex 1702 30 90.'

2. The title of Chapter 2 shall be replaced by the following:

'AGRICULTURAL PRODUCTS, PROCESSED AGRICULTURAL PRODUCTS AND FISH AND FISHERY PRODUCTS'.

3. Article 11 shall be replaced by the following:

'The provisions of this Chapter shall apply to products originating in the European Union and in the West Bank and the Gaza Strip listed in chapters 1 to 24 of the Combined Nomenclature (CN) and of the customs tariff of the Palestinian Authority, and those listed in Annex 1(1)(ii) of the Agreement on Agriculture of the GATT, with exception of chemically pure lactose of CN code 1702 11 00 and of glucose and glucose syrup, containing in the dry state, 99 % or more by weight of glucose of CN codes ex 1702 30 50 and ex 1702 30 90, for which duty free market access was already granted within Chapter 1.'

4. Article 12 shall be replaced by the following:

'The European Union and the Palestinian Authority shall progressively establish greater liberalisation of their trade in agricultural products, processed agricultural products and fish and fishery products of interest to both Parties.'

5. Article 13 shall be replaced by the following:

‘1. Agricultural products, processed agricultural products and fish and fishery products originating in the West Bank and the Gaza Strip listed in Protocol 1, on importation into the European Union shall be subject to the arrangements set out in that Protocol.

2. Agricultural products, processed agricultural products and fish and fishery products originating in the European Union listed in Protocol 2, on importation into the West Bank and the Gaza Strip shall be subject to the arrangements set out in that Protocol.’

6. Article 23bis shall be added:

#### **‘Temporary Withdrawal of Preferences**

1. The Parties agree that administrative cooperation and assistance are essential for the implementation and the control of the preferential treatment granted under this Agreement and underline their commitment to combat irregularities and fraud in customs and related matters.

2. Where a Party has made a finding, on the basis of objective information, of a failure to provide administrative cooperation/assistance and/or of irregularities or fraud under this Agreement, the Party concerned may temporarily suspend the relevant preferential treatment of the product(s) concerned in accordance with this Article.

3. For the purpose of this Article a failure to provide administrative cooperation/assistance shall mean, inter alia:

- (a) a repeated failure to respect the obligations to verify the originating status of the product(s) concerned;
- (b) a repeated refusal or undue delay in carrying out and/or communicating the results of subsequent verification of the proof of origin;
- (c) a repeated refusal or undue delay in obtaining authorisation to conduct enquiry visits to determine the authenticity of documents or accuracy of information relevant to the granting of the preferential treatment in question.

4. For the purpose of this Article a finding of irregularities or fraud may be made, inter alia, where there is a rapid increase, without satisfactory explanation, in imports of goods exceeding the usual level of production and export capacity of the other Party that is linked to objective information concerning irregularities or fraud.

5. The application of a temporary suspension shall be subject to the following conditions:

- (a) The Party which has made a finding, on the basis of objective information, of a failure to provide administrative cooperation/assistance and/or of irregularities or fraud shall without undue delay notify the Joint Committee of its finding together with the objective information and enter into consultations within the Joint Committee, on the basis of all relevant information and objective findings, with a view to reaching a solution acceptable to both Parties.
- (b) Where the Parties have entered into consultations within the Joint Committee and have failed to agree on an acceptable solution within 3 months following the notification, the Party concerned may temporarily suspend the relevant preferential treatment of the product(s) concerned. A temporary suspension shall be notified to the Joint Committee without undue delay.

- (c) Temporary suspensions under this Article shall be limited to that necessary to protect the financial interests of the Party concerned. They shall not exceed a period of 6 months, which may be renewed if at the date of expiry nothing has changed with respect to the conditions that gave rise to the initial suspension. They shall be subject to periodic consultations within the Joint Committee, in particular with a view to their termination as soon as the conditions for their application no longer apply.

Each Party shall publish according to its internal procedures, in the case of the European Union in the *Official Journal of the European Union*, notices to importers concerning any: notification referred to in paragraph 5 (a); decision referred to in paragraph 5 (b); and extension or termination referred to in paragraph 5 (c).

7. Protocol 2 and its Annexes shall be replaced by those appearing in Annex II to this Agreement in the form of an Exchange of Letters.
8. A Common Declaration on sanitary and phytosanitary or technical barriers to trade issues, appearing in Annex III to this Agreement in the form of an Exchange of Letters, shall be added to the Interim Association Agreement.

C. The Parties have agreed on the following additional provisions:

1. (a) The temporary amendments provided for under point A shall apply for a period of 10 years from the entry into force of this Agreement in the form of an Exchange of Letters. However, depending on the future economic development of the West Bank and Gaza Strip, a possible extension for an additional period of those amendments could be considered by the Joint Committee. Such a decision shall be taken by the Joint Committee at the latest 1 year before the expiration of the 10 years period as provided by this Agreement in the form of an Exchange of Letters.
- (b) The European Union and the Palestinian Authority shall meet 5 years from the date of entry into force of this Agreement in the form of an Exchange of Letters, to consider the possibility of granting each other further permanent concessions of trade in agricultural products, processed agricultural products and fish and fishery products with the objective laid down in Article 12 of the Interim Association Agreement.
- (c) The starting point for future reciprocal negotiations will be the consolidated concessions of the Interim Association Agreement, which are listed in Annexes II and IV of this Agreement in the form of an Exchange of Letters.
- (d) It is understood that the trade conditions to be granted by the European Union as a result of these future negotiations may be less favourable than those granted under the this Agreement in the form of an Exchange of Letters.
2. Article 7(1) of the Interim Association Agreement shall not apply pending the application of the temporary amendments provided for under point A of this Agreement in the form of an Exchange of Letters.

This Agreement in the form of an Exchange of Letters shall enter into force on the first day of the third month following the date of the deposit of the last instrument of approval.

I have the honour to confirm that the European Union is in agreement with the content of this letter.

I would be grateful if you could confirm the agreement of your Government to the above.

Please accept, Sir, the assurance of my highest consideration.

Съставено в Брюксел на  
 Hecho en Bruselas, el  
 V Bruselu dne  
 Udfærdiget i Bruxelles, den  
 Geschehen zu Brüssel am  
 Brüssel,  
 Έγινε στις Βρυξέλλες, στις  
 Done at Brussels,  
 Fait à Bruxelles, le  
 Fatto a Bruxelles, addì  
 Briselē,  
 Priimta Briuselyje,  
 Kelt Brüsszelben,  
 Magħmul fi Brussell,  
 Gedaan te Brussel,  
 Sporządzono w Brukseli dnia  
 Feito em Bruxelas,  
 Întocmit la Bruxelles,  
 V Bruseli  
 V Bruslju,  
 Tehty Brysselissä  
 Utfärdat i Bryssel den

13 -04- 2011

За Европейския съюз  
 Por la Unión Europea  
 Za Evropskou unii  
 For Den Europæiske Union  
 Für die Europäische Union  
 Euroopa Liidu nimel  
 Για την Ευρωπαϊκή Ένωση  
 For the European Union  
 Pour l'Union européenne  
 Per l'Unione europea  
 Eiropas Savienības vārdā –  
 Europos Sąjungos vardu  
 Az Európai Unió részéről  
 Għall-Unjoni Ewropea  
 Voor de Europese Unie  
 W imieniu Unii Europejskiej  
 Pela União Europeia  
 Pentru Uniunea Europeană  
 Za Európsku úniu  
 Za Evropsko unijo  
 Euroopan unionin puolesta  
 För Europeiska unionen

C. M. M.  


## ANNEX I

## PROTOCOL 1

**concerning the provisional arrangements applicable to imports into the European Union of agricultural products, processed agricultural products and fish and fishery products originating in the West Bank and the Gaza Strip**

1. Customs duties and charges having equivalent effect (including their agricultural component), which are applicable on the import into the European Union of products originating in the West Bank and the Gaza Strip and listed in chapters 1 to 24 of the Combined Nomenclature (CN) and of the customs tariff of the Palestinian Authority, and those listed in Annex 1(1)(ii) of the Agreement on Agriculture of the GATT, with exception of chemically pure lactose of CN code 1702 11 00 and of glucose and glucose syrup, containing in the dry state, 99 % or more by weight of glucose of CN codes ex 1702 30 50 and ex 1702 30 90 covered by Chapter 1, shall be temporarily eliminated in accordance with the provisions of point C.1(a) of the Agreement in the form of Exchange of Letters between the European Union and the Palestinian Authority providing further liberalisation of agricultural products, processed agricultural products and fish and fishery products and amending this Agreement, signed in 2011.
2. Notwithstanding the conditions under point 1 of this Protocol, for the products to which an entry price applies in accordance with Article 140a of Council Regulation (EC) No 1234/2007 <sup>(1)</sup>, and for which the Common Customs Tariff provides for the application of *ad valorem* customs duties and a specific customs duty, the elimination applies only to the *ad valorem* part of the duty.

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<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

## ANNEX II

## PROTOCOL 2

**on the arrangements applying to imports into the West Bank and the Gaza Strip of agricultural products, processed agricultural products and fish and fishery products originating in the European Union**

1. The products listed in the Annexes originating in the European Union shall be admitted for importation into the West Bank and the Gaza Strip according to the conditions contained herein and in the Annexes.
2. Import duties on imports are either eliminated or reduced to the level indicated in column 'a', within the limit of the annual tariff quota listed in column 'b', and subject to the specific provisions indicated in column 'c'.
3. For the quantities imported in excess of the tariff quotas, the general customs duties applied to third countries shall apply, subject to the specific provisions indicated in column 'c'.
4. For the first year of application, the volumes of the tariff quotas and the reference quantities shall be calculated as a pro rata of the basic volumes, taking into account the period elapsed before the date of entry into force of this Protocol.

## ANNEX 1 TO PROTOCOL 2

CN Code	Description	Duty (%)	Tariff quota (t, unless otherwise indicated)	Specific provisions
		a	b	c
0102 90 71	Live bovine animals, of a weight exceeding 300 kg, for slaughter, other than heifers and cows	0	300	
0202 30 90	Meat of bovine animals, boneless excluding fore-quarters, 'compensated' quarters, crop, chuck and blade and brisket cuts, frozen	0	200	
0206 22 00	Edible livers of bovine animals frozen	0	100	
0406	Cheese and curd	0	200	
0407 00 19	Poultry eggs for hatching, other than those of turkeys or geese	0	120 000 pieces	
1101 00 15	Flour of common wheat and spelt	0	13 000	
2309 90 99	Other preparations of a kind used in animal feeding	2	100	

## ANNEX 2 TO PROTOCOL 2

**PRODUCTS REFERRED TO IN ARTICLE 7(2) OF THE EURO-MEDITERRANEAN INTERIM ASSOCIATION AGREEMENT**

CN code	Description
1902	Pasta and couscous:
A	— of durum wheat,
B	— other,
1905 10	Crisp bread
1905 20 90	Gingerbread and the like, not especially for diabetics:
A	— containing over 15 % by weight of flour from cereals other than wheat in relation to the total flour content,
B	— other,
ex 1905 32 A	Waffles and wafers
Al	— not filled, whether or not coated,
Ala	— containing over 15 % by weight of flour from cereals other than wheat in relation to the total flour content,
Alb	— other,
A2	— other,
A2a	— containing not less than 1,5 % milk fats or not less than 2,5 % of milk proteins,
A2b	— other,
1905 40 10	Rusk, containing added sugar, honey, other sweetening matter, eggs, fat, cheese, fruit, cocoa or similar:
A	— containing over 15 % by weight of flour from cereals other than wheat in relation to the total flour content,
B	— other,
1905 ex 31) B + ex 90)	Other bakers' wares, containing added sugar, honey, other sweetening matter, eggs, fat, cheese, fruit, cocoa or similar:
B1	— containing added eggs, not less than 2,5 % by weight,
B2	— containing added dried fruits or nuts:
B2a	— containing not less than 1,5 % milk fats and not less than 2,5 % milk proteins; see Annex V,
B2b	— other,
B3	— containing less than 10 % by weight of added sugar and not containing added eggs, dried fruits or nuts,

## ANNEX III

**COMMON DECLARATION****COOPERATION ON SANITARY AND PHYTOSANITARY OR TECHNICAL BARRIERS TO TRADE ISSUES**

The Parties shall solve any problems, in particular sanitary, phytosanitary or technical barriers to trade, hindering the implementation of this Agreement, by means of existing administrative arrangements. The results shall then be reported to the relevant Sub-committees and to the Joint Committee. The Parties commit to examine and solve such cases with the shortest possible delay in a friendly manner, in line with their respective applicable laws and with WTO, OIE, IPPC and Codex Alimentarius standards.

## ANNEX IV

**A: CONSOLIDATED LIST OF CONCESSIONS APPLIED TO IMPORTS INTO THE EUROPEAN UNION OF AGRICULTURAL PRODUCTS AND FISHERY PRODUCTS ORIGINATING IN THE WEST BANK AND THE GAZA STRIP BEFORE THE ENTRY INTO FORCE OF THIS AGREEMENT IN THE FORM OF AN EXCHANGE OF LETTERS**

1. The products listed in the Annex, originating in the West Bank and the Gaza Strip shall be admitted for importation into the European Union, according to the conditions contained hereafter and in the Annex.
  - (a) Customs duties are eliminated or reduced as indicated in column 'a'.
  - (b) For certain products, for which the Common Customs Tariff provides the application of an ad valorem duty and a specific duty, the rates of reduction, indicated in columns 'a' and 'c', only apply to the ad valorem duty. However, for the product corresponding to the subheading 1509 10, the duty reduction applies to the specific duty.
  - (c) For certain products, customs duties are eliminated within the limit of the tariff quotas listed in column 'b' for each of them; the tariff quotas shall apply on an annual basis from 1 January to 31 December, unless otherwise specified.
  - (d) For the quantities imported in excess of the quotas, the common customs duties are, according to the product concerned, applied in full or reduced, as indicated in column 'c'.
2. For certain products, the exemption of customs duties is granted in the framework of reference quantities as indicated in column 'd'.

Should the volume of imports of one of these products exceed the reference quantity, the European Union, having regard to an annual review of trade flows which it shall carry out, may make the product in question subject to a tariff quota of the Union, the volume of which shall be equal to the reference quantity. In that case, for quantities imported in excess of the quota, the common customs duty is, according to the product concerned, applied in full or reduced as indicated in column 'c'.
3. For the first year of application, the volumes of the tariff quotas and the reference quantities shall be calculated as a pro rata of the basic volumes, taking into account the period elapsed before the date of entry into force of this Protocol.
4. For some products listed in the Annex, the volume of the tariff quota is increased twice, on the basis of the volume indicated in column 'e'. The first increase takes place on the date when each tariff quota is opened for the second time.

CN Code <sup>(1)</sup>	Description <sup>(2)</sup>	Reduction of the MFN customs duty (%) <sup>(3)</sup>	Tariff quota (t, unless otherwise indicated)	Reduction of the MFN customs duty beyond current or possible tariff quota (%) <sup>(3)</sup>	Reference quantity (t, unless otherwise indicated)	Specific provisions
		a	b	c	d	
0409 00 00	Natural honey	100	500	0		point 4 — yearly increase of 250 t
0603 11 00 0603 12 00 0603 13 00 0603 14 00 0603 19 10 0603 19 90	Cut flowers and flower buds, fresh, of a kind suitable for bouquets or for ornamental purposes	100	2 000	0		point 4 — yearly increase of 250 t
0702 00 00	Tomatoes, fresh or chilled, from 1 December to 31 March	100		60	2 000	
0703 10 11 0703 10 19	Onions, fresh or chilled, from 15 February to 15 May	100		60		
0709 30 00	Aubergines (eggplants), fresh or chilled, from 15 January to 30 April	100		60	3 000	
ex 0709 60	Fruits of the genus <i>Capsicum</i> or of the genus <i>Pimenta</i> , fresh or chilled:					
0709 60 10	Sweet peppers	100		40	1 000	
0709 60 99	Other	100		80		
0709 90 70	Courgettes, fresh or chilled, from 1 December to end of February	100		60	300	
ex 0709 90 90	Wild onions of the species <i>Muscari comosum</i> , fresh or chilled, from 15 February to 15 May	100		60		
0710 80 59	Fruits of the genus <i>Capsicum</i> or <i>Pimenta</i> , other than sweet peppers, uncooked or cooked by steaming or boiling in water, frozen	100		80		
0711 90 10	Fruits of the genus <i>Capsicum</i> or <i>Pimenta</i> , other than sweet peppers, provisionally preserved but unsuitable in that state for immediate consumption	100		80		
0712 31 00 0712 32 00 0712 33 00 0712 39 00	Mushrooms, wood ears ( <i>Auricularia</i> spp.), jelly fungi ( <i>Tremella</i> spp.) and truffles, dried	100	500	0		
ex 0805 10	Oranges, fresh	100		60	25 000	

CN Code <sup>(1)</sup>	Description <sup>(2)</sup>	Reduction of the MFN customs duty (%) <sup>(3)</sup>	Tariff quota (t, unless otherwise indicated)	Reduction of the MFN customs duty beyond current or possible tariff quota (%) <sup>(3)</sup>	Reference quantity (t, unless otherwise indicated)	Specific provisions
		a	b	c	d	e
ex 0805 20	Mandarins (including tangerines and satsumas); clementines, wilkings and similar citrus hybrids, fresh	100		60	500	
0805 40 00	Grapefruit	100		80		
ex 0805 50 10	Lemons ( <i>Citrus limon</i> , <i>Citrus limonum</i> ), fresh	100		40	800	
0806 10 10	Fresh table grapes, from 1 February to 14 July	100	1 000	0		point 4 — yearly increase of 500 t
0807 19 00	Melons (excluding water melons), fresh, from 1 November to 31 May	100		50	10 000	
0810 10 00	Fresh strawberries, from 1 November to 31 March	100	2 000	0		point 4 — yearly increase of 500 t
0812 90 20	Oranges, provisionally preserved, but unsuitable in that state for immediate consumption	100		80		
0904 20 30	Fruits of the genus <i>Capsicum</i> or of the genus <i>Pimenta</i> , other than sweet peppers, dried, neither crushed or ground	100		80		
1509 10	Virgin olive oil	100	2 000	0		point 4 — yearly increase of 500 t
2001 90 20	Fruits of the genus <i>Capsicum</i> , other than sweet peppers or pimentos, prepared or preserved by vinegar or acetic acid	100		80		
2005 99 10	Fruits of the genus <i>Capsicum</i> , other than sweet peppers or pimentos, prepared or preserved otherwise than by vinegar or acetic acid, not frozen	100		80		

<sup>(1)</sup> CN codes corresponding to Regulation (EC) No 948/2009 (OJ L 287, 31.10.2009, p. 1).

<sup>(2)</sup> Without prejudice to the rules for the interpretation of the combined nomenclature, the description of the products is deemed to be indicative only, the preferential scheme being determined, for the purposes of this Annex, by the coverage of the CN codes. Where ex CN codes are indicated, the preferential scheme is to be determined by application of the CN code and corresponding description taken together.

<sup>(3)</sup> Duty reduction applies only to *ad valorem* customs duties. However, for the product corresponding to the subheading 1509 10, the duty reduction applies to the specific duty.

**B: CONSOLIDATED LIST OF CONCESSIONS APPLYING TO IMPORTS INTO THE EUROPEAN UNION OF PROCESSED AGRICULTURAL PRODUCTS ORIGINATING IN THE WEST BANK AND THE GAZA STRIP REFERRED TO IN ARTICLE 7(1) OF THE EURO-MEDITERRANEAN INTERIM ASSOCIATION AGREEMENT BEFORE THE ENTRY INTO FORCE OF THIS AGREEMENT IN THE FORM OF AN EXCHANGE OF LETTERS**

CN code	Description
0403	Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa:
0403 10 51 to 0403 10 99	Yoghurt, flavoured or containing added fruit, nuts or cocoa
0403 90 71 to 0403 90 99	Buttermilk, curdled milk and cream, kephir and other fermented or acidified milk and cream, flavoured or containing added fruit, nuts or cocoa
0710 40 00	Sweetcorn (uncooked or cooked by steaming or boiling in water), frozen
0711 90 30	Sweetcorn provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption
ex 1517	Margarine; edible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this Chapter, other than edible fats or oils or their fractions of No 1516:
1517 10 10	Margarine, excluding liquid margarine, containing more than 10 % but not more than 15 % by weight of milk fats
1517 90 10	Other, containing more than 10 % but not more than 15 % by weight of milk fats
ex 1704	Sugar confectionery (including white chocolate), not containing cocoa; excluding liquorice extract containing more than 10 % by weight of sucrose but not containing other added substances, falling within CN code 1704 90 10
1806	Chocolate and other food preparations containing cocoa
ex 1901	Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 0401 to 0404, not containing cocoa or containing less than 5 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included, excluding preparations falling within CN code 1901 90 91
ex 1902	Pasta, excluding stuffed pasta falling within CN codes 1902 20 10 and 1902 20 30; couscous, whether or not prepared
1903	Tapioca and substitutes thereof prepared from starch, in the form of flakes, grains, pearls, siftings or similar forms
1904	Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example cornflakes); cereals (other than maize (corn)) in grain form or in the form of flakes or other worked grains (except flour, groats and meal), pre-cooked or otherwise prepared, not elsewhere specified or included

CN code	Description
1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products
2001 90 30	Sweetcorn ( <i>Zea mays</i> var. <i>saccharata</i> ), prepared or preserved by vinegar or acetic acid
2001 90 40	Yams, sweet potatoes and similar edible parts of plants containing 5 % or more by weight of starch, prepared or preserved by vinegar or acetic acid
2004 10 91	Potatoes in the form of flour, meal or flakes, prepared or preserved otherwise than by vinegar or acetic acid, frozen
2004 90 10	Sweetcorn ( <i>Zea mays</i> var. <i>saccharata</i> ), prepared or preserved otherwise than by vinegar or acetic acid, frozen
2005 20 10	Potatoes in the form of flour, meal or flakes, prepared or preserved otherwise than by vinegar or acetic acid, not frozen
2005 80 00	Sweetcorn ( <i>Zea mays</i> var. <i>saccharata</i> ), prepared or preserved otherwise than by vinegar or acetic acid, not frozen
1904 20 10	Preparation of the Müsli type based on unroasted cereal flakes
2008 99 85	Maize (corn), other than sweetcorn ( <i>Zea mays</i> var. <i>saccharata</i> ) otherwise prepared or preserved, not containing added spirit or added sugar
2008 99 91	Yams, sweet potatoes and similar edible parts of plants, containing 5 % or more by weight of starch, otherwise prepared or preserved, not containing added spirit or added sugar
2101 12 98	Preparations with a basis of coffee
2101 20 98	Preparations with a basis of tea or mate
2101 30 19	Roasted coffee substitutes excluding roasted chicory
2101 30 99	Extracts, essences and concentrates of roasted coffee substitutes excluding those of roasted chicory
2102 10 31 2102 10 39	Bakers' yeasts
ex 2103 90 90	Sauces and preparations therefor: — Mayonnaise
2105 00	Ice cream and other edible ice, whether or not containing cocoa
ex 2106	Food preparations not elsewhere specified or included other than those falling within CN codes 2106 10 20 and 2106 90 92 and other than flavoured or coloured sugar syrups of CN codes 2106 90 30 to 2106 90 59
2202 90 91 2202 90 95 2202 90 99	Non-alcoholic beverages, not including fruit or vegetable juices of heading 2009, containing products of headings 0401 to 0404 or fat obtained from products of headings 0401 to 0404

CN code	Description
2905 43 00	Mannitol
2905 44	D-Glucitol (sorbitol)
ex 3505 10	Dextrins and other modified starches, excluding esterified and etherified starches of CN code 3505 10 50
3505 20	Glues based on starches or on dextrins or other modified starches
3809 10	Finishing agents, dye carriers to accelerate the dyeing or fixing of dyestuffs and other products and preparations (for example, dressings and mordants), of a kind used in the textile, paper, leather or like industries, not elsewhere specified or included, with a basis of amylaceous substances
3824 60	Sorbitol other than that of subheading 2905 44

*B. Letter from the Palestinian Authority*

Sir/Madam,

I have the honour to acknowledge receipt of your letter of today's date which reads as follows:

I have the honour of referring to the negotiations which took place in accordance with the spirit of the Euro-Mediterranean Roadmap for agriculture (Rabat Roadmap), adopted by the Euro-Mediterranean Ministers of Foreign Affairs on 28 November 2005, for the acceleration of liberalisation of trade in agricultural products, processed agricultural products and fish and fishery products, and under Articles 7, 12 and 14 (2) of the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip (hereinafter referred to as 'Palestinian Authority'), of the other part (hereinafter referred to as the 'Interim Association Agreement'), in force since 1 July 1997, which states that the Community and the Palestinian Authority shall progressively establish greater liberalisation, inter alia, of their trade in agricultural products of interest to both Parties.

A. The Parties have agreed on the following temporary amendments to the Interim Association Agreement:

1. Protocol 1 shall be replaced by that appearing in Annex I to this Agreement in the form of an Exchange of Letters, subject to the provisions of point C thereof.

B. The Parties have also agreed on the following permanent amendments to the Interim Association Agreement:

1. Article 4 shall be replaced by the following:

'The provisions of this Chapter shall apply to products originating in the European Union and in the West Bank and the Gaza Strip other than those listed in chapters 1 to 24 of the Combined Nomenclature (CN) and of the customs tariff of the Palestinian Authority, and those listed in Annex 1(1)(ii) of the Agreement on Agriculture of the GATT. However, this Chapter shall continue to apply to chemically pure lactose of CN code 1702 11 00 and glucose and glucose syrup, containing in the dry state 99 % or more by weight of glucose of CN codes ex 1702 30 50 and ex 1702 30 90.'

2. The title of Chapter 2 shall be replaced by the following:

'AGRICULTURAL PRODUCTS, PROCESSED AGRICULTURAL PRODUCTS AND FISH AND FISHERY PRODUCTS'

3. Article 11 shall be replaced by the following:

'The provisions of this Chapter shall apply to products originating in the European Union and in the West Bank and the Gaza Strip listed in chapters 1 to 24 of the Combined Nomenclature (CN) and of the customs tariff of the Palestinian Authority, and those listed in Annex 1(1)(ii) of the Agreement on Agriculture of the GATT, with exception of chemically pure lactose of CN code 1702 11 00 and of glucose and glucose syrup, containing in the dry state, 99 % or more by weight of glucose of CN codes ex 1702 30 50 and ex 1702 30 90, for which duty free market access was already granted within Chapter 1.'

4. Article 12 shall be replaced by the following:

'The European Union and the Palestinian Authority shall progressively establish greater liberalisation of their trade in agricultural products, processed agricultural products and fish and fishery products of interest to both Parties.'

5. Article 13 shall be replaced by the following:

'1. Agricultural products, processed agricultural products and fish and fishery products originating in the West Bank and the Gaza Strip listed in Protocol 1, on importation into the European Union shall be subject to the arrangements set out in that Protocol.

2. Agricultural products, processed agricultural products and fish and fishery products originating in the European Union listed in Protocol 2, on importation into the West Bank and the Gaza Strip shall be subject to the arrangements set out in that Protocol.'

6. Article 23bis shall be added:

#### **Temporary Withdrawal of Preferences**

1. The Parties agree that administrative cooperation and assistance are essential for the implementation and the control of the preferential treatment granted under this Agreement and underline their commitment to combat irregularities and fraud in customs and related matters.

2. Where a Party has made a finding, on the basis of objective information, of a failure to provide administrative cooperation/assistance and/or of irregularities or fraud under this Agreement, the Party concerned may temporarily suspend the relevant preferential treatment of the product(s) concerned in accordance with this Article.

3. For the purpose of this Article a failure to provide administrative cooperation/assistance shall mean, inter alia:

- (a) a repeated failure to respect the obligations to verify the originating status of the product(s) concerned;
- (b) a repeated refusal or undue delay in carrying out and/or communicating the results of subsequent verification of the proof of origin;
- (c) a repeated refusal or undue delay in obtaining authorisation to conduct enquiry visits to determine the authenticity of documents or accuracy of information relevant to the granting of the preferential treatment in question.

4. For the purpose of this Article a finding of irregularities or fraud may be made, inter alia, where there is a rapid increase, without satisfactory explanation, in imports of goods exceeding the usual level of production and export capacity of the other Party that is linked to objective information concerning irregularities or fraud.

5. The application of a temporary suspension shall be subject to the following conditions:

- (a) The Party which has made a finding, on the basis of objective information, of a failure to provide administrative cooperation/assistance and/or of irregularities or fraud shall without undue delay notify the Joint Committee of its finding together with the objective information and enter into consultations within the Joint Committee, on the basis of all relevant information and objective findings, with a view to reaching a solution acceptable to both Parties.

- (b) Where the Parties have entered into consultations within the Joint Committee and have failed to agree on an acceptable solution within 3 months following the notification, the Party concerned may temporarily suspend the relevant preferential treatment of the product(s) concerned. A temporary suspension shall be notified to the Joint Committee without undue delay.
- (c) Temporary suspensions under this Article shall be limited to that necessary to protect the financial interests of the Party concerned. They shall not exceed a period of 6 months, which may be renewed if at the date of expiry nothing has changed with respect to the conditions that gave rise to the initial suspension. They shall be subject to periodic consultations within the Joint Committee, in particular with a view to their termination as soon as the conditions for their application no longer apply.

Each Party shall publish according to its internal procedures, in the case of the European Union in the *Official Journal of the European Union*, notices to importers concerning any: notification referred to in paragraph 5 (a); decision referred to in paragraph 5 (b); and extension or termination referred to in paragraph 5 (c).'

- 7. Protocol 2 and its Annexes shall be replaced by those appearing in Annex II to this Agreement in the form of an Exchange of Letters.
- 8. A Common Declaration on sanitary and phytosanitary or technical barriers to trade issues, appearing in Annex III to this Agreement in the form of an Exchange of Letters, shall be added to the Interim Association Agreement.

C. The Parties have agreed on the following additional provisions:

- 1. (a) The temporary amendments provided for under point A shall apply for a period of 10 years from the entry into force of this Agreement in the form of an Exchange of Letters. However, depending on the future economic development of the West Bank and Gaza Strip, a possible extension for an additional period of those amendments could be considered by the Joint Committee. Such a decision shall be taken by the Joint Committee at the latest 1 year before the expiration of the 10 years period as provided by this Agreement in the form of an Exchange of Letters.
  - (b) The European Union and the Palestinian Authority shall meet 5 years from the date of entry into force of this Agreement in the form of an Exchange of Letters, to consider the possibility of granting each other further permanent concessions of trade in agricultural products, processed agricultural products and fish and fishery products with the objective laid down in Article 12 of the Interim Association Agreement.
  - (c) The starting point for future reciprocal negotiations will be the consolidated concessions of the Interim Association Agreement, which are listed in Annexes II and IV of this Agreement in the form of an Exchange of Letters.
  - (d) It is understood that the trade conditions to be granted by the European Union as a result of these future negotiations may be less favourable than those granted under the this Agreement in the form of an Exchange of Letters.
- 2. Article 7(1) of the Interim Association Agreement shall not apply pending the application of the temporary amendments provided for under point A of this Agreement in the form of an Exchange of Letters.

This Agreement in the form of an Exchange of Letters shall enter into force on the first day of the third month following the date of the deposit of the last instrument of approval.'

I have the honour to confirm that the Palestinian Authority is in agreement with the content of your letter.

Please accept, Sir/Madam, the assurance of my highest consideration.

Done at Brussels,  
 Съставено в Брюксел на  
 Hecho en Bruselas, el  
 V Bruselu dne  
 Udfærdiget i Bruxelles, den  
 Geschehen zu Brüssel am  
 Brüssel,  
 Έγινε στις Βρυξέλλες, στις  
 Fait à Bruxelles, le  
 Fatto a Bruxelles, addì  
 Briselē,  
 Priimta Briuselyje,  
 Kelt Brüsszelben,  
 Magħmul fi Brussell,  
 Gedaan te Brussel,  
 Sporządzono w Brukseli dnia  
 Feito em Bruxelas,  
 Întocmit la Bruxelles,  
 V Bruseli  
 V Bruslju,  
 Tehty Brysselissä  
 Utfärdat i Bryssel den

13 -04- 2011

For the Palestinian Authority  
 За Палестинската администрация  
 Por la Autoridad Palestina  
 Za palestinsku samosprávu  
 For Den Palæstinensiske Myndighed  
 Für die Palästinensische Behörde  
 Palestiina omavalitsuse nimel  
 Για την Παλαιστινιακή Αρχή  
 Pour l'Autorité palestinienne  
 Per l'Autorità palestinese  
 Palestīniešu pašpārvaldes vārdā –  
 Palestinos Administracijos vardu  
 A Palesztin Hatóság részéről  
 Ghall-Awtorità Palestinjana  
 Voor de Palestijnse Autoriteit  
 W imieniu Autonomii Palestyńskiej  
 Pela Autoridade Palestiniana  
 Pentru Autoritatea Palestiniană  
 V mene Palestínskej samosprávy  
 Za Palestinsko upravo  
 Palestiinalaishallinnon puolesta  
 För den palestinska myndigheten



## REGULATIONS

## COMMISSION REGULATION (EU) No 1282/2011

of 28 November 2011

## amending and correcting Commission Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC <sup>(1)</sup>, and in particular points (a) and (e) of Article 5(1), Article 11(3) and Article 12(6) thereof,

Whereas:

- (1) Commission Regulation (EU) No 10/2011 of 14 January 2011 on plastic materials and articles intended to come into contact with food <sup>(2)</sup> establishes a Union list of monomers, other starting substances and additives which may be used in the manufacture of plastic materials and articles. Recently the European Food Safety Authority (the Authority) issued a favourable scientific evaluation for additional substances which should now be added to the current list.
- (2) For certain other substances, the restrictions and/or specifications already established at the EU level should be amended on the basis of a new favourable scientific evaluation by the Authority.
- (3) The restrictions and specifications for the use of the substance with FCM substance number 239 with the name 2,4,6-triamino-1,3,5-triazine (Melamine) should be amended following the scientific opinion published on 13 April 2010 by the Authority. That opinion laid down a tolerable daily intake (TDI) of 0,2 mg/kg body weight (b.w.) for this substance. In its opinion the Authority also concluded that exposure in children due to migration from food contact materials would be in the range of the TDI. Taking into account the TDI and the exposure from all other sources the migration limit for the substance 239 should be reduced. The proposed migration limit of 2,5 mg/kg food is in line with the

maximum level of melamine contamination allowed in food laid down in the Commission Regulation (EC) No 1135/2009 of 25 November 2009 imposing special conditions governing the import of products originating in or consigned from China, and repealing Commission Decision 2008/798/EC <sup>(3)</sup>.

- (4) Annex I to Regulation (EU) No 10/2011 should therefore be amended accordingly.
- (5) The substance with FCM substance number 438 and the name bis(2,6-diisopropylphenyl) carbodiimide is authorised to be used as an additive in plastics according to Table 1 of Annex I to Regulation (EU) No 10/2011. The Authority reassessed the safety of the authorised substance. The Opinion delivered by the Authority <sup>(4)</sup> clarified that the substance is to be used as a monomer instead of an additive in plastics. For this reason it is appropriate to correct the use and to update the reference number accordingly in the Annex I.
- (6) The substance with FCM substance number 376 and the name N-methylpyrrolidone is authorised to be used as an additive in plastics in Table 1 of Annex I to Regulation (EU) No 10/2011 without a specific migration limit. The Opinion delivered by the Authority <sup>(5)</sup> established a TDI of 1 mg/kg b.w. resulting in an SML of 60 mg/kg food. This limit coincides with the generic specific migration limit established in Article 11(2) of Regulation (EU) No 10/2011, however if the SML of 60 mg/kg is derived from a toxicological threshold such as the TDI the SML should be specifically mentioned in the Annex I.
- (7) The substance with FCM substance number 797 and the name polyester of adipic acid with 1,3-butanediol, 1,2-propanediol and 2-ethyl-1-hexanol is authorised to be used as an additive in plastics in Table 1 of Annex I to Regulation (EU) No 10/2011 and listed with the CAS

<sup>(3)</sup> OJ L 311, 26.11.2009, p. 3.

<sup>(4)</sup> Scientific Opinion on the safety evaluation of the substance bis(2,6-diisopropylphenyl)carbodiimide for use in food contact materials. *EFSA Journal* 2010; 8(12):1928.

<sup>(5)</sup> Opinion of the Scientific Panel on food additives, flavourings, processing aids and materials in contact with food (AFC) on a request from the Commission related to a seventh list of substances for food contact materials. *EFSA Journal* (2005) 201, 1-28.

<sup>(1)</sup> OJ L 338, 13.11.2004, p. 4.

<sup>(2)</sup> OJ L 12, 15.1.2011, p. 1.

No 0007328-26-5. According to the Opinion delivered by the Authority <sup>(1)</sup> this CAS No should read 0073018-26-5. Therefore the CAS No for this substance needs to be corrected in the Annex I.

- (8) In order to limit the administrative burden to business operators, plastic materials and articles which have been lawfully placed on the market based on the requirements set out in Regulation (EU) No 10/2011 and which do not comply with this Regulation should be able to be placed on the market until 1 January 2013. They should be able to remain on the market until exhaustion of stocks.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health, and neither the European Parliament nor the Council has opposed them,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annex I to Regulation (EU) No 10/2011 is amended in accordance with the Annex to this Regulation.

*Article 2*

Plastic materials and articles which have been lawfully placed on the market before 1 January 2012 and which do not comply with this Regulation may continue to be placed on the market until 1 January 2013. Those plastic materials and articles may remain on the market until the exhaustion of stocks.

*Article 3*

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 the Member States in accordance with the Treaties.

Done at Brussels, 28 November 2011.

*For the Commission*  
*The President*  
José Manuel BARROSO

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<sup>(1)</sup> Opinion of the Scientific Panel on food additives, flavourings, processing aids and materials in contact with food (AFC) on a request related to a 18th list of substances for food contact materials. *EFSA Journal* (2008) 628-633, 1-19.

## ANNEX

Annex I to Regulation (EU) No 10/2011 is amended as follows:

(1) in Table 1 the following lines are inserted in numerical order of the FCM substance numbers:

FCM substance No	Ref. No	CAS No	Substance name	Use as additive or polymer production aid (yes/no)	Use as monomer or other starting substance or macro-molecule obtained from microbial fermentation (yes/no)	FRF applicable (yes/no)	SML [mg/kg]	SML(T) [mg/kg] (Group restriction No)	Restrictions and specifications	Notes on verification of compliance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
855	40560		(butadiene, styrene, methyl methacrylate) copolymer cross-linked with 1,3-butanediol dimethacrylate	yes	no	no			Only to be used in rigid poly(vinyl chloride) (PVC) at a maximum level of 12 % at room temperature or below.	
856	40563		(butadiene, styrene, methyl methacrylate, butyl acrylate) copolymer cross-linked with divinylbenzene or 1,3-butanediol dimethacrylate	yes	no	no			Only to be used in rigid poly(vinyl chloride) (PVC) at a maximum level of 12 % at room temperature or below.	
857	66765	0037953-21-2	(methyl methacrylate, butyl acrylate, styrene, glycidyl methacrylate) copolymer	yes	no	no			Only to be used in rigid poly(vinyl chloride) (PVC) at a maximum level of 2 % at room temperature or below.	
863	15260	0000646-25-3	1,10-decanediamine	no	yes	no	0,05		Only to be used as a co-monomer for manufacturing polyamide articles for repeated use in contact with aqueous, acidic and dairy foodstuffs at room temperature or for short term contact up to 150 °C.	
873	93460		titanium dioxide reacted with octyl-triethoxysilane	yes	no	no			Reaction product of titanium dioxide with up to 2 % w/w surface treatment substance octyltriethoxysilane, processed at high temperatures.	
894	93360	0016545-54-3	thiodipropionic acid, ditetradecyl ester	yes	no	no		(14)		
895	47060	0171090-93-0	3-(3,5-di-tert-butyl-4-hydroxyphenyl) propanoic acid, esters with C13-C15 branched and linear alcohols	yes	no	no	0,05		Only to be used in polyolefins in contact with foods other than fatty/high-alcoholic and dairy products.	

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
896	71958	0958445-44-8	3H-perfluoro-3-[(3-methoxy-propoxy) propanoic acid], ammonium salt	yes	no	no			Only to be used in the polymerisation of fluoropolymers when: <ul style="list-style-type: none"> <li>— processed at temperatures higher than 280 °C for at least 10 minutes,</li> <li>— processed at temperatures higher than 190 °C up to 30 % w/w for use in blends with polyoxy-methylene polymers and intended for repeated use articles.</li> </ul>	
923	39150	0000120-40-1	N,N-bis(2-hydroxyethyl)dodecanamide	yes	no	no	5		The residual amount of diethanolamine in plastics, as an impurity and decomposition product of the substance, should not result in a migration of diethanolamine higher than 0,3 mg/kg food.	(18)
924	94987		trimethylolpropane, mixed triesters and diesters with n-octanoic and n-decanoic acids	yes	no	no	0,05		Only for use in PET in contact with all types of foods other than fatty, high-alcoholic and dairy products.	
926	71955	0908020-52-0	perfluoro[(2-ethyloxy-ethoxy)acetic acid], ammonium salt	yes	no	no			Only to be used in the polymerisation of fluoropolymers that are processed at temperatures higher than 300 °C for at least 10 minutes.	
971	25885	0002459-10-1	trimethyl trimellitate	no	yes	no			Only to be used as a co-monomer up to 0,35 % w/w to produce modified polyesters intended to be used in contact with aqueous and dry foodstuffs containing no free fat at the surface.	(17)
972	45197	0012158-74-6	copper hydroxide phosphate	yes	no	no				
973	22931	0019430-93-4	(perfluorobutyl)ethylene	no	yes	no			Only to be used as a co-monomer up to 0,1 % w/w in the polymerisation of fluoropolymers, sintered at high temperatures.	

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
974	74050	939402-02-5	phosphorous acid, mixed 2,4-bis(1,1-dimethylpropyl)phenyl and 4-(1,1-dimethylpropyl)phenyl triesters	yes	no	yes	5		SML expressed as the sum of phosphite and phosphate form of the substance and the hydrolysis product 4-t-amyphenol.  The migration of the hydrolysis product 2,4-di-t-amyphenol should not exceed 0,05 mg/kg.	

(2) in Table 1 for the following substance, the content of the columns (2), (5), (6) and (10) is replaced by the following:

FCM substance No	Ref. No	CAS No	Substance name	Use as additive or polymer production aid (yes/no)	Use as monomer or other starting substance or macro-molecule obtained from microbial fermentation (yes/no)	FRF applicable (yes/no)	SML [mg/kg]	SML(T) [mg/kg] (Group restriction No)	Restrictions and specifications	Notes on verification of compliance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
438	13303	0002162-74-5	bis(2,6-diisopropylphenyl)carbodiimide	no	yes	no	0,05		Expressed as the sum of bis(2,6-diisopropylphenyl)carbodiimide and its hydrolysis product 2,6-diisopropylaniline	

(3) in Table 1 for the following substance, the content of the column (3) is replaced by the following:

FCM substance No	Ref. No	CAS No	Substance name	Use as additive or polymer production aid (yes/no)	Use as monomer or other starting substance or macro-molecule obtained from microbial fermentation (yes/no)	FRF applicable (yes/no)	SML [mg/kg]	SML(T) [mg/kg] (Group restriction No)	Restrictions and specifications	Notes on verification of compliance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
797	76807	0073018-26-5	polyester of adipic acid with 1,3-butanediol, 1,2-propanediol and 2-ethyl-1-hexanol	yes	no	yes		(31) (32)		

(4) in Table 1 for the following substances, the content of the column (8) is replaced by the following:

FCM substance No	Ref. No	CAS No	Substance name	Use as additive or polymer production aid (yes/no)	Use as monomer or other starting substance or macro-molecule obtained from microbial fermentation (yes/no)	FRF applicable (yes/no)	SML [mg/kg]	SML(T) [mg/kg] (Group restriction No)	Restrictions and specifications	Notes on verification of compliance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
239	19975	0000108-78-1	2,4,6-triamino-1,3,5-triazine	yes	yes	no	2,5			
	25420									
	93720									
376	66905	0000872-50-4	N-methylpyrrolidone	yes	no	no	60			

(5) in Table 1 for the following substance, the content of the columns (8) and (10) is replaced by the following:

FCM substance No	Ref. No	CAS No	Substance name	Use as additive or polymer production aid (yes/no)	Use as monomer or other starting substance or macro-molecule obtained from microbial fermentation (yes/no)	FRF applicable (yes/no)	SML [mg/kg]	SML(T) [mg/kg] (Group restriction No)	Restrictions and specifications	Notes on verification of compliance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
452	38885	0002725-22-6	2,4-bis(2,4-dimethylphenyl)-6-(2-hydroxy-4-n-octyloxyphenyl)-1,3,5-triazine	yes	no	no	5			

(6) in Table 1 for the following substances, the content of the column (10) is replaced by the following:

FCM substance No	Ref. No	CAS No	Substance name	Use as additive or polymer production aid (yes/no)	Use as monomer or other starting substance or macro-molecule obtained from microbial fermentation (yes/no)	FRF applicable (yes/no)	SML [mg/kg]	SML(T) [mg/kg] (Group restriction No)	Restrictions and specifications	Notes on verification of compliance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
794	18117	0000079-14-1	glycolic acid	no	yes	no			Only to be used for manufacture of polyglycolic acid (PGA) for (i) indirect food contact behind polyesters such as polyethylene terephthalate (PET) or polylactic acid (PLA); and (ii) direct food contact of a blend of PGA up to 3 % w/w in PET or PLA.	
812	80350	0124578-12-7	poly(12-hydroxystearic acid)-polyethyleneimine copolymer	yes	no	no			Only to be used in plastics up to 0,1 % w/w. Prepared by the reaction of poly(12-hydroxystearic acid) with polyethyleneimine.	

(7) in Table 1 for the following substance, the content of the columns (10) and (11) is replaced by the following:

FCM substance No	Ref. No	CAS No	Substance name	Use as additive or polymer production aid (yes/no)	Use as monomer or other starting substance or macro-molecule obtained from microbial fermentation (yes/no)	FRF applicable (yes/no)	SML [mg/kg]	SML(T) [mg/kg] (Group restriction No)	Restrictions and specifications	Notes on verification of compliance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
862	15180	0018085-02-4	3,4-diacetoxy-1-butene	no	yes	no	0,05		SML including the hydrolysis product 3,4-dihydroxy-1-butene Only to be used as a co-monomer for ethylvinylalcohol (EVOH) and polyvinylalcohol (PVOH) copolymers.	(17) (19)

(8) in Table 2 for the following group restriction, the content of the columns (2) and (4) is replaced by the following:

Group restriction No	FCM substance No	SML (T) [mg/kg]	Group restriction specification
(1)	(2)	(3)	(4)
14	294 368 894	5	Expressed as the sum of the substances and their oxidation products

(9) in Table 3 the following notes on verification of compliance are inserted in numerical order:

Note No	Notes on verification of compliance
(1)	(2)
(18)	There is a risk that the SML could be exceeded from low-density polyethylene (LDPE)
(19)	There is a risk that the OML could be exceeded in direct contact with aqueous foods from ethylvinylalcohol (EVOH) and polyvinylalcohol (PVOH) copolymers

**COMMISSION REGULATION (EU) No 1283/2011****of 5 December 2011****establishing a prohibition of fishing for skates and rays in EU waters of VIId by vessels flying the flag of the Netherlands**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy <sup>(1)</sup>, and in particular Article 36(2) thereof,

Whereas:

- (1) Council Regulation (EU) No 57/2011 of 18 January 2011 fixing for 2011 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in certain non-EU waters <sup>(2)</sup>, lays down quotas for 2011.
- (2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2011.
- (3) It is therefore necessary to prohibit fishing activities for that stock,

HAS ADOPTED THIS REGULATION:

*Article 1***Quota exhaustion**

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2011 shall be deemed to be exhausted from the date set out in that Annex.

*Article 2***Prohibitions**

Fishing activities for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. In particular it shall be prohibited to retain on board, relocate, tranship or land fish from that stock caught by those vessels after that date.

*Article 3***Entry into force**

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

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

Done at Brussels, 5 December 2011.

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

Lowri EVANS

*Director-General for Maritime Affairs and Fisheries*

<sup>(1)</sup> OJ L 343, 22.12.2009, p. 1.

<sup>(2)</sup> OJ L 24, 27.1.2011, p. 1.

## ANNEX

No	79/T&Q
Member State	The Netherlands
Stock	SRX/07D.
Species	Skates and rays ( <i>Rajidae</i> )
Zone	EU waters of VIII
Date	21.11.2011

**COMMISSION REGULATION (EU) No 1284/2011****of 5 December 2011****establishing a prohibition of fishing for other species in Norwegian waters of IV by vessels flying the flag of the Netherlands**

THE EUROPEAN COMMISSION,

HAS ADOPTED THIS REGULATION:

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

*Article 1***Quota exhaustion**

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy <sup>(1)</sup>, and in particular Article 36(2) thereof,

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2011 shall be deemed to be exhausted from the date set out in that Annex.

Whereas:

*Article 2***Prohibitions**

(1) Council Regulation (EU) No 57/2011 of 18 January 2011 fixing for 2011 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in certain non-EU waters <sup>(2)</sup>, lays down quotas for 2011.

Fishing activities for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. In particular, it shall be prohibited to retain on board, relocate, tranship or land fish from that stock caught by those vessels after that date.

(2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2011.

*Article 3***Entry into force**

(3) It is therefore necessary to prohibit fishing activities for that stock,

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

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

Done at Brussels, 5 December 2011.

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

Lowri EVANS

*Director-General for Maritime Affairs and Fisheries*

<sup>(1)</sup> OJ L 343, 22.12.2009, p. 1.

<sup>(2)</sup> OJ L 24, 27.1.2011, p. 1.

## ANNEX

No	78/T&Q
Member State	The Netherlands
Stock	OTH/04-N.
Species	Other species
Zone	Norwegian waters of IV
Date	21.11.2011

**COMMISSION IMPLEMENTING REGULATION (EU) No 1285/2011****of 8 December 2011****amending for the 161st time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al-Qaida network**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al-Qaida network, <sup>(1)</sup> and in particular Article 7(1)(a) and 7a(5) thereof,

Whereas:

- (1) Annex I to Regulation (EC) No 881/2002 lists the persons, groups and entities covered by the freezing of funds and economic resources under that Regulation.
- (2) On 30 November 2011, the Sanctions Committee of the United Nations Security Council decided to remove one natural person from its list of persons, groups and entities to whom the freezing of funds and economic

resources should apply after considering the de-listing request submitted by this individual and the Comprehensive Report of the Ombudsperson established pursuant to United Nations Security Council Resolution 1904(2009). It also decided to amend one entry on the list.

- (3) Annex I to Regulation (EC) No 881/2002 should therefore be updated accordingly.

HAS ADOPTED THIS REGULATION:

*Article 1*

Annex I to Regulation (EC) No 881/2002 is amended in accordance with the Annex to this Regulation.

*Article 2*This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 8 December 2011.

*For the Commission,  
On behalf of the President,  
Head of the Service for Foreign Policy Instruments*

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<sup>(1)</sup> OJ L 139, 29.5.2002, p. 9.

## ANNEX

Annex I to Regulation (EC) No 881/2002 is amended as follows:

- (1) The following entry under the heading 'Natural persons' is deleted:

'Abu Sufian Al-Salambi Muhammed Ahmed **Abd Al-Razziq** (alias (a) Abu Sufian Abd Al Razeq, (b) Abousofian Abdelrazek, (c) Abousofian Salman Abdelrazik, (d) Abousofian Abdelrazik, (e) Abousofiane Abdelrazik, (f) Sofian Abdelrazik, (g) Abou El Layth, (h) Aboulail, (i) Abu Juiriah, (j) Abu Sufian, (k) Abulail, (l) Djolaiba the Sudanese, (m) Jolaiba, (n) Ould El Sayeigh). Date of birth: 6.8.1962. Place of birth: (a) Al-Bawgah, Sudan (b) Albaouga, Sudan. Nationality: Canadian, Sudanese. Passport No: BC166787 (Canadian passport).'

- (2) The entry 'Anwar Nasser Abdulla Al-Aulaqi (*alias* (a) Anwar al-Aulaqi, (b) Anwar al-Awlaki, (c) Anwar al-Awlaqi, (d) Anwar Nasser Aulaqi, (e) Anwar Nasser Abdullah Aulaqi, (f) Anwar Nasser Abdulla Aulaqi). Date of birth: (a) 21.4.1971, (b) 22.4.1971. Place of birth: Las Cruces, New Mexico, United States of America. Nationality: (a) United States of America, (b) Yemeni. Other information: In hiding in Yemen as at December 2007. Date of designation referred to in Article 2a (4) (b): 20.7.2010.' under the heading 'Natural persons' shall be replaced by the following:

'Anwar Nasser Abdulla **Al-Aulaqi** (*alias* (a) Anwar al-Aulaqi, (b) Anwar al-Awlaki, (c) Anwar al-Awlaqi, (d) Anwar Nasser Aulaqi, (e) Anwar Nasser Abdullah Aulaqi, (f) Anwar Nasser Abdulla Aulaqi). Date of birth: (a) 21.4.1971, (b) 22.4.1971. Place of birth: Las Cruces, New Mexico, United States of America. Nationality: (a) United States of America, (b) Yemeni. Other information: Confirmed to have died on 30 September 2011 in Yemen. Date of designation referred to in Article 2a (4) (b): 20.7.2010.'

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**COMMISSION REGULATION (EU) No 1286/2011****of 9 December 2011****adopting a common methodology for investigating marine casualties and incidents developed pursuant to Article 5(4) of Directive 2009/18/EC of the European Parliament and of the Council****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2009/18/EC of the European Parliament and of the Council of 23 April 2009 establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending Council Directive 1999/35/EC and Directive 2002/59/EC of the European Parliament and of the Council<sup>(1)</sup>, and in particular Article 5(4) thereof,

Whereas:

- (1) Directive 2009/18/EC requires the Commission to adopt a common methodology for investigating marine casualties and incidents to be followed by investigative bodies when carrying out safety investigations.
- (2) The common methodology for investigating marine casualties and incidents should provide for common standards applicable in principle to all investigations

carried out in accordance with Directive 2009/18/EC in order to achieve a high level quality investigation.

- (3) The general rules as provided for by the common methodology should be directly used by the investigative bodies of the Member States.
- (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<sup>(2)</sup>,

HAS ADOPTED THIS REGULATION:

*Article 1*

The common methodology for investigating marine casualties and incidents as provided for in Article 5(4) of Directive 2009/18/EC is set out in the Annex to this Regulation.

*Article 2*This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 9 December 2011.

*For the Commission**The President*

José Manuel BARROSO

<sup>(1)</sup> OJ L 131, 28.05.2009, p. 114.<sup>(2)</sup> OJ L 324, 29.11.2002, p. 1.

## ANNEX

**COMMON METHODOLOGY FOR INVESTIGATING MARINE CASUALTIES AND INCIDENTS****A. PURPOSE, SCOPE AND APPLICATION**

The purpose of safety investigations into marine accidents is to reduce the risk of future casualties and incidents and reduce their serious consequences including loss of life, loss of ships and pollution of the marine environment.

The purpose of this document is to provide a common methodology for investigative bodies of the Member States to conduct marine safety investigations in accordance with Directive 2009/18/EC. It is based on the scope and definitions of Directive 2009/18/EC, taking into account the IMO instruments referred to in the Directive.

The methodology aims to establish common approach in principle applicable in all investigations carried out in accordance with the Directive and it outlines the characteristics of a good safety investigation. It is not a check list. The investigators shall exercise their professional judgment and training to take into account the circumstances of each case.

In this way, through application of this common methodology and an objective and systemic approach to the investigation, the investigative body should best be able to draw lessons from each accident and so enhance maritime safety.

Proper identification of the causes of a marine casualty or incident requires timely and methodical investigation, going beyond the immediate evidence and looking for underlying conditions which may cause other future occurrences. Investigation may therefore be seen as a means of identifying not only immediate causes, but also issues in the total environment from regulation and policy through to implementation.

**B. CONTENT****1. Operational readiness**

- 1.1. Each investigative body shall plan in advance in order to ensure that unnecessary delays, after the notification and during the initiation of any investigation, do not occur as a result of a lack of relevant/prerequisite information, preparedness or knowledge. Such preparedness plan shall ensure resources and procedures are, as far as possible, immediately available to meet the requirements, including sufficient suitably qualified investigators and any necessary co-ordination, nationally and internationally, to enable initial actions to be taken promptly, after notification of a casualty or incident is first received.
- 1.2. Arrangements shall be put in place to ensure prompt receipt of casualty and incident notifications by the accident investigation body on a twenty-four hour basis.

**2. Initial assessment and response**

- 2.1. On being notified, the investigative bodies shall assess the situation. The initial assessment is critical for investigative bodies to gather an overview as quickly as possible, minimise the potential loss of evidence, and determine the scope of information required to decide the appropriate action.

- 2.2. This assessment shall include, as far as possible, an understanding of

- the overall events,
- key timings,
- the personnel involved, and
- the category of the event.

In addition to the factors listed in Article 5(2) of Directive 2009/18/EC, the following may amongst others also be considered in deciding which non very serious casualties or incidents to investigate:

- the potential safety value that may be gained by conducting an investigation
- the public profile of the casualty

- whether the casualty is part of an identifiable trend
  - the potential consequences of the casualty
  - the extent of resources available and projected to be available in the event of conflicting priorities and the extent of any investigation backlog
  - any risks associated with not investigating
  - serious injuries occurring on-board to crew and/or passengers
  - the pollution of environmentally sensitive areas
  - ships subject to significant structural damages
  - casualties which disrupt, or have the potential to disrupt, major port operations
- 2.3. After a decision is taken to investigate a serious casualty or another marine casualty or incident, the investigation shall normally be conducted with the same immediacy as that for a very serious casualty.

Where an investigation is to be carried out, the investigative bodies shall take immediate action as far as practicable to ensure preservation of evidence, coordination with other substantially interested parties and the appointment of a lead investigating state.

### 3. Strategy and evidence collection

- 3.1. The investigative body of the lead investigating Member State, in close liaison with those of the other substantially interested States, shall expeditiously develop a strategy for the scope, direction and timing of the investigation.
- 3.2. The investigative body shall keep the plan under review during the course of the investigation; by the end of the evidence collection phase the investigative body shall, as far as practicable, have ensured the completeness of evidence from all areas that could have influenced the casualty or incident.
- 3.3. The scope of a safety investigation and the procedure to be followed shall be sufficient as to eliminate uncertainty and ambiguity to the maximum extent possible and so enable robust logical assessments to be made of what led to the marine casualty or incident.
- 3.4. Investigative bodies of substantially interested Member States shall provide support to the lead investigating Member State, in a timely fashion, to the extent practicable.
- 3.5. The lead investigative body shall nominate an investigator to carry out the investigation, deploy appropriate resources and start the collection of evidence as soon as possible, as the quality of evidence, particularly that relying on the accuracy of human recollection, can deteriorate rapidly with time; and also in recognition that any ship involved in a marine casualty or incident should not be delayed more than is absolutely necessary by the need to gather evidence.
- 3.6. During the initial stage of every investigation, investigators shall collect as much of the relevant evidence as possible which may help understanding the incident and determining its causes, keeping in mind the possible breadth of any investigation.
- 3.7. In addition to that gained during the initial notification stage, investigators shall obtain appropriate background and reference information. This can include evidence or data requested from any monitoring system, from the traffic control system, from the maritime administration, from the rescue services, from the shipping company and the casualty vessel.
- 3.8. Where appropriate, the investigative body shall query databases, including that of European Marine Casualty Information Platform, and other sources of information to help identify potential safety issues that may be relevant to the marine casualty or incident under investigation.

- 3.9. In principle, investigators shall, if feasible visit the casualty and/or occurrence site in order to obtain undisturbed evidence and to gain an initial appreciation of the incident. Where it has not been possible to preserve the site, arrangements shall, where possible, be made to obtain appropriate documentation of the scene for example by photographs, audio-visual recordings, sketches or any other means available with the object of gathering important evidence and possibly recreating the circumstances at a later stage.
- 3.10. Where a VDR is fitted, the investigators shall make every effort in order to obtain and preserve the information recorded on it. In particular they shall take early action to ensure that the VDR is "saved" to prevent it being overwritten. They also shall make every effort to obtain any relevant information from electronic sources, both on the ship and ashore. They shall review, in the order they find appropriate, any available, relevant documents, procedures and records.
- 3.11. Interviews shall be conducted with all available witnesses considered by the lead investigative body to be relevant. Investigators shall identify which witnesses they wish to interview initially and develop an interview plan. This plan shall, among other things, take into account fatigue (of both the witness and the investigator), the fragility of human evidence and the intended movements of the prospective witnesses.

Potential witnesses may include, among others:

- persons directly involved in the marine casualty or incident and its consequences
- eyewitnesses to the marine casualty or incident
- emergency response personnel
- company personnel, port officials, designers, repair personnel technical experts

If it is not possible to speak directly with some witnesses, the lead investigative body shall take steps to gain the evidence by other means.

Evidence may be obtained from them through telephone interviews or by asking other trained safety investigators to conduct the interview on behalf of the lead investigative State. In the latter case, the person conducting the interview will need to be carefully briefed by the investigator carrying out the investigation. Many key witnesses may need to be re-interviewed perhaps more than once.

- 3.12. Information shall be verified whenever possible. Statements made by different witnesses may conflict and further supporting evidence may be needed. To ensure that all of the relevant facts are uncovered, the broad questions of "who", "what", "when", "how" and "why" shall be asked.
- 3.13. Human factors form an integral part of most investigations, and safety investigators must be trained appropriately. The success of the investigation of human factors depends largely on the type and quality of the information collected. As no two occurrences are the same, the investigative body shall determine the type and quality of data to be collected and reviewed. As a rule, the investigator shall be over-inclusive in gathering information initially and set aside superfluous data as the investigation unfolds.
- 3.14. If need be, the investigative body will have to secure some physical evidence in particular in order to obtain a scientific examination, inspection or testing ashore. In these cases, the investigators shall keep in mind that the passage of time could pollute the available evidence and therefore proceed with their removal as soon as appropriate. Prior to removal, such evidence shall be if possible photographed *in situ*. Their removal and their preservation shall be made with all the appropriate precautions in order to avoid affecting their examination.
- 3.15. If they appear to be relevant to the occurrence as part of their investigation, the investigative bodies may have to conduct or to order specialist examination, in particular technical examination of the vessel and of the different systems and equipment on board, if necessary by appropriate experts.
- 3.16. While gathering evidence, the investigative bodies shall try to identify any evidence that may be missing.

#### 4. Analysis

- 4.1. Having collected evidence and related additional data, the investigative body of the lead investigating Member State, in cooperation with other substantially interested States as appropriate, shall analyse it with a view to identifying causal and contributing factors.

In that respect, the investigators shall take into account the variable value of the evidences they have collected and shall consider how best to resolve any ambiguities or conflicts of evidence.

- 4.2. Proper identification of causal factors requires timely and methodical investigation, going beyond the immediate evidence and looking for underlying conditions, which may be remote from the site of the marine casualty or incident, and which may cause other future marine casualties and marine incidents. Marine safety investigations should therefore in principle serve as a means of identifying not only immediate causal factors but also conditions that may be present in the whole operational process. To achieve this, the analysis of the evidence collected shall be thorough and iterative.
- 4.3. If a gap of information cannot be resolved and is filled in by logical extrapolation and reasonable assumptions, such extrapolation and assumptions shall be made clear in the wording of the report. A useful tool in this process can be the identification of all options and their analytical reduction to reach the most likely hypotheses.

## 5. Safety recommendations

- 5.1. Any safety recommendations shall be based on the analysis. They shall be addressed to those organisations or individuals best placed to take remedial action.
- 5.2. They may be based on safety investigations, or on research and abstract data analysis. Their formulation may be achieved in cooperation and consultation with the relevant stakeholders since these are often well-placed to identify and implement appropriate safety actions. The final decision on the content and addressees of safety recommendations shall, however, rest with the lead investigative body.
- 5.3. Where a causal or contributing factor is considered so serious that it should be addressed urgently, appropriate follow-up action shall be taken such as, for instance, issuing an interim safety recommendation.
- 5.4. To facilitate as much as possible acceptance and implementation by the recipients, any recommendation shall be:
  - Necessary
  - Likely to be effective
  - Practicable
  - Relevant
  - Targeted
  - Stated in a clear, concise and direct manner
  - Stated so that it can be the basis for corrective action plans, highlighting the safety gap that needs to be addressed.

## 6. Reports

- 6.1. The investigative body of the lead investigating Member State shall produce a draft report in liaison with other substantially interested States. It shall clearly present, in a consistent and concise style, the facts and analysis which are used to support the conclusions and recommendations.
- 6.2. Where practicable, the draft report, or appropriate parts thereof, shall be circulated in confidence for consultation to any person or organisation that could be affected by it. The investigative body shall publish the final report, amended as appropriate.

## 7. Follow-up

The investigative bodies shall endeavour to ascertain details of action taken in response to safety recommendations.

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## COMMISSION IMPLEMENTING REGULATION (EU) No 1287/2011

of 9 December 2011

repealing Regulation (EC) No 2014/2005 on licences under the arrangements for importing bananas into the Community in respect of bananas released into free circulation at the common customs tariff rate of duty

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1964/2005 of 29 November 2005 on the tariff rates for bananas <sup>(1)</sup>, and in particular Article 2 thereof,

Whereas:

- (1) Commission Regulation (EC) No 2014/2005 <sup>(2)</sup> has established a mechanism for monitoring imports of bananas, based on import licences.
- (2) By its Decision 2011/194/EU <sup>(3)</sup> the Council approved the conclusion of the Geneva Agreement on Trade in Bananas between the European Union and Brazil, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru and Venezuela (the "Geneva Agreement") and of the Agreement on Trade in Bananas between the European Union and the United States of America (the "EU/US Agreement"). The agreements are now being ratified by all signatory parties. Following the conclusions of those Agreements the structure and operation of the Union's trading regime for bananas of CN code 0803 00 19 have been changed.
- (3) In view of the new banana tariffs to be applied pursuant to the "Geneva Agreement", Regulation (EU) No 306/2011 of the European Parliament and of the Council <sup>(4)</sup> has repealed Regulation (EC) No 1964/2005 with effect on the date of entry into force of that Agreement.
- (4) In the light of the adoption of the aforementioned agreements, which settled a longstanding banana

dispute, the use of import licences subject to the provision of a security, as a statistical tool, is no longer an adequate instrument to monitor the banana markets.

- (5) New and more accurate means of monitoring imports of bananas have been developed, which are less cumbersome than licences, which incur an administrative burden and a cost for companies and national administrations.
- (6) Therefore, it is appropriate to abolish the obligation for traders to obtain import licences for the importation of bananas of all origin. Regulation (EC) No 2014/2005 should therefore be repealed. As Article 1(3) of Regulation (EC) No 2014/2005 limits the validity of licences to the year of issue, it is appropriate to repeal the obligation to obtain import licences as from 1 January 2012.
- (7) 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*

Regulation (EC) No 2014/2005 is hereby repealed.

*Article 2*

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

It shall apply from 1 January 2012.

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

Done at Brussels, 9 December 2011.

*For the Commission**The President*

José Manuel BARROSO

<sup>(1)</sup> OJ L 316, 2.12.2005, p.1.

<sup>(2)</sup> OJ L 324, 10.12.2005, p. 3.

<sup>(3)</sup> OJ L 88, 4.4.2011, p. 66.

<sup>(4)</sup> OJ L 88, 4.4.2011, p. 44.

**COMMISSION IMPLEMENTING REGULATION (EU) No 1288/2011****of 9 December 2011****on the notification of wholesale prices for bananas within the common organisation of agricultural markets**

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) <sup>(1)</sup>, and in particular Article 192 in conjunction with Article 4 thereof,

Whereas:

- (1) Commission Regulation (EC) 2014/2005 of 9 December 2005 on licences under the arrangements for importing bananas into the Community in respect of bananas released into free circulation at the common customs tariff rate of duty <sup>(2)</sup>, is repealed by Commission Implementing Regulation (EU) No 1287/2011 <sup>(3)</sup> as from 1 January 2012. Regulation (EC) 2014/2005 contained in its Article 2(1) point (a) provisions on notifications of wholesale prices for yellow bananas.
- (2) In order to continue to monitor the banana market, it is appropriate to provide for Member States' notifications to the Commission as regards wholesale prices for yellow bananas falling within the CN code 0803 90 10, in accordance with Commission Regulation (EC) No 792/2009 of 31 August 2009 laying down detailed rules for the Member States' notification to the Commission of information and documents in implementation of the common organisation of the markets, the direct payments' regime, the promotion of agricultural products and the regimes applicable to the outermost regions and the smaller Aegean islands <sup>(4)</sup>.

(3) So as to ensure consistency with the fruit and vegetables sector, is appropriate to record wholesale prices for yellow bananas on the representative markets listed in Annex XVII to Commission Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors <sup>(5)</sup>.

(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*

Member States shall notify the Commission by Wednesday each week of the wholesale prices for yellow bananas falling within the CN code 0803 90 10, broken down by country of origin or group of countries of origin, as recorded the previous week on the representative markets listed in Annex XVII to Regulation (EU) No 543/2011.

The notifications referred to in the first paragraph shall be made in accordance with Regulation (EC) No 792/2009.

*Article 2*

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

It shall apply from 1 January 2012.

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

Done at Brussels, 9 December 2011.

For the Commission  
The President

José Manuel BARROSO

<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 324, 10.12.2005, p. 3.

<sup>(3)</sup> See page 41 of this Official Journal.

<sup>(4)</sup> OJ L 228, 1.9.2009, p. 3.

<sup>(5)</sup> OJ L 157, 15.6.2011, p. 1.

**COMMISSION IMPLEMENTING REGULATION (EU) No 1289/2011****of 9 December 2011****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) <sup>(1)</sup>,Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors <sup>(2)</sup>, and in particular Article 136(1) thereof,

Whereas:

Implementing Regulation (EU) No 543/2011 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 XVI, Part A thereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 10 December 2011.

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

Done at Brussels, 9 December 2011.

*For the Commission,  
On behalf of the President,  
José Manuel SILVA RODRÍGUEZ  
Director-General for Agriculture and  
Rural Development*

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<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 157, 15.6.2011, p. 1.

## ANNEX

**Standard import values for determining the entry price of certain fruit and vegetables**

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	AL	58,0
	MA	60,5
	TN	95,6
	TR	91,2
	ZZ	76,3
0707 00 05	EG	170,1
	TR	109,7
	ZZ	139,9
0709 90 70	MA	42,2
	TR	150,0
	ZZ	96,1
0805 10 20	AR	37,1
	BR	41,5
	TR	50,0
	ZA	63,3
	ZZ	48,0
0805 20 10	MA	62,8
	ZZ	62,8
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	HR	32,0
	IL	78,1
	TR	79,9
	ZZ	63,3
0805 50 10	TR	52,8
	ZZ	52,8
0808 10 80	CA	125,8
	CL	90,0
	CN	71,1
	US	120,8
	ZZ	101,9
0808 20 50	CN	47,5
	ZZ	47,5

<sup>(1)</sup> 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 IMPLEMENTING REGULATION (EU) No 1290/2011****of 9 December 2011****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Implementing Regulation (EU) No 971/2011 for the 2011/12 marketing year**

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) <sup>(1)</sup>,

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

Whereas:

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

for the 2011/12 marketing year are fixed by Commission Implementing Regulation (EU) No 971/2011 <sup>(3)</sup>. These prices and duties have been last amended by Commission Implementing Regulation (EU) No 1280/2011 <sup>(4)</sup>.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The representative prices and additional duties applicable to imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Implementing Regulation (EU) No 971/2011 for the 2011/12 marketing year, are hereby amended as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 10 December 2011.

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

Done at Brussels, 9 December 2011.

*For the Commission,  
On behalf of the President,  
José Manuel SILVA RODRÍGUEZ  
Director-General for Agriculture and  
Rural Development*

<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 178, 1.7.2006, p. 24.

<sup>(3)</sup> OJ L 254, 30.9.2011, p. 12.

<sup>(4)</sup> OJ L 327, 9.12.2011, p. 58.

## ANNEX

**Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 10 December 2011**

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 11 10 <sup>(1)</sup>	41,53	0,00
1701 11 90 <sup>(1)</sup>	41,53	2,45
1701 12 10 <sup>(1)</sup>	41,53	0,00
1701 12 90 <sup>(1)</sup>	41,53	2,15
1701 91 00 <sup>(2)</sup>	45,89	3,70
1701 99 10 <sup>(2)</sup>	45,89	0,57
1701 99 90 <sup>(2)</sup>	45,89	0,57
1702 90 95 <sup>(3)</sup>	0,46	0,24

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

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

<sup>(3)</sup> Per 1 % sucrose content.

**COMMISSION IMPLEMENTING REGULATION (EU) No 1291/2011****of 9 December 2011****determining the extent to which the import licence applications submitted in November 2011 for certain milk products under certain tariff quotas opened by Regulation (EC) No 2535/2001 can be accepted**

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) <sup>(1)</sup>,Having regard to Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences <sup>(2)</sup>, and in particular Article 7(2) thereof,

Whereas:

Import licence applications lodged from 20 to 30 November 2011 for certain tariff quotas referred to in Annex I to Commission Regulation (EC) No 2535/2001 of 14 December 2001 laying down detailed rules for applying Council Regulation No 1255/1999 as regards the import arrangements for

milk and milk products and opening tariff quotas <sup>(3)</sup> relate to quantities greater than those available. The extent to which licences may be issued should therefore be determined by establishing the allocation coefficient to be applied to the quantities requested,

HAS ADOPTED THIS REGULATION:

*Article 1*

For import licence applications lodged from 20 to 30 November 2011 for the tariff quotas referred to in parts I.A, I.F, I.H, I.I, and I.J of Annex I to Regulation (EC) No 2535/2001, licences shall be issued for the quantities requested, multiplied by the allocation coefficient(s) set out in the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on 10 December 2011.

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

Done at Brussels, 9 December 2011.

*For the Commission,  
On behalf of the President,  
José Manuel SILVA RODRÍGUEZ  
Director-General for Agriculture and  
Rural Development*

<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.<sup>(2)</sup> OJ L 238, 1.9.2006, p. 13.<sup>(3)</sup> OJ L 341, 22.12.2001, p. 29.

## ANNEX

## I.A

Tariff quota number	Allocation coefficient
09.4590	100 %
09.4599	100 %
09.4591	—
09.4592	—
09.4593	—
09.4594	—
09.4595	3,660488 %
09.4596	100 %

‘—’: No application for a licence has been sent to the Commission.

## I.F

Products originating in Switzerland

Tariff quota number	Allocation coefficient
09.4155	9,520183 %

## I.H

Products originating in Norway

Tariff quota number	Allocation coefficient
09.4179	100 %

## I.I

Products originating in Iceland

Tariff quota number	Allocation coefficient
09.4205	100 %
09.4206	100 %

## I.J

Products originating in the Republic of Moldova

Tariff quota number	Allocation coefficient
09.4210	—

‘—’: No application for a licence has been sent to the Commission.

# DIRECTIVES

## COUNCIL DIRECTIVE 2011/97/EU

of 5 December 2011

### amending Directive 1999/31/EC as regards specific criteria for the storage of metallic mercury considered as waste

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Regulation (EC) No 1102/2008 of the European Parliament and of the Council of 22 October 2008 on the banning of exports of metallic mercury and certain mercury compounds and mixtures and the safe storage of metallic mercury <sup>(1)</sup>, and in particular Article 4(3) thereof, as well as to Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste <sup>(2)</sup>, and in particular Article 16 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Regulation (EC) No 1102/2008 stipulates that, by way of derogation from Article 5(3)(a) of Directive 1999/31/EC, metallic mercury that is considered as waste may, in appropriate containment, be temporarily stored for more than 1 year or permanently stored in certain types of landfills.
- (2) Storage of metallic mercury that is considered as waste is already regulated by Union legislation on waste management.
- (3) The storage of metallic mercury that is considered as waste for up to 1 year is subject to the permit requirements according to Article 23 of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste <sup>(3)</sup>.
- (4) Directive 1999/31/EC and Council Decision 2003/33/EC of 19 December 2002 establishing criteria and procedures for the acceptance of waste at landfills

pursuant to Article 16 of and Annex II to Directive 1999/31/EC <sup>(4)</sup> apply to facilities for the storage of metallic mercury for more than 1 year according to Article 3(1) of Regulation (EC) No 1102/2008.

- (5) This implies, in particular, that all facilities for the storage of metallic mercury for more than 1 year need a permit according to Articles 7, 8 and 9 of Directive 1999/31/EC and that such facilities are subject to the control and monitoring requirements laid down in Article 12 of that Directive, as well as, in the case of underground storage, to the safety assessment requirements according to Appendix A of Decision 2003/33/EC.
- (6) In addition, such facilities are subject to the general provisions on record keeping as laid down in Directive 2008/98/EC.
- (7) In addition, the provisions of Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances <sup>(5)</sup> apply to facilities for the temporary above-ground storage according to Article 3(2) of Regulation (EC) No 1102/2008.
- (8) However, those provisions do not fully address the specific characteristics of metallic mercury, and additional requirements are therefore needed.
- (9) Those additional requirements should take into account research activities on safe disposal options, including the solidification of metallic mercury. There is progress in the development of environmentally sound solidification options but it is premature to decide on the large-scale viability of such options.
- (10) Additional assessments of the long-term behaviour of metallic mercury in underground storage are needed for the determination of sound and knowledge-based requirements for permanent storage. The requirements laid down in this Directive should therefore be limited

<sup>(1)</sup> OJ L 304, 14.11.2008, p. 75.

<sup>(2)</sup> OJ L 182, 16.7.1999, p. 1.

<sup>(3)</sup> OJ L 312, 22.11.2008, p. 3.

<sup>(4)</sup> OJ L 11, 16.1.2003, p. 27.

<sup>(5)</sup> OJ L 10, 14.1.1997, p. 13.

to temporary storage and are considered as appropriate and representing the best available techniques for the safe storage of metallic mercury for a time span of up to 5 years.

- (11) Directive 1999/31/EC should therefore be amended accordingly.
- (12) No opinion was given by the committee referred to in Article 16 of Directive 1999/31/EC. It is therefore appropriate for the Council to adopt this Directive,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

Annexes I, II and III to Directive 1999/31/EC are hereby amended as set out in the Annex to this Directive.

*Article 2*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 15 March 2013. They shall forthwith communicate to the Commission the text of those provisions.

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

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

*Article 3*

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

*Article 4*

This Directive is addressed to the Member States.

Done at Brussels, 5 December 2011.

*For the Council*  
*The President*  
W. PAWLAK

## ANNEX

Annexes I, II and III to Directive 1999/31/EC are amended as follows:

(1) the following section is added to Annex I:

'8. Temporary storage of metallic mercury

For the purposes of temporary storage for more than 1 year of metallic mercury, the following requirements shall apply:

- Metallic mercury shall be stored separately from other waste.
- Containers shall be stored in collecting basins suitably coated so as to be free of cracks and gaps and impervious to metallic mercury with a containment volume adequate for the quantity of mercury stored.
- The storage site shall be provided with engineered or natural barriers that are adequate to protect the environment against mercury emissions and a containment volume adequate for the total quantity of mercury stored.
- The storage site floors shall be covered with mercury-resistant sealants. A slope with a collection sump shall be provided.
- The storage site shall be equipped with a fire protection system.
- Storage shall be arranged in a way to ensure that all containers are easily retrievable.;

(2) the following section is added to Annex II:

'6. Specific requirements for metallic mercury

For the purposes of temporary storage for more than 1 year of metallic mercury, the following requirements shall apply:

A. Composition of the mercury

Metallic mercury shall comply with the following specifications:

- mercury content greater than 99,9 % per weight,
- no impurities capable of corroding carbon or stainless steel (e.g. nitric acid solution, chloride salts solutions).

B. Containment

Containers used for the storage of metallic mercury shall be corrosion- and shock-resistant. Welds shall therefore be avoided. The containers shall comply in particular with the following specifications:

- container material: carbon steel (ASTM A36 minimum) or stainless steel (AISI 304, 316L),
- containers shall be gas and liquid tight,
- the outer side of the container shall be resistant against the storage conditions,
- the design type of the container shall successfully pass the drop test and the leakproofness tests as described in Chapters 6.1.5.3 and 6.1.5.4 of the UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria.

The maximum filling ratio of the container shall be 80 % by volume to ensure that sufficient ullage is available and neither leakage nor permanent distortion of the container can occur as a result of an expansion of the liquid due to high temperature.

C. Acceptance procedures

Only containers with a certificate complying with the requirements set out in this Section shall be accepted.

Acceptance procedures shall comply with the following:

- only metallic mercury which fulfils the minimum acceptance criteria set out above shall be accepted,

- containers shall be visually inspected before storage. Damaged, leaking or corroded containers shall not be accepted,
- containers shall bear a durable stamp (made by punching) mentioning the identification number of the container, the construction material, its empty weight, the reference of the manufacturer and the date of construction,
- containers shall bear a plate permanently fixed to the container mentioning the identification number of the certificate.

#### D. Certificate

The certificate indicated in subsection C shall include the following elements:

- name and address of the waste producer,
- name and address of the responsible for the filling,
- place and date of filling,
- quantity of the mercury,
- the purity of the mercury and, if relevant, a description of the impurities, including the analytical report,
- confirmation that the containers have been used exclusively for the transport/storage of mercury,
- the identification numbers of the containers,
- any specific comments.

Certificates shall be issued by the producer of the waste or, in default, by the person responsible for its management.’;

(3) the following section is added to Annex III:

#### ‘6. Specific requirements for metallic mercury

For the purposes of temporary storage for more than 1 year of metallic mercury, the following requirements shall apply:

##### A. Monitoring, inspection and emergency requirements

A continuous mercury vapour monitoring system with a sensitivity of at least 0,02 mg mercury/m<sup>3</sup> shall be installed in the storage site. Sensors shall be positioned at ground level and head level. This shall include a visual and acoustic alert system. The system shall be maintained annually.

The storage site and containers shall be visually inspected by an authorised person at least once a month. Where leaks are detected, the operator shall immediately take all necessary action to avoid any emission of mercury to the environment and restore the safety of the storage of the mercury. Any leaks shall be considered to have significant adverse environmental effects as referred to in Article 12(b).

Emergency plans and adequate protective equipment suitable for handling metallic mercury shall be available on site.

##### B. Record keeping

All documents containing the information referred to in Section 6 of Annex II and in point A of this Section, including the certificate accompanying the container, as well as records concerning the destocking and dispatch of the metallic mercury after its temporary storage and the destination and intended treatment shall be kept for at least 3 years after the termination of the storage.’.

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## DECISIONS

## COMMISSION IMPLEMENTING DECISION

of 8 December 2011

## amending Decision 2010/221/EU as regards national measures for preventing the introduction of certain aquatic animal diseases into parts of Ireland, Finland and Sweden

*(notified under document C(2011) 9002)***(Text with EEA relevance)**

(2011/825/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 2006/88/EC of 24 October 2006 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals<sup>(1)</sup>, and in particular Article 43(2) thereof,

Whereas:

- (1) Commission Decision 2010/221/EU of 15 April 2010 approving national measures for limiting the impact of certain diseases in aquaculture animals and wild aquatic animals in accordance with Article 43 of Council Directive 2006/88/EC<sup>(2)</sup> allows certain Member States to apply restrictions on consignments of those animals in order to prevent the introduction of certain diseases into their territory, provided that they have either demonstrated that their territory, or certain demarcated areas of their territory, are free of such diseases or that they have established an eradication or surveillance programme to obtain such freedom.
- (2) The continental parts of the territories of Finland and Sweden are listed in Annex II to Decision 2010/221/EU as territories with an approved eradication programme as regards bacterial kidney disease (BKD).
- (3) The coastal parts of the territory of Sweden are listed in Annex II to Decision 2010/221/EU as having an approved eradication programme as regards infectious pancreatic necrosis virus (IPN).
- (4) Accordingly, Decision 2010/221/EU approves certain national measures by Finland and Sweden on consignments of aquaculture animals of susceptible species into those areas. However, to allow for a re-evaluation of the appropriateness of those national measures, the authorisation to apply those measures is limited in time until 31 December 2011.
- (5) Finland has submitted reports to the Commission on the functioning of its national eradication programme for BKD, in which it is stated that the eradication of BKD has not yet been successful. While progress has been made in several areas, some areas still remain infected with BKD. Finland has therefore requested that the geographical demarcation of the programme be limited to two continuous zones covering 19 water catchment areas. In those two zones, only four farms are under BKD-related restrictions and they are all undergoing the process of destroying infected fish, and the cleaning and disinfection of the facilities.
- (6) Sweden has submitted a report to the Commission on the functioning of its national eradication programmes for BKD and IPN. The number of reported cases has been reduced significantly and both diseases are close to being eradicated from the programme areas. The continental parts of Sweden are already free of IPN and the national eradication programme in the coastal waters therefore also functions as a buffer to protect the already declared free areas.
- (7) On the basis of the information provided by Finland and Sweden, it is appropriate to continue those national measures. However, taking into account that eradication has not yet been achieved despite years of applying national eradication programmes, the appropriateness and necessity of the national measures needs to be re-evaluated in due time. Therefore, the authorisation to apply those national measures should be limited to two more years until 31 December 2013.
- (8) Annex III to Decision 2010/221/EU currently lists nine compartments in the territory of Ireland with an approved surveillance programme as regards ostreid herpesvirus 1  $\mu$ var (OshV-1  $\mu$ var).
- (9) Ireland has notified to the Commission the detection of OshV-1  $\mu$ var in two of those compartments, namely in Gweendore Bay within compartment 1 and Ballinakill Bay within compartment 4. Consequently, the geographical demarcation of those two compartments in Annex III to Decision 2010/221/EU should be amended.

<sup>(1)</sup> OJ L 328, 24.11.2006, p. 14.<sup>(2)</sup> OJ L 98, 20.4.2010, p. 7.

(10) Decision 2010/221/EU should therefore be amended accordingly.

(11) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

(2) Annexes II and III are replaced by the text in the Annex to this Decision.

*Article 2*

This Decision is addressed to the Member States.

HAS ADOPTED THIS DECISION:

*Article 1*

Decision 2010/221/EU is amended as follows:

(1) in Article 3(2), the date '31 December 2011' is replaced by '31 December 2013';

Done at Brussels, 8 December 2011.

*For the Commission*

John DALLI

*Member of the Commission*

## ANNEX

## ANNEX II

**Member States and parts thereof with eradication programmes as regards certain diseases in aquaculture animals, and approved to take national measures to control those diseases in accordance with Article 43(2) of Directive 2006/88/EC**

Disease	Member State	Code	Geographical demarcation of the area with approved national measures
Bacterial kidney disease (BKD)	Finland	FI	The following water catchment areas: Kymijoki, Juustilanjoki, Hounijoki, Tervajoki, Vilajoki, Urpalanjoki, Vaalimaanjoki, Virojoki, Vehkajoki, Summajoki, Vuoksi, Jänisjoki, Kiteenjoki-Tohmajoki, Hiitolanjoki, Tenojoki, Näätämojoki, Uutuanjoki, Paatsjoki, Tuulomajoki
	Sweden	SE	The continental parts of the territory
Infectious pancreatic necrosis virus (IPN)	Sweden	SE	The coastal parts of the territory

## ANNEX III

**Member States and areas with surveillance programmes regarding ostreid herpesvirus 1  $\mu$ var (OsHV-1  $\mu$ var), and approved to take national measures to control that disease in accordance with Article 43(2) of Directive 2006/88/EC**

Disease	Member State	Code	Geographical demarcation of the areas with approved national measures (Member States, zones and compartments)
Ostreid herpesvirus 1 $\mu$ var (OsHV-1 $\mu$ var)	Ireland	IE	Compartment 1: Sheephaven Bay Compartment 2: Gweebarra Bay Compartment 3: Drumcliff, Killala, Broadhaven and Blacksod Bays Compartment 4: Streamstown Bay Compartment 5: Bertraghboy and Galway Bays Compartment 6: Shannon Estuary and Poulnisharry, Askeaton and Ballylongford Bays Compartment 7: Kenmare Bay Compartment 8: Dunmanus Bay Compartment 9: Kinsale and Oysterhaven Bays
	United Kingdom	UK	The territory of Great Britain except Whitstable Bay, Kent The territory of Northern Ireland, except Killough Bay, Lough Foyle and Carlingford Lough The territory of Guernsey'

## ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

### DECISION No 41/2011 OF THE JOINT COMMITTEE ESTABLISHED UNDER THE AGREEMENT ON MUTUAL RECOGNITION BETWEEN THE EUROPEAN COMMUNITY AND THE UNITED STATES OF AMERICA

of 14 November 2011

related to the listing of Conformity Assessment Bodies under the Sectoral Annexes on  
Electromagnetic Compatibility and Telecommunication Equipment

(2011/826/EU)

THE JOINT COMMITTEE,

Having regard to the Agreement on Mutual Recognition between the European Community and the United States of America and in particular Articles 7 and 14;

Whereas the Joint Committee is to take a decision to list a Conformity Assessment Body or Bodies under a Sectoral Annex;

HAS DECIDED AS FOLLOWS:

1. The Conformity Assessment Bodies in Attachment A are added to the list of Conformity Assessment Bodies under column 'US access to the EC market' in Section V of the Sectoral Annex on Electromagnetic Compatibility and on the Sectoral Annex on Radio and Telecommunication Terminal Equipment.
2. The Conformity Assessment Body in Attachment B is added to the list of Conformity Assessment Bodies under column 'EC access to the US market' in Section V of the Sectoral Annex on Electromagnetic Compatibility.
3. The specific scope of listing, in terms of products and conformity assessment procedures, of the Conformity Assessment Bodies indicated in Attachments A and B have been agreed by the Parties and will be maintained by them.

This Decision, done in duplicate, shall be signed by representatives of the Joint Committee who are authorised to act on behalf of the Parties for purposes of amending the Agreement. This Decision shall be effective from the date of the later of these signatures.

*On behalf of the United States of America*

James SANFORD

Signed in Washington,  
8 November 2011

*On behalf of the European Union*

Fernando PERREAU DE PINNINCK

Signed in Brussels,  
14 November 2011

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*Attachment A***US Conformity Assessment Bodies added to the list of Conformity Assessment Bodies under column 'US access to the EC market' in Section V of the Sectoral Annex on Electromagnetic Compatibility and of the Sectoral Annex on Radio and Telecommunication Terminal Equipment**

MiCOM Labs  
440 Boulder Court, Suite 200  
Pleasanton, CA 94566  
United States

Nemko USA, Inc  
802 N. Kealy Avenue  
Lewisville, Texas 75057-3136  
United States

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*Attachment B***EU Conformity Assessment Body added to the list of Conformity Assessment Bodies under column 'EC access to the US market' in Section V of the Sectoral Annex on Electromagnetic Compatibility**

Intertek Semko AB  
Box 1103  
SE-164 22 KISTA  
Sweden

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## CORRIGENDA

**Corrigendum to Commission Implementing Regulation (EU) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy**

(Official Journal of the European Union L 112 of 30 April 2011)

On page 18, Article 57(4):

*for:* Member States that collect systematically on at least a monthly basis for each of their fishing vessels not subject to fishing logbook and landing requirements data:

- (a) on all landings of catches of all species in kilogram, including zero landings;
- (b) on the statistical rectangles where these catches were taken shall be considered to have met the requirement of a sampling plan as referred to in Article 56 of this Regulation.',

*read:* Member States shall be considered to have met the requirement of a sampling plan as referred to in Article 56 of this Regulation if they collect systematically on at least a monthly basis for each of their fishing vessels not subject to fishing logbook and landing declaration requirements data:

- (a) on all landings of catches of all species in kilogram, including zero landings;
- (b) on the statistical rectangles where these catches were taken.';

on page 88, Annex XIII, species 'Anglerfish', third line (GUH):

*for:* 'GUH 3,04',

*read:* 'GUH 3,00';

on page 92, Annex XIII, species 'European plaice', second line (GUT):

*for:* 'GUT 1,07',

*read:* 'GUT 1,05';

on page 98, Annex XV, species 'Cod', seventh line (SAD):

*for:* 'SAD',

*read:* 'CBF';

on page 101, Annex XV, species 'Atlantic redfishes', third line (GUH):

*for:* 'GUH 1,88',

*read:* 'GUH 1,78'.

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DIRECTIVES

- ★ **Council Directive 2011/97/EU of 5 December 2011 amending Directive 1999/31/EC as regards specific criteria for the storage of metallic mercury considered as waste** ..... 49

DECISIONS

2011/825/EU:

- ★ **Commission Implementing Decision of 8 December 2011 amending Decision 2010/221/EU as regards national measures for preventing the introduction of certain aquatic animal diseases into parts of Ireland, Finland and Sweden** (*notified under document C(2011) 9002*) <sup>(1)</sup> ..... 53

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

2011/826/EU:

- ★ **Decision No 41/2011 of the Joint Committee established under the Agreement on Mutual Recognition between the European Community and the United States of America of 14 November 2011 related to the listing of Conformity Assessment Bodies under the Sectoral Annexes on Electromagnetic Compatibility and Telecommunication Equipment** ..... 56

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Corrigenda

- ★ **Corrigendum to Commission Implementing Regulation (EU) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy (OJ L 112, 30.4.2011)** ..... 58



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<sup>(1)</sup> Text with EEA relevance

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